

**INTRODUCED ON 16.01.2023.**

**[AS INTRODUCED IN THE SENATE]**

**A  
BILL**

*further to amend the Copyright Ordinance, 1962*

**WHEREAS** it is expedient further to amend the Copyright Ordinance, 1962 (XXXIV of 1962) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title and commencement** - (1) This Act may be called the Copyright (Amendment) Act, 2023.

(2) It shall come into force at once.

**2. Amendment of section 2, Ordinance XXXIV of 1962.-** In the Copyright Ordinance, 1962 (XXXIV of 1962), hereinafter referred to as the said Ordinance, in section 2,-

(a) for clause (a), the following shall be substituted, namely:-

“(a) “adaptation” means,-

(i) in relation to a literary work in a non-dramatic form a version of the work (whether in its original language or in a different language) in a dramatic form;

(ii) in relation to a literary work in a dramatic form a version of the work (whether in its original language or in a different language) in a non-dramatic form;

(iii) in relation to a literary work (whether in a non-dramatic form or in a dramatic form):

(a) a translation of the work; or

(b) a version of the work in which a story or action is conveyed solely or principally by means of pictures, in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and

(c) in relation to a musical work, an arrangement or transcription of the work;”

(b) after clause (u), the following new clause shall be inserted, namely:-

“(ua) “performer” includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, and other persons who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works;”

(c) after clause (ze), the following new clause shall be inserted, namely:-

“(zea) “sound recording” means a recording of sounds from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced;”

**3. Amendment of section 15, Ordinance XXXIV of 1962.-** In the said Ordinance, in section 15 the text after the marginal note shall be numbered as sub-section “(1)”, and after sub-section (1) numbered as aforementioned, the following new sub-sections shall be added, namely:-

“(2) The assignment of copyrights in any work shall identify the nature of work, the right assigned and the duration and territorial extent of such assignment.

(3) The assignment of copyright in any work shall also specify the amount of royalty and any other consideration payable to the author or his legal heirs during the prevalence of the assignment.

(4) The assignment shall be subject to revision, extension or termination on the terms and conditions mutually agreed upon by the parties.

(5) The assignment of copyright does not give the assignee any right to reassign copyright unless the reassignment is usual or obviously presumed.

(6) Where the assignee does not exercise the rights assigned to him under sub-section (2) of this section, within a period of one year from the date of assignment, the assignment of in respect of such rights shall be deemed to have lapsed after the expiry of said period unless and otherwise specified in the agreement of assignment between the parties.

(7) In case of absence of provision regarding the duration of assignment, it shall be deemed to be five years from the date of assignment.

(8) The territorial extent of the assignment shall be presumed to be within Pakistan if it is not provided in the assignment.

(9) No assignment of copyright in any work to make a cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable in case of utilisation of the work in any form other than for the communication to the public of the work, along with the cinematograph film in a cinema hall.

(10) No assignment of the copyright in any work to make a sound recording which does not form part of any cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable for any utilisation of such work in any form.”

**4. Insertion of new section 15A, Ordinance XXXIV of 1962.-** In the said Ordinance, after section 15, the following new section shall be inserted, namely:-

**"15A. Dispute with respect to assignment of copyrights.-** (1) If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act or omission of the assignor, then, the Copyright Board may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

(2) If any dispute arises with respect to the assignment of any Copyright, the Copyright Board may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable:

Provided that the Copyright Board shall not pass any order under this sub-section to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assignor is also the author:

Provided further that before the disposal of an application for revocation of assignment under this sub-section, the Copyright Board may pass such order as it deems fit regarding implementation of the terms and conditions of assignment including any consideration to be paid for the fulfilment of the rights assigned.

(3) Every complaint received under sub-section (2) shall be dealt with by the Copyright Board as far as possible and efforts shall be made to pass the final order in the matter within a period of six months from the date of receipt of the complaint and any delay in compliance of the same, the Copyright Board shall record the reasons thereof."

**5. Insertion of new section 35A, Ordinance XXXIV of 1962.-** In the said Ordinance, after section 35, the following section 35A shall be inserted, namely:-

**"35A. Application of section 15.-** The provision of section 15 shall, with necessary amendments and requisites, apply in relation to a licence under section 35 as they apply in relation to the assignment of copyright in a work."

