1959 No. 2215

The Copyright (Sarawak) Order, 1959

Made - - - -	*21st December*, 1959
Laid before Parliament	*30th December*, 1959
Coming into Operation	*1st January*, 1960

At the Court at Buckingham Palace, the 21st day of December, 1959

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 Sarawak subject to the modifications specified in Part II of that Schedule.

2. The Copyright (International Conventions) Order, 1957(b), the Copyright (International Organisations) Order, 1957(c), and the Copyright (Broadcasting Organisations) Order, 1959(d), (being Orders in Council made under the provisions of Part V of the said Act) shall extend to Sarawak subject to the relevant modifications specified in the Second Schedule hereto.

3. Where any person has, before the commencement of this Order, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work or other subject-matter in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work or other subject-matter at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any rights or interest arising from, or in connection with, such action which are subsisting and valuable immediately before such commencement unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

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

5. This Order may be cited as the Copyright (Sarawak) Order, 1959, and shall come into operation on the 1st day of January, 1960.

W. G. Agnew.

(a) 4 & 5 Eliz. 2 c. 74. (b) S.I. 1957/1523 (1957 I, p. 474).
(c) S.I. 1957/1524 (1957 I, p. 483). (d) S.I. 1959/2214 (Pt. I, p. 743, of this vol.).
(e) 52 & 53 Vict. c. 63.

FIRST SCHEDULE

PART I

Provisions of the Copyright Act, 1956, extended to Sarawak.

All the provisions of the Copyright Act, 1956, as amended by the Dramatic and Musical Performers Protection Act, 1958(a), except section 8, 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.

Provision	Modification
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 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 "Sarawak".
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."; in subsection (8), for "any such film as is mentioned in paragraph (*a*) of section thirty-five of the Cinematograph Films Act, 1938 (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	Subsection (6) shall be omitted.
Section 18	The proviso to subsection (1) and subsection (4) shall be omitted.
Section 21	In subsections (1) and (6), for "the United Kingdom" there shall be substituted "Sarawak"; in subsection (7), for "forty shillings" there shall be substituted "twenty dollars"; in subsections (7) and (8), for "summary conviction" there shall be substituted "conviction by a District Court" and for "fifty pounds" there shall be substituted "five hundred dollars"; for subsection (10) there shall be substituted the following :—

(a) 6 & 7 Eliz. 2. c. 44.

Provision	Modification
	"(10) An appeal shall lie to the High Court from any order made under the last preceding subsection by a District 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 Trade and Customs" and, subject to the modifications hereinafter specified to subsections (4) and (5) of the section, subsequent references to the Commissioners shall be construed as references to the said Commissioner; in subsections (2) and (3), for "the United Kingdom" there shall be substituted "Sarawak"; in subsection (4), for "the Commissioners", on the first and third occasions on which those words occur, there shall be substituted "the Governor in Council"; in subsection (5), in head (*c*), for "the Commissioners" there shall be substituted "the said Commissioner and the Government of Sarawak"; 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 money collected on account of customs."; in subsection (7), for "Customs and Excise Act, 1952" there shall be substituted "Customs Ordinance (cap. 26 of the 1958 Revised Edition of the laws of Sarawak)".
Section 31	Subsections (1) and (2) shall be omitted; in subsection (4), for "the United Kingdom" there shall be substituted "Sarawak" and for "in a country" there shall be substituted "in the United Kingdom or in any country other than Sarawak".
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 Sarawak.".
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. 47 of the 1958 Revised Edition of the Laws of Sarawak)".
Section 40	Subsection (3) shall be omitted; in subsection (4), for "either of the last two 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;

Provision	Modification
	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 for the time being in force in Sarawak; 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 "Sarawak".
Section 46	Subsection (1) shall be omitted; in subsection (2), "(including any enactment of the Parliament of Northern Ireland)" shall be omitted.
Section 47	For section 47 there shall be substituted the following:— "47.—(1) No regulations made under this Act by the Board of Trade shall come into operation in Sarawak until such time as may be appointed by notice given by the Governor in the Sarawak Government Gazette. (2) Any regulations made by the Board of Trade in pursuance of powers conferred by this Act may be modified in their operation in the law of Sarawak by regulations made by the Governor in Council under this section, and accordingly any reference in this Act to regulations made by the Board of Trade shall be construed as a reference to those regulations subject to such modifications (if any) as may have been made thereto in pursuance of this section. (3) The Interpretation Ordinance (Cap. 1 of the 1958 Revised Edition of the Laws of Sarawak) shall apply in relation to any regulations made by the Governor in Council under section twenty-two of this Act or under this section.".
Section 48	In subsection (1), there shall be inserted the following definition:— "'Governor' means the Governor for the time being of Sarawak"; in subsection (4), for "the United Kingdom" there shall be substituted "Sarawak".
Section 49	In subsection (2), for "the United Kingdom" there shall be substituted "Sarawak".
Section 50	Subsection (2) shall be omitted.
Section 51	For subsection (2) there shall be substituted the following:— "(2) This Act shall come into operation on such day as the Governor may notify in the Sarawak Government Gazette."; subsection (3) shall be omitted.

