

Preamble

Whereas, the progressive enhancement of our unique culture and further enrichment of our national cultural heritage can only be sustained in an environment conducive to inspiring expressions of creativity by authors in the domain of literature and the arts;

Whereas, it is expedient in the overall interest of society to protect the rights of authors over their creative works in order to foster and encourage their intellectual endeavours by assuring them of just rewards and recognition for their efforts;

Now, therefore, be it enacted by the Gyalyong Tshogdu Chhenmo as follows:

The Copyright Act of the Kingdom of Bhutan, 2001

PART I PRELIMINARY

Title

1. This Act may be cited as “The Copyright Act of the Kingdom of Bhutan, 2001”.

Commencement

2. This Act shall come into force from the 26th day of the 5th month of the Female Iron Snake Year corresponding to 17 July, 2001.

Territorial Extent

3. This Act shall extend to the whole of the Kingdom of Bhutan.

Definitions

4. For the purpose of this Act:
 - i) an "audiovisual work" is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible;
 - ii) "author" is the physical person who has created the work;
 - iii) "broadcasting" is the communication of a work, a performance or a sound recording to the public by wireless transmission, including such transmission by a satellite;
 - iv) a "collective work" is a work which has been created by two or more physical persons at the initiative and under the direction of a physical person or legal entity with the understanding that it will be disclosed by the latter person or entity under his or its own name and that the identity of the contributing physical persons will not be indicated in the work;
 - v) "communication to the public" is the transmission by wire or without wire of the images or sounds, or both, of a work, a performance or a sound recording in a way that the said images or sounds can be perceived by persons outside the normal circle of a family and that family's closest social acquaintances at a place or places whose distance from the place where the transmission is started is such that, without the transmission, the images or sounds would not be perceivable at the said place or places, and irrespective of whether the said persons can perceive

the images or sounds at the same place and at the same time or at different places and/or at different times;

- vi) a "computer" is an electronic or similar device having information-processing capabilities, and a "computer program" is a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that the computer can read, of causing a computer to perform or achieve a particular task or result;
- vii) "economic rights" are the rights mentioned in Section 8;
- viii) "moral rights" are the rights mentioned in Section 9 (1);
- ix) "owner of copyright" is
 - where the economic rights are vested in the author, the author,
 - where the economic rights are originally vested in a physical person other than the author or in a legal entity, that person or entity,
 - where the ownership of the economic rights has been transmitted to a physical person or a legal entity, that person or entity;
- x) "performers" are singers, musicians, and other persons who sing, deliver, declaim, play in, or otherwise perform literary and artistic works;
- xi) a "photographic work" is the recording of light or other radiation on any medium on which an image is produced or from which an image may be produced, irrespective of the technique (chemical, electronic or other) by which such recording is made; a still picture extracted from an audiovisual work shall not be considered "photographic work" but a part of the audiovisual work concerned;
- xii) "public display" is the showing of the original or a copy of the work
 - directly,
 - by means of a film, slide, television image or otherwise on screen,
 - by means of any other device or process, or,
 - in the case of an audiovisual work, the showing of individual images non-sequentially,

at a place or at places where persons outside the normal circle of a family and that family's closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and at the same time, or at different places and/or at different times, and where the work displayed can be perceived without the need for communication thereof to the public within the meaning of

item (v), above;

