

## **REGISTRATION OF COPYRIGHT IN**

### **CINEMATOGRAPH FILMS ACT**

NO. 62 OF 1977

[View Regulation]

[ASSENTED TO 11 MAY, 1977]

[DATE OF COMMENCEMENT: 1 NOVEMBER, 1980] (English text signed by the State  
President)

### **ACT**

To provide for the registration of copyright in cinematograph films, and for matters connected therewith.

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## DEFINITIONS

### 1. Definitions.

In this Act, unless the context otherwise indicates—

- (a) **“address for service”** means an address for service referred to in section 43;

**“assignment”** means assignment by act of the parties concerned; and “assign” and “assignable” have a corresponding meaning;

**“court”**, in relation to any matter, means the division of the Supreme Court of South Africa having jurisdiction in respect of that matter;

**“legal practitioner”** means an attorney of the Supreme Court of South Africa or an advocate of such Court duly instructed by an attorney or patent agent to appear before the Registrar or his deputy; **“licence”** means a licence referred to in section 20;

**“Minister”** means the Minister of Economic Affairs;

**“owner”** or **“registered owner”** means the person who is registered in the register as owner of the relevant cinematograph film;

**“patent agent”** means a patent agent registered under the Patents Act, 1952 (Act No. 37 of 1952);

**“prescribed”** means prescribed by or under this Act;

**“register”** means the register of copyright in cinematograph films referred to in section 15 (1);

**“Registrar”** means the Registrar of Copyright appointed under this Act;

**“registration office”** means the registration office for copyright in cinematograph films referred to in section 2;

**“regulation”** means any regulation made and in force under this Act; **“Republic”** means the Republic of South Africa;

**“this Act”** includes the regulations;

**“transmission”** means transfer by operation of law, devolution on the executor of a deceased person, and any other mode of transfer not being assignment; and

**“transmissible”** has a corresponding meaning;

- (b) the expressions “cinematograph film” and “exclusive licensee” shall respectively have the meanings assigned thereto in terms of the provisions of the Copyright Act, 1965 (Act No. 63 of 1965).

## ADMINISTRATION

### 2. Establishment of registration office for copyright in cinematograph films.

There shall be established in Pretoria an office to be called the registration office for copyright in cinematograph films.

### 3. Registrar of Copyright.

- (1) There shall be an officer for the Republic styled the Registrar of Copyright, who shall be appointed subject to the laws governing the public service and who shall, subject to the directions of the Minister, have the chief control of the registration office.
- (2) The Registrar may delegate any of the powers and entrust any of the duties assigned to him by this Act, to any officer in the public service.

### 4. Seal of registration office.

There shall be a seal of the registration office and the impression of the seal shall be judicially noticed.

### 5. Unauthorized persons not to act in registration matters.

- (1) The Registrar shall permit an agent to do on behalf of the person for whom he is an agent, any act in connection with registration under this Act or any proceedings relating thereto: Provided that no person other than a legal practitioner or patent agent shall be permitted so to act for gain or to furnish advice in relation thereto.
- (2) Any person who contravenes the provisions of this section, shall be guilty of an

offence and liable on conviction to a fine not exceeding two hundred rand.

## APPLICATION FOR REGISTRATION

### 6. Application for registration.

- (1) Any person claiming to be the owner of the copyright in a cinematograph film by virtue of the provisions of the Copyright Act, 1965 (Act No. 63 of 1965), and who is desirous of registering it, shall apply to the Registrar in the prescribed manner for registration and the application shall be accompanied by the fee prescribed.
- (2) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may deem fit.
- (3) In the case of a refusal or conditional acceptance of the application, the Registrar shall on application by the applicant, in the prescribed manner and on payment of the prescribed fee, state in writing the grounds of his decision and the data used by him in arriving thereat, and the decision shall be subject to appeal to the court.
- (4) The provisions of section 33 shall, mutatis mutandis, apply to an appeal under this section, and on the appeal the court shall, if so required, hear the applicant and the Registrar, and shall make an order determining whether and, if so, subject to what amendments, modifications, conditions or limitations, if any, the application is to be accepted.
- (5) Appeals under this section shall be heard on the data so stated by the Registrar, and such further data as may have been laid before him by the applicant, and no further grounds of objection to the acceptance of the application shall be allowed to be taken

by the Registrar, other than those so stated by him, except by leave of the court hearing the appeal, and where any further grounds of objection are so taken, the applicant shall be entitled, on giving notice as prescribed, to withdraw his appeal without payment of costs.

