

Copyright Law, 5768-2007

Complete and updated version

Copyright Law, 5768-2007*

Chapter One: Interpretation

Definitions

1. In this Law –

"copyright" is within the meaning in section 11;

"moral right" is within the meaning in section 46;

"recording ", with respect to sounds means preservation of sounds on media from which such sounds may be played back or duplicated;

"architectural work" means a building or other structure, as well as a model for such building or structure;

"artistic work" includes drawings, paintings, works of sculpture, engravings, lithography, maps, charts, works of architecture, photographic works and works of applied art;

"dramatic work" includes plays, cinematographic works, musical-dramatic works, choreography, and pantomime;

"joint work" means a work created by several authors jointly, wherein it is not possible to discern each author's part in the work;

"literary work" includes works expressed in writing, lectures, tables, compilations, as well as computer programs.

"sculptural work" includes moulds or models for sculptures;

"photographic work" includes works produced by a process similar to photography, but excluding photographs that are part of a cinematographic work;

"cinematographic work" includes a television work and any work which is substantially similar to a cinematographic work or a television work;

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Amendment of error *Sefer HaChukkim* 5768 No. 2122 of December 27, 2007 page 82
Amended *Sefer HaChukkim* 5771 No. 2307 of July 28, 2011 page 993 (*Hatzaot Chok HaKnesset* 5771 No. 377, page 124) – Amendment No. 1.

"compilation" means a compilation of works including encyclopedias or anthologies as well as a compilation of data, including databases;

"producer" with respect to a cinematographic work or a sound recording means the person who is responsible for implementing the arrangements necessary for the making of the cinematographic work or the sound recording, as the case may be;

"infringing copy" means a copy of a work in which copyright subsists, excluding a building or other structure, being one of the following:

- (1) a copy which has been made in Israel without the consent of the copyright owner in a manner which constitutes infringement of the reproduction right as stated in section 11(1);
- (2) a copy imported into Israel, which, if it had been made in Israel its making would have constituted an infringement of the reproduction right as stated in section 11(1); however a copy which has been made outside of Israel, with the consent of the copyright owner in the country in which it was made, shall not be deemed an infringing copy;

"publication" of a work means a work published with the consent of its author, provided that the availability of such copies has been such to reasonably satisfy the requirements of the public, taking into consideration the character of the work, but not including a public performance or broadcast of the work, or the public display of an artistic work;

"computer program" means a computer program in any form of expression;

"sound recording" means a recording of sounds, excluding a recording of sounds in a cinematographic work;

"the Minister" means the Minister of Justice.

Place of first publication

2. In this Law, the following provisions shall apply with respect to the place where a work was first published:
 - (1) a work published in several countries during a period of 30 days from the date it was first published shall be deemed to have been published in all these countries simultaneously;

- (2) a work first published in Israel and in other countries simultaneously shall be deemed to have been first published in Israel.

Chapter Two: Conditions For Subsistence Of Copyright

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| Exclusivity of this Law | 3. Copyright shall not subsist in a work other than in accordance with the provisions of this Law. |
| Works in which copyright subsists | 4. (a) Copyright shall subsist in the following works:
(1) original works which are literary works, artistic works, dramatic works or musical works, fixed in any form;
(2) sound recordings;
provided that the aforesaid works satisfy one of the conditions set forth in section 8, or that copyright subsists in such works under an order in accordance with section 9. |
| Extent of copyright in works | 5. Copyright in a work as stated in section 4 shall not extend to any of the following, however it shall extend to the means for their expression:
(1) ideas;
(2) procedures and methods of operation;
(3) mathematical concepts;
(4) facts or data;
(5) news of the day. |
| Official publications | 6. Notwithstanding the provisions of section 4, copyright shall not subsist in Laws, Regulations, Knesset Protocols and judicial decisions of the courts or of any other governmental authorities having judicial authority under the provisions of any law. |
| Designs | 7. Notwithstanding the provisions of section 4, copyright shall not subsist in "designs" as defined in the Patents and Designs Ordinance, unless the design is not used, nor intended for use in industrial manufacture. The Minister may prescribe conditions for determining when a design is deemed to be used for industrial manufacture. |
| Points of attachment to Israel | 8. (a) Copyright shall subsist in works set forth in section 4(a)(1) if one of the following has been satisfied:
(1) the work was first published in Israel; |

(2) at the time the work was created, its author was a citizen of Israel, or his habitual residence was in Israel, regardless of whether the work was published or not.

(b) Without derogating from the provisions of subsection (a), copyright shall subsist –

(1) in cinematographic works – provided that at the time of its making the headquarters of its producer, or his habitual residence, was in Israel;

(2) in works of architecture and other artistic works incorporated in a building or other structure – provided the work of architecture, the building or structure, as the case may be, are located in Israel.

(c) Copyright shall subsist in a sound recording if, at the time of its making, the producer of the sound recording was a citizen of Israel, or his habitual residence was in Israel, and where the producer was a corporation its headquarters were in Israel; however, the right of reproduction, the right of making available to the public and the right of rental, as stated in sections 11(1), (5) and (7), shall also subsist in sound recordings where the sound recording was first published in Israel.