Provision	Modification
First Schedule	In paragraph 2, for "section seven of the Act of 1949" there shall be substituted "section 2 of the Designs (United Kingdom) Ordinance (cap. 59 of the 1958 Revised Edition of the Laws of Sarawak)".
Seventh Schedule	Paragraphs 6, 13, 25, 26, 34 to 38, 40, 41 and 42 shall be omitted. In sub-paragraph (2) of paragraph 3, for "section five of the Act of 1911" there shall be substituted "section seven of the Ordinance". In paragraph 4, for "the Act of 1911" there shall be substituted "the Ordinance" and for for "the place into which it is imported" there shall be substituted "Sarawak". In sub-paragraph (2) of paragraph 7, for "under the Act of 1911, or under any enactment repealed by that Act" there shall be substituted "under the Ordinance". In paragraph 9, for sub-paragraph (1) there shall be substituted the following:— "(1) Where, before the commencement of this Act, a person has, in the case of a work, given the notice requisite under the proviso set out in paragraph 3 of the Eighth Schedule to this Act (being the proviso to section 5 of the Ordinance) then, as respects reproductions by that person of that work after such commencement, that proviso shall have effect as if it had been enacted in this Act as a proviso to subsection (2) of section one: Provided that the said proviso shall so have effect subject to the provisions set out in paragraphs 4 and 5 of the Eighth Schedule to this Act (being so much of subsection (1) of sections 14 and 15 of the Ordinance as is applicable to the said proviso) as if those provisions had been enacted in this Act."; in sub-paragraph (2), for "Board of Trade" there shall be substituted "Chief Secretary" and for "the repeal of section three of the Act of 1911" there shall be substituted "the commencement of this Act". In paragraph 15, for "the Act of 1911" there shall be substituted "the Ordinance". In paragraph 19, for "the Act of 1911" there shall be substituted "the Ordinance" and for "the place into which it is imported" there shall be substituted "Sarawak". In paragraph 20, for the references to the Act of 1911 there shall be substituted references to the Ordinance. In paragraphs 21 and 22, the words after "the commencement of that section" shall be omitted. In paragraph 23, for "the Act of 1911" there shall be substituted "the Ordinance".

Provision	Modification
	In paragraph 24, for "section fourteen of the Act of 1911" there shall be substituted "section thirteen of the Ordinance".
	In sub-paragraphs (1), (4) and (5) of paragraph 28, for the references to the Act of 1911 there shall be substituted references to the Ordinance;
	in sub-paragraph (3) of that paragraph, for "section five of the Act of 1911" there shall be substituted "section seven of the Ordinance".
	In sub-paragraph (2) of paragraph 29, for "section seventeen of the Act of 1911" there shall be substituted "section fifteen of the Ordinance".
	In sub-paragraph (2) of paragraph 33, for the references to the Act of 1911 there shall be substituted references to the Ordinance.
	In paragraph 43, in head (*a*), for "the Act of 1911" there shall be substituted "the Ordinance", and head (*b*) shall be omitted.
	In paragraph 44, head (*a*) shall be omitted and, in head (*b*), for the references to the Act of 1911 there shall be substituted references to the Ordinance.
	In sub-paragraph (2) of paragraph 46, for "the United Kingdom" there shall be substituted "Sarawak".
	For sub-paragraph (2) of paragraph 47 there shall be substituted the following:— "(2) In this Schedule "the Ordinance" means the Copyright Ordinance (cap. 94 of the 1948 Revised Edition of the Laws of Sarawak).".
Eighth Schedule	For the provisions of the Copyright Act, 1911, set out therein there shall be substituted the corresponding provisions of the Copyright Ordinance (cap. 94 of the 1948 Revised Edition of the Laws of Sarawak) (hereinafter referred to as "the Ordinance"), and, accordingly, the Schedule shall be amended as follows:—
	In the heading to the Schedule, for "Copyright Act, 1911" there shall be substituted "the Ordinance".
	In paragraph 1, in the heading, for the reference to section 5 (1) of the Copyright Act, 1911, there shall be substituted a reference to section 7 (1) of the Ordinance.
	In paragraph 3,— (i) in the heading, for the reference to section 3 of the Copyright Act, 1911, there shall be substituted a reference to section 5 of the Ordinance; and (ii) in the proviso to the provision set out in the paragraph, the words "or in the case of a work in which copyright subsists at the passing of this Act thirty years" shall be omitted and for the references to the Board of Trade there shall be substituted references to the Chief Secretary.