- (6) The Registrar or the court, as the case may be, may at any time, whether before or after acceptance of the application, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as the Registrar or the court, as the case may be, may think fit.

#### **7. Advertisement of accepted application.**

- (1) When an application for registration of a copyright in a cinematograph film has been accepted, whether absolutely or subject to the conditions or limitations, the applicant shall, as soon as may be after acceptance, cause the application as accepted to be advertised in the prescribed manner, and the advertisement shall set forth all conditions and limitations subject to which the application has been accepted: Provided that the Registrar may require an application to be advertised in the prescribed manner before acceptance in any case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised, the Registrar may, if he thinks fit, require it to be advertised again when it has been accepted.
- (2) After advertisement the application and such documents as were lodged in support of the application may in the prescribed manner and on payment of the prescribed fee be inspected at all convenient times during office hours by the public.

**8. Non-completed applications.**

If, by reason of default on the part of the applicant, after acceptance of the application, the registration of the copyright in a cinematograph film has not been completed within six months from the date of such acceptance, the Registrar shall give notice of the non-completion to the applicant, and, if at the expiration of thirty days from that notice or of such further time as the Registrar may allow, the registration is not completed, the application shall be deemed to have been abandoned.

**OPPOSITION**

**9. Opposition to registration.**

Any person (hereinafter referred to as the objector) may, within one month from the date of the advertisement of the application in terms of section 7 or within such further time as the Registrar may allow, serve on the applicant at his address for service and lodge at the registration office a notice of opposition to the registration of the copyright in the cinematograph film, setting out the grounds on which he relies to support his notice, and proof of service to the satisfaction of the Registrar shall be furnished.

**10. Lodging of counterstatement by applicant.**

- (1) Within one month after the lodging of notice of opposition or within such further time as the Registrar may allow, the applicant may serve on the objector at his address for service and lodge at the registration office a counterstatement setting out the grounds on which he relies in support of his application, and proof of service to the satisfaction of the Registrar shall be furnished.



- (2) If the applicant fails so to lodge a counterstatement, he shall be deemed to have abandoned his application.

#### **11. Informal proceedings before Registrar.**

- (1) The Registrar may, with the consent of both parties, and on payment of the fee prescribed, consider the notice of opposition and the counterstatement thereto, and may reconsider the application and the acceptance thereof, and shall then with or without hearing the parties, as they may agree, decide—
  - (a) to reject the application; or
  - (b) to register the copyright in the cinematograph film; or
  - (c) to direct that the normal opposition procedure as hereinafter prescribed, be followed.
- (2) The Registrar shall be entitled to take into consideration such admissions as either or both of the parties may be prepared to make, even if such admissions are not included in the notice of opposition or counterstatement.
- (3) No order shall be made in respect of the costs of the proceedings under this section.
- (4) No appeal shall lie against a decision of the Registrar given under this section.

#### **12. Formal hearing of opposed applications.**

- (1) In the event of the proceedings not being determined in accordance with the provisions of section 11, or in the event of the Registrar directing that the normal opposition procedure is to be followed, evidence may be adduced by the parties in the prescribed manner.

- (2) The Registrar shall fix a day for the hearing of the application and shall give notice thereof to the applicant and the objector at their respective addresses for service.
- (3) On the day so fixed, or on any other day to which the hearing is adjourned, the Registrar shall, on payment of the fee prescribed, hear the applicant and the objector and their respective witnesses, if any, unless the evidence has been submitted in affidavit form and the Registrar does not require or permit evidence to be given viva voce, and shall decide whether the application is to be refused or whether it is to be granted either with or without modifications or conditions.
- (4) The Registrar may make such order as to costs of the proceedings as may seem just, and his order shall be enforceable in all respects as if it were a judgment of a single judge of the Supreme Court.
- (5) The decision of the Registrar shall be subject to appeal to the court and the provisions of section 33 shall, mutatis mutandis, apply.