Copyright pursuant to international treaty

9. Where Israel makes a treaty with another country regarding copyright, or where Israel accedes to a copyright treaty, the Minister may prescribe, by order, that works, as set forth in section 4(a), entitled to protection in Israel pursuant to such treaty, shall be protected pursuant to the provisions of the order. The protection for the aforesaid works shall not exceed the protection that would have been granted them had the conditions in section 8 been satisfied, unless agreed otherwise in the aforesaid treaty, but not in excess of that agreed.

Preservation of reciprocity

10. Where the Minister has determined that a particular country does not grant proper protection to works whose authors are citizens of Israel, the Minister may, subject to the consent of the Government, limit by order the rights prescribed by this Law, wholly or partially, with respect to works whose authors are citizens of such country. Where the Minister has made such an order, the order shall be enforceable with respect to works made subsequent to its coming into force.

Chapter Three: Subsistence of Copyright

- What is copyright? 11. Copyright in a work means the exclusive right to do with the work, or a substantial part thereof, one or more of the foregoing acts, in accordance with the categorization of the work:
- (1) reproduction as stated in section 12 – with respect to all categories of works;
 - (2) publication – with respect to a work not yet published;
 - (3) public performance as stated in section 13 – with respect to a literary work, dramatic work, musical work and sound recording;
 - (4) broadcasting as stated in section 14 – with respect to all categories of works;
 - (5) making a work available to the public as stated in section 15 – with respect to all categories of works;
 - (6) making of a derivative work, as stated in section 16 and the doing of any acts set forth in sections (1) to (5) above with respect to the aforesaid derivative work – with respect to a literary work, artistic work, dramatic work and musical work;
 - (7) rental as stated in section 17 – with respect to a sound recording, cinematographic work and computer program.
- Reproduction 12. The reproduction of a work means the making of a copy of the work, in any material form, including –
- (1) storage of a work through electronic means or any other technological means;
 - (2) making a three dimensional copy of a two dimensional work;
 - (3) making a two dimensional copy of a three dimensional work;
 - (4) making a temporary copy of a work.
- Public performance 13. The public performance of a work means the aural playing or staging of it publicly, either directly or through use of a device.
- Broadcast 14. Broadcast of a work means the transmission thereof, by wire or wireless means, of sounds, images or a combination of sounds and images, which contained in a

work, to the public.

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| Making available to the public | 15. Making a work available to the public means the doing of an act in relation to a work that shall enable members of the public to access the work from a place and at time chosen by them. |
| Derivative works | 16. Making a derivative work means the making of an original work which is substantially based upon another work, such as a translation or adaptation. |
| Rental | 17. (a) Rental of a work means the rental of physical copies of the work to the public, for a commercial purpose, but does not include the rental of a computer program or sound recording which constitutes an integral part of another object where such other object is the primary object of the rental.

(b) For purposes of subsection (a), renting by a public library or a library of an educational institution shall not be deemed to be renting for commercial purposes. The Minister may prescribe types of public libraries and types of educational institutions to which the provisions of this subsection shall apply. |

Chapter Four: Permitted Uses

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| Permitted uses | 18. Notwithstanding the provisions of section 11, the doing of the actions specified in sections 19 to 30 is permitted subject to the conditions specified respectively in the aforesaid sections, and for the purpose of carrying out the objectives specified therein, without need of the consent of the right holder or payment of consideration; however with respect to the activities specified in section 32 – upon payment of consideration and in accordance with the provisions of that section. |
| Fair use | 19. (a) Fair use of a work is permitted for purposes such as private study, research, criticism, review, journalistic reporting, quotation, or instruction and examination by an educational institution.

(b) In determining whether a use made of a work is fair within the meaning of this section the factors to be considered shall include, <i>inter alia</i> : |

- (1) the purpose and character of the use;
- (2) the character of the work used;
- (3) the scope of the use, quantitatively and qualitatively, in relation to the work as a whole;
- (4) the impact of the use on the value of the work and its potential market.

(c) The Minister may make Regulations prescribing conditions under which a use shall be deemed a fair use.

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| Use of works in legal or administrative proceedings | 20. Use of a work in legal or administrative proceedings under law, including reporting on such proceedings, is permitted to the extent that is justified, taking into consideration the purpose of the aforesaid use. |
| Reproduction of a work deposited for public inspection | 21. (a) The copying of a work that is deposited for public inspection under statute is permitted if consistent with the purpose for which the work was made available for public inspection, and to a justifiable extent taking into consideration the purpose of such use.

