STATUTORY INSTRUMENTS

1963 No. 1147

COPYRIGHT

The Copyright (Kenya) Order 1963

Made - - - -	26*th June* 1963
Laid before Parliament	2*nd July* 1963
Coming into Operation	4*th July* 1963

At the Court at Buckingham Palace, the 26th day of June 1963

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 Kenya 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 1961(g) (being Orders in Council made under Part V of the said Act) shall extend to Kenya subject to the relevant modifications specified in Schedule 2 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 (Kenya) Order 1963 and shall come into operation on 4th July 1963.

W. G. Agnew.

SCHEDULE 1

PART I

Provisions of the Copyright Act 1956 *extended to Kenya*

All the provisions of the Copyright Act 1956 as amended by the Dramatic and Musical Performers' Protection Act 1958(i) and the Films Act 1960(j), except sections 23 to 30, sections 32, 34, 35, 42 and 44 and the Fourth, Fifth and Ninth 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.

(a) 4 & 5 Eliz. 2. c. 74. (b) S.I. 1957/1523 (1957 I, p. 474).
(c) S.I. 1958/1254, 2184, 1960/200, 1961/1496, 2461, 1962/397, 628, 1641, 2183 (1958 I, pp. 358, 360; 1960 I, p. 772; 1961 II, p. 3040; III, p. 4507; 1962 I, pp. 348, 631; II, p. 1907; III, p. 2962). (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. 1961/2460 (1961 III, p. 4505).
(h) 52 & 53 Vict. c. 63. (i) 6 & 7 Eliz. 2. c. 44. (j) 8 & 9 Eliz. 2. c. 57.

Provision	Modification
Section 7 ...	For the references to the Board of Trade there shall be substituted references to the Minister.
Section 8 ...	In subsections (1) and (10), for " the United Kingdom " there shall be substituted " Kenya "; in the proviso to subsection (2), for references to one farthing there shall be inserted references to one cent and for references to three-farthings there shall be substituted references to five cents; for subsection (3) there shall be substituted the following:— " (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, provided that any reference in any such order to a sum of money shall be construed as a reference to the equivalent sum in the currency of legal tender in Kenya as provided by any law of Kenya."; in subsection (4), for paragraph (*a*) there shall be substituted the following:— " (*a*) the minimum amount of royalty shall be five cents in respect of each of those works; and " ; in subsection (11), for the references to the Board of Trade there shall be substituted references to the Minister.
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 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 " Kenya ".
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 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 "; subsection (11) shall be omitted.
Section 15 ...	In subsection (4), for " Board of Trade " there shall be substituted " Minister ".
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.

Provision	Modification
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 (1) and (6), for " the United Kingdom " there shall be substituted " Kenya "; in subsections (7) and (8), for " summary conviction " there shall be substituted " conviction by a subordinate court of the first class "; for subsection (10) there shall be substituted the following:— " (10) An appeal shall lie to the Supreme Court from any order made under the last preceding subsection by a subordinate court.".
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 Customs and Excise for East Africa ", 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 subsections (2) and (3), for " the United Kingdom " there shall be substituted " Kenya "; in subsection (4), for " the Commissioners ", where the words first occur, there shall be substituted " the Governor ", and for " the Commissioners consider " there shall be substituted " the Governor 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 customs and excise revenue within the meaning of the Customs and Excise Revenue Allocation Act of the East Africa High Commission."; in subsection (7), for the references to the Customs and Excise Act 1952 there shall be substituted references to the East African Customs Management Act 1952 of the East Africa High Commission and the Imports, Exports and Essential Supplies Ordinance.
Section 31 ...	Subsections (1) and (2) shall be omitted; in subsection (4), for " the United Kingdom " there shall be substituted " Kenya " and for " in a country " there shall be substituted " in the United Kingdom or in any country other than Kenya.".
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 Kenya.".
Section 37 ...	Subsection (4) shall be omitted.

Provision	Modification
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 ".
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 references to a work shall be omitted.
Section 41 ...	For subsection (7) there shall be substituted the following:— " (7) In this section— " school " has the same meaning as in the Education Ordinance; and " 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 " Kenya ".
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 48 ...	In subsection (1), there shall be added the following definitions:— " " Governor " means the Governor for the time being of Kenya ; " Minister " means the Minister of the Government of Kenya for the time being responsible for copyright; "; in subsection (4), for " the United Kingdom " there shall be substituted " Kenya "; after subsection (7) there shall be added the following subsection— " (8) In this Act, references to Ordinances are references to Ordinances of Kenya as they appear in the Laws of Kenya.".
Section 49 ...	In subsection (2), for " the United Kingdom " there shall be substituted " Kenya ".
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 Kenya and, accordingly, the Copyright Act 1911 shall be deemed to be repealed in the law of Kenya.".
Section 51 ...	For subsection (2) there shall be substituted the following:— " (2)—(*a*) Any provision of this Act empowering the Governor or the Minister to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Kenya. (*b*) All the other provisions of this Act shall come into operation on 4th November 1963."; 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 ".

Provision	Modification
Seventh Schedule	Paragraphs 25, 26, 40 and 41 shall be omitted; in paragraph 46, for "the United Kingdom" there shall be substituted "Kenya".

SCHEDULE 2

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 4th November 1963.

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

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

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

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

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

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

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 Kenya.

The Order also extends to form part of the law of that country four Orders in Council, as amended, made under the provisions of the Copyright Act. Works originating in the countries specified in the Copyright (International Conventions) Order 1957 as amended, and Argentina, works produced by the international organisations specified in the Copyright (International Organisations) Order 1957 as amended, and broadcasts to the public made in countries to which section 14 of the Copyright Act has been extended by Order in Council will now enjoy in Kenya protection similar to that which they at present enjoy in the United Kingdom and broadcasts made in Kenya will enjoy similar protection in each of those countries to which the Copyright (Broadcasting Organisations) Order 1961 has been extended.