# 1961 No. 60

# COPYRIGHT

## The Copyright (Fiji) Order, 1961

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| *Made* - - - - | *17th January*, 1961 |
| *Laid before Parliament* | *23rd January*, 1961 |
| *Coming into Operation* | *1st February*, 1961 |

At the Court at Buckingham Palace, the 17th day of January, 1961

**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 the First Schedule hereto shall extend to Fiji subject to the modifications specified in Part II of that Schedule.

**2.** The Copyright (International Conventions) Order, 1957(b), as amended(c), the Copyright (International Conventions) (Argentina) Order, 1958(d), the Copyright (International Organisations) Order, 1957(e), as amended(f), and the Copyright (Broadcasting Organisations) Order, 1959(g), (being Orders in Council made under Part V of the said Act) shall extend to Fiji subject to the relevant modifications specified in the Second Schedule hereto.

**3.** The Interpretation Act, 1889(h), 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 (Fiji) Order, 1961, and shall come into operation on the 1st day of February, 1961.

*W. G. Agnew.*

(a) 4 & 5 Eliz. 2. c. 74.
(b) S.I. 1957/1523 (1957 I, p. 474).
(c) S.I. 1958/1254, 2184, 1960/200 (1958 I, pp. 358, 360; 1960 I, p. 772).
(d) S.I. 1958/135 (1958 I, p. 361).
(e) S.I. 1957/1524 (1957 I, p. 483).
(f) S.I. 1958/1052 (1958 I, p. 363).
(g) S.I. 1959/2214 (1959 I, p. 743).
(h) 52 & 53 Vict. c. 63.

## FIRST SCHEDULE

### PART I

*Provisions of the Copyright Act, 1956, extended to Fiji*

All the provisions of the Act, as amended by the Dramatic and Musical Performers Protection Act, 1958(a), and the Films Act, 1960(b), except sections 23 to 30, sections 32, 34, 35, 42 and 44 and the Fourth and Fifth Schedules.

### PART II

*Modifications to the provisions extended*

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 7 ... | For the references to the Board of Trade there shall be substituted references to the Governor in Council. |
| Section 8 ... | In subsections (1) and (10), for " the United Kingdom " there shall be substituted " Fiji ";<br>for subsection (3) there shall be substituted the following:—<br>" (3) If at any time the Board of Trade by order made under this subsection in its operation in the law of the United Kingdom prescribe for the purposes of this section 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.";<br>in subsection (4), for head (*a*) there shall be substituted the following:—<br>" (*a*) the minimum amount of royalty shall be three farthings in respect of each of those works; and ";<br>in subsection (11), for the references to the Board of Trade there shall be substituted references to the Governor in Council. |
| Section 10 ... | For subsection (5) there shall be substituted the following:—<br>" (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 section thirty six of the Registered Designs Act, 1949, as extended by this section in the law of the United Kingdom.". |
| Section 12 ... | In subsection (6), for " the United Kingdom " there shall be substituted " Fiji ". |
| Section 13 ... | For subsection (3) there shall be substituted the following:—<br>" (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.";<br>in subsection (8), for " any such film as is mentioned in paragraph (*a*) of subsection (1) of section thirty-eight 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 ";<br>subsection (11) shall be omitted. |
| Section 15 ... | In subsection (4), for " Board of Trade " there shall be substituted " Governor in Council ". |

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

| Provision | Modification |
|---|---|
| Section 17 ... | There shall be inserted, after subsection (4), the following subsection:—<br>"(4A) No action in respect of an infringement of copyright shall be commenced after the expiration of a period of more than six years from the date at which the right of action accrued.",<br>subsection (6) shall be omitted. |
| Section 18 ... | In subsection (1), for the proviso there shall be substituted the following:—<br>"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 thereto and, 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 such further conversion or detention after the expiration of six years from the accrual of the cause of action in respect of the original conversion or detention.";<br>subsection (4) shall be omitted. |
| Section 21 ... | In subsections (1) and (6), for "the United Kingdom" there shall be substituted "Fiji";<br>in subsections (7) and (8), for "summary conviction" there shall be substituted "conviction before a Magistrate's Court of the first class";<br>for subsection (10) there shall be substituted the following:—<br>"(10) An appeal shall lie to the Supreme Court from any order made under the last preceding subsection by a court of summary jurisdiction.". |
| 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 Comptroller of Customs and Excise" and for subsequent references in the section to the Commissioners there shall be substituted references to the said Comptroller;<br>in subsections (2) and (3), for "the United Kingdom" there shall be substituted "Fiji";<br>in subsection (4), after "regulations", where that word first occurs, there shall be inserted "subject to the approval of the Governor in Council";<br>for subsection (6) there shall be substituted the following:—<br>"(6) Any fees paid in pursuance of regulations made under this section shall be treated as monies collected on account of the general revenue.";<br>in subsection (7), for the references to the Customs and Excise Act, 1952, there shall be substituted references to the Customs Ordinance in the law of Fiji (cap. 166 of the Revised Edition, 1955). |
| Section 31 ... | Subsections (1) and (2) shall be omitted;<br>in subsection (4), for "the United Kingdom" there shall be substituted "Fiji" and for "in a country" there shall be substituted "in the United Kingdom or in any country other than Fiji". |
| Section 33 ... | For subsection (1) there shall be substituted the following:—<br>"(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 Fiji.". |

