

**The Copyright Law**  
**(The Pyidaungsu Hluttaw Law No.15, 2019)**  
**The 6<sup>th</sup>Waning Day of Kasone, 1381 M.E.**  
**(24 May 2019)**

The Pyidaungsu Hluttaw hereby enacts this law.

**Chapter I**  
**Title, Enforcement and Definitions**

1. (a) This Law shall be called the **Copyright Law**.
- (b) This Law shall come into force on the date prescribed, by notification, by the President.
2. The following expressions in this Law shall have the meanings given below:
  - (a) **State** means the Republic of the Union of Myanmar;
  - (b) **Central Committee** means the Central Committee on Intellectual Property formed under this Law;
  - (c) **Ministry** means the Ministry of Commerce of the Union Government;
  - (d) **Relevant Ministry** means the Ministry of Information, Ministry of Industry, Ministry of Agriculture, Livestock and Irrigation or Ministry of Education of the Union Government;
  - (e) **Agency** means the Intellectual Property Agency formed under this Law;
  - (f) **Department** means the Department assigned by the Ministry to carry out intellectual property matters;
  - (g) **Registrar** means the Director General of the Department who carries out the functions relating to registration of intellectual property;
  - (h) **Intellectual Property Rights** mean the rights vested by law to protect the own intellectual creations. This expression includes copyright, patent, industrial design, trademark and other forms of intellectual property rights;

- (i) **Copyright** means the exclusive rights of an author of a literary or artistic work in accordance with the provisions of this Law;
- (j) **Related Rights** mean the exclusive rights of performers, producers of phonogram and broadcasting organizations contained in Chapter XIV of this Law;
- (k) **Literary or Artistic Work** means any literary or artistic work and derivative works mentioned in sections 13 and 15;
- (l) **Author** means a natural person who creates any literary or artistic work protected under this Law through his own intellect;
- (m) **Owner of Copyright** means any of the following persons, his successor or any legal entity:
  - (i) an author;
  - (ii) a natural person or legal entity which has the economic rights originally, other than the author;
  - (iii) a natural person or legal entity to which the ownership of the economic rights has been transferred in accordance with law.
- (n) **Owner of Related Rights** means any of the following persons, his successor or any legal entity:
  - (i) a performer, producer of phonogram and broadcasting organization;
  - (ii) a natural person or legal entity which has the economic rights originally, other than the performer, producer of phonogram and broadcasting organization;
  - (iii) a natural person or legal entity to which the ownership of the economic rights has been transferred in accordance with law.
- (o) **Right Holder** means the author or owner of copyright or related rights. In this expression, assignee, licensee and legal successor of copyright or related rights are also included;

- (p) **Performer** means a musician, vocalist, actor, dancer or a person who acts, plays in, sings, dances, interprets, narrates or otherwise performs literary or artistic works or expressions of folklore;
- (q) **Performance** refers to:
  - (i) reciting, singing, playing, dancing or acting the works directly or through any medium or any process or rendering the works by any other means, in the case of other literary or artistic works other than an audiovisual work or a cinematographic work;
  - (ii) showing of images in sequence and making of accompanying sounds audible in the case of an audiovisual work or a cinematographic work; and
  - (iii) making the recorded sounds audible in the case of a phonogram.
- (r) **Producer** means a natural person or legal entity that undertakes making of the audiovisual work or cinematographic work or the first fixation of sounds or the initiative for the first fixation of sounds in a phonogram;
- (s) **Collection of Work** means a collection of literary or artistic works which, by reason of selection and arrangement of their contents, constitutes intellectual creations;
- (t) **Work of Joint Authorship** means a literary or artistic work to the creation of which two or more authors have contributed;
- (u) **Audiovisual Work** means a work that consists of a series of related moving images, with or without accompanying sound, susceptible of being made visible, and where accompanied by sounds, susceptible of being made audible;
- (v) **Cinematographic Work** means an audiovisual work which consists of a sequence of visual images which can be continuously shown as moving pictures or can be recorded on another medium to be continuously shown as moving pictures accompanied by the sound track;

- (w) **Work of Applied Art** means an artistic creation with utilitarian functions or incorporated into any useful article, whether it is made by hand or produced with industrial technology;
- (x) **Phonogram** means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds on phonographic discs, recording tapes or any other medium, other than the fixation of an audiovisual work;
- (y) **Photographic Work** means an original creation made by recording of light or transmission of light on any medium on which an image can be produced or an image can be recorded, by chemically, electronically or other technology;
- (z) **Fixation** means the first embodiment and recording of images or sounds, or both or, of the representations thereof, other sounds or moving images or broadcasts on a tape, disc or any other medium, from which they can be perceived, reproduced or communicated;
- (aa) **Broadcasting** means communication of literary or artistic work, performance or phonogram to the public by wire or wireless means such as radio and television, including transmission by satellite;
- (bb) **Traditional Cultural Expressions** means any of the following expressions or any form of combinations thereof whether tangible or intangible, in which traditional culture and knowledge are expressed, appeared and manifested:
  - (i) verbal expressions such as stories, epics, legends, poetry, riddles and other narratives, words, signs, names, and symbols;
  - (ii) musical expressions such as songs and instrumental music;
  - (iii) expressions by action such as dances, plays, ceremonies, rituals; and,
  - (iv) tangible expressions (special creations and productions of art), such as drawings, designs, paintings including body-painting, carvings, sculptures, pottery, ceramic, terracotta, mosaic, woodwork, metal ware, jewellery, lithographic work, weaving work, needlework, attires, glassware, carpets, costumes,

handicrafts, musical instruments, and architectural forms, folk heritage written records such as palm-leaf manuscripts, folding manuscripts (parabeik), stone inscriptions, votive tablet scripts, bell-inscriptions, ink writings and mural paintings.

- (cc) **Computer Program** means a set of instructions expressed in words, codes, schemes or any other form, which is capable when incorporated in a medium that the computer can read, of causing the computer to perform or achieve a particular task or result;
- (dd) **Copyright or Related Rights Management Information** means the following:
  - (i) information which identifies the literary or artistic work, the author of the literary or artistic work, the owner of any right in the work;
  - (ii) information about the terms and conditions of use of literary or artistic works;
  - (iii) information which identifies the performer, the performance, the producer of phonogram or the phonogram, the owner of any right in the performance or phonogram;
  - (iv) information about the terms and conditions of use of the performance or phonogram;
  - (v) any number or code that represents such information, when any information included in subsections (i), (ii), (iii) and (iv) is attached to a copy of a work or an object, or appears in connection with the communication of a work or an object to the public.
- (ee) **Technological Protection Measures** mean any technology, device or its component that, in the normal course of its operation, is designed to prevent or restrict access to the literary or artistic works or objects of related rights without authorization of the right holder;
- (ff) **Reproduction** means making of one or more copies of a literary or artistic work or phonogram in any manner or form, such as copying, imitation, duplication including any permanent or temporary storage of such work or phonogram in electronic form;