**13. Appeal against Registrar's decision.**

- (1) On appeal the court shall hear the parties and the Registrar, if he desires to be heard, and shall make an order determining whether and subject to what conditions, if any, registration is to be permitted.
- (2) On the hearing of an appeal under this section any party may, by special leave of the court, bring forward further evidence for the consideration of the court.
- (3) (a) On an appeal under this section no further grounds of objection to the registration of the copyright in a cinematograph film shall be allowed to be taken by the objector or the Registrar, other than those so stated as aforesaid by the

objector, nor shall the applicant be entitled to raise any further ground in support of his application, except by special leave of the court.

- (b) If any party, by special leave of the court, introduces any further grounds and the other party decides in the light thereof not to pursue the proceedings, the court may make such order as to costs as it may deem fit.

- (4) The court may require the appellant to give security for the costs of the proceedings relative to the appeal and in default of such security being given, the court may treat the appeal as abandoned.

#### **14. Security for costs.**

In the case of any proceedings before the Registrar, the Registrar may require either or both parties to give security for the costs of the proceedings and, in default of such security being given, may treat the opposition or application, as the case may be, as abandoned.

### **THE REGISTER OF COPYRIGHT IN CINEMATOGRAPH FILMS**

#### **15. The register.**

- (1) here shall be kept at the registration office a register of copyright in cinematograph films wherein shall be entered particulars of—
  - a) all applications to register copyright in cinematograph films and all registrations of copyright in cinematograph films, with the names and addresses of their owners and of all licensees thereof, together with the date of registration and the date of expiration of the registration and licence;
  - b) notifications of assignments and transmissions; and
  - c) any other matters relating to copyright in cinematograph films which are

prescribed.

- (2) he register may, on payment of the prescribed fees, and subject to the provisions of this Act, be inspected at all convenient times during office hours by the public.
- (3) certified copy of an entry in any register kept under this Act, shall, subject to any special provisions to the contrary contained in this Act, be given to any person who applies for such a copy and pays the prescribed fee.

**16. Amendment of register.**

- (1) The Registrar may correct any error in the register made by an official of his office.
- (2) The Registrar may, on request made in the prescribed manner by the registered owner or registered exclusive licensee of the copyright in a cinematograph film, and on payment of the fee prescribed, amend or alter the register by—
  - (a) correcting any error in the name or address of the registered owner or licensee of the copyright in a cinematograph film; or
  - (b) altering the name or address or address for service of the owner or licensee who has changed his name or address or address for service; or
  - (c) cancelling the registration of the copyright in a cinematograph film or of any licence; or
  - (d) altering the title of the cinematograph film.
- (3) The Registrar may, on request made in the prescribed manner by the registered owner or a registered licensee of the copyright in a cinematograph film, and on payment of the fees prescribed, correct any error in the register relating to copyright.
- (4) Any decision of the Registrar under this section shall be subject to appeal to the court.

**17. General power to rectify entries in register.**

- (1) Any person aggrieved by the non-insertion in, or omission from, the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply to the court or, at the option of the applicant and subject to the provisions of section 39, on payment of the fees prescribed in the prescribed manner, to the Registrar, for the desired relief and thereupon the court or the Registrar, as the case may be, may make such order for making, expunging or varying the entry as to it or him may seem fit.
- (2) The court or the Registrar, as the case may be, may in any proceedings under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.
- (3) In the event of the Registrar being satisfied that any entry relating to the registration or license of the copyright in a cinematograph film has been secured by fraud or misrepresentation or that any such entry was made without sufficient cause or wrongly remains on the register, he shall also have locus standi to apply to the court under the provisions of this section.
- (4) Any order of the court rectifying the register shall direct that notice of the rectification shall be served on the Registrar, and the Registrar shall on receipt of the notice together with an application on the form prescribed, rectify the register accordingly.

