

**Copyright (Amendment) Decree
No 42 1999
Laws of the Federation of Nigeria**

10th May 1999

The Federal Military Government hereby decrees as follows:-

Amendment of 1988 No. 47.Cap. 68 LFN. 1992 No. 98

1. The Copyright Decree (in this Decree referred to as "the principal Decree") as amended, is hereby further amended as set out in this Decree.
2. Wherever it occurs in the principal Decree as amended, other than in section 37(2)(a) and in paragraph 3(a) In the third Schedule to the Decree, for the word "Council" there is substituted, the word "Commission".

Insertion of section 4A

3. Immediately after. section 4 of the principal Decree there is inserted a new section 4A as follows -

"Copyright by reference to international agreements.

4A. (1) Copyright shall be conferred by this section on every work if -

(a) on the date of its first publication at least one of the authors is

(i) a citizen of or domiciled in, or

(ii) a body corporate established by or under the laws of,

a Country that is, a party to an obligation in a treaty or other international agreement to which Nigeria is a party;

(b) the work is first published -

(i) in a country which is a party to an obligation in a treaty or other international agreement to which Nigeria is party,

(ii) by the United Nations or any of its specialised agencies, or

(iii) by the Organisation of African Unity, or

(iv) by the Economic Community of West Africa.

(2) Where the question arises as to whether a country is a party to an obligation in a treaty or other international agreement to which Nigeria is also a party, a certificate from the Commission to that effect shall be conclusive proof of that fact".

Amendment of section 10

4. Section 10 of the principal Decree is amended in subsection (2) by substituting for the word "party", the word part

Amendment of section 11 1992 No. 98.

5. Section 11 of the principal Decree, as amended, is further amended in subsection (1) by inserting immediately after the word "subsists", the words "has the right".

Amendment of section 12. 1992 No. 98.

6. Section 12 of the principal Decree. as amended, is further amended in subsection (3) by substituting for the words "section 31" the words "section 30".

Insertion of a new section 15A.

7. Immediately after section 15 of the principal Decree, there is inserted a new section 15A as follows -

'Limitation to the right of action.

15A. Notwithstanding the provisions of this Decree or any other law, no action for the infringement of copyright or any right under this Decree shall be commenced or by any person

(a) carrying on the business of negotiating and granting of licence;

(b) collecting and distributing royalties in respect of copyright works or representing more than 50 owners of copyright in any category of works protected by this Decree,

unless it is approved under section 32B of this Decree to operate as a collecting society or is otherwise issued with a certificate of exemption by the Commission."

Amendment of section 18 1992 No. 98

8. Section 18 of the principal Decree as amended is further amended in subsection (1) by -

- (a) substituting for the word "and" at the end of paragraph (b), the word 'or';
- (b) inserting immediately after the word 'did' in line 2, after paragraph (c), the word "not"; and
- (c) deleting, after the word 'was' in line 3 after paragraph (c), the word "not"

Insertion of a new section 18A

9. Immediately after section 18 of the principal Decree, there is inserted a new section 18A as follows -

Anti-piracy measures

18A. (1) The Commission shall have powers, with the consent of the Minister, to prescribe any design, label, mark, impression or any other anti-piracy device for use on, in or in connection with any work in which copyright subsists.

(2) Any person who -

- (a) sells, rents, hires or
- (b) offers for sale, rent or hire,

any work in contravention of the prescription made pursuant to subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding 100,000 or imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

(3) Any person who without the permission of the Commission -

- (a) imports into Nigeria; or
- (b) has in his possession,

any anti-piracy device prescribed under this section or any machine, instrument or other contrivance intended for use in the production of the anti-piracy device, commits an offence and is liable on conviction to a fine not exceeding N500,000 or imprisonment for a term not exceeding 5 years, or to both such fine and imprisonment.

(4) A person who without the permission of the Commission -

- (a) is in possession of; or
- (b) reproduces; or
- (c) counterfeits,

any anti-piracy device prescribed under this section commits an offence and is liable on

conviction to a fine not exceeding N50,000 or imprisonment to a term not exceeding 5 years, or to both such fine and imprisonment.

(5) The Commission shall have power, with the consent of the Minister, to make regulations specifying the conditions necessary to give effect to the purpose of this section.
"

Insertion of a new section 29A

10. Immediately after section 29 of the principal Decree, there is inserted new section 29A as follows-

"Criminal liability in respect of infringement of folklore.

29A. (1) A person who -

- (a) does any of the acts set out in section 28 of this Decree without the consent or authorisation of the Commission; or
- (b) does not comply with the requirement in subsection (4) of section 28 of this Decree; or
- (c) willfully misrepresents the source of an expression of folklore; or
- (d) willfully distorts an expression of folklore in a manner prejudicial to the honour, dignity or cultural interests of the community in which it originates, commits an offence under this Decree.

