

COPYRIGHT.

No. 20 of 1912.

An Act relating to Copyright.

[Assented to 20th November, 1912.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

- | | |
|--|---|
| Short title. | 1. This Act may be cited as the <i>Copyright Act 1912</i> . |
| Parts. | 2. This Act is divided into Parts as follows:—
Part I.—Preliminary.
Part II.—Copyright.
Part III.—Summary Remedies.
Part IV.—The Copyright Office.
Part V.—Miscellaneous. |
| Definitions. | 3. In this Act, unless the context otherwise requires—
(a) “the British Copyright Act” means the <i>Copyright Act 1911</i> of the United Kingdom (1 & 2 Geo. 5, ch. 46);
(b) words and expressions defined in the British Copyright Act have the same meanings as in that Act;
(c) “Territory” means a Territory of the Commonwealth which is part thereof. |
| Repeal. | 4. The <i>Copyright Act 1905</i> is repealed. |
| Continuance of Copyright Office. | 5. The Copyright Office established under the <i>Copyright Act 1905</i> , and any officers appointed under that Act, shall continue as if established or appointed under this Act. |
| Continuance of Administration of State Copyright Acts. | 6. Where, in pursuance of any proclamation* issued under the <i>Copyright Act 1905</i> , the administration of any State Copyright Act has become transferred to the Commonwealth, such administration shall continue to be so transferred to the same extent and subject to the same terms and conditions as if the <i>Copyright Act 1905</i> still remained in force. |
| Continuance of Registers of Copyrights. | 7. All Registers of Copyrights established under the <i>Copyright Act 1905</i> shall continue as if established under this Act. |

* See proclamation in *Gazette* of 26th January, 1907, page 435.

PART II.—COPYRIGHT.

8. The British Copyright Act, a copy of which is set out in the Schedule to this Act, shall, subject to any modifications provided by this Act, be in force in the Commonwealth, and shall be deemed to have been in force therein as from the first day of July, One thousand nine hundred and twelve.

Adoption of
British
Copyright Act.

9. In the application of the British Copyright Act to the Commonwealth—

Modifications to
adapt the British
Copyright Act
to the
Commonwealth.

- (a) any powers of the Board of Trade under section three may be exercised by the Governor-General;
- (b) the reference in sub-section (4.) of section nineteen to arbitration shall be read as a reference to arbitration under the law of the State or Territory in which the dispute occurs, and the reference in sub-section (6.) of that section to the Board of Trade shall be read as a reference to the Governor-General;
- (c) the reference in section twenty-two to the *Patents and Designs Act 1907* shall be read as a reference to the *Designs Act 1906*, and the reference in that section to section eighty-six of the *Patents and Designs Act 1907* shall be read as a reference to section forty-one of the *Designs Act 1906*; and
- (d) the reference in section twenty-four to the *London Gazette* and two London newspapers shall be read as a reference to the *Commonwealth Gazette* and one newspaper published in each of the capital cities of the Australian States.

10.—(1.) Copies made out of the Commonwealth of any work in which copyright subsists which if made in the Commonwealth would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Comptroller-General of Customs, that he is desirous that such copies should not be imported into the Commonwealth, shall not be so imported and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of the *Customs Act 1901-1910*.

Importation of
copies.
1 & 2 Geo. 5,
c. 46, s. 14.

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

(3.) The Governor-General may make regulations, either general or special, respecting the detention and forfeiture of copies, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

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

(5.) The regulations may provide for the informant reimbursing the Comptroller-General of Customs or the Collector of Customs for the State all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under the *Copyright Act 1905* being treated as notices given under this section, and also that notices given to the Commissioners of Customs and Excise of the United Kingdom and communicated by them to the Comptroller-General of Customs shall be deemed to have been given by the owner to the Comptroller-General.

(6.) This section shall have effect as the necessary modification of section fourteen of the British Copyright Act.

Provision
for reciprocal
protection of
copyright.
Cf. Canada
Copyright
Bill 1911, cl. 34.

11.—(1.) Subject to this section, the Governor-General in Council may, by Order, direct that the British Copyright Act and this Act shall extend to literary, musical, dramatic, and artistic works first produced or published in any part of the King's Dominions to which the British Copyright Act does not extend, in like manner as if the works had been first published or produced in the Commonwealth.