Provision	Modification
	In paragraph 4,— (i) in the heading, for the reference to section 16 (1) of the Copyright Act, 1911, there shall be substituted a reference to section 14 (1) of the Ordinance; and (ii) in the provision set out in the paragraph, for "this Act" there shall be substituted "this Ordinance". In paragraph 5,— (i) in the heading, for the reference to section 17 (1) of the Copyright Act, 1911, there shall be substituted a reference to section 15 (1) of the Ordinance; and (ii) in the provision set out in the paragraph, for "section three of this Act" there shall be substituted "section five of this Ordinance". In paragraph 6,— (i) in the heading, for the reference to section 5 (2) of the Copyright Act, 1911, there shall be substituted a reference to section 7 (2) of the Ordinance; and (ii) in the provision set out in the paragraph, for "this Act" there shall be substituted "this Ordinance". In paragraph 7, in the heading, for the reference to section 17 (2) of the Copyright Act, 1911, there shall be substituted a reference to section 15 (2) of the Ordinance. Paragraph 8 shall be omitted. In paragraph 9 in the heading, for the reference to section 35 (1) of the Copyright Act, 1911, there shall be substituted a reference to section 2 (1) of the Ordinance. For the Note at the end of the Schedule there shall be substituted the following:— "Note—In this Schedule "this Ordinance" means the Copyright Ordinance (cap. 94 of the 1948 Revised Edition of the Laws of Sarawak).".

SECOND SCHEDULE

Modifications to Orders in Council extended to Sarawak.

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

(1) References therein to the commencement of the Order shall be deemed to be references to its commencement in the law of Sarawak.

(2) In Article 1, for "the United Kingdom" there shall be substituted "Sarawak" and in the proviso—

(*a*) paragraphs (ii) and (vi) shall be omitted;

(*b*) in paragraph (iii), after "India" there shall be inserted "the Republic of Ireland" and after "Israel", "Italy".

(3) Articles 2 and 3 shall be omitted.

(4) In Article 4, paragraph (1) shall be omitted.

(5) In the First Schedule—

(*a*) in Part I, "India" shall be deleted from the list of countries party to the "Rome Convention" and added after "Greece" in the list of countries party to the "Brussels Convention"; and

(*b*) in Part II, to the list of countries party to the Universal Copyright Convention there shall be added "Argentina", "India", "the Republic of Ireland" and "Liechtenstein".

(6) For the Fourth Schedule there shall be substituted the following:—

"1. In the case of any musical work in which, immediately before the repeal of the Copyright Ordinance (cap. 94 of the 1948 Revised Edition of the Laws of Sarawak), copyright subsisted by virtue of a notification under section 22 of that Ordinance, the acts restricted by the copyright in such a work shall not include making, or authorising the making of, a sound recording thereof, if any record of the work had been lawfully made or placed on sale in Sarawak before the first day of January, 1939.

2. In the case of any other musical work first published before the commencement of this Order (not being a work originating in a country of the Commonwealth or in the Republic of Ireland) the preceding paragraph shall have effect as if for the reference to the first day of January, 1939, there were substituted a reference to the commencement of this Order.".

(7) The Fifth Schedule shall be omitted.

2. Modification to the Copyright (International Organisations) Order, 1957:—

In the Schedule thereto there shall be included the names of the Baghdad Pact Organisation and the Western European Union.

3. Modification to the Copyright (Broadcasting Organisations) Order, 1959:—

For Part I of the Schedule thereto (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 Sarawak with such modifications (if any) as may have been made thereto on extension.".

EXPLANATORY NOTE

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

This Order extends, with certain exceptions and minor modifications, the provisions of the Copyright Act, 1956, to Sarawak.

The Order also extends, with modifications, three Orders in Council made under the provisions of the Act. As a result, works originating in certain countries party to international copyright conventions, works produced by certain international organisations and broadcasts made under official auspices in Sarawak will enjoy in Sarawak protection similar to that they at present enjoy in the United Kingdom. The modifications to the Orders take account of the effect of subsequent amending Orders which are not extended.