- xiii) "public lending" is the transfer of the possession of the original or a copy of a work or a sound recording for a limited period of time, for non-profit-making purposes, by an institution the services of which are available to the public, such as a public library or archive;
- xiv) "public performance," in the case of a work other than an audiovisual work, is the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process, in the case of an audiovisual work, the showing of its images in sequence and the making of the sounds accompanying it audible and, in the case of a sound recording, making the recorded sounds audible, at a place or at places where persons outside the normal circle of a family and that family's closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and at the same time, or at different places and/or at different times, and where the performance can be perceived without the need for communication to the public within the meaning of item (v);
- xv) the "producer" of an audiovisual work or a sound recording, is the physical person who or legal entity which undertakes the initiative and responsibility for the making of the audiovisual work or sound recording;
- xvi) "published" refers to a work or a sound recording
 - a. copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, or
 - b. which has been made available to the public by means of an electronic retrieval system,provided that the making available to the public was effected in the case of a work with the consent of the author or other owner of copyright and in the case of a sound recording, with the consent of the producer of the sound recording or his or its successor in title;
- xvii) "rental" is the transfer of the possession of the original or a copy of a work or a sound recording for a limited period of time, for profit-making purposes;
- xviii) "reproduction" is the making of one or more copies of a work or a sound recording in any material form, including any permanent or temporary storage of the work or sound recording in electronic form;
- xix) a "sound recording" is any exclusively aural fixation of the sounds of a performance or of other sounds, regardless of the method by which the sounds are fixed or the medium in which the sounds are embodied; it does not include fixation of sounds fixed together with images, such as the soundtracks of

audiovisual works;

- xx) a "work" is any literary or artistic work under Section 5 ;
- xxi) a "work of applied art" is an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;
- xxii) a "work of joint authorship" is a work to the creation of which two or more authors have contributed, provided the work does not qualify as a "collective work" under item (iv), above.

PART II COPYRIGHT WORKS

Literary and Artistic Works

- 5. Literary and artistic works (hereinafter referred to as "works") are original intellectual creations in the literary and artistic domain and shall include in particular -
 - a. books, pamphlets, articles, computer programs and other writings;
 - b. speeches, lectures, addresses, sermons and other oral works;
 - c. dramatic, dramatico-musical works, pantomimes, choreographic works and other works created for stage productions;
 - d. stage productions of works mentioned in the previous item and of expressions of folklore that are apt for such productions;
 - e. musical works, with or without accompanying words;
 - f. audiovisual works;
 - g. works of architecture;
 - h. works of drawing, painting, sculpture, engraving, lithography, tapestry and other works of fine art;
 - i. photographic works;
 - j. works of applied art;
 - k. illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

Derivative Works

6. (1) The following shall also be protected as works :
 - a. translations, adaptations, arrangements and other transformations of works; and
 - b. collections of works and collections of mere data (data bases), whether in machine readable or other form, provided that such collections are original by reason of the selection, coordination or arrangement of their contents.
- (2) The protection of any work referred to in subsection (1) shall be without prejudice to the protection, if any, of a pre-existing work utilized for the making of, or incorporated in, such a work.

Subject Matter Not Protected

7. Notwithstanding the provisions of Sections 5 and 6, no protection shall extend, under this Act, to -
 - a. any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if it is or they are expressed, described, explained, illustrated or embodied in a work;
 - b. any official text of a legislative, administrative or legal nature, as well as any official translation thereof.

Economic Rights

8. (1) Subject to the provisions of Sections 10 to 20, the author of, or other owner of copyright in, a work shall have the exclusive right to carry out or to authorize the following acts :
 - a. reproduction of the work;
 - b. translation of the work;
 - c. adaptation, arrangement or other transformation of the work;
 - d. the first public distribution of the original and each copy of the work by sale, rental or otherwise;
 - e. rental or public lending of the original or a copy of an audiovisual work, a work embodied in a sound recording, a computer program, a data base or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental or public lending;

- f. importation of copies of the work, even where the imported copies were made with the authorization of the author or other owner of copyright;
 - g. public display of the original or a copy of the work;
 - h. public performance of the work;
 - i. broadcasting of the work;
 - j. other communication to the public of the work.
- (2) The right of rental under item (d) of subparagraph (1) does not apply to rentals of computer programs where the program itself is not the essential object of the rental.