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

- (a) that the term of copyright shall not exceed that conferred by the law of the part of the King's dominions to which the Order relates;
- (b) that the enjoyment of the rights conferred by virtue of the Order shall extend to the Commonwealth only, and shall be subject to the accomplishment of such conditions and formalities as are prescribed by the Order;
- (c) for the modification of any provision of the British Copyright Act or this Act as to ownership of copyright or otherwise, having regard to the law of the part of the King's dominions to which the Order relates; and
- (d) that the British Copyright Act and this Act may extend to existing works in which copyright subsists in the part of the King's dominions to which the Order relates, but subject to such modifications, restrictions and provisions as are set out in the Order.

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

Provisions as to
Order in Council.
Cf. 1 & 2 Geo. 5
ch. 46, s. 32.

12.—(1.) The Governor-General in Council may make Orders for altering, revoking, or varying any Order in Council made by him in pursuance of any power conferred upon him by the British

Copyright Act or this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2.) Every Order in Council made by the Governor-General in pursuance of any power conferred upon him by the British Copyright Act or this Act shall be published in the *Gazette*, and shall be laid before both Houses of the Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

13.—(1.) Where copyright subsisted in the United Kingdom in respect of any musical, dramatic, or artistic work at or after the commencement of the *Copyright Act 1905* and before the first day of July One thousand nine hundred and twelve, the copyright shall, subject to this section, be deemed to have subsisted in the Commonwealth as from the commencement of the *Copyright Act 1905* or from the date of the commencement of the copyright in the work, as the case requires, to the same extent as if copyright therein had subsisted in the Commonwealth under the law of the United Kingdom.

Saving of copy-
rights in
certain works
made out of
the Common-
wealth.

(2.) Where a person has before the commencement of this Act taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction of any musical, dramatic, or artistic work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction of any such work at a time when such reproduction would, but for this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which were subsisting and valuable at the first day of July, One thousand nine hundred and twelve, unless the person who, by virtue of this section, becomes entitled to restrain such reproduction, agrees to pay such compensation as, failing agreement, may be determined by arbitration.

PART III.—SUMMARY REMEDIES.

14.—(1.) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the Commonwealth any infringing copy of any such work,

Summary
offences.
1 & 2 Geo.
c. 46, s. 11.

he shall be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding Forty shillings for every copy dealt with in contravention of this section, but not exceeding Fifty pounds in respect of the same transaction; or in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2.) If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be guilty of an offence under this Act, and be liable on summary conviction to a fine not exceeding Fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

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

15. Any person who, for his private profit, permits any theatre or other place of entertainment to be used for the performance in public of any musical or dramatic work, without the consent of the registered owner of the sole right to perform or authorize the performance of the work in the State or part of the Commonwealth where the theatre or place is situated, shall be guilty of an offence, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of the right to perform or authorize the performance of the work.

Penalty : Ten pounds.

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

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

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

Penalty for permitting unauthorized performance in theatres, &c.
Cf. No. 25,
1905, s. 51.

Search warrant and seizure of pirated copies.
Ib. s. 52.

17.—(1.) The registered owner of the sole right to perform, or authorize the performance, of a musical or dramatic work in the Commonwealth or any part thereof, or the agent of such owner appointed in writing, may, by notice in writing in accordance with the prescribed form, forbid the performance in public of the work in infringement of his right, and require any person to refrain from performing or taking part in the performance in public of the work, in infringement of his right, and every person to whom a notice has been given in accordance with this section shall refrain from performing, or taking part in the performance in public of the work in infringement of the right of such owner.

Penalty: Ten pounds.

(2.) A person shall not give any notice in pursuance of this section without just cause.

Penalty: Twenty pounds.

(3.) In any prosecution under sub-section (2.) of this section, the defendant shall be deemed to have given the notice without just cause unless he proves to the satisfaction of the court that, at the time of giving the notice, he was the registered owner of the sole right to perform, or authorize the performance, of the work in the Commonwealth or any part thereof, or the agent or such owner appointed in writing, and had reasonable ground for believing that the person to whom the notice was given was about to perform or take part in the performance of the work in infringement of the right of such owner.

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

Application of penalties.
Ib. s. 57.

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

Limitation of summary proceedings.
Cf. ib. s. 59.

20. An appeal shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a court of summary jurisdiction in respect of any offence or matter under this Act, and such appeal shall be to the court, and shall be made within the time and in the manner, provided by the law of the State or Territory in which the conviction or order was made in case of appeals from courts of summary jurisdiction in that State or Territory.

Appeals.
Ib. s. 60.