(b) The provisions of subsection (a) shall not apply with respect to works deposited in accordance with The Books (Duty of Delivery and Notation of Details) Law, 5761-2000. |
| Incidental use of a work | 22. An incidental use of a work by way of including it in a photographic work, in a cinematographic work or in a sound recording, as well as the use of such works in which the work was thus incidentally contained, is permitted; for this purpose, the deliberate inclusion of a musical work, including its accompanying lyrics, or of a sound recording embodying such musical work, in another work, shall not be deemed incidental use. |
| Broadcast or copying of work in public place | 23. Broadcasting, or copying by way of photography, drawing, sketch or similar visual description, of an architectural work, a work of sculpture or work of applied art, are permitted where the aforesaid work is permanently situated in a public place. |
| Copying of computer programs or making a derivative work | (a) Copying of a computer program for purposes of back up is permitted for a person who possesses an authorized copy of the computer program; a person holding such a copy shall destroy it once it is no longer needed to serve |

thereof

the purpose for which it was made.

(b) Copying of a computer program for purposes of maintenance of an authorized copy of the program or of a computer system, or for purposes of giving service to a person in possession of an authorized copy of the computer program, is permitted, provided that it is necessary for using the program.

(c) Copying of a computer program, or making a derivative work there from, is permitted for a person who possesses an authorized copy of the computer program, for the following purposes and to the extent necessary to achieve such purposes:

- (1) use of the computer program for the purposes for which it was intended, including correction of errors in the computer program or making it interoperable with a computer system or with another computer program;
- (2) examination of the information security in the program, correction of security breaches and protection from such breaches;
- (3) obtaining information which is needed to adapt a different and independently developed computer system or program, in such a way that it will be interoperable with the computer program.

(d) The provisions of subsection (c) shall not apply with respect to the copying of a computer program or the making of a derivative work therefrom, as stated in the aforesaid subsection, if the information which has been obtained through the aforementioned means was used in a manner set forth below, or where such information was readily available without use of the aforesaid means:

- (1) the aforesaid information was transmitted to another person for a purpose different than the purposes set forth in subsection (c);
- (2) the aforesaid information was used to make a different computer program which infringes copyright in the aforesaid computer program.

(e) In this paragraph, "authorized copy" of a computer program means a copy of the computer program which was made by the copyright holder therein, or with his permission.

Recording for purposes of broadcast

25. (a) Recording of a work by a person permitted to broadcast such work is permitted if the copy is made solely for use in his broadcasts.

(b) A person who had recorded a work in accordance with the provisions of subsection (a) shall destroy the recording within a period of six months from the date of the first broadcast of the work, or until a later date if so prescribed by law, or until a later date if so agreed upon with the owner of the copyright of the recorded work.

(c) Notwithstanding the provisions of subsection (b), preservation of a recording is permitted –

(1) for archival purposes;

(2) with respect to a person permitted to broadcast the work - for as long as such person is permitted to do so.

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| Temporary copies | 26. The transient copying, including such copying which is incidental, of a work, is permitted if such is an integral part of a technological process whose only purpose is to enable transmission of a work as between two parties, through a communications network, by an intermediary entity, or to enable any other lawful use of the work, provided such copy does not have significant economic value in itself. |
| Additional artistic work made by the author | 27. Making a new artistic work which comprises a partial copying of a previous work, or a derivative work from a previous work, as well as any use of such new work, may be performed by the author of such previous artistic work, even where such author is not the owner of the copyright in the previous artistic work, provided the new work does not repeat the essence of the previous work or constitute an imitation thereof. |
| Renovation and reconstruction of buildings | 28. Use of the following works is permitted for the purpose of renovation or reconstruction of a building or other structure:
<ol style="list-style-type: none">(1) the architectural work which is the aforesaid building or structure, or a model thereof.(2) the drawings and the plans that were used with the consent of the owner of the copyright therein, at the time the aforesaid building or structure was originally constructed. |
| Public performance in an educational institution | 29. A public performance of a work is permitted in the course of the educational activity of educational institutions, of the type prescribed by the Minister, where such performance is made by the employees of the educational |

institution, or by the students studying therein, provided that such public performance is made in front of an audience limited to employees or students of the educational institution, the relatives of the students or other people directly connected with the activity of such educational institution, and to them alone. However, the screening of a cinematographic work is permitted according to this paragraph if done solely for purposes of teaching and examination by an educational institution.

Permitted uses in libraries, archives and other entities

(a) Copying of a work, a copy of which is already in the permanent collection of a library or archive of the type of libraries or archives as prescribed by the Minister, is permitted for the following purposes, provided that it is not possible to purchase an additional copy of such work within a reasonable period of time and on reasonable terms:

- (1) to make a reserve copy, in any format, of a work already in the possession of the aforesaid library or archive, provided that such reserve copy is not used as an additional copy to the copies in the library;
- (2) to replace a copy of the work held by the aforesaid library or the archive, which has been lost, destroyed or become unusable;
- (3) to replace a copy of the work, that had been in the permanent collection of another library or archive and was lost, destroyed or has become unusable.

(b) Copying of a work, a copy of which is held in a library or archive as prescribed in subsection (a), for a person requesting such copy, is permitted, provided that the request for such reproduction is made by a person, who, had he made the copy himself, would be permitted by law to do so. The Minister may prescribe an application form for use by libraries or archives for the purposes of this subsection.

