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No. 11900

STATE PRESIDENT'S OFFICE

No. 1052.

30 May 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 61 of 1989: Copyright Amendment Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1052.

30 Mei 1989

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 61 van 1989: Wysigingswet op Outeursreg, 1989.

Act No. 61, 1989

COPYRIGHT AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Copyright Act, 1978, so as to make provision relating to importing, selling and distribution in connection with the nature of copyright in cinematograph films and sound recordings; to provide that certain infringements in respect of certain cinematograph films will no longer be an offence; and to extend the functions of the advisory committee; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 17 May 1989.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 8 of Act 98 of 1978, as amended by section 5 of Act 56 of 1980 and section 6 of Act 52 of 1984

1. Section 8 of the Copyright Act, 1978 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (g) of subsection (1) of the following paragraph: 5

“(g) **[importing (other than importing for the private and domestic use of the importer), selling]** letting, or offering or exposing for **[sale or]** hire by way of trade, **[or distributing]** directly or indirectly, a reproduction or an 10 adaptation of the film.”.

Amendment of section 9 of Act 98 of 1978, as substituted by section 6 of Act 56 of 1980 and amended by section 7 of Act 52 of 1984

2. Section 9 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph: 15

“(b) **[importing (other than importing for the private and domestic use of the importer), selling]** letting, or offering or exposing for **[sale or]** hire by way of trade, **[or distributing]** directly or indirectly, a reproduction of the sound recording.”.

Amendment of section 27 of Act 98 of 1978, as amended by section 11 of Act 52 of 1984 20

3. Section 27 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person who at a time when copyright subsists in a work, without the authority of the owner of the copyright—

(a) makes for sale or hire;

25

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Outeursreg, 1978, ten einde voorsiening te maak in verband met invoer, verkoop en verspreiding met betrekking tot die aard van outeursreg in rolprente en klankopnames; te bepaal dat sekere skendende handeling ten opsigte van sekere rolprente nie langer 'n oortreding is nie; en die advieskomitee se werksaamhede uit te brei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 Mei 1989.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 8 van Wet 98 van 1978, soos gewysig deur artikel 5 van Wet 56 van 1980 en artikel 6 van Wet 52 van 1984

- 5 1. Artikel 8 van die Wet op Outeursreg, 1978 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:

10 “(g) **[invoer (uitgesonderd invoer vir die private en huishoudelike gebruik van die invoerder), verkoop]** verhuur, of aanbidding of uitstalling vir **[verkoop of]** verhuur by wyse van handel, **[of verspreiding]** regstreeks of onregstreeks, van 'n reproduksie of aanwending van die rolprent.”.

Wysiging van artikel 9 van Wet 98 van 1978, soos vervang deur artikel 6 van Wet 56 van 1980 en gewysig deur artikel 7 van Wet 52 van 1984

- 15 2. Artikel 9 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“**(b) [invoer (uitgesonderd invoer vir die private en huishoudelike gebruik van die invoerder), verkoop]** verhuur, of aanbidding of uitstalling vir **[verkoop of]** verhuur by wyse van handel, **[of verspreiding]** regstreeks of onregstreeks, van 'n reproduksie van die klankopname.”.

- 20 **Wysiging van artikel 27 van Wet 98 van 1978, soos gewysig deur artikel 11 van Wet 52 van 1984**

3. Artikel 27 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 25 “(1) Iemand wat terwyl outeursreg in 'n werk bestaan, sonder die magtiging van die eienaar van die outeursreg artikels wat na sy wete skendende kopieë van die werk is **[of, in die geval waar so 'n werk uit 'n rolprent wat ingevolge die Wet**

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- (b) sells or lets for hire or by way of trade offers or exposes for sale or hire;
- (c) by way of trade exhibits in public;
- (d) imports into the Republic otherwise than for his private or domestic use;
- (e) distributes for purposes of trade; or
- (f) distributes for any other purposes to such an extent that the owner of the 5
copyright is prejudicially affected,
articles which he knows to be infringing copies of the work, **[or, in the case
where such work consists of a cinematograph film registered in terms of the
Registration of Copyright in Cinematograph Films Act, 1977 (Act No. 62 of
1977), articles which are reproductions or adaptations of the cinematograph film]** 10
shall be guilty of an offence.”.