Moral Rights

9. (1) The author of a work, shall, independently of his economic rights, and even where he is not or is no longer the owner of the said rights, have the right :
- a. to claim authorship of his work, in particular, the right that his name, as far as practicable, be indicated in a prominent way on the copies, and in connection with any public use, of his work;
 - b. that his name not be indicated on the copies, and in connection with any public use, of his work, or that his pseudonym be so indicated;
 - c. to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honour or reputation.
- (2) None of the rights mentioned in subsection (1) shall be transmissible during the life of the author but the right to exercise any of those rights shall be transmissible by testamentary disposition of the author or by operation of law pursuant to the death of the author.
- (3) The author, and, after his death, the physical person to whom, or the legal entity to which, the right to exercise his moral rights has devolved under subsection (2), may waive any of the rights mentioned in subsection (1), provided that such a waiver is in writing and clearly specifies the right or rights waived and the case or cases where the waiver applies, and, in particular, where the right under item (c) of subsection (1) is waived, the waiver clearly specifies the nature and extent of the modification or other action in respect of which the right is waived.

Private Reproduction for Personal Purposes

10. (1) Notwithstanding the provisions of Section 8(1) (a), and subject to the provisions

of subsection (2), the private reproduction of a published work in a single copy, where the reproduction is made by a physical person exclusively for his own personal purposes, shall be permitted, without the authorization of the author of, or other owner of the copyright in, the work.

- (2) The permission under subsection (1) shall not extend to the reproduction -
- a. of a work of architecture in the form of building or other construction;
 - b. where the reproduction is reprographic reproduction, or an entire book, or a substantial part thereof, or of a musical work in graphic form;
 - c. of a data base;
 - d. of a computer program, except as provided in Section 15; and
 - e. of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author of, or other owner of the copyright in, the work.

Quotation

11. Notwithstanding the provisions of Section 8(1)(a), the reproduction of a short part of a published work, in the form of quotation, in another work, shall be permitted without authorization of the author of, or other owner of the copyright in, the work from which the quotation is taken, provided that such a reproduction is compatible with fair practice and its extent does not exceed the extent justified by the purpose. The quotation shall be accompanied by the indication of its source and the name of the author if his name appears in the work from which the quotation is taken.

Reproduction for Teaching

12. (1) Notwithstanding the provisions of Section 8(1)(a), the following acts shall be permitted without the authorization of the author of, or other owner of the copyright in, the work :
- a. the reproduction of a short part of a published work, by way of illustration, in writings or sound or visual recordings for teaching, provided that
 - i) such reproduction is compatible with fair practice, and
 - ii) its extent does not exceed the extent justified by the purpose;
 - b. the reprographic reproduction, for face-to-face teaching in educational institutions whose activities do not serve direct or indirect commercial gain, to the extent justified by the purpose, of a published article or other

short work or short extract of a writing, with or without illustrations, provided that

- i) the act of reproduction is an isolated one occurring, if repeated, on separate and unrelated occasions, and
- ii) there is no collective license available (that is, offered by a collective administration organization in a way that the educational institution is aware or should be aware of the availability of the license) under which such reproduction can be made.

(2) On any copy made under paragraph (1), its source and the name of the author shall be indicated, as far as practicable.

Reprographic Reproduction by Libraries and Archives

13. Notwithstanding the provisions of Section 8(1)(a), a library or archive whose activities do not serve direct or indirect gain may, without the authorization of the author of, or other owner of copyright in, the work, make a single copy of the work by reprographic reproduction.
- a. where the work reproduced is a published article or other short work or short extract of a writing, with or without illustrations, and where the purpose of the reproduction is to satisfy the request of a physical person, provided that -
 - i) the library or archive is satisfied that the copy will be used solely for the purpose of study, scholarship or private research,
 - ii) the act of reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions, and
 - iii) there is no collective license available (that is, offered by a collective administration organization in a way that the library or archive is aware or should be aware of the availability of the license) under which such copies can be made; or
 - b. where the making of such a copy is in order to preserve and, if necessary (in the event that it is lost, destroyed or rendered unusable), replace a copy, or to replace, in the permanent collection of another similar library or archive, a copy which has been lost, destroyed or rendered unusable, provided that
 - i) it is impossible to obtain such a copy under reasonable conditions, and
 - ii) the act of reprographic reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.

