1965 No. 2009

COPYRIGHT

The Copyright (Bechuanaland) Order 1965

Made - - - -	*29th November* 1965
Laid before Parliament	*3rd December* 1965
Coming into Operation	*4th December* 1965

At the Court at Buckingham Palace, the 29th day of November 1965

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

2. The Copyright (International Conventions) Order 1964(b), the Copyright (International Organisations) Order 1957(c), as amended(d), and the Copyright (Broadcasting Organisations) Order 1961(e) (being Orders in Council made under Part V of the said Act) shall extend to Bechuanaland subject, in the case of the first mentioned Order, to the modifications specified in Schedule 2 hereto.

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

4. This Order may be cited as the Copyright (Bechuanaland) Order 1965 and shall come into operation on 4th December 1965.

W. G. Agnew.

(a) 4 & 5 Eliz. 2. c. 74.
(b) S.I. 1964/690 (1964 II, p. 1319).
(c) S.I. 1957/1524 (1957 I, p. 483).
(d) S.I. 1958/1052 (1958 I, p. 363).
(e) S.I. 1961/2460 (1961 III, p. 4505).
(f) 52 & 53 Vict. c. 63.

SCHEDULE 1

PART I

Provisions of the Copyright Act 1956 extended to Bechuanaland

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

PART II

Modifications to the provisions extended

General Modifications

1. In sections 7, 8(11) and 15(4) for the references to the Board of Trade there shall be substituted references to Her Majesty's Commissioner.

2. In sections 8(1) and 8(10), 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 "Bechuanaland".

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 references to farthings there shall be substituted references to cents; for subsection (3) there shall be substituted the following:— "(3) If at any time the Board of Trade by order made under this section in its operation in the law of the United Kingdom prescribe either generally or in relation to any one or more classes of records any different rate of, or minimum amount of, royalty 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 Bechuanaland as provided by any law of Bechuanaland."; 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 purposes 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 by the Board of Trade under this section and section 36 of the Registered Designs Act 1949 as extended by this section in the law of the United Kingdom.".

(a) 6 & 7 Eliz. 2. c. 44 and 1963 c. 53. (b) 8 & 9 Eliz. 2. c. 57.

Provision	Modification
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 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."; 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 newsreels)" there shall be substituted "any film consisting wholly or mainly of photographs which, at the time they were taken, were means of communicating news"; subsection (11) shall be omitted.
Section 17	There shall be inserted, after subsection (4), the following subsection:— "(4A) No action in respect of an infringement of copyright shall be commenced after the expiration of a period of six years from the date at which the right of action accrued."; subsection (6) shall be omitted.
Section 18	In subsection (1), for the proviso there shall be substituted the following:— "Provided that where a cause of action in respect of the conversion or detention by any person of any such copy or plate has accrued under this subsection to the owner of the copyright, and notwithstanding that before he recovers possession of such copy or plate, a further conversion or detention takes place, the owner of the copyright shall not be entitled to any rights or remedies under this subsection in respect of anything done in relation to that copy or plate after the expiration of six years from the accrual of the cause of action in respect of the original conversion or detention."; subsection (4) shall be omitted.
Section 21	In subsections (7) and (8), the word "summary" shall be omitted and for the words "forty shillings" and "fifty pounds" there shall be substituted respectively "four rand" and "one hundred rand"; for subsection (10) there shall be substituted the following:— "(10) An appeal shall lie to the High Court from any order made under the last preceding subsection by a subordinate court.".

Provision	Modification
Section 22	In subsection (1), for "the Commissioners of Customs and Excise (in this section referred to as "the Commissioners")" there shall be substituted "the Commissioner of Revenue" and, subject to the modification to subsection (4) hereinafter mentioned, for subsequent references to the said Commissioners there shall be substituted references to the said Commissioner; in subsection (4), for "the Commissioners" where those words first occur there shall be substituted "Her Majesty's Commissioner" and for "the Commissioners consider" there shall be substituted "Her Majesty's Commissioner considers"; for subsection (6) there shall be substituted the following:— "(6) Any fees paid in pursuance of regulations made under this section shall be treated as monies collected on account of the Consolidated Fund."; in subsection (7), for the references to the Customs and Excise Act 1952 there shall be substituted references to the Bechuanaland Protectorate Customs Proclamation 1956 (No. 68 of 1956).
Section 31	Subsections (1) and (2) shall be omitted; in subsection (4), for "the United Kingdom" there shall be substituted "Bechuanaland" and for "in a country" there shall be substituted "in the United Kingdom or in any country other than Bechuanaland".
Section 33	For subsection (1) there shall be substituted the following:— "(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 Bechuanaland.".
Section 37	Subsection (4) shall be omitted.
Section 39	Subsection (8) shall be omitted.
Section 40	Subsection (3) shall be omitted; 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; in subsection (5), the reference to a work shall be omitted.
Section 41	In subsection (7), the definition of "school" shall be omitted.
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.

Provision	Modification
Section 50	For subsection (2) there shall be substituted the following:— "(2) The Order in Council made under section 28 of the Copyright Act 1911, and dated 24th June, 1912, shall cease to have effect in the case of Bechuanaland and, accordingly, the Copyright Act 1911 and the Copyright Order Confirmation (Mechanical Instruments: Royalties) Act 1928 shall be deemed to be repealed in the law of Bechuanaland.".
Section 51	For subsection (2) there shall be substituted the following:— "(2)—(*a*) Any provision of this Act empowering Her Majesty's Comimssioner to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Bechuanaland. (*b*) All the other provisions of this Act shall come into operation on 4th April 1966."; subsection (3) shall be omitted.
Schedule 1	In paragraph 2, for "section 7 of the Act of 1949" there shall be substituted "section 5 of the Registration of United Kingdom Trade Marks Proclamation (Cap. 154)".
Schedule 7	Paragraphs 25, 26, 40 and 41 shall be omitted.

SCHEDULE 2

Modifications to the Copyright (International Conventions) Order 1964:—

(i) Articles 2(1) and 7 to 11 together with Schedules 2 and 4 to 7 shall be omitted.

(ii) In Article 1, for "any part of the United Kingdom" there shall be substituted "Bechuanaland".

(iii) In Article 2(2), "before 27th September 1957" shall be omitted and there shall be added at the end "if (*a*) the country is one in the case of which this Order applies immediately after the commencement of the Act in Bechuanaland and the publication took place before such commencement; or (*b*) the country is one in the case of which this Order applies by reason of the subsequent extension of an amending Order and the publication took place before the date mentioned in relation to that country in Schedule 2 to this Order in its operation in the law of the United Kingdom.".

(iv) There shall be substituted for Article 2(3) the following:—
"(3) In the case of any such country as mentioned in paragraph 2(*b*) of this Article any relevant provisions of Schedule 7 to the Act shall have effect as if there were substituted for references to the commencement of the Act references to the date so mentioned.".

(v) In Article 2(4)(*a*), there shall be added references to Malawi and Zambia.

(vi) In Schedule 1, there shall be added in Part 1 a reference to Cameroon, and in Part 2 references to Guatemala, Malawi, New Zealand and Zambia.

(vii) In Schedule 3, there shall be added references to Brazil and Czechoslovakia and the reference to Congo (Brazzaville) shall be omitted.

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 Bechuanaland.

The Order also extends three Orders in Council made under Part V of the Act. The extension of these Orders will afford protection in Bechuanaland 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.

The copyright protection afforded in the law of Bechuanaland will be similar to that afforded in the law of the United Kingdom.