## REGISTRATION AND ITS EFFECTS

### 18. Registration.

- (1) When an application for registration of the copyright in a cinematograph film has been accepted and advertised in the prescribed manner, and the application either—
  - (a) has not been opposed and the time for notice of opposition has expired; or
  - (b) has been opposed and has been granted, the Registrar shall register the copyright in the cinematograph film concerned as on the date of the lodging of the application for registration, and that date shall for the purposes of this Act be deemed to be the date of the registration.
- (2) On registration of the copyright in a cinematograph film, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof, and sealed with the seal of the registration office.

## DURATION OF REGISTRATION

### 19. Duration of registration.

The registration of the copyright in a cinematograph film shall be for such period of time as may be provided for the subsistence of the copyright by virtue of the provisions of the Copyright Act, 1965 (Act No. 63 of 1965).

## LICENSEES

### 20. Licensees.

- (1) Subject to the provisions of this section, a person other than the owner of the copyright

in a cinematograph film may be registered as a licensee thereof either with or without conditions or restrictions.

- (2) Where it is proposed that a person should be registered as a licensee of the copyright in a cinematograph film, the owner and the proposed licensee shall apply in writing to the Registrar in the prescribed manner and the application shall be accompanied by the prescribed fee, and they shall furnish him with a sworn declaration made by the owner, or by some person authorized to act on his behalf and approved by the Registrar—
  - (a) giving particulars of the relationship, existing or proposed, between the owner and the proposed licensee and stating whether it is a term of their relationship that the proposed licensee shall be the exclusive licensee or that there shall be any other restriction as to persons for whose registration as licensees application may be made;
  - (b) stating any conditions or restrictions proposed with respect to the licence;
  - (c) stating whether the licence is to be for a period or without limit of period, and, if for a period, the duration thereof, and with such further documents, information or evidence as may be required under the regulations or by the Registrar.
- (3) When the requirements of subsection (2) have been complied with, and if the Registrar, after considering the information furnished to him under that subsection, is satisfied that the owner and licensee have reached an agreement on the proposed use of the copyright in a cinematograph film, he may register the proposed licensee as a licensee in respect of the cinematograph film concerned.
- (4) The Registrar shall, if so required by an applicant, take steps to ensure that information furnished for the purposes of an application under the provisions of this section (other than matters entered in the register), is not disclosed to rivals in trade.
- (5) Without prejudice to the provisions of section 17, the registration of a person as a

licensee—

- (a) may be cancelled by the Registrar on application in writing in the prescribed manner and on payment of the fee prescribed by the registered owner or by such licensee or by any other licensee of the copyright in the cinematograph film concerned;
  - (b) may be cancelled by the Registrar on application in writing in the prescribed manner and on payment of the prescribed fee, by any person on any of the following grounds:
    - (i) that the owner or the licensee misrepresented, or failed to disclose, some fact material to the application for registration, or that the circumstances have materially changed since the date of the registration;
    - (ii) that the registration ought not to have been effected, having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested;
  - (c) may be cancelled where the copyright in the cinematograph film in respect of which such person has been registered, has been assigned and application has in terms of section 23 been made for registration of the assignment.
- (6) Provision shall be made by regulation for the notification of the registration of a person as a licensee by advertisement.
- (7) Any decision of the Registrar under the provisions of this section shall be subject to appeal to the court.

## **ASSIGNMENT AND TRANSMISSION**

### **21. Assignability and transmissibility of copyright in cinematograph films.**

- (1) For the purposes of the provisions of this Act, the copyright in a cinematograph film



shall be assignable and transmissible, subject to the provisions of this Act, in the circumstances and subject to the conditions or requirements which are provided in respect of any such transmission in terms of the Copyright Act, 1965 (Act No. 63 of 1965).