- (gg) **Communication to the Public** means any communication to the public of a literary or artistic work, performance, phonogram or broadcast, by wire or wireless means, by internet or by any communication means, including a way that the members of the public may access to such work from a place and at a time individually chosen by them;
- (hh) **Distribution to the Public** means putting into circulation the original or a copy of a literary or artistic work, a fixed performance or a phonogram in tangible form through sale or transfer of ownership of copyright or related rights. It includes importing for the purpose of such putting into circulation, uploading to the Internet and selling to the public;
- (ii) **Published Work** means a work which has been copied to publish with the consent of the author in the case of a literary or artistic work or with the consent of the producer in the case of audiovisual work, cinematographic work or phonogram;
- (jj) **Beneficiary Person with Visual Impairment** means a person who:
- (i) is blind;
  - (ii) has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to that a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability;
  - (iii) is otherwise unable, through physical disability, to hold or manipulate a book, or, to focus or move the eyes to the extent that would be normally acceptable for reading.
- (kk) **Authorized Entity** means the entity that is authorized by the Central Committee to provide education, instructional training, adaptive reading or information access to beneficiary person for visual impairment on a non-profit basis;
- (ll) **Collective Management Organization on Copyright or Related Rights** means an association managing copyright and related rights on a non-profit basis, established on the basis of agreement among

authors, copyright owners and related rights owners to protect their copyright and related rights in accordance with this Law;

- (mm) **Pirated Copyright or Related Rights Goods** mean any goods which are copies of a work or an object of related rights made without the consent of the right holder and made by directly or indirectly infringing copyright or related rights under this Law;
- (nn) **Intellectual Property Court** means the Court established by the Supreme Court of the Union under the law to adjudicate intellectual property matters or the Court conferred jurisdiction and authority of such Court;
- (oo) **Member State** means any member State of the conventions, treaties or agreements or, of international organizations or regional organizations relating to copyright or related rights of which the State is a member.

## **Chapter II**

### **Objectives**

3. The objectives of this Law are as follows:
  - (a) to improve the literary and artistic production standard through the development of the literary or artistic works, performances, phonograms production and broadcastings;
  - (b) to protect the copyright of the author and owner of copyright in accordance with this Law;
  - (c) to protect the related rights of performer, producer of phonogram and broadcasting organization;
  - (d) to contribute to the protection and promotion of traditional cultural expressions.

## **Chapter III**

### **Formation of the Central Committee and its Functions and Duties**

4. The Union Government:
  - (a) shall, to deal with intellectual property matters, form the Central Committee on Intellectual Property as follows:

- |        |   |                     |
|--------|---|---------------------|
| (i)    | Vice-President  | Chairperson         |
| (ii)   | Union Minister of the Ministry  | Vice-Chairperson    |
| (iii)  | Deputy Ministers from the relevant Ministries                           | Members             |
| (iv)   | Deputy Ministers or Directors General from other appropriate Ministries | Members             |
| (v)    | No more than four intellectual property experts                         | Members             |
| (vi)   | Two representatives from non-governmental organizations                 | Members             |
| (vii)  | The person assigned by the President                                    | Secretary           |
| (viii) | Director General of the Department                                      | Associate Secretary |
- (b) may re-form the Central Committee under subsection (a), as may be necessary.

5. The functions and duties of the Central Committee are as follows:

- (a) adopting the intellectual property policies, strategies and action plans to develop the intellectual property matters in the State;
- (b) supervising the implementation of the intellectual property policies, strategies and action plans;
- (c) **guiding, through the intellectual property system, to encourage the development of national economy, foreign investment and small and medium enterprises of the State;**
- (d) encouraging training and nurturing the necessary human resources for the development of the intellectual property matters;
- (e) coordinating with the relevant government departments, government organizations, other organizations and private entrepreneurs to practice and develop the intellectual property system effectively;
- (f) encouraging and promoting the coordination with local and foreign organizations for technical and other necessary assistance;



- (g) scrutinizing and approving the applications for setting up authorized entities for beneficiary persons with visual impairment;
- (h) carrying out the functions and duties relating to intellectual property assigned by the Union Government from time to time.

## **Chapter IV**

### **Formation of Agency and its Functions and Duties**

6. The Central Committee:
- (a) shall form the Intellectual Property Agency with the approval of the Union Government as follows:
 

(i)	Secretary of the Central Committee	Chairperson
(ii)	Directors General who are concerned with the Agency from the Ministry and the relevant Ministries	Members
(iii)	No more than eight intellectual property experts	Members
(iv)	No more than five representatives from non-governmental organizations	Members
(v)	Director General of the Department	Secretary
(vi)	Division Heads of the Department	Associate Secretaries
  - (b) may re-form the Agency under subsection (a), as may be necessary.
7. The Chairperson of the Agency shall be considered to be a person who is at the level of Deputy Minister.
8. The functions and duties of the Agency are as follows:
- (a) coordinating the functions relating to copyright;
  - (b) implementing copyright policies, strategies, action plans adopted by the Central Committee, and training and nurturing human resources for the development of copyright system;

- (c) observing the conventions, treaties and agreements relating to copyright or related rights and giving suggestion that the State should accede to them to be a member, to the Central Committee;
- (d) implementing the functions of copyright and related rights in line with the provisions of the conventions, treaties and agreements relating to copyright or related rights of which the State is a member;
- (e) cooperating with the relevant local, international and regional organizations relating to copyright and member states;
- (f) **forming necessary working groups and prescribing their functions and duties with the approval of the Central Committee to take action on infringement of copyright or related rights;**
- (g) forming necessary working groups to implement functions relating to copyright and prescribing their functions and duties with the approval of the Central Committee;
- (h) making a decision on an appeal against the decision of the registrar;
- (i) prescribing the fees to be collected in accordance with this Law with the approval of the Union Government through the Central Committee;
- (j) approving the seal to be used in granting registration of copyright;
- (k) submitting the task reports and other necessary reports to the Central Committee;
- (l) submitting the annual copyright report to the Central Committee;
- (m) carrying out the functions and duties relating to intellectual property assigned by the Central Committee from time to time.

## **Chapter V**

### **Functions and Duties of the Department**

9. The functions and duties of the Department are as follows:
  - (a) publishing the matters on registration of copyright;
  - (b) maintaining the register of copyright;

- (c) supervising the performance of the Divisions formed in the respective field of intellectual property;
- (d) carrying out the functions and duties relating to intellectual property assigned by the Agency from time to time.

## **Chapter VI**

### **Appointing the Registrar and Prescribing the Duties of the Registrar**

10. The Ministry may appoint the Registrar in the Department according to the submission of the Agency to carry out the functions relating to intellectual property.

11. The duties of the registrar are as follows:

- (a) supervising the functions relating to the registration of copyright and related rights;
- (b) examining the applications for registration of copyright and related rights;
- (c) summoning and examining the persons concerned and asking for the required documents in carrying out the functions relating to registration of copyright and related rights;
- (d) making decision on the matters relating to the registration of copyright or related rights;
- (e) carrying out the functions and duties relating to intellectual property assigned by the Central Committee and the Agency.