Reproduction, Broadcasting and Other Communication

to the Public for Informatory Purposes

14. Notwithstanding the provisions of Section 8(1)(a), (h) and (i), the following acts shall be permitted, without the authorization of the author of, or other owner of copyright in, the work, subject to the obligation to indicate, as far as practicable, the source and the name of the author:
- a. the reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character; this permission shall not apply where the right to authorize reproduction, broadcasting or other communication to the public is expressly reserved by the author, or other owner of copyright, on the copies, or in connection with the broadcasting or other communication to the public, of the work;
 - b. the reproduction and the broadcasting or other communication to the public, for the purpose of reporting current events, of short excerpts of a work seen or heard in the course of such an event, to the extent justified by the said purpose;
 - c. the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a political speech, a lecture, address, sermon or other work of similar nature delivered in public, or a speech delivered during legal proceedings, the extent justified by the purpose of providing current information.

Reproduction and Adaptation of Computer Programs

15. (1) Notwithstanding the provisions of Section 8(1)(a) and (c), the reproduction in one copy of the adaptation of a computer program shall be permitted, without the authorization of the author of, or other owner of copyright in, a computer program, by the lawful owner of a copy of that computer program, provided that the copy or adaptation is necessary.
- a. for the use of the computer program in conjunction with a computer for the purpose, and to the extent, for which the computer program has been obtained;
 - b. for archival purposes, and, for the replacement of the lawfully owned copy of the computer program in the event that the lawfully obtained copy of the computer program is lost, destroyed or rendered unusable.
- (2) No copy or adaptation mentioned in subsection (1) shall be used for any purpose other than the ones determined in subsection (1), and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful.

Importation for Personal Purposes

16. Notwithstanding the provisions of Section 8(1)(f), the importation of a copy of a work, by a physical person, for his personal purposes, shall be permitted without the authorization of the author of, or other owner of copyright in, the work.

Display of Works

17. Notwithstanding the provisions of Section 8(1)(g), the public display of originals or copies of works shall be permitted without the authorization of the author, provided that the display is not made by means of a film, slide, television image or otherwise on screen or by means of any other device or process, and further provided, either, that the work has been published, or, that the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor in title.

Duration of Copyright

18. (1) Subject to the provisions of subsections (2) to (5), the economic and moral rights shall be protected during the life of the author and for fifty years after his death.
- (2) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for fifty years after his death.
- (3) In the case of a collective work, other than a work of applied art, and in the case of an audiovisual work, the economic and moral rights shall be protected for fifty years from the date on which the work was first published or, failing such an event within fifty years from the making of the work, from its making;
- (4) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty years from the date on which the work was first published, provided that where, before the expiration of the said period, the author's identity is revealed or is no longer in doubt, the provisions of subsection (1) or subsection (2) shall apply, as the case may be.
- (5) In the case of a work of applied art, the economic and moral rights shall be protected for twenty-five years from the making of the work.
- (6) Every period provided for under the preceding subsections shall run to the end of the calendar year in which it would otherwise expire.

Original Ownership of Economic Rights

19. (1) Subject to the provisions of subsections (2) to (5), the original owner of economic rights is the author who has created the work.
- (2) In respect of a work of joint authorship, the co-authors be the original owners of the economic rights. If, however, a work of joint authorship consists of parts that

can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the economic rights in the part that he has created.

- (3) In respect of a collective work, the physical person or legal entity at the initiative and under the direction of whom or which the work has been created, shall be the original owner of the economic rights.
- (4) In respect of a work created by an author employed by a physical person or legal entity in the course of his employment, the original owner of the economic rights shall be, unless provided otherwise in a contract, the employer.
- (5) In respect of an audiovisual work, the original owner of the economic rights shall be, unless provided otherwise in a contract, the producer of the audiovisual work. The co-authors of the audiovisual work and the authors of the pre-existing works included in, or adapted for, the making of the audiovisual work shall, however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be subject of acts, covered by their economic rights, separately from the audiovisual work.