(2) A person convicted of an offence under subsection (1) of this section is liable on conviction

- (a) in the case of an individual, to a fine not exceeding N 100,000 or to imprisonment for a term of 12 months or to both such fine and imprisonment; and
- (b) in the case of a body corporate, to a fine of N500,000.

(3) A court before which an offence under this section is tried may order that the infringing or offending article be delivered to the Commission."

Amendment of section 31

11. Section 31 of the principal Decree is amended by substituting for the existing subsection (1) a new subsection (1) as follows -

"(1) The Commission shall have a governing board (hereafter referred to as "the Board") which shall consist of the following members -

- (a) a Chairman, who shall be a person knowledgeable in copyright matters, to be appointed by the Head of State, Commander-in-Chief of the Armed Forces on the recommendation of the Minister;

- (b) the Director-General of the Commission;
- (c) one representative of the Federal Ministry of Justice;
- (d) one representative of the Federal Ministry of Education;
- (e) one representative of the Nigeria Police Force, not below the rank of a Commissioner of Police;
- (f) one representative of the Nigeria Customs Service, not below the rank of a Comptroller of Customs;
- (g) six other persons to be appointed by the Minister who shall represent as far as possible the authors in the following areas
 - (i) literary works,
 - (ii) artistic works,
 - (iii) musical works,
 - (iv) cinematograph films,
 - (v) sound recordings, and
 - (vi) broadcasts.

Amendment Section 32

12. Section 32 of the principal Decree is amended by substituting the words "Director- General" for the word "Director" wherever it occurs.

Amendment Section 32A 1992 No. 98

13. Section 32A of the principal Decree is amended
- (a) in subsection (1), by deleting all the words after the word "fit";
 - (b) by inserting immediately after subsection (4), a new subsection (5) as follows -
 - (5) A Copyright Inspector shall have all the powers, rights and privileges of a police officer as defined under the Police Act and under any other Cap. 359 LIN. relevant enactment pertaining to the investigation, prosecution or defence of a civil or criminal matter wider this Decree."

Amendment of section 37.

14. Section 37 of the principal Decree is amended by inserting immediately after subsection (3), a new subsection (4) as follows -

"(4) The Commission shall, with the consent of the Minister, have power to make regulations specifying the conditions necessary for the operation of a business involving the production, public exhibition, hiring or rental of any work in which copyright subsists under this Decree."

Insertion of a new sections 38A,38B, 38C 38D and 38D.

15. Immediately after section 38 of the principal Decree, there is inserted the following new sections 38A, 38B, 38C and 38D

'Limitation on suit against the Commission, etc.

38A. (1) Notwithstanding anything in any other enactment, no suit against the Commission, a member or any staff of the Commission, for an act done -

(a) in pursuance or execution of his duties under this Decree or any other enactment or law; or

(b) in respect of any alleged neglect or default in the execution of this Decree or any other enactment,

shall lie or be instituted in any court unless the suit is commenced within twelve months next after the act, neglect or default complained of or where the damage or injury continues within twelve months next after the damage or injury ceases.

(2) No suit shall be commenced against the Commission or any member of staff of the Commission before the expiration of a period of three months after written notice of intention to commence the suit is served upon the Commission by the intending plaintiff or his agent.

(3) The notice referred to in subsection (2) of this section shall clearly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

Service of documents.

38B. A notice, summons, or other document required or authorised to be served upon the Commission under the provisions of this Decree or any other enactment or law may be served by delivering the same to the Director-General of the Commission or by sending it by registered post addressed to the Director-General at the office of the Commission.

Restriction on execution against the property of the Commission.

38C. (1) In any action or suit against the Commission, no execution or attachment or process in the nature thereof shall be issued against the Commission.

(2) Any sum of money which is by judgment of a court awarded against the Commission shall, subject to any direction given by the court where notice of appeal has been given by the Commission in respect of the judgment, be paid by the Commission from its general fund.

Powers of the Minister give directives.

38D. The Minister may give to the Commission directives a general or special character with respect to any of the functions of the Commission under this Decree and it shall be the duty of the Commission to comply with such directives."

Amendment of Second Schedule

16. The Second Schedule to the principal Decree is amended in paragraph (q) by substituting for the words "sheet or music" the words "sheet music".

Amendment of Third Schedule

17. The Third Schedule to the principal Decree is amended in paragraph 5 by substituting for the word "incidentally", word 'Incidentally'

Amendment of Fourth Schedule

18. The Fourth Schedule to the principal Decree is amended -

(a) in paragraph 2(4)(a), by substituting for the word "court" the word *Commission.

(b) in paragraph 3(5)(d), by substituting for the word "tht" the word "that"

Citation.

19. This Decree may be cited as the Copyright (Amendment) Decree 1999.

Made at Abuja this 10th day of May 1999

General Abdulsalami Alhaji Abubakar
Head of State, Commander-in-Chief of the Armed Forces
Federal Republic of Nigeria.