21. This Part of this Act shall not apply to any case to which section nine of the British Copyright Act, relating to infringement of copyright in the case of a work of architecture, applies.

Part not to apply to works of architecture.
Cf. 1 & 2, Geo. 5, s. 9(2.).

Power of owner of performing right to forbid performance in infringement of his right.
No. 25, 1905, s. 54.

PART IV.—THE COPYRIGHT OFFICE.

DIVISION 1.—GENERAL.

Copyright office.
Cf. No. 25,
1905, s. 10.

22. There shall be, for the purposes of this Act, an office called the Copyright Office.

Registrar of Copyrights.
Cf. ib. s. 10.

23. The Copyright Office shall be in charge of an officer called the Registrar of Copyrights.

Powers and functions of Registrar.

24. The Registrar of Copyrights shall have such powers and functions as are conferred upon him by this Act and the regulations.

Seal.
Cf. ib. s. 11.

25.—(1.) There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed.

(2.) The seal of the Copyright Office in use at the commencement of this Act shall, until altered, be the seal of the Copyright Office.

DIVISION 2.—REGISTRATION.

Registration optional.

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

Copyright Registers.
Ib. s. 64.

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

The Register of Literary (including Dramatic and Musical) Copyrights.

The Register of Fine Arts Copyrights.

The Register of International and State Copyrights.

Method of registration.
Ib. s. 65.

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

Registration of assignments and transmissions.
Ib. s. 66.

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

How registration effected.
Ib. s. 67.

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

Registration of works published in a series.

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

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

Trusts not registered.
No. 25, 1905,
s. 68.

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

33. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein, and documents purporting to be copies of any entry therein or extracts therefrom certified by the Registrar and sealed with the seal of the Copyright Office, shall be admissible in evidence in all Federal or State courts, or the courts of any Territory, without further proof or production of the originals.

Register to be evidence.
Ib. s. 69.

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

Certified copies.
Ib. s. 70.

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

Inspection of register.
Ib. s. 71.

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

Correction of register.
Ib. s. 72.

- (a) correcting any error in any name, address, or particular ; and
- (b) entering any prescribed memorandum or particular relating to copyright or other right under this Act.

37.—(1.) Subject to this Act the Supreme Court of any State or a Judge thereof may, on the application of the Registrar or of any person aggrieved, order the rectification of any register under this Act by—

Rectification of register by the Court.
Ib. s. 73.

- (a) the making of any entry wrongly omitted to be made in the register ; or
- (b) the expunging of any entry wrongly made in or remaining on the register ; or
- (c) the correction of any error or defect in the register.

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

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

Delivery of copies to Registrar.
Ib. s. 75.

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

(3.) The Registrar shall refuse to register the copyright in any book until sub-section (1.) of this section has been complied with, or the copyright in a work of art until sub-section (2.) of this section has been complied with.

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

False representation to Registrar.
No. 25, 1905, s. 76.

39. A person who wilfully makes any false statement or representation to deceive the Registrar or any officer in the execution of this Part of this Act, or to procure or influence the doing or omission of any thing in relation to this Part of this Act or any matter thereunder shall be guilty of an indictable offence.

Penalty: Imprisonment for three years.

PART V.—MISCELLANEOUS.

Delivery of books to the Librarian of the Parliament.
Cf 1 & 2 Geo. 5, c. 46, s. 15.

40.—(1.) The publisher of every book which is first published in the Commonwealth after the commencement of this section, and in which copyright subsists under this Act, shall within one month after the publication deliver, at his own expense, a copy of the book to the Librarian of the Parliament, who shall give a written receipt for it.

(2.) The copy delivered to the Librarian of the Parliament shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together, and on the best paper on which the book is printed.

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

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

Preservation of rights of State libraries.

41. Nothing in this Act shall be deemed to affect the existing provisions of any Act of the Parliament of a State which require or relate to the delivery to any specified Public or other Library of the State of copies of books published in the State or to affect the power of the Parliament of a State to make laws requiring or relating to such delivery.

Regulations.
No. 25, 1905, s. 79.

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

THE SCHEDULE.

[1 & 2 Geo. 5.]

Copyright Act 1911.

[Ch. 46.]

CHAPTER 46.

An Act to amend and consolidate the Law Relating to Copyright.

[16th December, 1911.]

A.D. 1911.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

IMPERIAL COPYRIGHT.

Rights.

1.—(1.) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

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

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

and to authorize any such acts as aforesaid.