## **Chapter VII**

### **Scope of Application**

12. The provisions of this Law shall apply to the protection of the following literary or artistic work or performer and performance, producer of phonogram and phonogram or broadcasting organization and broadcast:

- (a) in the case of a literary or artistic work:
  - (i) published or unpublished work of an author who is a national of, or has his habitual residence in the State;

- (ii) work first published in the State or a work first published in another country and also published in the State within thirty days from the first publication, irrespective of the nationality or habitual residence of the author;
  - (iii) audiovisual work or cinematographic work of the producer who has his headquarters or habitual residence in the State;
  - (iv) work of architecture erected in the State and artistic work incorporated in a building or other structure located in the State;
- (b) in the case of a performer:
- (i) a performer who is a national of, or has his habitual residence in the State;
  - (ii) a performer although who is not a national of the State or does not have his habitual residence in the State;
    - (aa) a performance which takes place in the territory of the State;
    - (bb) a performance which is incorporated in a phonogram that is protected under this Law or which has not been fixed in a phonogram but is included in broadcasts qualifying for protection under this Law;
- (c) in the case of a phonogram:
- (i) a phonogram produced by a national of the State;
  - (ii) a phonogram first fixed in the State;
  - (iii) a phonogram first published in the State or a phonogram first published in another country and also published in the State within thirty days from the first publication, irrespective of the nationality or habitual residence of the producer;
- (d) in the case of a broadcast:
- (i) a broadcast of broadcasting organization headquarters of which is situated in the State;

- (ii) a broadcast transmitted from a transmitter situated in the State;
- (e) literary or artistic works, performances, phonograms and broadcasts that are eligible for protection by virtue of and in accordance with any copyright or related rights convention or treaty or agreement to which the State is a member.

### **Chapter VIII**

#### **Protected Literary or Artistic Works and Unprotected Literary or Artistic Subject Matters**

13. The following literary or artistic works which are original intellectual creations shall be protected:

- (a) books, pamphlets, poems, novels, articles, computer programmes and other writings;
- (b) speeches, lectures, addresses, sermons and other oral works;
- (c) dramatic works, dramatico - musical works, pantomimes, choreographic works and other literary or artistic works created for stage production;
- (d) songs and musical works, with or without words;
- (e) audiovisual works including cinematographic works;
- (f) works of architecture;
- (g) works of drawing, sketching, painting, carving, sculpture, engraving, mosaic, wood work, pottery, metal ware, terracotta, jewellery, handicrafts, costumes, traditional attires and hair and dressing style of ethnic groups;
- (h) lithographic work, weaving work, tapestries and other works of fine art;
- (i) photographic works;
- (j) works of applied art;
- (k) textile designs;
- (l) illustrations, maps, plans, sketches and three-dimensional works related to geography, topography, architecture or science.

14. Literary or artistic works shall be protected by the sole fact of their creation irrespective of their mode or form of expression, their content, quality and purpose.

15. The following derivative works shall be protected without prejudice to the copyright of the original literary or artistic works:

- (a) translations, adaptations, arrangements and other alterations or modification of literary or artistic works;
- (b) collections of literary or artistic works, including collections of the traditional cultural expressions;
- (c) compilations of data whether in machine readable or other form, provided that such collections must constitute intellectual creation by reason of the selection or arrangement of their content but contents of the collection shall not be concerned with the protection.

16. Notwithstanding the provisions of sections 13, 14 and 15, if a literary or artistic work or an object of related rights is involved in any of the following, copyright or related rights protection shall not extend to:

- (a) idea, procedure, method of operation, mathematical concept, principle, discovery or data;
- (b) news of the day or miscellaneous facts having the character of mere items of press information;
- (c) constitution and legislation;
- (d) rules, regulations and **bye-laws**, and notifications, orders, directives and procedures issued by the Governmental departments, Governmental organizations and Departments;
- (e) judicial decisions and orders;
- (f) official translation and collection of those in subsections (c) to (e) by the Government.

## **Chapter IX**

### **Term of Copyright**

17. Although literary or artistic works are not registered under this Law:

- (a) the term of protection for economic rights are as follows:

- (i) the life of the author and 50 years after the year of his death;
  - (ii) the life of the last surviving author and 50 years after the year of his death in the case of a literary or artistic work of joint authorship;
  - (iii) 50 years after the year of the work has been made available to the public with the consent of the author, or, failing such an event, 50 years after the making of such a work in the case of a cinematographic work or an audiovisual work;
  - (iv) 50 years after the year of the work has been lawfully made available to the public in the case of a literary or artistic work published anonymously or under a pseudonym provided that where the author's identity is revealed before the expiration of the said period, the terms shall be the same as in clauses (i) and (ii) of this subsection;
  - (v) 50 years after the year of the work has been created, lawfully made available to the public or firstly published by Governmental department and Governmental organization for which it is the first owner of the copyright, whichever year is later in the case of a literary or artistic work of Governmental department or Governmental organization except the matters unprotected under section 16;
  - (vi) 25 years from the making of the work in the case of a work of applied art;
- (b) the term of protection for moral rights shall be the life of the author and for an unlimited period after his death.
- (c) the term of protection provided by subsection (a) shall always be counted beginning on the first of January of the year following the death of the author or the work has been created, lawfully made available to the public or first published.

## **Chapter X**

### **Economic Rights and Moral Rights**

18. Without contrary to the provisions in Chapter XII of this Law, the author or owner of copyright shall have the exclusive economic rights to carry out or to authorize any other person to carry out the following:

- (a) reproduction;
- (b) translation, adaptation, arrangement or other alteration or modification;
- (c) distribution of the origin or a copy of the work to the public through sale or other transfer of ownership;

Proviso: The right of distribution does not apply to the original or a copy of the work that has already been subject to a sale or transfer of ownership anywhere with the authorization of the author or owner of copyright.

- (d) rental of the original or a copy of computer programme, an audiovisual work, a cinematographic work, a literary or artistic work embodied in a phonogram, a database or a musical work in the form of notation to the public;

Proviso: Provided that the rights of rental do not apply to rental of computer programs where the program itself is not the essential object of the rental;

- (e) public performance;
- (f) broadcasting;
- (g) communication to the public by any other means;
- (h) collection of literary or artistic works of his creation.

19. The author or owner of copyright may transfer the economic rights to any person in accordance with the provisions contained in Chapter XIII of this Law.

20. The author, even where he is no longer the owner of the rights under section 18 regarding the literary or artistic work, shall have the following exclusive moral rights:

- (a) right to claim authorship and to have his name indicated as the author on the copies of any public use of his literary or artistic work;
- (b) right to use a pseudonym if it was originally described on copies of a literary or artistic work lawfully made available to the public;



- (c) right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to his literary or artistic work which would be prejudicial to his honor or reputation.
21. (a) If the author is already dead, his inheritor according to the testament or law or a person or legal entity which has been transferred under the law before **the death** of the author has right to exercise any of exclusive moral rights in section 20;
- (b) The author may waive the exercise of their moral rights for specific uses provided that such waiver is made in a signed, written agreement.

## **Chapter XI**

### **Original Ownership of Economic Rights**

22. The author who has created a literary or artistic work shall be the original owner of the economic rights. Provided that:
- (a) in the case of a literary or artistic work of joint authorship:
    - (i) the co-authors shall be the original owners of the economic rights.
    - (ii) the author of each part shall be the original owner of the economic rights in the part that he has created provided that their individual contributions can be used separately and author of each part can be identified;
  - (b) in the case of an audiovisual work or cinematographic work:
    - (i) the producer shall be the original owner of the economic rights unless otherwise agreed;
    - (ii) the economic rights of the author who makes an audiovisual work or cinematographic work shall not prejudice to the economic rights of the author who created the literary or artistic works that has been adapted in making such audiovisual work or cinematographic work.

