STATUTORY INSTRUMENTS

# 1962 No. 1643

# COPYRIGHT

## The Copyright (North Borneo) Order 1962

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| *Made* - - - - | 30*th July* 1962 |
| *Laid before Parliament* | 3*rd August* 1962 |
| *Coming into Operation* | 6*th August* 1962 |

At the Court at Buckingham Palace, the 30th day of July 1962

**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 the Colony of North Borneo (hereinafter referred to as " North Borneo ") 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 North Borneo 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 (North Borneo) Order 1962 and shall come into operation on 6th August 1962.

*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, 1961/1496, 2461, 1962/397, 628, 1641 (1958 I, pp. 358, 360; 1960 I, p. 772; 1961 II, p. 3040; III, p. 4507; 1962 I, pp. 348, 631; II, p. 1907).
(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.

## FIRST SCHEDULE

### PART I

*Provisions of the Copyright Act 1956 extended to North Borneo*

All the provisions of the Copyright Act 1956 as amended by the Dramatic and Musical Performers' Protection Act 1958(a) and the Films Act 1960(b) except section 8, 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 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 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 " North Borneo ". |
| 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, 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.";<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 ". |
| 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. |

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

| Provision | Modification |
|---|---|
| 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, 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.";<br>subsection (4) shall be omitted. |
| Section 21 ... | In subsections (1) and (6), for " the United Kingdom " there shall be substituted " North Borneo ";<br>in subsection (7), for " forty shillings " there shall be substituted " twenty dollars ";<br>in subsections (7) and (8), for "summary conviction" there shall be substituted " conviction before a Magistrate's court of the first class ", and for " fifty pounds " there shall be substituted " five hundred dollars ";<br>for subsection (10) there shall be substituted the following:—<br>" (10) An appeal shall lie to the High Court of Sarawak, North Borneo and Brunei from any order made under the last preceding subsection by a Magistrate's Court of the first class.". |
| 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 Trade and Customs " and for subsequent references in the section to the Commissioners there shall be substituted references to the said Commissioner;<br>in subsections (2) and (3), for " the United Kingdom " there shall be substituted " North Borneo ";<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 (Cap. 33). |
| Section 31 ... | Subsections (1) and (2) shall be omitted;<br>in subsection (4), for " the United Kingdom " there shall be substituted " North Borneo " and for " in a country " there shall be substituted " in the United Kingdom or in any country other than North Borneo ". |
| 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 North Borneo.". |
| 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 " subsection (1) of section five of the Crown Proceedings Ordinance (Cap. 166) ". |

| Provision | Modification |
|---|---|
| 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 (No. 9 of 1961); 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 " North Borneo ". |
| 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 (1), there shall be added the following:—<br>" " Governor " means the Governor of North Borneo;<br>" Governor in Council " means the Governor acting after consultation with the Executive Council of North Borneo but not necessarily in accordance with the advice of such Council, nor necessarily in such Council assembled;<br>" North Borneo " means the Colony of North Borneo;";<br>in subsection (4), for " the United Kingdom " there shall be substituted " North Borneo ";<br>after subsection (7) there shall be added the following subsection:—<br>" (8) In this Act references to Ordinances are references to Ordinances in the law of North Borneo and the numerical citations of such Ordinances are those of the Laws of North Borneo prepared under the authority of the Revised Edition of the Laws Ordinance, 1951, and the Revised Edition of the Laws (Supplementary Volume) Ordinance 1955.". |
| Section 49 ... | In subsection (2), for " the United Kingdom " there shall be substituted " North Borneo ". |
| 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 Commissioner of Trade and Customs to make regulations shall come into operation on the commencement of the Order in Council extending that provision to North Borneo.<br>(*b*) All the other provisions of this Act shall come into operation on 6th December 1962.";<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 (Cap. 152) ". |
| Seventh Schedule | Paragraphs 6, 25, 26, 40 and 41 shall be omitted;<br>in paragraph 46, for " the United Kingdom " there shall be substituted " North Borneo ". |

<table>
<tr><th>Provision</th><th>Modification</th></tr>
<tr><td>Ninth Schedule</td><td>For the table therein set out there shall be substituted the following:—
<br>ENACTMENTS REPEALED
<table>
<tr><th>Session and Chapter</th><th>Short Title</th><th>Extent of Repeal</th></tr>
<tr><td>1 & 2 Geo. 5. c. 46.</td><td>The Copyright Act 1911.</td><td>The whole Act.</td></tr>
<tr><td>18 & 19 Geo. 5. c. lii.</td><td>The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act 1928.</td><td>The whole Act.</td></tr>
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## 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 6th December 1962.

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

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

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

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

(4) In the Fourth Schedule—

(*a*) Paragraphs 1 and 5 shall be omitted;

(*b*) in paragraph 2, for "the afore-mentioned Table" there shall be substituted "the Table set out at the end of this Schedule";

(*c*) in paragraph 4, for "the date specified in column 2 of the aforementioned Table in relation to the country of origin of that work (being the date on which section 19 of the Copyright Act 1911 first applied in relation to that country)" there shall be substituted "the 30th November 1952".

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 North Borneo.

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 North Borneo protection similar to that which they at present enjoy in the United Kingdom and broadcasts made in North Borneo will enjoy similar protection in each of those countries to which the Copyright (Broadcasting Organisations) Order 1961 has been extended.