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

2.—(1.) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

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

THE SCHEDULE—*continued.*

A.D. 1911.

- (iv.) The publication in a collection, mainly composed of non-copyright matter, *bonâ fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged:
- (v.) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i.) as to newspaper summaries:
- (vi.) The reading or recitation in public by one person of any reasonable extract from any published work.
- (2.) Copyright in a work shall also be deemed to be infringed by any person who—
- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or
- (b) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (c) by way of trade exhibits in public; or
- (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

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

Term of copyright.

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

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

Compulsory

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

Ownership of copyright, &c.

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

Provided that—

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

THE SCHEDULE—*continued.*

- (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical. A.D. 1911.

(2.) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

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

Civil Remedies.

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

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

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

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

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

A.D. 1911.

THE SCHEDULE—*continued.*

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

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

Restriction on remedies in the case of architecture.

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

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

Limitation of actions.

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

Summary Remedies.

Penalties for dealing with infringing copies, &c.

11.—(1.) If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire into the United Kingdom any infringing copy of any such work:

he shall be guilty of an offence under this Act and be liable on summary conviction to a fine not exceeding Forty shillings for every copy dealt with in contravention of this section, but not exceeding Fifty pounds in respect of the same transaction; or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2.) If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be guilty of an offence under this Act, and be liable on summary conviction to a fine not exceeding Fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

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

(4.) Nothing in this section shall, as respects musical works, affect the provisions of the *Musical (Summary Proceedings) Copyright Act, 1902*, or the *Musical Copyright Act, 1906*.

2 Edw. 7, c. 15,
6 Edw. 7, c. 36.

Appeals to quarter sessions.

12. Any person aggrieved by a summary conviction of an offence under the foregoing provisions of this Act may in England and Ireland appeal to a court of quarter sessions and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts.

Extent of provisions as to summary remedies.

13. The provisions of this Act with respect to summary remedies shall extend only to the United Kingdom.

Importation of copies.

Importation of Copies.

14.—(1.) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not

THE SCHEDULE—*continued.*

be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the *Customs Consolidation Act, 1876*, and that section shall apply accordingly.

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

(3.) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

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

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

(6.) The foregoing provisions of this section shall have effect as if they were part of the *Customs Consolidation Act, 1876*: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7.) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to Libraries.

15.—(1.) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2.) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depôt in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3.) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4.) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5.) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6.) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

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

A.D. 1911.

39 & 40 Vict.
c. 36.Delivery of
copies to
British Museum
and other
libraries.

THE SCHEDULE—*continued**Special Provisions as to certain Works.*

A.D. 1911.

Works of joint authors.

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

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

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

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

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

Posthumous works.

17.—(1.) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

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

Provisions as to Government publications.

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

Provisions as to mechanical instruments.

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

(2.) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

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

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

THE SCHEDULE—*continued.*

Provided that—

A.D. 1911.

- (i.) nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and
 - (ii.) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3.) The rate at which such royalties as aforesaid are to be calculated shall—
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent.; and
 - (b) in the case of contrivances sold as aforesaid after the expiration of that period, five per cent.

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

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

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

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

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

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

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply :
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, Nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, Nineteen hundred and ten :
- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :

THE SCHEDULE—*continued.*

A.D. 1911.

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

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

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

Provided that—

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

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

Provision as to political speeches.

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

Provisions as to photographs.

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

Provisions as to designs registrable under 7 Edw. 7, c. 29.

22.—(1.) This Act shall not apply to designs capable of being registered under the *Patents and Designs Act, 1907*, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

(2.) General rules under section eighty-six of the *Patents and Designs Act, 1907*, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.

23. If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

Existing works.

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

THE SCHEDULE—*continued.*

Provided that—

A. D. 1911.

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

- (i.) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or
- (ii.) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the *London Gazette* and in two London newspapers:

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

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

(3.) Subject to the provisions of section nineteen sub-sections (7.) and (8.) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

Application to British Possessions.

25.—(1.) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

Application of Act to British dominions.

(2.) If the Secretary of State certifies by notice published in the *London Gazette* that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be

THE SCHEDULE—*continued.*

A.D. 1911.

lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

Legislative powers of self-governing dominions.

26.—(1.) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2.) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3.) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorized to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

Power of Legislatures of British possessions to pass supplemental legislation.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

Application to protectorates.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

PART II.

INTERNATIONAL COPYRIGHT.

Power to extend Act to foreign works.