- (c) in the case of collection of the works, unless otherwise agreed, a natural person or legal entity which takes the initiative in collection of the works shall be the original owner of the economic rights;
- (d) in the case of a photographic work:
  - (i) the photographer who originally creates the work shall be the original owner of the economic rights;
  - (ii) the ordering person to take a photograph shall be the original owner of the economic rights when that photograph is taken by a photographer under a written agreement with that ordering person unless the agreement provides to the contrary.
- (e) in the case of a literary or artistic work created by an author, employed by a natural person, in the course of his employment, the employer shall be the original owner of the economic rights unless otherwise agreed by the employer and employee;

Explanation: Employer includes the legal managerial agent of the employer, and his heir and the legal successor of share if the employer **dies** in the case of private business.

23. With respect to the author and his representative:

- (a) if the author uses his usual used name or pseudonym or anonym in any literary or artistic work, in the absence of proof to the contrary or leaves no doubt as to the identity of the author, that person shall be considered as the author of that literary or artistic work;
- (b) in the case of a pseudonymous or anonymous literary or artistic work:
  - (i) the publisher whose name appears on the work shall, in the absence of proof to the contrary, be considered to represent the author and, shall be entitled to the economic rights and moral rights of the author;
  - (ii) the rights in clause (i) shall cease to apply when the author reveals his identity.

## **Chapter XII**

### **Limitations and Exceptions of Economic Rights**

24. Notwithstanding the provisions of subsection (a) of section 18, a person may make reproduction of a part of the published literary or artistic work for his personal use without authorization of the right holder. Provided that such reproduction of any work shall comply with fair use, shall not conflict with a normal exploitation of the work or shall not unreasonably prejudice the legitimate interests of any right holder. This exception shall not apply to any of the following cases:

- (a) reproduction of a work of architecture in the form of building or other construction;
- (b) reproduction of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) reproduction of the whole or a substantial part of a database in digital form;
- (d) reproduction of a computer program which is not consistent with the provisions in section 30.

25. Notwithstanding the provisions of subsection (a) of section 18, the following temporary reproduction of a literary or artistic work shall be permitted:

- (a) reproduction in the process of a digital transmission of the work or in an act of making a digitally stored work perceptible;
- (b) reproduction made by a person entitled to make that reproduction of the work under subsection (a).

26. (a) Notwithstanding the provisions of subsection (a) of section 18, the reproduction, in the form of quotation, of a part of a published work which has already been lawfully made available to the public shall be permitted without authorization of the right holder.

- (b) The reproduction under subsection (a) shall comply with fair practice and shall not exceed the extent justified by its purpose.
- (c) The quotation shall be accompanied by an indication of source and the name of the author, if his name appears in the work from which the quotation is taken.

27. Notwithstanding the provisions of subsection (a) of section 18, the following reproductions shall be permitted without authorization of the right holder. Provided that such reproduction shall comply with fair practice and does not exceed the extent justified by its purpose. The name of the author and the sources of reproduced literary or artistic work shall be indicated as far as practicable on all such copies:

- (a) reproduction of a part of a published work or a part of an article included in newspapers, magazines or journals for teaching purposes;
- (b) incorporating the copies made under subsection (a) into printed and electronic course packs to be used in the course of instruction by the educational institutions; (Course packs in digital format shall be hosted on a secure network and accessible only by enrolled students and their teachers)
- (c) incorporating portions of works in printed or electronic form in assignments and portfolios, theses and dissertations for personal use and for library deposit by the persons receiving those instructions.

28. Notwithstanding the provisions of subsection (a) of section 18, any library or archive whose activities do not serve direct or indirect commercial gain may, without the authorization of the right holder, make a single copy of the work by the reproduction for the following purposes:

- (a) In the case of the reproduction of a literary or artistic work, the reproduced literary or artistic work shall be a part or extract of the published article or other literary or artistic work and the purpose of the reproduction is due to the request of a natural person. Provided that the reproduction is:
  - (i) satisfied by the library or archive that the copy will be used solely for the purpose of study, teaching or private research;
  - (ii) an isolated case occurring, if repeated, on separate and unrelated occasions.
- (b) The reproduction is made in order to preserve and, if necessary, replace a copy, or to replace a copy which has been lost, destroyed or

rendered unusable to rent in the permanent collection of another similar library or archive. Provided that the reproduction is:

- (i) impossible to obtain such a copy under reasonable conditions;
  - (ii) an isolated case occurring, if repeated, on separate and unrelated occasions;
- (c) copies can be made for the purpose of duplication and preservation as follows:
- (i) if a work or a copy of such work, in such an institution's collection, is incomplete or can't be acquired through general trade or from the publisher, the library or archive may make or procure a copy of the missing parts from another library or archive.
  - (ii) if they cannot reasonably be acquired although they made efforts to obtain authorization from the right holder or through general trade or from the publisher, a library or archive may make copies of works.
  - (iii) copies made in accordance with clauses (i) and (ii) may be studied by users on the premises of the library or archive. Moreover, a library or archive can lend such copies to users for personal use or study on its premises.
- (d) Libraries may supply each other, whether by post, fax or secure electronic transmission, with a copy of a work existing in their collections. Provided that electronic files shall be deleted immediately after printing a paper copy from an electronic copy of a work. A paper copy may be supplied by the receiving library to a user of such library. This reproduction and supply process shall be non-recurring.
- (e) A library or archive may, for the purpose of teaching or research, translate literary or artistic works lawfully acquired or accessed when those works are not available in a language required by such library or archive's users. Such translations may not be used for other purposes.
- (f) A natural person or an organization may translate literary or artistic works from or into minority languages provided that such translation is non-commercial and for public information purposes.

29. Notwithstanding the provisions of subsections (a), (f) and (g) of section 18, the following acts shall be permitted in respect of a literary or artistic work without authorization of the right holder, subject to the obligation to indicate the source and the name of the author if his name appears on it:

- (a) the reproduction in a newspaper or periodical, the broadcasting or communication to the public of current political, economic or religious articles included in a published newspaper or periodical or the broadcasts of similar news articles;

Proviso: This permission shall not be applicable to the reproduction or broadcasting or communication to the public by any means which are expressly prohibited by the right holder.

- (b) for the purpose of reporting current events, the reproduction, broadcasting or communication to the public by other means of short excerpts of a literary or artistic work that has already been published or broadcasted;
- (c) for the purpose of providing current information, the publication and reproduction in a newspaper, periodical or by other means, broadcasting or communication to the public by other means of a political speech, lecture, address, sermon or other similar literary or artistic declamation delivered in public. Provided that such act shall be to the extent justified and not for commercial purposes.