**6. Insertion of new sections 36A and 36B, Ordinance XXXIV of 1962.-** In the said Ordinance, after section 36, the following new sections shall be inserted, namely:-

**"36A. Licence for cover versions.-** (1) Any person desirous of making a cover version, being a sound recording in respect of any literary, dramatic or musical work, where sound recordings of that work have been made by or with the licence or consent of the owner of the right in the work, may do so subject to the provisions of this section:

Provided that such sound recordings shall be in the same medium as the last recording, unless the medium of the last recording is no longer in current commercial use.

(2) The person making the sound recordings shall give prior notice of his intention to make the sound recordings in the manner as may be prescribed, and provide in advance copies of all covers or labels with which the sound recordings are to be sold, and pay in advance, to the owner of rights in each work royalties in respect of all copies to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that such sound recordings shall not be sold or issued in any form of packaging or with any cover or label which is likely to mislead or confuse the public as to their identity, and in particular shall not contain the name or depict in any way any performer of an earlier sound recording of the same work or any cinematograph film in which such sound recording was incorporated and, further, shall state on the cover that it is a cover version made under this section.

(3) The person making such sound recordings shall not make any alteration in the literary or musical work which has not been made previously by or with the consent of the owner of rights, or which is not technically necessary for the purpose of making the sound recordings:

Provided that such sound recordings shall not be made until the expiration of five calendar years after the end of the year in which the first sound recordings of the work was made.

(4) One royalty in respect of such sound recordings shall be paid for a minimum of fifty thousand copies of each work during each calendar year in which copies of it are made:

Provided that the Copyright Board may, by general order, fix a lower minimum in respect of works in a particular language or dialect having regard to the potential circulation of such works.

(5) The person making such sound recordings shall maintain such registers and books of account in respect thereof, including full details of existing stock as may be prescribed and shall allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such sound recording:

Provided that if on a complaint brought before the Copyright Board to the effect that the owner of rights has not been paid in full for any sound recordings purporting to be made in pursuance of this section, the Copyright Board is, prima facie, satisfied that the complaint is genuine, it may pass an order ex parte directing the person making the sound recording to cease from making further copies and, after holding such inquiry as it considers necessary, make such further order as it may deem fit, including an order for payment of royalty.

**Explanation.—** For the purposes of this section "cover version" means a sound recording made in accordance with this section.

**36B. License for broadcasting of literary and musical works and sound recording.—**

(1) Any broadcasting organisation desirous of communicating to the public by way of a broadcast or by way of performance of a literary or musical work and sound recording which has already been published may do so subject to the provisions of this section.

(2) The broadcasting organisation shall give prior notice, in such manner as may be prescribed, of its intention to broadcast the work stating the duration and territorial coverage of the broadcast, and shall pay to the owner of rights in each work royalties in the manner and at the rate fixed by the Copyright Board.

(3) The rates of royalties for radio broadcasting shall be different from television broadcasting and the Copyright Board shall fix separate rates for radio broadcasting and television broadcasting.

(4) In fixing the manner and the rate of royalty under sub-section (2), the Copyright Board may require the broadcasting organisation to pay an advance to the owners of rights.

(5) The names of the authors and the principal performers of the work shall, except in case of the broadcasting organisation communicating such work by way of performance, be announced with the broadcast.

(6) No fresh alteration to any literary or musical work, which is not technically necessary for the purpose of broadcasting, other than shortening the work for convenience of broadcast, shall be made without the consent of the owners of rights."

**7. Amendment of section 45, Ordinance XXXIV of 1962.-** in the said Ordinance, in section 45, in sub-section (1), in paragraph (ii),-

- (a) for the word "five" the word "nine" shall be substituted ;and
- (a) in the proviso, for the semi-colon and word "; and" in the end a colon ":" shall be substituted, and thereafter the following new proviso shall be inserted namely:-

"Provided further that representation on the Board shall be given to four members each from the fields of acting, singing, drama or film writing and production; and"

**STATEMENT OF OBJECTS AND REASON**

Royalties stem from licensing, which is the process of giving or getting permission to have, produce, or use something that someone else has created or owns. The artists from entertainment industry in Pakistan have been facing the issue of rightful and just royalties for a long time due to redundant and out-dated provisions of relevant laws. To provide solution for the aforesaid issue, the amendment in this ordinance aims at empowering the Copyright Board to fix the royalties for licencing and assignment of work. This Bill further proposes amendment in the composition of Copyright Board by prescribing adequate representation to the persons from cinematograph or entertainment industry amongst its members.

2. The Bill has been designed to achieve the aforesaid objectives.

**SENATOR FAISAL JAVED  
MEMBER IN CHARGE**