29.—(1.) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects;
- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

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

THE SCHEDULE—*continued*.

Provided that—

A.D. 1911.

- (i.) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I. of this Act;
- (ii.) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates;
- (iii.) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order;
- (iv.) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order;
- (v.) in applying the provision of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country;
- (vi.) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the *International Copyright Act*, 1886.

49 & 50 Vict
c. 33.

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

30.—(1.) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply.

Application of
Part II. to
British
possessions.

(2.) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like orders as under this Part of this Act His Majesty in Council is authorized to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly.

(3.) Where it appears to His Majesty expedient to except from the provisions of any order any part of his dominions not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS.

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

Abrogation of
common law
rights.

32.—(1.) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

Provisions as to
Orders in
Council.

(2.) Every Order in Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the *Copyright Act*, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

Saving of
university
copyright.
15 Geo. 3, c 53.

THE SCHEDULE—*continued.*

A.D. 1911.

Saving of
compensation
to certain
libraries.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books:

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

Interpretation.

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

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

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

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

“Work of sculpture” includes casts and models;

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

“Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs;

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

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

“Collective work” means—

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

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

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

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

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

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

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

“Lecture” includes address, speech, and sermon;

“Self-governing dominion” means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2.) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors administrators or assigns.

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

THE SCHEDULE—*continued.*

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

A.D. 1911.

(5.) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Repeal.

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37.—(1.) This Act may be cited as the *Copyright Act, 1911.*

Short title and commencement.

(2.) This Act shall come into operation—

- (a) in the United Kingdom, on the first day of July Nineteen hundred and twelve or such earlier date as may be fixed by Order in Council ;
- (b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion ;
- (c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively ;
- (d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES.

FIRST SCHEDULE.

Section 24.

Existing Rights.

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

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

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

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

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

THE SCHEDULE—continued.

A.D. 1911.
Section 36.

SECOND SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2. c. 13	The <i>Engraving Copyright Act</i> , 1734	The whole Act.
7 Geo. 3. c. 38	The <i>Engraving Copyright Act</i> , 1767	The whole Act.
15 Geo. 3. c. 53	The <i>Copyright Act</i> , 1775 ..	The whole Act.
17 Geo. 3. c. 57	The <i>Prints Copyright Act</i> , 1777 ..	The whole Act.
54 Geo. 3. c. 56	The <i>Sculpture Copyright Act</i> , 1814	The whole Act.
3 & 4 Will. 4. c. 15	The <i>Dramatic Copyright Act</i> , 1833	The whole Act.
5 & 6 Will. 4. c. 65	The <i>Lectures Copyright Act</i> , 1835	The whole Act.
6 & 7 Will. 4. c. 59	The <i>Prints and Engravings Copyright (Ireland) Act</i> , 1836	The whole Act.
6 & 7 Will. 4. c. 110	The <i>Copyright Act</i> , 1836 ..	The whole Act.
5 & 6 Vict. c. 45	The <i>Copyright Act</i> , 1842 ..	The whole Act.
7 & 8 Vict. c. 12	The <i>International Copyright Act</i> , 1844	The whole Act.
10 & 11 Vict. c. 95	The <i>Colonial Copyright Act</i> , 1847	The whole Act.
15 & 16 Vict. c. 12	The <i>International Copyright Act</i> , 1852	The whole Act.
25 and 26 Vict. c. 68	The <i>Fine Arts Copyright Act</i> , 1862	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict. c. 12	The <i>International Copyright Act</i> , 1875	The whole Act.
39 & 40 Vict. c. 36	The <i>Customs Consolidation Act</i> , 1876	Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.
45 & 46 Vict. c. 40	The <i>Copyright (Musical Compositions) Act</i> , 1882	The whole Act.
49 & 50 Vict. c. 33	The <i>International Copyright Act</i> , 1886	The whole Act.
51 & 52 Vict. c. 17	The <i>Copyright (Musical Compositions) Act</i> , 1888	The whole Act.
52 & 53 Vict. c. 42	The <i>Revenue Act</i> , 1889.. ..	Section one, from "Books first published" to "as provided in that section."
6 Edw. 7. c. 36	The <i>Musical Copyright Act</i> , 1906	In section three the words "and which has been registered in accordance with the provisions of the <i>Copyright Act</i> , 1842, or of the <i>International Copyright Act</i> , 1844, which registration may be effected notwithstanding anything in the <i>International Copyright Act</i> , 1886."