30. With respect to the computer programme:

- (a) Notwithstanding the provisions of subsections (a) and (b) of section 18, the reproduction in a single copy or the adaption of the copy of a computer programme by the lawful owner of that copy shall be permitted without authorization of the right holder if the reproduction or the adaption is:
  - (i) for the use of the computer programme for the purpose and extent for which it has been obtained; or
  - (ii) for archival purposes and for the replacement of the lawfully owned copy of a computer programme in the event that the said copy is lost, destroyed or rendered unusable; or

- (iii) for the reproduction of the copy of a computer programme as a back-up for personal use;
  - (b) adaptation of any copy or original work of a computer programme shall not be applied for any purpose other than those specified in subsection (a). In addition, any such copy or adaptation shall be destroyed when lawful continued possession of the copy of the computer programme ceases.
31. The importation of a copy of a literary or artistic work by a natural person for non-commercial purposes shall be permitted without the authorization of the right holder.
32. (a) Notwithstanding the provisions of subsection (a) of section 18, a broadcasting organization may make, for the purpose of its own broadcast and by means of its own facilities, an ephemeral recording of any literary or artistic work authorized to broadcast.
- (b) If it is a literary or artistic work that has an exceptional character, such ephemeral recording may be sent to the national archive for preservation.
33. (a) Notwithstanding the provisions of subsections (a), (c), (e) and (g) of section 18, authorized entities shall be permitted, without authorization of the right holder, to make an accessible format copy of a literary or artistic work, performance, phonogram or broadcast, to obtain an accessible format copy of the said from another authorized entity and to supply those copies to beneficiary person with visual impairment by any means, including by non-commercial lending or by electronic communication by wire or wireless means when all of the following conditions are met:
- (i) having lawful access to use that literary or artistic work or a copy of that work by the authorized entity wishing to undertake the activities in subsection (a);
  - (ii) giving guidance on the facts included in accessible format copy without other changes except those needed to make the work accessible to beneficiary person with visual impairment in converting the literary or artistic work to an accessible format copy;

- (iii) supplying such accessible format copies for exclusive use of the beneficiary person with visual impairment; and
  - (iv) undertaking the activity on a non-profit basis.
- (b) A beneficiary person with visual impairment, or a person represents the beneficiary person with visual impairment including guardian or care taker may make an accessible format copy of a work for the personal use of the beneficiary person with visual impairment or otherwise may assist that person to make and use accessible format copies where the beneficiary person with visual impairment has lawfully access to that work or a copy of that work.
- (c) Authorized entities shall be permitted, without the authorization of the right holder, to distribute or make available for the exclusive use of the beneficiary person with visual impairment accessible format copies to an authorized entity in another contracting party to the Marrakesh Treaty which facilitates access to published works for beneficiary person with visual impairment.
- (d) Authorized entities shall be permitted, without the authorization of the right holder, to distribute or make available accessible format copies to beneficiary persons with visual impairment in another contracting party to the Marrakesh Treaty which facilitates access to published works for beneficiary person with visual impairment.
- (e) The permissions under subsections (c) and (d) may be granted, provided that the originating authorized entity did not know or have reasonable grounds to know that the accessible format copy would be used by other person prior to the distribution or making available of accessible format copy. Such distribution and making available of accessible format copy shall be limited to certain special cases, not to conflict with a normal use of the work and not to unreasonably prejudice the legitimate interests of the right holder.

### **Chapter XIII**

#### **Transfer of the Economic Rights**

34. (a) The owner of copyright may transfer the economic rights in whole or in part to any other person or legal entity.



- (b) The owner of copyright may transfer economic rights to any other person or legal entity by any of the following means:
    - (i) inheritance under any existing law or custom;
    - (ii) transfer by testament;
    - (iii) gift or donation;
    - (iv) transfer of ownership under any of the existing law;
    - (v) licensing.
  - (c) The owner of related rights may transfer his economic rights to any other person or legal entity by any means included in subsection (b) with the consent of all concerned persons in that related rights.
  - (d) The transfer of economic rights by the owner of copyright or of related rights shall be in writing and signed.
35. When the registered copyright or related rights is transferred;
- (a) the transferee may apply to the Registrar to record the transfer by subscribing the prescribed fees;
  - (b) both parties may apply to the Registrar for amendment or cancellation of the record of a transfer accompanied by the supporting documents in accordance with the stipulations.
36. The Registrar shall, with respect to application for recordation under section 35, record the said transfer, amendment or cancellation and publish it in accordance with the stipulations.

## **Chapter XIV**

### **Related Rights of the Performer, Producer of Phonogram and Broadcasting Organization and Terms of Protection**

37. A performer shall have the exclusive economic rights to carry out or to authorize any other person to carry out any of the following:
- (a) broadcasting or communication to the public of his unfixed performance, except where the broadcasting or communication to the public is undertaken by any of the following manners:

- (i) fixation of the performance with authorization of the performer or carrying out the acts in section 41 without authorization of the performer;
  - (ii) broadcasting of the performance by the organization itself that initially broadcasts the performance or by its authorization.
- (b) fixation of his unfixed performance;
  - (c) direct or indirect reproduction of a fixation of his performance, in any manner or form;
  - (d) distribution to the public of a fixation of his performance, or of its copies except the sale or transfer of ownership of the copy of a fixation of his performance anywhere with authorization of the performer;
  - (e) rental to the public of a fixation of his performance, or its copies;
  - (f) making available to the public of his fixed performance, by wire or wireless means or any other communication means in such a way that members of the public may access them from a place or at a time individually chosen by them.
38. With respect to the rights of a performer:
- (a) the performer shall, even after the transfer of the performer's economic rights, as regards his live performances and performances fixed in any medium, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance and he shall have the right to object to any mutilation, or modification or destruction of his performances that would be prejudicial to his reputation.
  - (b) the term of protection of the economic rights under this section shall be until the date of the end of 50 years following the year in which the performance was fixed in any medium, or in the absence of such fixation, until the date of the end of 50 years from the date of the end of the year in which the performance took place. The term of protection for the moral rights of the performer shall be during the life of the performer and for an unlimited period after his death.

- (c) nothing in this section shall effect on making contract with the more favorable terms and conditions for the performers in respect of their performance.
39. With respect to the rights of a producer of phonogram:
- (a) a producer shall have the exclusive economic rights to carry out or to authorize any other person to carry out any of the following:
    - (i) direct or indirect reproduction of the phonogram in any manner or form;
    - (ii) importation of copies of the phonogram;
    - (iii) distribution of the original or a copy of the phonogram to the public except the original or a copy of the phonogram that has already been sold or has transferred ownership anywhere with the authorization of the producer;
    - (iv) rental to the public of copies of the phonogram;
    - (v) making available to the public of the phonogram by wire or wireless means in such a way that the members of the public may access it from a place and at a time individually chosen by them.
  - (b) the rights of producer of phonogram shall be protected until the date of the end of 50 years following the year of publication of the phonogram or, if the phonogram has not been published, until the end of 50 years following the year of the first fixation.
40. With respect to the rights of a broadcasting organization:
- (a) a broadcasting organization shall have the exclusive economic rights to carry out or to authorize any other person to carry out any of the following:
    - (i) rebroadcasting of its broadcast;
    - (ii) communication to the public of its broadcast;
    - (iii) fixation of its broadcast;
    - (iv) reproduction of a fixation of its broadcast.

- (b) program-carrying signals transmitted by satellite which are not intended for direct reception by the public may be distributed through cable or communicated to the public by an authorized receiving organization. That kind of communication to the public may be carried out only with authorization of that organization;
- (c) the rights of a broadcasting organization shall be protected until the date of the end of 20 years following the year in which the broadcast took place.

