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SCHEDULES

EIGHTH SCHEDULE

Section 50.

PROVISIONS OF COPYRIGHT ACT, 1911, AND RULES, REFERRED TO IN SEVENTH SCHEDULE

- 1 *Proviso to s. 5 (1) of the Copyright Act, 1911 (referred to in paragraph 3 of Seventh Schedule):—*

Provided that—

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and
- (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

- 2 *Rule 2 of the Copyright (Industrial Designs) Rules, 1949 (referred to in paragraph 8 of Seventh Schedule):—*

A design shall be deemed to be used as a model or pattern to be multiplied by any industrial process—

- (a) when the design is reproduced or is intended to be reproduced on more than 50 single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set of articles as defined in subsection (1) of Section 44 of the Registered Designs Act, 1949, or
- (b) when the design is to be applied to—
 - (i) printed paper hangings,
 - (ii) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces,
 - (iii) textile piece goods, or textile goods manufactured or sold in lengths or pieces, or
 - (iv) lace, not made by hand.

- 3 *Proviso to s. 3 of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):—*

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed

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to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

- 4 *S. 16 (1) of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):—*

In the case of a work of joint authorship . . . references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter . . .

- 5 *S. 17 (1) of Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):—*

In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, . . . the proviso to section three of this Act shall . . . apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

- 6 *Proviso to s. 5 (2) of the Copyright Act, 1911 (referred to in paragraph 28 of Seventh Schedule):—*

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

- 7 *S. 17 (2) of the Copyright Act, 1911 (referred to in paragraph 29 of Seventh Schedule):—*

The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be prima facie proof of the copyright being with the owner of the manuscript.

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8 *Note to First Schedule to the Copyright Act, 1911 (referred to in paragraph 37 of Seventh Schedule):—*

In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

9 *Definitions in s. 35 (1) of the Copyright Act, 1911 (referred to in paragraphs 15, 43 and 47 of Seventh Schedule):—*

“literary work ” includes maps, charts, plans, tables, and compilations ;

“dramatic work ” includes any piece for recitation, choreographic work or entertainment in dumb show the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;

“performance ” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

“photograph ” includes photo-lithograph and any work produced by any process analogous to photography ;

“collective work ” means—

- (a) any encyclopaedia, dictionary, year book, or similar work;
- (b) a newspaper, review, magazine, or similar periodical; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;

“delivery ” in relation to a lecture, includes delivery by means of any mechanical instrument;

“lecture ” includes address, speech and sermon.

Note—In this Schedule “this Act ” means the Copyright Act, 1911.