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24th June, 2004 *ACT No. 2* No. 25



No. 2 of 2004

AN ACT TO AMEND THE COPYRIGHT ACT

[Date of Assent — 24th June, 2004]

Enacted by the Parliament of The Bahamas

Short title 1.(1) This Act, which amends the Copyright Act, may be cited
and as the Copyright (Amendment) Act, 2004.

commence- (2) This Act shall come into operation on such day as the
ment. Minister may, by notice published in the Gazette, appoint.

1.10.09 - 90/09
Ch. 323.

Amendment 2. Subsection (1) of section 2 of the principal Act is amended -

of section 2 (a) in the insertion in their appropriate alphabetical order

of principal of the following definitions -

Act. "broadcast" means the transmission by wireless telegraphy
of visual images, sounds or other information for
reception by or presentation to members of the public
and references to "broadcasting" shall be construed
accordingly;

"cable programme" means any item included in a cable

programme service;

"cable programme service" means a service which consists wholly or mainly in sending visual images, sounds or other information for reception by or presentation to members of the public by means of a telecommunications system other than wireless telegraphy; however the term does not include -

- (a) service or part of a service of which it is an essential feature that while visual images, sounds or other information are being conveyed by the person providing the service there will or may be sent from each place of reception, by means of the same system or (as the case may be) the same part of it, information (other than signals sent for the operation or control of the service) for reception by the person providing the service or other persons receiving it;

1/10 2 of 2004, s. 2.

(b) a service run for the purpose of a business

where -

- (i) no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system;
- (ii) the visual images, sounds or other information are conveyed by the system solely for purposes internal to the running of the business and not by way of rendering a service or providing amenities for others; and
- (iii) the system is not connected to any other telecommunications system;

(c) a service run by a single individual where-

- (i) all the apparatus comprised in the system is under his control;
- (ii) the visual images, sounds or other information conveyed by the system are conveyed solely for domestic purposes

of his; and

(iii) the system is not connected to any other telecommunications system;

(d) services where -

(i) all the apparatus comprised in the system is situated in, or connects, premises which are single occupation; and

(ii) the system is not connected to any other telecommunications system, other than services operated as part of the amenities provided for residents or inmates of premises run as a business; and

(e) services which are, or to the extent that they are, run for persons providing broadcasting or cable programme services or providing programmes for such services;

"electronic" means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical

energy, and "in electronic form" means in a form

usable only by electronic means;

"future copyright" means copyright which will or may come

into existence in respect of any future work or class

of works or other subject-matter, or on the coming

into operation of any provisions of this Act, or in

any other future event, and "prospective owner" shall

be construed accordingly and, in relation to any such

copyright, includes a person prospectively entitled

thereto by virtue of such an agreement as is

mentioned in subsection (1) of section 22A;

"telecommunications system" means a system for conveying

visual images, sounds or other information by

electronic means;

"wireless telegraphy" means the sending of electro-

magnetic energy over paths not provided by a

material substance construed or arranged for

that purpose;".

(b) by the deletion of the definition of "secondary

transmission" and the replacement thereof of

the following -

"secondary transmission" means the simultaneous transmission of a primary transmission, unless delayed for technical reasons, but does not include any transmission over the Internet or any similar means of online delivery without the consent of the copyright owner;"

Amendment of section 9 of the principal Act. 3. Subsection (1) of section 9 of the principal Act is amended by the repeal and replacement of paragraphs (d) and (e) with the following paragraphs

"(d) in the case of a literary, musical, dramatic and choreographic, and motion pictures and other audiovisual works, to perform the copyright work publicly;

(e) in the case of a literary, musical, dramatic and choreographic, artistic works, including the individual sequence images of a motion picture audiovisual work, to display the copyright work publicly; and

(f) to broadcast the copyright work or include it in a cable programme service."

Amendment of section 4. Subsection (4) of section 12 of the principal Act is repealed and replaced as follows -

12 of the principal Act. "(4) In this section - "derogatory treatment" means, in relation to a work, any distortion, mutilation or other modification of that work which would be prejudicial to its author's reputation."

Amendment of section 22 of the principal Act. 5. Subsection (2) of section 22 of the principal Act is repealed and replaced as follows -

principal Act. " (2) A licensee under an exclusive licence shall have the same rights against a successor in title who is bound by the licence as he has against the person granting the licence."

Insertion of new section 22A. 6. The principal Act is amended by the insertion immediately after section 22 of the following section -

section 22A. "Future copy-right. 22A. (1) Where by an agreement made in relation to any future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (in whole or in part) to another person (in this subsection referred to as "the assignee"), then, if on the coming into existence of the copyright, the assignee or a person claiming

under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (in whole or in part, as the case may be), the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance.

(2) Where, at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.

(3) Where a licence is granted by a prospective owner of any copyright, that licence shall be binding upon every successor in title to his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title

from such a purchaser; and references in this Act, in relation to any copyright, to the doing of anything with or without (as the case may be), the licence of the prospective owner of the copyright shall be construed accordingly."

**Amendment
of section
75 of the
principal
Act.**

- 7. Section 75 of the principal Act is amended -
 - (a) in paragraph (b), by the insertion immediately after the word "if" of the words "and to the extent that"; and
 - (b) by the repeal of paragraph (f) and the re-lettering of paragraphs (g) and (h) as paragraphs (f) and (g) respectively; and
 - (c) in the new paragraph (f), by the insertion of the word "the" after the words "directed to" occurring therein.

**Amendment
of section
83 of the
principal
Act.**

- 8. Section 83 of the principal Act is amended by renumbering the section as subsection (1) and by the insertion thereafter of the following -
 - " (2) For the purposes of this section "transmission" means communication and reception over the air and not encrypted.
 - (3) For the avoidance of doubt, it is hereby declared that this section shall not apply to the Internet."



Amendment 9. Section 132 of the principal Act is amended by renumbering the
of section section as subsection (1) and by the insertion thereafter of the following -
132 of the " (2) The Performers' Protection Act is repealed."
principal
Act.
Ch. 348
1987 Revised
Edition.