Presumption of Authorship and of Representation of the Author

20. The physical person whose name is indicated on a work in the usual manner as the author shall, in the absence of proof to the contrary, be presumed to be the author of the work. This provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

International Registration of Works

21. A statement concerning a work, recorded in an international register in accordance with an international treaty to which the Kingdom of Bhutan has become a party, shall be considered as true until the contrary is proved, except
 - i) where the statement cannot be valid under this Act or any other Act concerning intellectual property rights in literary or artistic works of the Kingdom of Bhutan.
 - ii) where the statement is contradicted by another statement recorded in the international register.

Assignment of Authors' Rights

22.
 - (1) Economic rights shall be assignable in whole or in part.
 - (2) Any assignment of an economic right shall be in writing signed by the assignor and the assignee.
 - (3) An assignment, in whole or in part, of any economic right shall not include or be deemed to include the assignment of any other rights not explicitly referred to

therein.

PART III

PROTECTION OF PERFORMERS, PRODUCERS OF SOUND RECORDING AND BROADCASTING ORGANIZATIONS

Acts Requiring Authorization of Performers

23. (1) Subject to the provisions of Section 27, a performer shall have the exclusive right to carry out or to authorize any of the following acts :
- a. the broadcasting or other communication to the public of his performance, except where the broadcasting or the other communication
 - i) is made from a fixation of the performance, other than a fixation made under the terms of Section 27; or
 - ii) is a rebroadcasting made or authorized by the organization initially broadcasting the performance;
 - b. the fixation of his unfixed performance;
 - c. the reproduction of a fixation of his performance
- (2) Once the performer has authorized the incorporation of his performance in an audiovisual fixation, the provisions of subsection (1) shall have no further application.
- (3) Nothing in this Section shall be construed to deprive performers of the right to agree by contracts on terms and conditions more favourable for them in respect of any use of their performances.
- (4) The rights under this Section shall be protected from the moment in which the performance takes place until the end of the fiftieth calendar year following the year when the performance takes place.

Acts Requiring Authorization of Producers of Sound Recordings

24. (1) Subject to the provisions of Section 27, a producer of a sound recording shall have the exclusive right to carry out or to authorize any of the following acts :
- a. direct or indirect reproduction of the sound recording,
 - b. importation of copies of the sound recording, even where the imported copies were made with the authorization of the producer,
 - c. adaptation or other transformation of the sound recording,

- d. rental or public lending of a copy of the sound recording, irrespective of the ownership of the copy rented or lent.
- (2) The rights under subsection (1) shall be protected from the publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, if the sound recording has not been published, from the fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

Equitable Remuneration for use of Sound Recordings

25. (1) If a sound recording published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting or for other communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user to the producer.
- (2) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under subsection (1) shall be paid by the producer to the performer or performers.
- (3) The right to an equitable remuneration under this Section shall subsist from the publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, if the sound recording has not been published, from the fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

Acts Requiring authorization of Broadcasting Organizations

26. (1) Subject to the provisions of Section 27, a broadcasting organization shall have the exclusive right to carry out or to authorize any of the following acts :
- a. the rebroadcasting of its broadcast ;
 - b. the communication to the public of its broadcast ;
 - c. the fixation of its broadcast ;
 - d. the reproduction of a fixation of its broadcast.
- (2) The rights under this Section shall be protected from the moment when the broadcasting takes place until the end of the fiftieth calendar year following the year when the broadcasting takes place.

Limitations on Protection

27. Sections 23, 24, 25 and 26 shall not apply where the acts referred to in those Sections are related to -
- a. the use by a physical person exclusively for his own personal purposes;
 - b. using short excerpt for reporting current events to the extent justified by the purpose of providing current information;
 - c. use solely for the purpose of face to face teaching or for scientific research;
 - d. cases where, under Part II, a work can be used without the authorization of the author of, or the other owner of copyright in, the work.