(c) Copying of a work by entities of the type prescribed by the Minister, for purposes of preservation, is permitted; The Minister may prescribe types of works which will be subject to this subsection, conditions for the execution of copying as well as conditions for the grant of public access to copies that were made in accordance with this subsection.

Regulations regarding

31. The Minister may prescribe different conditions for the application of the provisions of sections 29 and 30

educational institutions, libraries and archives

generally, or with respect to particular types of educational institutions, libraries or archives, taking into consideration the character of their respective activities.

Manufacture of sound recordings as against royalty payment

32. (a) Notwithstanding the provisions of section 11, reproduction of a musical work in a sound recording is permitted, provided the following conditions are met, even without the consent of the copyright owner:

- (1) the musical work had been previously recorded, with the consent of the copyright owner, in another sound recording that was published for commercial purposes (in this section, the “previous sound recording”);
- (2) the musical work was reproduced in its entirety, except for modifications necessary for adaptation of the reproduction and modifications necessary for the making of the reproduction, or where such modifications were made in the previous sound recording;
- (3) the person who makes the copy has so informed the copyright owner prior to the making of the copy;
- (4) the person making the copy has paid equitable royalties as agreed with the owner of the copyright; and in the absence of agreement – as determined by the court;
- (5) the copies are neither used, nor intended for use in commercial advertising;

(b) The Minister may prescribe regulations with respect to the following matters:

- (1) methods for informing the copyright owner as stated in subparagraph (a)(3);
- (2) considerations and parameters for the determining of equitable royalties by the court, as stated in subsection (a)(4).

(c) In this section, "musical work" includes the accompanying words, if any, in the previous sound recording.

Chapter Five: Ownership of Copyright

The first owner of copyright

33. Subject to the provisions of this Chapter-

- (1) the author of a work is the first owner of copyright in

the work;

(2) the producer of a sound recording is the first owner of copyright in a sound recording.

- Works created by employees
34. The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed.
- Commissioned works
35. (a) In a work made pursuant to a commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly.
- (b) In a work which is a portrait or a photograph of a family event or other private event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party, unless otherwise agreed.
- State ownership of works
36. The State shall be the first owner of a work made by, or commissioned for, the State or by an employee of the State in consequence of his service and during the period of his service. In this section, "State employee" includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution.
- Assignment and license of copyright
37. (a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive license or non-exclusive license with respect to the copyright.
- (b) Assignment of the copyright or the grant of a license, as stated in subsection (a), may refer to the copyright in whole or in part, and it can be limited to a certain territory, period of time, or to specific acts with respect to the work.
- (c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document.
- (d) In this section, "exclusive license" means a license granting its holder the exclusive right to do any acts as set forth in section 11 specified by the license, and restricts the owner of the copyright from doing those acts or from permitting others to perform those acts.

Chapter Six: Duration of Copyright

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| Duration of copyright | 38. Copyright in a work shall subsist during the life of its author and for 70 years after his death, subject to the provisions in this Chapter. |
| Duration of copyright in a joint work | 39. Copyright in a joint work shall subsist for the duration of the life of its longest surviving joint author and for 70 years after his death. |
| Duration of copyright in work published anonymously | 40. If no name of a person appears on a work as the author of such work, nor is the author of such work commonly known to the public, or appears on such work a pseudonym of a person not commonly known to the public, then copyright in such a work shall subsist for a period of 70 years from the date such work was first published. If such a work was not published until the end of 70 years from the date of its creation, the copyright therein shall subsist for a period of 70 years from the date of its creation; however, where the author's identity becomes publicly known during the period of copyright, then the provisions of sections 38 or 39, as the case may be, shall apply. |
| Duration of copyright in sound recordings | 41. Copyright in a sound recording shall subsist for a period of 50 years from the date of its making. |
| Duration of copyright in State works | 42. Copyright in a work in which the State is the first owner of the copyright in accordance with the provisions of Chapter Five shall last for a period of 50 years from the date of its making. |
| Expiration period | 43. The period of copyright in a work shall end on the 31 st of December of the year in which such copyright is set to expire in accordance with the provisions of this Chapter. |
| Duration of copyright in country of origin | 44. (a) The period of copyright in a work listed below shall not be longer than the period of copyright prescribed for such work in the law of its country of origin: <ul style="list-style-type: none"> (1) a work which was first published in Israel and in other countries simultaneously, as set forth in section 2, in which copyright subsists solely due to the existence of the condition set forth in section 8(a)(1); (2) a work in which copyright subsists pursuant to an |

order under section 9, unless otherwise prescribed by order.