- (2) The owner of the copyright in a cinematograph film who intends to assign it may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances, and the Registrar may on payment of the fee prescribed issue to him a certificate and a certificate so issued shall, subject to the provisions of this section as to appeal, and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity of the assignment in so far as such validity or invalidity depends upon the facts set out in the statement of case.
- (3) Notwithstanding anything contained in subsection (1), where the copyright in a cinematograph film which is the subject of a pending application for registration has subsequent to the date of the application been assigned, the Registrar may, on application in the prescribed manner, and subject to such conditions as he may deem necessary, allow, on payment of the fee prescribed, the person or persons entitled to such copyright by reason of such assignment to be substituted as applicants for registration of the copyright concerned.
- (4) Any decision of the Registrar under this section shall be subject to appeal to the court.

## **22. Power of registered proprietor to assign and give receipts.**

Subject to the provisions of this Act, the person for the time being entered in the register as owner of the copyright in a cinematograph film shall, subject to any rights appearing from the register to be vested in any other person, have power to assign that

copyright, and to give effectual receipts for any consideration for an assignment thereof.

**23. Registration of assignments and transmissions.**

- (1) Where a person becomes entitled by assignment or transmission to the copyright in a cinematograph film, he shall make application on the form prescribed to the Registrar to register his title, and the Registrar shall on receipt of the application together with the fee prescribed and of proof of title to his satisfaction, register him as the owner of that copyright and shall cause particulars of the assignment or transmission to be entered in the register.
- (2) Every application to register an assignment or transmission in terms of subsection (1), shall recite the effective date of such assignment or transmission, as the case may be.
- (3) Any decision of the Registrar under this section shall be subject to appeal to the court.
- (4) Except for the purposes of an appeal under this section or of an application under section 17, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of subsection (1) of this section, shall not be admitted in evidence in any court in proof of the title to copyright in a cinematograph film by virtue of any assignment or transmission, unless the court otherwise directs.

**POWERS AND DUTIES OF REGISTRAR**

**24. Venue of proceedings.**

Any proceedings before the Registrar under this Act shall be heard and determined by

him at the registration office: Provided that if it be made to appear to him by any party that the proceedings may more conveniently or fitly be heard and determined in another place, he may hear and determine the proceedings in such other place.

**25. General powers of Registrar.**

- (1) The Registrar may, for the purpose of this Act—
  - (a) receive evidence and determine whether and to what extent it shall be given by affidavit or viva voce upon oath;
  - (b) summon witnesses and issue commissions de bene esse;
  - (c) order discovery or inspection, and require the due production of documents;
  - (d) consider any interlocutory or other matters as may seem expedient;
  - (e) award costs against any party to any proceedings before him, and generally the Registrar shall in connection with any proceedings before him have all such powers and jurisdiction as are possessed by a single judge in a civil action before a provincial division of the Supreme Court having jurisdiction at the place where the proceedings before the Registrar are held.
- (2) Where express provision is not contained in this Act on any matter of procedure, the Registrar shall have recourse to the rules governing procedure in the Transvaal Provincial Division of the Supreme Court.
- (3) Whenever by this Act any time is specified within which any act or thing is to be done, the Registrar may, unless otherwise expressly provided, extend the time either before or after expiration.

**26. Power of Registrar to allow amendment of any document.**

- (1) The Registrar may at any time before registration of the copyright in a cinematograph

film permit the amendment of any document relating to any application or proceedings before him on such terms as to costs or otherwise as he thinks just.

- (2) If rights in the copyright in a cinematograph film which is the subject of a pending application, have been acquired by a body corporate subsequent to the date of application, the Registrar may, on good cause shown, and on payment of the fee prescribed, permit amendment of the application by the substitution of the name of the body corporate as applicant for registration notwithstanding that such body corporate was not in existence as at the date of the application.

**27. Duty of Registrar in case of discretionary power, to give opportunity of being heard.**

Whenever any discretionary power is by this Act given to the Registrar, he shall not exercise that power adversely to an applicant without giving that applicant an opportunity of being heard personally or by his agent.

**28. Taxation of costs awarded by Registrar.**

Any costs awarded by the Registrar shall be taxed by a taxing officer of the provincial or local division of the Supreme Court having jurisdiction in the area wherein the award was made, and payment thereof may be enforced in the same manner as if they were costs allowed by a judge of that division.