| Provision | Modification |
|---|---|
| Section 37 ... | Subsection (4) shall be omitted. |
| Section 39 ... | In subsection (8), for "section three of the Crown Proceedings Act, 1947" there shall be substituted "section five of the Crown Proceedings Ordinance (cap. 14)". |
| Section 40 ... | Subsection (3) shall be omitted;<br>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;<br>in subsection (5), the references to a work shall be omitted. |
| Section 41 ... | For subsection (7) there shall be substituted the following:—<br>"(7) In this section—<br>"school" has the same meaning as in the Education Ordinance (cap. 119); and<br>"duplicating process" means any process involving the use of an appliance for producing multiple copies.". |
| Section 43 ... | In subsections (2), (4) and (6), for "the United Kingdom" there shall be substituted "Fiji". |
| Section 46 ... | Subsection (1) shall be omitted;<br>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;<br>in subsection (4), "or rules" shall be omitted. |
| Section 48 ... | In subsection (4) for "the United Kingdom" there shall be substituted "Fiji". |
| Section 49 ... | In subsection (2), for "the United Kingdom" there shall be substituted "Fiji". |
| Section 51 ... | For subsection (2) there shall be substituted the following:—<br>"(2) (*a*) Any provision of this Act empowering the Governor in Council or the Comptroller of Customs and Excise to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Fiji.<br>(*b*) All the other provisions of this Act shall come into operation on the 1st day of June, 1961";<br>subsection (3) shall be omitted. |
| First Schedule ... | In paragraph 2, for "section seven of the Act of 1949" there shall be substituted "section two of the United Kingdom Designs (Protection) Ordinance in the law of Fiji (cap. 191 of the Revised Edition 1955)". |
| Seventh Schedule | Paragraphs 25, 26, 40 and 41 shall be omitted;<br>in paragraph 46, for "the United Kingdom" there shall be substituted "Fiji". |
| Ninth Schedule | For the table therein set out there shall be substituted the following:— |

ENACTMENTS REPEALED

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 1 & 2 Geo. 5. c. 46. | The Copyright Act, 1911. | The whole Act. |
| 18 & 19 Geo. 5. c. lii. | The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928. | The whole Act. |

## SECOND SCHEDULE

*Modifications to the Orders in Council extended by Article 2*

1. Modification to all the Orders in Council:—

Any reference in any of the Orders to its commencement shall be deemed to be a reference to the 1st day of June, 1961.

2. Modifications to the Copyright (International Conventions) Order, 1957:—

(1) In Article 1, for " the United Kingdom " there shall be substituted " Fiji ".

(2) In Article 2, for the reference to the making of the Order there shall be substituted a reference to its extension to Fiji.

(3) In Article 3, for " the United Kingdom " there shall be substituted " Fiji ".

(4) In the Fourth Schedule, paragraph 5 shall be omitted.

3. Modifications to the Copyright (International Conventions) (Argentina) Order, 1958:—

In the Schedule, paragraphs 1 and 2 shall be omitted.

4. Modifications to the Copyright (Broadcasting Organisations) Order, 1959:—

(1) For Part I of the Schedule (which sets out the provisions applied by the Order) there shall be substituted the following:—

" Such provisions of the Act relating to copyright in sound and television broadcasts as may be extended to Fiji under subsection (1) of section thirty one of the Act, with such modifications as may have been made thereto on extension ".

(2) In Part II of the Schedule, paragraphs 2 and 3 shall be omitted.

(3) In Part III of the Schedule (which sets out the persons in relation to whose broadcasts the provisions of the Act are applied) there shall be added the following paragraph:—

" 2. The Fiji Broadcasting Commission ".

## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

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

The Order similarly extends, as amended, and with modifications, four Orders in Council made under the Act. The extension of three of these Orders will afford protection in Fiji to works originating in countries party to certain international copyright conventions and works produced by certain international organisations, similar to that they now enjoy in the United Kingdom. The extension of the other Order, as modified, will afford protection in Fiji to certain broadcasts made locally and in other dependent Commonwealth countries to which the Act has been extended.