(b) In this section –

"the country of origin", of a work means -

- (1) for a work first published in a single Member State – the Member State;
- (2) for a work first published simultaneously in a number of Member States wherein the periods of copyright are different – the State where the period of copyright is the shortest;
- (3) for a work first published simultaneously in a Member State and a non Member State – the Member State:
- (4) for an unpublished work, or first published in a non Member State, without simultaneous publication in a Member State – the Member State where the author is a national or makes his habitual residence; however –
 - (a) When the aforesaid work is a cinematographic work, the country of origin shall be the Member State in which its producer's headquarters or his habitual residence is located.
 - (b) When the aforesaid work is an architectural work situated in a Member State or a separate artistic work incorporated in a building or other structure situated in a Member State, the country of origin shall be the country where the architectural work, the building or the structure are situated, as the case may be;

"work" means a work as stated in section 4(a)(1);

"Member State" – a state being a party to a treaty regarding which an order has been prescribed pursuant to the provisions of section 9.

Chapter Seven: Moral Right

Moral right as personal right

45. (a) The author of an artistic work, a dramatic work, a musical work or a literary work, excluding computer programs, in which copyright subsists, shall have moral rights in relation to his work, during the entire period of copyright in that work.
- (b) The moral right is personal and non-transferable, and shall be available to the author even if such author does not

have copyright in the work or if he has assigned the copyright in the work, partly or wholly, to another person.

What is a moral right?

46. A moral right in relation to a work is the right of its author –
- (1) to have his name identified with his work to the extent and in the manner suitable in the circumstances;
 - (2) that no distortion shall be made of his work, nor mutilation or other modification, or any other derogatory act in relation to the work, where any aforesaid act would be prejudicial to his honor or reputation.

Chapter Eight: Infringement and Remedies

Infringement of copyright

47. A person who does in relation to a work, any of the acts specified in section 11, or who authorizes another person to perform any such act, without the permission of the copyright owner, infringes the copyright, unless such act is permitted pursuant to the provisions of Chapter Four.

Indirect infringement

48. A person who does one of the foregoing acts with respect to an infringing copy of a work, infringes the copyright, if at the time such act was done he knew, or he should have known, that such copy is an infringing copy:
- (1) sells or lets for rental such infringing copy, including offering or displaying for sale or rental;
 - (2) possesses such infringing copy for a commercial purpose;
 - (3) distributes such infringing copy on a commercial scale;
 - (4) exhibits such infringing copy to the public in a commercial manner;
 - (5) imports into Israel such infringing copy that is not for personal use as provided for in section 129 of the Customs Ordinance.

Public performance in place of public entertainment

49. A person who permits another person, for financial gain, to publicly perform a work in a place of public entertainment, without the consent of the owner of the copyright therein, infringes the copyright, unless he did not know, nor could have reasonably known, that such performance would constitute such infringement. In this section, "place of public entertainment" means a place used for entertainment and cultural performances, including catering halls,

outdoor function areas, restaurants, coffee shops or clubs.

- Infringement of moral right
50. (a) A person who does in relation to a work, an act which is restricted by the moral right, infringes such moral right.
- (b) Notwithstanding the provisions of subsection (a), doing an act restricted by section 46(2) shall not constitute an infringement of such moral right where the act was reasonable in the circumstances of the case.
- (c) With respect to subsection (b), the court may take into consideration, *inter alia*, the following:
- (1) the character of the work with respect to which the act was done;
 - (2) the nature of the act and its purpose;
 - (3) that the work had been made by an employee in the course of his employment or pursuant to commission;
 - (4) customary behavior in a particular sector;
 - (5) the need for doing the act versus the damage caused to the author by the act.
- Indirect infringement of moral right
51. A person who does one of the following acts with respect to a copy of a work, excluding a building or other structure, and such act constitutes an infringement of the moral right set forth in section 46(2), infringes the moral right, if at the time of doing such act he knew, or should have known, that such copy infringes the aforesaid moral right:
- (1) sells or lets for rental such copy, including offering or displaying for sale or rental;
 - (2) possesses such copy for a commercial purpose;
 - (3) distributes such copy on a commercial scale;
 - (4) exhibits such copy to the public in a commercial manner.
- Infringement of copyright or moral right is a civil wrong
52. Infringement of copyright or a moral right is a civil wrong and the provisions of the Civil Wrongs Ordinance (New Version), shall apply *mutatis mutandis*, and subject to the provisions of this Law.
- Injunction for copyright infringement
53. In an action for copyright infringement, the plaintiff shall be entitled to injunctive relief, unless the court finds that

there are reasons which justify not doing so.

Action for
copyright
infringement

54. (a) An action for the infringement of copyright may be commenced by the owner of the copyright, and if an exclusive license has been granted with respect to it as defined in section 37(d) – such claim may also be commenced by the exclusive licensee.

(b) A plaintiff filing a claim as stated in subsection (a), shall join as a party any person entitled to commence a claim according to the provisions of that subsection, however the court may, at the plaintiff's request, exempt from the aforesaid duty to join a party.

Action for moral
right infringement

55. An action for infringement of a moral right may be commenced by the author, and if the infringement occurred after his death – then by his relatives. In this matter, "relative" means a spouse, descendant, parent or sibling.