**EVIDENCE**

**29. Register to be prima facie evidence.**

Any register kept under this Act shall be prima facie evidence of any matters directed

or authorized by this Act to be inserted in that register.

**30. Certificates of Registrar to be prima facie evidence.**

- (1) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing which he is authorized by this Act to make or do, shall be prima facie evidence of the entry having been made and of the contents thereof and of the matter or thing having been done or left undone.
- (2) Printed or written copies or extracts purporting to be copies of or extracts from any register or book or document relating to copyright in cinematograph films and kept in the registration office, and certified by the Registrar and sealed with the seal of that office, shall be admitted in evidence in all courts and proceedings without further proof or production of the originals.

**31. Registration to be prima facie evidence of validity.**

In all civil and criminal proceedings relating to copyright in cinematograph films (including applications under section 17 of this Act), the fact that a person is registered as the owner or licensee of the copyright in a cinematograph film shall be prima facie evidence of the validity of the original registration of that copyright and of all subsequent assignments and transmissions thereof.

**32. Certification of validity.**

In any civil or criminal proceedings in which the validity of the registration of copyright in a cinematograph film is in issue and is decided in favour of the owner of that copyright, the court may certify to that effect, and if it so certifies, then in any subsequent civil proceedings in which the validity of the registration of that copyright

is in issue, the owner of the copyright, on obtaining a final order or judgment in his favour, shall have his full costs, charges and expenses as between attorney and client, unless in the subsequent proceedings the court certifies otherwise.

## **APPEAL TO AND POWERS OF THE COURT**

### **33. Appeal against decisions of the Registrar to the court and powers of the court.**

- (1) In addition to any right of appeal specifically conferred in respect of proceedings under this Act, any party to any proceedings before the Registrar other than proceedings under section 11, may appeal to the court against any decision or order pursuant to such proceedings.
- (2) Subject to the provisions of subsection (5), an appeal shall lie to the division of the Supreme Court having jurisdiction to hear appeals in the area wherein the decision or order was given, and thereafter to the appellate division of the Supreme Court.
- (3) In addition to any other powers conferred upon it by this Act, the court may in relation to such appeal—
  - (a) confirm, vary or reverse the order or decision appealed against, as justice may require;
  - (b) if the record does not furnish sufficient evidence or information for the determination of the appeal, remit the matter to the Registrar with instructions in regard to the taking of further evidence or the setting out of further information;
  - (c) order the parties of either of them to produce at some convenient time in the court of appeal such further proof as shall to it seem necessary or desirable; or
  - (d) take any other course which may lead to the just, speedy and as far as may be possible inexpensive settlement of the case; and
  - (e) make such order as to costs as justice may require.

- (4) (a) Every appeal to a provincial or local division of the Supreme Court shall be noted and prosecuted in the manner prescribed by law for appeals to the provincial division against a civil order or decision of a single judge of such division: Provided that the provincial or local division concerned may, on application and on good cause shown, allow such extension of time for noting or prosecuting the appeal as may be necessary.
- (b) Every appeal to the appellate division of the Supreme Court shall be noted and prosecuted in the manner prescribed by law for appeals to such division in civil proceedings save that no special leave to appeal to such division shall be necessary.
- (5) The parties to proceedings before the Registrar shall be deemed to be parties to a civil proceeding for the purposes of section 20 (3) of the Supreme Court Act, 1959 (Act No. 59 of 1959), and the appellate division of the Supreme Court shall have jurisdiction to hear and determine an appeal against an order or decision of the Registrar without any intermediate appeal having been first heard and determined by a provincial division of the said court, if the said parties lodge with the Registrar notice in writing of their consent thereto on the form prescribed and pay the prescribed fee.

**34. Power to order production of certificate of registration.**

In addition to any other powers conferred upon it by this Act, the court may in relation to any application or appeal under this Act order any party to deliver to the court or to the Registrar the certificate of registration of any copyright in a cinematograph film.

**35. Notice to Registrar of application to court.**

Before any application is made to the court for an order involving the performance of

any act by the Registrar or affecting any entry in the register, the applicant shall in the manner prescribed give the Registrar at least fourteen days' notice before the hearing of such application: Provided that the Registrar may, in his discretion, waive such notice or accept such shorter notice as he may in the circumstances deem sufficient.