41. The provisions in respect of protection under sections 37, 38, 39, 40 and 42 shall not apply to the following acts:

- (a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- (b) reproduction solely for scientific research;
- (c) reproduction solely for face-to-face teaching activities, except for performances and phonograms which have been published as teaching and teaching materials;
- (d) incorporation and use of performances, phonograms or broadcasts in the literary or artistic works which are used according to the provisions of Chapter XII.

Proviso: Such makings shall not conflict with a normal exploitation of the work, and shall not unreasonably prejudice the legitimate interests of the right holder.

- 42. (a) If a phonogram distributed or produced for commercial purposes is used for broadcasting or communication to the public, or public performance, an equitable remuneration shall be paid for the performer or performers and the producer of phonogram by the user according to the agreement.
- (b) Unless otherwise agreed between the performers and the producer of phonogram, the amount received under subsection (a) shall be shared by the producer to the person concerned in accordance with the set terms and conditions.
- (c) The right to an equitable remuneration under this section shall be protected until the end of 50 years following the year of publication

of the phonogram. Such phonogram is still protected under subsection (b) of section 39.

- (d) For the purpose of this section, phonograms that have been made available to the public by wire or wireless means in such a way that members of the public may access them from a place or at a time individually chosen by them shall be considered as if they have been published for commercial purposes.

## **Chapter XV**

### **Protection of Copyright or Related Rights Management Information and of Technological Protection Measures**

43. (a) With respect to the protection of copyright or related rights management information:
- (i) any electronic rights management information shall not be removed or altered without consent of the right holder;
  - (ii) literary or artistic work or objects of related rights or other subject-matters protected under this Law shall not be carried out for distribution, importation for distribution, broadcasting or communication to the public after they have been removed or altered as mentioned in clause (i).
- (b) provision of subsection (a) shall not apply to any governmental activities for public policy or security authorized by law.
44. With respect to the technological protection measures:
- (a) the technological protection measures shall not be circumvented, removed, deactivated, or destroyed:
- Explanation: Circumvention of technological protection measures includes descrambling a scrambled literary or artistic work or objects of related rights.
- (b) devices, products, components or services for commercial purposes of circumventing effective technological protection measures, enabling or facilitating circumvention of effective technological protection

measures shall not be produced, imported, distributed, sold, rent, advertised for sale or rental, or possessed.

45. (a) Notwithstanding the provisions of section 44, the beneficiary person or entity that are entitled to exceptions and limitations in subsections (a) and (b) of section 27, subsection (b) of section 28 and section 33 may enjoy circumvention of such measures for using the works protected by technological measures.
- (b) The provision of subsection (a) shall not apply to literary or artistic works or objects of related rights or other literary or artistic subject-matters made available to the public on agreed contractual terms to access them from a place or at a time individually chosen by them.

## **Chapter XVI**

### **Registration of Copyright or Related Rights**

46. Under this law, any author or owner of copyright who wishes to register a literary or artistic work in order to have sufficient evidence, may apply to the Registrar in accordance with the stipulations.

47. The Registrar shall **notify the applicant that he shall revise** and re-submit the application which does not conform with the stipulations as may be necessary after examining the application for registration of the literary or artistic work.

48. The applicant for the registration of a literary or artistic work may:

- (a) file with the Registrar to correct any clerical error and other mistakes that may be permitted to correct in the application or any document after subscribing the prescribed fees, before the Registrar makes the decision on registration or before the Agency makes the decision on the appeal against the decision of the Registrar;
- (b) withdraw the application for registration of a literary or artistic work before the Registrar makes the decision on registration or before the Agency makes the decision on the appeal against the decision of the Registrar.

49. If the applicant does not fulfill the requirements within 30 days from the date of receiving the notice, although the applicant has received the notice under

section 47, the application for registration of a literary or artistic work shall be considered that it has been withdrawn.

50. With respect to application for registration of a literary or artistic work which conforms with the stipulations, the Registrar:

- (a) may grant or refuse the registration after examining whether it conforms with sections 13, 14, 15 and 16;
- (b) shall record such grant or refusal under subsection (a) and notify the applicant about it, and publish it in the prescribed manner if registration is granted;
- (c) shall issue the Certificate of Copyright Registration to the applicant if registration is granted.

51. (a) The owner of copyright may apply to the Registrar to issue the certified copy of the Certificate of Copyright Registration after subscribing the prescribed fees if the original certificate is damaged or lost.

- (b) The Registrar shall check and issue the certified copy of the Certificate of Copyright Registration.

52. The owner of copyright may apply to the Registrar to correct clerical error or other mistakes that may be permitted to correct or to change nationality and address recorded in the register after subscribing the prescribed fees.

53. The owner of related rights who wishes to register the performance and phonogram in order to have valid evidence may apply to the Registrar in accordance with the provisions of registration mentioned in this Chapter.

54. Copyright or related rights of performers, producers of phonogram and broadcasting organizations shall enjoy the rights in this Law whether they are registered or not under this Law.

## **Chapter XVII**

### **Cancellation of Copyright or Related Rights Registration**

55. If it is found that any of the registered copyright or related rights is prejudicial to any person or to public interests, the person or organization concerned may apply to the Registrar for cancellation of the said registration.

56. The Registrar shall, upon the application of the person or organization concerned, cancel the copyright or related rights registration if:

- (a) it is found that the literary or artistic work is not protected under section 16;
- (b) it is found that the author or owner of copyright or related rights is not entitled to registration;
- (c) it is found that the Certificate of Copyright or Related Rights Registration has been obtained by fraud, misrepresentation or concealment of any prescribed substantive information; or
- (d) the final decision or judgment of the relevant Intellectual Property Court regarding the application for cancellation of registration of copyright or related rights has been received.

57. If registration has been cancelled, the Registrar shall record such cancellation and notify the owner of the copyright or related rights of the cancellation and publish it in accordance with the stipulations.

### **Chapter XVIII**

#### **Appeal**

58. (a) Any person who is dissatisfied with any decision made by the Registrar under this Law may appeal to the Agency within 60 days from the date of publication of such decision.

(b) The Agency may confirm, cancel or revise the decision of the Registrar or direct that further evidence shall be produced in the appeal under subsection (a).

(c) The Agency may confirm, cancel or revise the decision of the registrar if further evidence is produced under subsection (b).

59. Any person who is dissatisfied with the decision made by the Agency may file a case in the Intellectual Property Court which is vested the jurisdiction by the Supreme Court of the Union for this purpose, within 90 days from the date of receiving the notice of such decision.



**Chapter XIX**  
**Formation of a Collective Management Organization on Copyright or  
Related Rights and its Functions and Duties**

60. A person who wishes to form a Collective Management Organization:
- (a) shall apply to the Agency for formation of a collective management organization together with its organizational structure, articles of association and code of conduct according to the prescribed categories of copyright;
  - (b) may include experts in the relevant categories of copyright or related rights as members in the organization, in applying for formation of a collective management organization on copyright or related rights under subsection (a).
61. The Agency shall:
- (a) grant or refuse the formation of Collective Management Organization by prescribing the terms and conditions after **examining** the application under section 60;
  - (b) guide the granted collective management organizations on copyright or related rights according to the prescribed categories of copyright in respect of their functions and duties and coordinate them if necessary.
62. In respect of the categories of copyright, collective management organizations on copyright or related rights:
- (a) shall encourage literary or artistic creation;
  - (b) may negotiate and settle disputes for enjoyment of the rights of authors and owners of copyright or related rights and for protection from infringement of such rights;
  - (c) may accept literary or artistic works, performances and phonograms entrusted by the author and owner of copyright or related rights and may collect the equitable remuneration from the users and distribute to the author or owner of copyright or related rights;

- (d) may collect and maintain literary or artistic works, performances and phonograms with the consent of the author or owner of copyright or related rights or by purchasing, so as not to be obscured;
- (e) may communicate with foreign collective management organizations, international organizations and regional organizations and accept from and give assistance to them;
- (f) shall comply with rules and regulations and **bye-laws** prescribed by the Ministry and relevant Ministries and the terms and conditions and directives prescribed by the Agency.