Damages without
proof of injury

56. (a) Where a copyright or moral right has been infringed, the court may, at the plaintiff's request, award to the plaintiff, with respect to each infringement, damages without proof of injury, in an amount not exceeding 100,000 NIS.

(b) In awarding damages pursuant to the provisions of subsection (a), the court may take into account, *inter alia*, the following considerations:

- (1) the scope of the infringement;
- (2) the duration during which the infringement continued;
- (3) the severity of the infringement;
- (4) the actual damage caused to the plaintiff according to the assessment of the court;
- (5) the benefit derived by the defendant from the infringement, according to the assessment of the court;
- (6) the characteristics of the defendant's activity;
- (7) the nature of the relationship between the defendant and the plaintiff.
- (8) the good faith of the defendant.

(c) For the purpose of this section, infringements carried out as part of a set of activities shall be deemed a single

infringement.

(d) The Minister may, by order, alter the amount prescribed in subsection (a).

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| Accounting | 57. In a claim for the infringement of copyright or a moral right, the court may order the defendant to give the plaintiff a detailed report of the infringement. The Minister may prescribe provisions for the making of reports pursuant to this paragraph. |
| Innocent infringer | 58. Where a copyright or a moral right has been infringed, but the infringer did not know, or could not have known, at the time of the infringement, that copyright subsists in the work, he shall not be obligated to pay compensation with respect to such infringement. |
| Infringement of copyright or a moral right in a building or other structure | 59. Where the construction of a building or other structure has begun, and there is an infringement of copyright or a moral right in such building or other structure, or there will be an infringement of copyright or a moral right upon the completion of such building or other structure, the complainant shall not, as a result of such infringement, be entitled to an order enjoining completion of the construction or to an order of demolition. |
| Disposition of infringing copies | 60. (a) Upon the completion of a proceeding in an action for infringement of copyright, the court may make an order for
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<ol style="list-style-type: none">(1) the destruction of the infringing copies, or doing any other act thereto;(2) the transfer of the ownership of the infringing copies to the plaintiff, if he has so requested, and the court may, if it finds that the plaintiff is likely to make use of those infringing copies, order the complainant to make payment to the defendant in the manner which it shall prescribe. <p>(b) A party filing an application with the court pursuant to subsection (a) shall notify the Israel Police thereof, in the manner to be prescribed by the Minister, and the court shall not hear the application without first providing the Israel Police with an opportunity to state its position.</p> <p>(c) The provisions of subsection (a) shall apply with respect to infringing copies in the possession of a person who did not himself infringe the copyright therein, subject</p> |

to the provisions of section 34 of the Sale Law, 5728-1968; however, where the provisions of such section apply to him, such person shall not use the infringing copy for the purpose of trading therein.

Chapter Nine: Penalties

- Offenses
61. (a) A person shall not make an infringing copy for the purpose of trading therein.
- (b) A person shall not import into Israel an infringing copy of a work for the purpose of trading therein.
- (c) A person shall not engage in the selling, letting for hire or distribution of an infringing copy of a work.
- (d) A person shall not sell, let for hire or distribute infringing copies of a work on a commercial scale.
- (e) A person shall not possess infringing copies of a work for the purpose of trading therein.
- (f) A person shall not make or possess an object designed for the making of copies in contravention of subsection (a).
- Penalties
62. (a) A person who does one of the following, shall be liable to five years imprisonment or a fine in the amount of ten times the fine provided for in section 61(a)(4) of the Penal Law, 5737-1977 (hereinafter referred to as the "Penal Law"):
- (1) makes an infringing copy of a work for the purpose of trading therein;
 - (2) imports to Israel an infringing copy of a work for the purpose of trading therein.
- (b) A person who does one of the following, shall be liable to three years imprisonment or a fine in the amount of seven times the fine provided for in section 61(a)(4) of the Penal Law:
- (1) engages in the sale, letting for hire or distribution of an infringing copy of a work;
 - (2) sells, lets for hire or distributes infringing copies of a work on a commercial scale;
 - (3) possesses an infringing copy of a work for the purpose of trading therein.
- (c) A person producing or in possession of an object designated for the production of copies of a work for the purpose of committing an offence under subsection (a)(1) shall be liable to imprisonment for a term of one year or

twice the fine determined in section 61(a)(4) of the Penal Law.

(d) Where an offense under this paragraph has been committed by a corporation, - such corporation shall be liable to double the fine determined for such offence.

Responsibility of corporate officer

63. (a) A corporate officer of a corporation is obligated to supervise and take any action necessary to prevent any of the offences specified in section 61 (in this section, “an offence”) by the corporation or any of its employees. Where such corporate officer is in breach of his aforesaid obligation he shall be liable to the fine determined in section 61(a)(4) of the Penal Law.

(b) Where an offence has been committed by a corporation or any of its employees, there is a presumption that the corporate officer was in breach of his obligation under subsection (a), unless it is proved that he took any action necessary to perform his aforesaid obligation.

(c) In this section, “corporate officer” means an active director of a corporation, a partner - excluding a limited partner - and an officer responsible on behalf of the corporation for the field in question in which the offence was committed.