**36. Registrar's appearance in proceedings involving rectification of the register.**

- (1) In any legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the court.
- (2) Unless otherwise directed by the court, the Registrar, in lieu of appearing and being heard, may submit to the court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting such matter or of the practice of the registration office in like cases or of such other matters relevant to the issues and within his knowledge as Registrar, as he thinks fit, and the statement shall be deemed to form part of the evidence in the proceedings.

**37. Court's power to review Registrar's decision.**

The court, in dealing with any question of the rectification of the register (including all applications under the provisions of section 17), shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made.

**38. Discretion of court in appeals.**

In any appeal against a decision of the Registrar to the court under this Act, the court



shall have power to exercise the same discretionary powers as under this Act are conferred upon the Registrar.

**39. Procedure in cases of option to apply to court or Registrar.**

Where under any provision of this Act an applicant has an option to make an application either to the court or to the Registrar—

- (a) if proceedings concerning the copyright in the cinematograph film in question, are pending before the court, the application must be made to the court; and
- (b) if in any other case the application is made to the Registrar, he may, at any stage of the proceedings, refer the application to the court, or he may, after hearing the parties, determine the question between them subject to appeal to the court.

**OFFENCES**

**40. Penalties for making of false entries in registers, making of false copies, etc.**

Any person who—

- (a) makes or causes to be made a false entry in any register kept under this Act; or
- (b) makes or causes to be made a writing falsely purporting to be a copy of an entry in any such register; or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or copy thereof knowing the same to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

**41. Penalty for making false statements for the purpose of deceiving or influencing Registrar or other officer.**

Any person who—

- (a) for the purpose of deceiving the Registrar or any officer in the execution of the provisions of this Act; or
- (b) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder, makes a false statement or representation knowing the same to be false, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

**MISCELLANEOUS**

**42. Payment of prescribed fees to be made before acts done or documents issued.**

Whenever under this Act any prescribed fee is payable in respect of any application, registration, matter or document, the Registrar may refuse to perform the act or to receive or to issue the document (as the case may be) until the fee payable in respect thereof is paid.

**43. Address for service.**

- (1) With every application or notice of opposition under this Act, the applicant or objector, as the case may be, shall furnish an address (not being a post box number) within the Republic as an address for service, which shall, for all purposes of the application or the notice of opposition, be deemed to be the address of the applicant or of the objector, as the case may be, and all documents in relation to the application or

notice of opposition may be served by leaving them at or sending them to the address for service of the applicant or of the objector, as the case may be.

- (2) Any address for service may be changed by notice to the Registrar on the form prescribed.
- (3) The address for service furnished by an applicant in terms of this section shall be deemed to be the domicilium citandi et executandi of such applicant for purposes of proceedings relating to any entry made in the register in pursuance of the application.

#### **44. Persons under disability.**

If any person is, by reason of minority, mental illness, or other disability, incapable of making any declaration or doing any act required or permitted by this Act, then the guardian, curator or other legal representative (if any) of such person or, if there be none, any person appointed by the court upon application on behalf of the person under disability or on behalf of any other person interested in the making of such declaration or doing such act, may make the declaration or a declaration as nearly corresponding thereto as circumstances permit, and do the act in the name and on behalf of the person under disability, and all acts done by such substitute shall, for the purposes of this Act, be as effectual as if done by the person for whom he is substituted.

#### **45. Fees, regulations and forms.**

- (1) The Minister may prescribe a tariff, not inconsistent with this Act, of the fees which shall be payable to the Registrar in respect of any application, registration, matter or document and the fees shall be payable as so prescribed.

- (2) The Minister may also make regulations, not inconsistent with this Act, as to all matters, including forms, which by this Act are required or permitted to be prescribed by regulation or which are necessary or convenient for giving effect to the provisions of this Act or for the conduct of any business relating to the registration office.

**46. Short title and commencement.**

This Act shall be called the Registration of Copyright in Cinematograph Films Act, 1977, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.