## **Chapter XX**

### **Establishment of the Intellectual Property Courts**

63. The Supreme Court of the Union:
- (a) may establish the Intellectual Property Courts in any appropriate place and appoint judges to adjudicate on the criminal or civil cases with respect to the intellectual property matters;
  - (b) may confer the jurisdiction and authority to the judges appointed under subsection (a) to adjudicate on the intellectual property matters;
  - (c) may confer the jurisdiction and authority of the Intellectual Property Courts to the appropriate Courts to adjudicate on the intellectual property matters before the establishment of the Intellectual Property Courts under subsection (a);
  - (d) shall confer jurisdiction and authority to the Intellectual Property Courts that have jurisdiction over appeal and revision cases against any judgment, order and decision made by the Intellectual Property Courts.
  - (e) shall confer the jurisdiction and authority to the appropriate Intellectual Property Court to adjudicate on the cases under section 59;

## **Chapter XXI**

### **Protection of Copyright or Related Rights by the Customs Department**

64. A right holder who has grounds for suspecting that pirated copyright or related rights goods have been imported or are **being imported** or are to be

imported into the territory of Myanmar may apply to issue suspension order of the free circulation of such goods into the channels of commerce to the Director General of the Customs Department in accordance with the stipulations.

65. (a) The Director General of the Customs Department:
- (i) shall notify the applicant whether the application has been accepted or rejected within 30 days from the receipt of the application under section 64;
  - (ii) shall **notify the applicant that he shall** submit additional information within 15 days from the date of issuance of notification if the information necessary for adjudication of the application is not sufficient and defer his decision;
  - (iii) may determine that the applicant must provide an assurance to the Customs Department in accordance with the stipulations, in accepting the application;
  - (iv) shall state the reason clearly if the application is rejected.
- (b) Unless the applicant requested a shorter period, the undertakings included in subsection (a) shall be effective for a period of 6 months.
66. (a) Following the acceptance of the application according to section 65 or according to the findings of the Customs Department, and if they have reasonable grounds for presumption that imported goods are copyright or related rights infringing goods, the Director General of the Customs Department shall suspend the release of such goods into free circulation and shall immediately notify the applicant and importer of such suspension.
- (b) Without prejudice to the protection of confidential information, the Director General of the Customs Department shall give the applicant and the importer sufficient opportunity to inspect the goods under suspension to substantiate the applicant's claim that the goods are copyright or related rights infringing goods.
67. (a) The goods shall be released within 15 days from the date of notification of the suspension to the applicant if the Director General of the Customs Department has not been informed that proceeding

leading to a decision on the merits of the case have been initiated by the applicant or the provisional measures ordered for suspension of the release of goods by the Intellectual Property Court are prolonging. In appropriate cases, this time limit may be extended another 15 days by the decision of the Director General of the Customs Department before the expiry of 15 days.

(b) The time limit shall be 3 days in the case of perishable goods.

68. The importer who is dissatisfied with the suspension order may file a revision to the respective Intellectual Property Court after receiving the notice of suspension. The Intellectual Property Court shall modify or revoke or confirm the term of suspension within 30 days from the date of request for review.

69. If the Intellectual Property Court has decided that the goods are copyright or related rights infringing goods, the importer is liable to pay the costs of storage, destruction or disposal of such goods to the Customs Department.

70. If the Intellectual Property Court has decided that the goods are not copyright or related rights infringing goods, the applicant shall pay damages due to wrongful suspension and detention of such goods in an amount determined by the Intellectual Property Court to the importer.

71. The provisions of this Chapter shall not be applicable to pirated copyright or related rights goods of a non-commercial nature carried in the importer's luggage for personal use or imported or exported goods prescribed in the rules.

72. The Director General of the Customs Department may exchange the information and cooperate with the World Customs Organization, Director General of the Customs Department from other countries and Collective Management Organizations with respect to pirated copyright or related rights goods.

## **Chapter XXII**

### **Authority of the Intellectual Property Courts on Copyright or Related Rights Infringements**

73. (a) The right holder may file a civil miscellaneous case for his grievance in the Intellectual Property Court to order provisional measures under sections 74 and 75;

- (b) The right holder may file a criminal or civil case in the Intellectual Property Court.
74. (a) The Intellectual Property Court may order the following one or more provisional measures for civil remedies upon the application under subsection (a) of section 73 in respect of the infringement of copyright or related rights:
- (i) an order as it thinks fit to prevent the infringement of copyright or related rights and to prevent the entry into the channels of commerce of the State of copyright or related rights infringing goods including imported goods after paying leviable duties to the Customs Department and customs clearance;
  - (ii) an order as it thinks fit to preserve relevant evidence in regard to the alleged infringement of copyright or related rights;
  - (iii) an order to modify, revoke or confirm the order of suspension issued by the relevant Customs Department.
- (b) The Intellectual Property Court may direct the applicant to provide the following to take provisional measures:
- (i) valid evidence that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent.
  - (ii) sufficient assurance to prevent abuse of provisional measures.
- (c) The Intellectual Property Court may further direct the applicant to supply additional information necessary for the identification of the alleged copyright or related rights infringing goods when ordering the provisional measures under subsection (a).
- (d) The Intellectual Property Court shall revoke or cease to have effect the provisional measures ordered under subsection (a) of section 74 and subsection (a) of section 75 upon request of the respondent without prejudice to subsection (b) of section 75, if civil proceeding is not initiated, within the reasonable period determined by the Intellectual Property Court or in the absence of such determination, within 30 days from the date of ordering the provisional measures, to

decide on merits of the case for the injury commencing from the date of execution of the requested provisional measures.