Amendment of section 40 of Act 98 of 1978

4. Section 40 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following 15
paragraph:
“(a) The Minister shall appoint an advisory committee **[on copyright law]**
consisting of a judge or a senior advocate of the Supreme Court of
South Africa as chairman and such *ex officio* and other members as the
Minister may from time to time determine.”;
- (b) by the substitution for subsection (3) of the following subsection: 20
“(3) The advisory committee may from time to time make recommen-
dations to the Minister in regard to any amendments to this Act and to the
Trade Marks Act, 1963 (Act No. 62 of 1963), the Designs Act, 1967 (Act
No. 57 of 1967), and the Patents Act, 1978 (Act No. 57 of 1978), and shall
advise the Minister on any matter referred to it by the Minister.”; 25
- (c) by the substitution for paragraph (a) of subsection (4) of the following
paragraph:
“(a) The advisory committee **[shall]** may constitute and maintain **[at all
times]** subcommittees **[on sound recordings, cinematograph films,
broadcasting and such other practices as the Minister may from time to 30
time determine]**.”; and
- (d) by the substitution for subsection (5) of the following subsection:
“(5) The advisory committee may call to its assistance any person it may
deem necessary to assist it with, or to investigate matters relating to,
[copyright law] the functions referred to in subsection (3).” 35

Short title and commencement

5. (1) This Act shall be called the Copyright Amendment Act, 1989, and shall, subject to the provisions of subsection (2), be deemed to have come into operation on 1 April 1989.

(2) Section 4 shall come into operation on a date to be fixed by the State President 40
by proclamation in the *Gazette*.

WYSIGINGSWET OP OUTEURSREG, 1989

Wet No. 61, 1989

op die Registrasie van Outeursreg in Rolprente, 1977 (Wet No. 62 van 1977), geregistreer is, bestaan, artikels wat reproduksies of aanwendings van die rolprent is]—

- (a) vir verkoop of verhuur vervaardig;
- 5 (b) verkoop of verhuur of vir handelsdoeleindes te koop of te huur aanbied of uitstal;
- (c) vir handelsdoeleindes in die openbaar ten toon stel;
- (d) behalwe vir sy private of huishoudelike gebruik in die Republiek invoer;
- (e) vir handelsdoeleindes versprei; of
- 10 (f) vir enige ander doel in so 'n mate versprei dat die eienaar van die outeursreg daardeur benadeel word, is aan 'n misdryf skuldig.”.

Wysiging van artikel 40 van Wet 98 van 1978

4. Artikel 40 van die Hoofwet word hierby gewysig—

- 15 (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) Die Minister stel 'n advieskomitee **[oor outeursreg]** aan, wat bestaan uit 'n regter of 'n senior advokaat van die Hooggeregshof van Suid-Afrika as voorsitter en die *ex officio*- en ander lede wat die
- 20 (b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die advieskomitee kan van tyd tot tyd aanbevelings aan die Minister aangaande wysigings aan hierdie Wet asook aan die Wet op Handelsmerke, 1963 (Wet No. 62 van 1963), die Wet op Modelle, 1967 (Wet No. 57 van 1967), en die Wet op Patente, 1978 (Wet No. 57 van 1978), doen en adviseer die Minister oor enige aangeleentheid wat deur die Minister na hom verwys word.”;
- 25 (c) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

“(a) Die advieskomitee **[moet]** kan subkomitees **[oor klankopnames, rolprente, uitsendings en die ander praktyke wat die Minister van tyd tot tyd bepaal]** saamstel en **[ten alle tye]** in stand hou.”; en
- 30 (d) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Die advieskomitee kan die hulp inroep van enigiemand wat hy nodig ag om hom by te staan met, of aangeleenthede te ondersoek betreffende, **[die reg aangaande outeursreg]** die werksaamhede bedoel in subartikel (3).”.
- 35

Kort titel en inwerkingtreding

5. (1) Hierdie Wet heet die Wysigingswet op Outeursreg, 1989, en word, 40 behoudens die bepalings van subartikel (2), geag op 1 April 1989 in werking te getree het.

(2) Artikel 4 tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