Chapter Ten: Miscellaneous Provisions

Presumptions

64. The presumptions set forth hereunder shall apply to any legal proceeding, civil or criminal, involving an infringement of copyright or moral right, unless proved otherwise:

(1) where the name of a person appears on the work in the usual manner as the author of the work, there is a presumption that such person is the author of the work; the presumption stated in this paragraph shall also apply with respect to the pseudonym of any person, provided that the identity of the owner of the pseudonym is publicly known;

(2) where the name of a person as the author of the work does not appear on the work and its author is not known publicly, or the pseudonym of a person whose identity is not publicly known appears thereon, there is a presumption that the person whose name appears on the work in the usual manner as the publisher of the work is the owner of the copyright therein;

(3) where the name of a person appears on a

cinematographic work in the usual manner as the producer of the work, there is a presumption that such person is the producer of the work;

(Amendment No. 1)
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- (4) where the name of a person appears on a sound recording in the usual manner as the producer of the sound recording, there is a presumption that such person is the owner of the copyright in the sound recording; the presumption stated in this paragraph shall also apply with respect to the pseudonym of any person, provided that the identity of the owner of the pseudonym is publicly known, and it shall not apply to parties claiming a copyright in the sound recording.

Detention by
Customs

65. (a) The owner of a copyright in a work, whose right has been infringed or where there is a reasonable suspicion that such right will be infringed, may give notice in writing to the Director of Customs to the effect that he is the owner of the copyright in the work, and request that the Director suspend the release of the goods that he claims are infringing copies of the work and to treat them as goods the import of which is prohibited under the Customs Ordinance.

(b) A notice pursuant to subsection (a) shall include one of the following:

- (1) an example of a non-infringing copy of the work in which the applicant holds copyright, and with respect to which such copyright holder notifies of the import of infringing copies;
- (2) a catalog or any other document that enables the Customs Director to compare the work with the allegedly infringing copies.

(c) The owner of the copyright shall deliver by notice to the Customs Director the following information, to the extent that he has knowledge of it:

- (1) the number of parcels to be received;
- (2) sufficient notation of the means of import or the name of the ship on which the infringing copies are being imported;
- (3) the date on which the infringing copies are due to arrive in Israel.

(d) The copyright owner must provide the Customs Director with *prima facie* evidence, and a personal guarantee, as prescribed by the Customs Director, in order to cover all expenses connected with detaining goods, or in

order to compensate for any damage caused as a result of the detaining of goods, should it become apparent that the detention of the goods was not justified, and to pay any fee prescribed in this connection as required under the Customs Ordinance.

(e) The provisions of this section shall not apply to infringing copies imported for personal use as defined in section 129 of the Customs Ordinance.

(f) In this section, "Customs Director" means the director, as defined in the Customs Ordinance.

Applicability to State

66. This Law shall also apply to the State.

Implementation and Regulations

67. (a) The Minister is charged with responsibility for the implementation of the provisions of this Law and he may prescribe Regulations for its implementation.

(b) Regulations enacted in accordance with sections 17, 29, 30(a) and (b), and 31 shall require the consent of the following persons:

(1) with respect to educational institutions - the Minister of Education;

(2) with respect to libraries – the Minister charged with responsibility for the Public Libraries Law, 5735-1975 and the Minister of Education;

(3) with respect to archives – the Minister charged with responsibility for the Archives Law, 5715-1955.

(c) Regulations and orders under sections 7, 9, 17, 19, 30(c), 31 and 56(d) shall be enacted with the approval of the Knesset Economics Committee.

Chapter Eleven: Indirect Amendments

Cancellation of His Majesty's Order-in Council on the Copyright Act 1911 (Extension to Palestine)

68. His Majesty's Order-in-Council on the Copyright Act 1911 (Extension to Palestine), 1924 is repealed, and the Copyright Act 1911, shall no longer be valid in Israel.

Amendment of Copyright Ordinance – No. 9

69. Sections 1 to 3A and 3F to 15 of the Copyright Ordinance are repealed.

Amendment of
Patents and
Designs Ordinance
– No. 8

70. In the Patents and Designs Ordinance –

- (1) in section 2, in the definition of "copyright", the word "copyright" shall be replaced by the words "design right";
- (2) in section 31, the words "copyright in a design" shall be replaced by the words "design right";
- (3) in section 33 –
 - (a) in subsection (1), the word "copyright" shall be replaced by the words "design right";
 - (b) in subsections (2) to (4), the word "copyright", wherever it appears, shall be replaced by the words "design right";
- (4) in section 35 –
 - (a) in subsection (1), the word "copyright" shall be replaced by the words "design right";
 - (b) in subsection (2), the word "copyright" shall be replaced by the words "design right";
- (5) in section 37(1), the word "copyright" shall be replaced by the words "design right";
- (6) in section 43 -
 - (a) in subsection (1), the word "copyright" shall be replaced by the words "design right";
 - (b) in subsection (3), the word "copyright" shall be replaced by the words "design right";
- (7) in section 51(1), the word "copyright" shall be replaced by the words "design right";
- (8) in section 55(4), the word "copyright", wherever it appears, shall be replaced by the words "design right".