- (e) where the provisional measures are revoked or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or probability of the infringement of copyright or related rights, the Intellectual Property Court may order the applicant, upon request of the respondent, to provide the respondent appropriate compensation for any injury caused by these measures.
75. (a) The Intellectual Property Court **may make an ex parte order of provisional measures** in any of the following conditions:
- (i) where any delay is likely to cause irreparable harm to the right holder;
  - (ii) where there is a demonstrable risk of evidence being destroyed.
- (b) **Where making an ex parte order of provisional measures,** the Intellectual Property Court shall:
- (i) notify the respondent of the provisional measures without delay after the execution of the measures;
  - (ii) execute the provisional measures within the period determined by the Intellectual Property Court or, in the absence of such determination within 30 days from the date of notification if the respondent does not follow the notification.
- (c) The Intellectual Property Court shall review the provisional measures, upon request of the respondent, by hearing both sides within the reasonable period, in order to make decision on whether these measures need to be modified, revoked or confirmed.
76. (a) The Intellectual Property Court, may, in case of the infringement of copyright or related rights, pass any one or more of the following orders without prejudice to the Civil Law and the Code of Civil Procedure in the proceedings under subsection (b) of section 73:

- (i) an injunction against the infringement of copyright or related rights, including prevention of the entry into the channels of the commerce of the State of imported copyright or related rights infringing goods after **paying leviable duties to the Customs Department and** customs clearance;
  - (ii) (aa) an order to pay the right holder sufficient damages for the injury that the right holder has suffered due to the infringement of copyright or related rights by the infringer or an order to pay the right holder pre-established damages or the profits obtained by the infringer or both, in appropriate cases;
    - (bb) an order to pay the right holder appropriate expenses including legal costs and attorney's fees;
  - (iii) an order that the copyright or related rights infringing goods be disposed of outside the channels of commerce or destroyed without paying any compensation to the right holder in order to avoid any harm caused to the right holder;
  - (iv) an order that the materials and implements predominantly used in the creation of copyright or related rights infringing goods be disposed of outside the channels of commerce or destroyed.
- (b) When considering to pass any order under clauses (iii) and (iv) of subsection (a), the Intellectual Property Court shall take into account proportionality between the seriousness of the infringement of copyright or related rights and such order as well as the interests of the third parties.

77. The Intellectual Property Court may order the applicant to pay the respondent compensation and **legal costs including attorney's fee and other expenses** of the respondent who has been wrongfully restrained by the complaint where the complaint about the infringement of copyright or related rights is appeared incorrect and dishonest.

78. (a) The Intellectual Property Court may order the adverse party to produce evidence, by ensuring the protection of confidential

information in appropriate cases, without prejudice to the provisions of existing laws, for the following conditions:

- (i) when the right holder has produced **valid** evidence to support his claims sufficiently;
  - (ii) when the right holder has specified that the **valid** evidence relevant to his claims are in the hands of the adverse party.
- (b) The Intellectual Property Court may, in voluntary infringement without valid reason, make preliminary and final determinations such as affirmation or rejection based on the information including allegation and declination, subject to providing the parties an opportunity to be heard on allegation or evidence in the following situations:
- (i) refusing to provide necessary information;
  - (ii) not providing necessary information within a reasonable period;
  - (iii) significantly impeding the procedure relating to an enforcement action.

79. If the Intellectual Property Court has imposed a fine for any offence prosecuted under this Law, it may order to pay the aggrieved person the whole or part of such fine as damages.

80. If both criminal and civil cases are filed on the basis of the same matter, the Intellectual Property Court shall set-off the money given as damages from the fine imposed under section 79 when passing the judgment, order and decree to pay damages for injury in the civil case.

81. The Intellectual Property Court may apply the provisions in the Evidence Act, the Code of Criminal Procedure, the Code of Civil Procedure and other relevant existing laws if it is not provided expressly in this Law in respect of the enforcement actions for the infringement of copyright or related rights.

### **Chapter XXIII**

#### **Offences and Penalties**

82. Whoever commits any of the following offences shall, on conviction, be punished with imprisonment for a term not exceeding three years or with a fine not less than one million kyats or with both:



- (a) for commercial purpose, without the consent of the right holder;
  - (i) direct or indirect reproduction or communication to the public or distribution to the public, of the work protected by copyright or objects protected by related rights;
  - (ii) possessing or dealing pirated copyright or related rights goods;
  - (iii) importing pirated copyright or related rights goods into Myanmar;
  - (iv) acting in a way prohibited under sections 43 and 44.
- (b) possessing any materials or implements which has been used predominantly to produce copyright or related rights infringing goods.

83. Whoever having already been convicted of any act provided in section 82 is again convicted of such act, shall be punished with imprisonment for a term from a minimum of three years to a maximum of 10 years and be liable to a fine not exceeding 10 million kyats.

84. Whoever commits any of the following offences shall, on conviction, be punished with imprisonment for a term not exceeding one year or with a fine not exceeding two million kyats or with both:

- (a) issuing or directing to issue a Certificate of Copyright or Related Rights Registration dishonestly;
- (b) making or directing to make a false entry in the Register of copyright or related rights.

85. Whoever conspires or abets in commission of any offence in this Law shall be liable to the punishment provided for such offence.

## **Chapter XXIV**

### **Miscellaneous**

86. The literary or artistic work or object of related rights of which term of protection has expired under this Law shall be considered as public domain. That public domain work or object may be freely used without permission of the author

or owner of copyright or related rights, provided that the user shall not prejudice to the name and right of integrity of the author.

87. The term of the copyright which has not expired under the Myanmar Copyright Act, 1914 repealed by this Law, shall continue to be valid and it shall be the same as the term of the copyright provided in this Law.

88. The term of related rights of the performers, producers of phonogram and broadcasting organizations before this Law has come into force shall be in accordance with the term provided in Chapter XIV of this Law.

89. The provisions of this Law shall not affect contracts on works, performances, phonograms and broadcasts concluded before this Law has come into force.

90. The copies that were lawfully made for public interest without the authorization of the owner of copyright or related rights before this Law has come into force may be distributed to the public without permission of the owner of copyright or related rights for a period not exceeding two years from the date of coming into force of this Law.

91. The copy of the Certificate of Copyright or Related Rights Registration and documents certified and sealed by the Registrar may be presented as evidence in the relevant Intellectual Property Court.

92. The Intellectual Property Court may pass an order that the copyright or related rights infringing goods and implements related to commission of the offence be forfeited, destroyed or may pass an appropriate administrative order to act in any other ways.

93. Notwithstanding the provisions of subsection (a) of section 18, literary or artistic work or object of related rights may be used by the State for the public security and administrative, legislative or judicial books and documents or for the appropriate activities.

94. The offences under this Law shall be determined as cognizable offences.

95. The disputes on copyright or related rights between the two parties may be settled by means of mutual consultation amicably or arbitration or judicial proceedings.

96. The Ministry shall be responsible for office works of the Central Committee and the Agency and bear their expenses to implement the provisions of this Law.

97. The Ministry shall fix **honoraria** and allowances for the members of the Central Committee, the Agency and Working Groups who are non-civil service personnel with the approval of the Union Government.

98. The term of the person at the Union level under this Law is normally the same as that of the President.

99. The Ministry may form and assign the department and its divisions in the respective field of Intellectual Property to carry out the functions and duties of the Agency.

100. The Central Committee and the Agency established under this law shall be considered to encompass all Intellectual Property laws.

101. In implementing the provisions of this Law:

- (a) the Supreme Court of the Union may issue rules, regulations notifications, orders, directives and procedures relating to judiciary;
- (b) the Ministry and the relevant Ministries may:
  - (i) issue rules, regulations and **bye-laws** with the approval of the Union Government;
  - (ii) issue notifications, orders, directives and procedures.
- (c) the Ministry undertaking the functions of customs may issue rules, regulations and **bye-laws** relating to customs with the approval of the Union Government.
- (d) The Agency and the Department may issue notifications, orders, directives and procedures with the approval of the Ministry.

102. The Myanmar Copyright Act, 1914 is hereby repealed.

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I hereby sign in accordance with the Constitution of the Republic of the Union of Myanmar.

Sd/

President

The Republic of the Union of Myanmar