

1972 No. 1724

COPYRIGHT

The Copyright (Hong Kong) Order 1972*Made* - - - - 14th November 1972*Laid before Parliament* 20th November 1972*Coming into Operation* 12th December 1972

At the Court at Buckingham Palace, the 14th day of November 1972

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority conferred upon Her by section 31 of the Copyright Act 1956(a) and of all other powers enabling Her in that behalf, is pleased to direct, and it is hereby directed, as follows:—

1. This Order may be cited as the Copyright (Hong Kong) Order 1972 and shall come into operation on 12th December 1972.

2. The Interpretation Act 1889(b) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The provisions of the Copyright Act 1956 specified in Part I of Schedule 1 hereto shall extend to Hong Kong subject to the modifications specified in Part II of that Schedule.

4. The Copyright (International Organisations) Order 1957(c), as amended (d), the Copyright (Broadcasting Organisations) Order 1961(e), and the Copyright (International Conventions) Order 1972(f) (being Orders in Council made under Part V of the said Act) shall extend to Hong Kong subject, in the case of the last mentioned Order, to the modifications specified in Schedule 2 hereto.

W. G. Agnew.

(a) 1956 c. 74.

(c) S.I. 1957/1524 (1957 I, p. 483).

(e) S.I. 1961/2460 (1961 III, p. 4505).

(f) S.I. 1972/673 (1972 I, p. 2172).

(b) 1889 c. 63.

(d) S.I. 1958/1052 (1958 I, p. 363).

SCHEDULE 1

PART I

Provisions of the Copyright Act 1956 extended to Hong Kong

All the provisions of the Act, as amended by the Performers' Protection Acts 1958 and 1963(a), the Films Act 1960(b) and the Design Copyright Act 1968(c), except sections 23 to 30, 32, 34, 35, 42 and 44 and Schedules 4, 5 and 9.

PART II

*Modifications of the provisions extended**General Modifications*

1. In sections 7, 8(11) and 15(4), for references to the Board of Trade there shall be substituted references to the Governor in Council.

2. In sections 8(1) and 8(10), 10(2) and (3), 12(6), 21(1) and 21(6), 22(2) and 22(3), 43, 48(4) and 49(2) and paragraph 46 of Schedule 7, for "the United Kingdom" there shall be substituted "Hong Kong".

Particular Modifications

3. The provisions mentioned in the first column in the following table shall be modified in the manner specified in the second column.

Provision	Modification
Section 8 ...	In subsections (2) and (4), for "three-farthings" there shall be substituted "five cents" and in subsection (2), for "farthing" there shall be substituted "cent"; for subsection (3) there shall be substituted the following:— "(3) If at any time by an order made under this section in its operation in the law of the United Kingdom any different rate of, or minimum amount of, royalty is prescribed either generally or in relation to any one or more classes of records, the provisions of this section shall be construed subject to the provisions of any such order as is for the time being in force, provided that any reference in such an order to any sum of money shall be construed as a reference to the equivalent amount in the currency of legal tender in Hong Kong as provided by any law of Hong Kong."; in subsection (4)(a), all the words after the first reference to works shall be omitted.
Section 10 ...	For subsection (5) there shall be substituted the following:— "(5) For the purpose of this section a design shall be taken as being applied industrially if it is applied in the circumstances for the time being prescribed by rules made under this section and section 36 of the Registered Designs Act 1949 as extended by this section in the law of the United Kingdom."
Section 13 ...	For subsection (3) there shall be substituted the following:— "(3) Copyright subsisting in a cinematograph film by virtue of this section shall continue to subsist until the film is published and thereafter until the end of the period of fifty years from the end of the

(a) 1958 c. 44; 1963 c. 53.
(c) 1968 c. 68.

(b) 1960 c. 57.