Amendment of
Customs
Ordinance – No.
23

71. In section 200A(a) of the Customs Ordinance –

- (1) in the opening part of the section, the words "in section 7D of the Copyright Ordinance" shall be replaced by the words "in section 65 of the Copyright Law, 5768-2007 (hereinafter, the "Copyright Law");
- (2) in paragraph (1) the words "the duplications" shall be replaced by the words "the copies";
- (3) in paragraph (3), the words "section 7D of the Copyright Ordinance" shall be replaced by the words "section 65 of the Copyright Law".

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| Amendment of Criminal Procedure Law – No. 54 | 72. In the Criminal Procedure Law (Consolidated Version) 5742-1982, in the Second Schedule, in item (3), the words "section 10(c) and (d) of the Copyright Ordinance" shall be replaced by the words "section 61(c),(d), and (e) of the Copyright Law, 5768-2007". |
| Amendment of Courts Law – No. 46 | 73. In the Courts Law (Consolidated Version) 5744-1984, in section 40(4), subparagraphs (a) and (b) shall be replaced by the following:

"(a) The Copyright Law 5768– 2007;" |
| Amendment of Prohibition on Money Laundering Law – No. 7 | 74. In the Prohibition of Money Laundering Law, 5760-2000, in the First Schedule, in item (16), the words "the Copyright Ordinance" shall be replaced by the words "the Copyright Law, 5768-2007". |
| Amendment of Combating Criminal Organizations Law | 75. In the Combating Criminal Organizations Law, 5763-2003, in the First Schedule, in item 4, the words "section 10(c) and (d) of the Copyright Ordinance" shall be replaced by the words "section 61(c),(d) and (e) of the Copyright Law 5768– 2007". |
| Amendment of Television Broadcasts From the Knesset Law – No. 2 | 76. In the Television Broadcasts from the Knesset Law, 5764-2003, in section 15, in the definition of "intellectual property", the words "copyright under the Copyright Act 1911, and the Copyright Ordinance" shall be replaced by the words "copyright under the Copyright Law, 5768-2007". |

Chapter Twelve: Commencement, Application and Transitional Provisions

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| Commencement | 77. This Law shall come into force six months after the date of its publication (hereinafter, the "date of commencement"). |
| Application and transitional provisions | 78. (a) The provisions of this Law shall also apply with respect to a work made prior to the date of commencement, subject to the provisions of subsections (b) to (j).

(b) The subsistence of copyright under the provisions of Chapter Two of this Law shall not apply with respect to a work made prior to the date of commencement in which copyright did not subsist under the legal provisions that applied with respect thereto prior to the aforesaid date (in this section, the "previous law"); however, there is nothing |

in the provisions of this subsection to prevent the subsistence of copyright under this Law in such work, if such work, from the date of commencement and thereafter, satisfied the conditions set forth in section 8, or in an order made under section 9.

(c) The provisions of Chapter Eight with respect to an infringement of copyright or a moral right and with respect to remedies for such infringement shall not apply to an act in relation to a work performed prior to the date of commencement, and the provisions of the previous law shall continue to apply for this purpose; however, such act which does not constitute an infringement of copyright or of a moral right under the provisions of this Law, shall not be actionable according to the provisions of the previous law.

(d) A copy of a work made, or imported into Israel, before the date of commencement shall constitute an "infringing copy" with respect to this Law, if it would have constituted an infringing copy prior to the date of commencement as defined in section 10(e) of the Copyright Ordinance, as drafted prior to the date of commencement.

(e) The provisions of sections 33 to 36 shall not apply to works made prior to the date of commencement and the provisions of the previous law in this respect shall continue to apply.

(f) The provisions of section 37 shall not apply to assignments of copyright occurring prior to the date of commencement or with respect to licenses granted prior to the aforesaid date, and the provisions of the previous law shall continue to apply with respect to these issues.

(g) The provisions of section 54 shall not apply to proceedings that were pending prior to the date of commencement, and the previous law shall continue to apply with respect to these issues.

(h) Copyright in the rental of a work as stated in section 11(7), with respect to a computer program, shall not apply to a copy of a computer program acquired before 23 Tevet 5760 (January 1, 2000).

(i) Respecting the identity of an author of a photographic work under section 21 of the Copyright Act, 1911 that was made prior to the date of commencement and with respect to the duration of copyright in such photographic work, the provisions of the previous law shall continue to apply.

(j) The definition of "producer" in section 1 shall not apply with respect to a sound recording made prior to the date of commencement and the producer shall be the person deemed to have been the author of the work under section

19(1) of the Copyright Act, 1911.

Shimon Peres
President of the State

Ehud Barak
Prime Minister

Dalia Itzik
Speaker of the Knesset

Daniel Friedman
Minister of Justice