Provision	Modification
	<p>calendar year which includes the date of its first publication and shall then expire, or, if copyright subsists in the film by virtue only of the last preceding subsection, it shall continue to subsist as from the date of first publication until the end of the period of fifty years from the end of the calendar year which includes that date and shall then expire.”;</p> <p>in subsection (8), for “any such film as is mentioned in paragraph (a) of subsection (1) of section 38 of the Films Act 1960 (which relates to news-reels)” there shall be substituted “any film consisting wholly or mainly of photographs which, at the time they were taken, were means of communicating news”;</p> <p>subsection (11) shall be omitted.</p>
Section 17 ...	Subsection (6) shall be omitted.
Section 18 ...	<p>In subsection (1), for the proviso there shall be substituted the following:—</p> <p>“Provided that if by virtue of section 5 of the Limitation Ordinance (Chapter 347) (which relates to limitation in cases of successive conversion and extinction of title of the owner of converted goods), the title of the owner of the copyright to such a copy or plate would (if he had then been the owner of the copy or plate) have been extinguished at the end of the period mentioned in that section, he shall not be entitled to any rights or remedies under this subsection in respect of any thing done in relation to that copy or plate after the end of that period.”;</p> <p>subsection (4) shall be omitted.</p>
Section 21 ...	<p>In subsections (7) and (8), for the words “forty shillings” and “fifty pounds” there shall be substituted respectively “five hundred dollars” and “fifty thousand dollars” and for the words “two months” there shall be substituted “twelve months”;</p> <p>subsection (10) shall be omitted.</p>
Section 22 ...	<p>In subsection (1), for the “Commissioners of Customs and Excise (in this section referred to as “the Commissioners”)” there shall be substituted “the Director of Commerce and Industry” and, subject to the modifications to subsection (4) hereinafter provided, for subsequent references to the said Commissioners there shall be substituted references to the said Director;</p> <p>in subsection (4) for “the Commissioners” where those words first occur there shall be substituted “the Governor in Council” and for “the Commissioners consider” there shall be substituted “the Governor in Council considers”;</p> <p>subsection (6) shall be omitted;</p> <p>for subsection (7) there shall be substituted the following:—</p> <p>“(7) Where by virtue of this section the importation into Hong Kong of any copy of a work to which the section applies is prohibited, the importation into Hong Kong of such a copy shall, for the purposes only of the provisions of the Import and Export Ordinance (Chapter 60) providing for forfeiture, be deemed to be a contravention of that Ordinance.”.</p>
Section 31 ...	<p>Subsections (1) and (2) shall be omitted;</p> <p>in subsection (4), for “the United Kingdom” there shall be substituted “Hong Kong” and for “in a country” there shall be substituted “in the United Kingdom or in any country other than Hong Kong”.</p>
Section 33 ...	<p>For subsection (1) there shall be substituted the following:—</p> <p>“(1) An organisation to which this section applies is one declared to be such by an Order in Council made under this section as part of the law of the United Kingdom which has been extended, in relation to that organisation, to Hong Kong”.</p>
Section 37 ...	Subsection (4) shall be omitted.
Section 39 ...	<p>In subsection (8), for “section three of the Crown Proceedings Act, 1947” there shall be substituted “section 5 of the Crown Proceedings Ordinance (Chapter 300)”.</p>
Section 40 ...	<p>Subsection (3) shall be omitted;</p> <p>in subsection (4), for “either of the two last preceding subsections” there shall be substituted “the last preceding subsection”, and “or the programme to be transmitted, as the case may be” shall be omitted;</p> <p>in subsection (5), the reference to a work shall be omitted.</p>

Provision	Modification
Section 41 ...	In subsection (7), for the definition of "school" there shall be substituted " "school" has the same meaning as in the Education Ordinance (Chapter 279)".
Section 46 ...	Subsection (1) shall be omitted; in subsection (2), "(including any enactment of the Parliament of Northern Ireland)" shall be omitted.
Section 47 ...	The whole section except subsection (4) shall be omitted; in subsection (4), "or rules" shall be omitted.
Section 50 ...	For subsection (2) there shall be substituted the following:— "(2) Subject to the said transitional provisions the Copyright Act 1911 and the Copyright Order Confirmation (Mechanical Instruments: Royalties) Act 1928 are hereby repealed."
Section 51 ...	For subsection (2) there shall be substituted the following:— "(2)—(a) Any provision of this Act empowering the Governor in Council to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Hong Kong. (b) All the other provisions of this Act shall come into operation on 1st January 1973."; subsection (3) shall be omitted.
Schedule 1 ...	In paragraph 2, for "section seven of the Act of 1949" there shall be substituted "section 2 of the United Kingdom Designs (Protection) Ordinance (Chapter 44)".
Schedule 7 ...	Paragraphs 25, 26, 40 and 41 shall be omitted.

SCHEDULE 2

Modifications of the Copyright (International Conventions) Order 1972:—

- (i) Articles 4 (other than paragraph (2)(b)) and 8 to 11 together with Schedules 4 to 7 shall be omitted.
- (ii) In Article 3, for “any part of the United Kingdom” there shall be substituted “Hong Kong”.
- (iii) In Schedule 2 the following dates shall be inserted respectively in the second column in relation to the countries mentioned in the following tables—

Ghana	22nd August	1962
Kenya	7th September	1962
Malawi	26th October	1965
Mauritius	12th March	1968
Nigeria	14th February	1962
Zambia	1st June	1965

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends the provisions of the Copyright Act 1956 with certain exceptions and modifications to form part of the law of Hong Kong.

The Order also extends three Orders in Council made under Part V of that Act. The extension of these Orders will give protection in Hong Kong to works originating in countries party to International Copyright Conventions, to works produced by certain international organisations and to lawfully authorised broadcasts originating in other Commonwealth countries to which the 1956 Act has already been extended. Broadcasts by Hong Kong organisations will also have protection in Hong Kong and in those countries by virtue of this Order.

The copyright protection given by the law of Hong Kong will be similar to that given by the law of the United Kingdom.

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