PART IV ENFORCEMENT OF RIGHTS

Conservatory and Provisional Measures

28. (1) The court having jurisdiction of a civil action arising under this Act, shall have the authority on such terms as it may deem reasonable -
- a. to grant injunction to prohibit the committing, or the continuation of the committing, of infringement of any right protected under this Act;
 - b. to order the impounding of copies of works or sound recordings suspected to have been made or imported without the authorization of the owner of any right protected under this Act where the making or importation of copies is subject to such authorization, as well as of the packaging of, the implements that could be used for the making of, and the documents, accounts or business papers referring to, such copies.
- (2) The provisions of the civil and criminal law dealing with search and seizure shall apply mutatis mutandis on infringements of rights under this Act.
- (3) The provisions of the Customs Rules dealing with suspension and release of suspected illegal goods shall apply mutatis mutandis on articles and implements protected under this Act.

Civil Remedies

29. (1) The owner of any right protected under this Act whose right has been infringed shall be entitled to the payment, by the infringer, of damages for the prejudice suffered by him or by it as a consequence of the act of infringement, as well as the payment of his or its expenses caused by the infringement, including legal costs. The amount of damages shall be fixed in keeping with the relevant provisions of the civil law, taking into account the importance of the material and moral prejudice suffered by the owner of the right, as well as the importance of the

infringer's profits attributable to the infringement. Where the infringer did not know or had no reasonable reason to know that he or it was engaged in infringing activity, the court may limit damages to the infringer's profits, attributable to the infringement and/or to pre-established damages.

- (2) Where the infringing copies exist, the court shall have the authority to order the destruction or other reasonable disposition of those copies and their packaging, outside the channels of commerce in such a manner as to avoid any harm caused to the right holder, unless the owner of the right requests otherwise. This provision shall not be applicable to copies and their packaging the ownership of which was acquired by a third party in good faith.
- (3) Where there is a danger that implements may be used to commit, or continue to commit, acts of infringement, the court shall, whenever, and to the extent that, it is reasonable, order their destruction or other reasonable disposition outside the channels of commerce in such a manner as to minimize the risks of further infringements, including surrender to the owner of the right.
- (4) Where there is a danger that any acts of infringement may be continued, the court shall expressly order that such acts not be committed. Furthermore, the court shall fix a fine, from Nu. 5000/- to Nu. 50,000/- to be paid should the order not be respected.

Criminal Sanctions

30. (1) Any infringement of a right protected under this Act, if committed wilfully, or by gross negligence, and for profit-making purposes, shall be punishable by imprisonment for a period of up to one year or by a fine of up to Nu. 10,00,000 or by both. The amount of the fine shall be fixed by the court, taking into account, in particular, the defendant's profits attributable to the infringement.
- (2) The court shall have the authority to increase the upper limit of the penalties specified in paragraph (1) up to double where the defendant has been convicted for a new act of infringement within five years of his conviction for a previous infringement.

Measures, Remedies and Sanctions against Abuses in Respect of Technical Means

31. (1) The following acts shall be considered unlawful and, in the application of Sections 28 to 30, shall be assimilated to infringements of the rights of authors and other owners of copyright :
 - i) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the

quality of copies made (the latter device or means hereinafter referred to as "copy-protection or copy-management device or means");

- ii) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, by those who are not entitled to receive the program.
- (2) In the application of Sections 28 to 30, any illicit device and means mentioned in paragraph (1) shall be assimilated to infringing copies of works.
- (3) The author of, or other owner of copyright in, a work shall be entitled to damages provided for by section 29 (1) in the same way as in a case where his or its rights are infringed, where
- i) copies of the work have been made by him or it, or with his or its authorization, and offered for sale or rental in an electronic form combined with a copy-protection or copy-management device or means, and a device or means specifically designed or adapted to circumvent the said device or means is made or imported for sale or rental;
 - ii) the work in which he or it has a right is included in an encrypted program broadcast or otherwise communicated to the public by him or it, or with his or its authorization, and a device or means enabling or assisting the reception of the program by those who are not entitled to receive the program is made or imported for sale or rental.

PART V FINAL PROVISIONS

Scope of Application

32. (1) The provisions of this Act concerning the protection of literary and artistic works shall apply to
- a. works of authors who are nationals of, or have their habitual residence in the Kingdom of Bhutan; and
 - b. including works first published in another country but also published in the Kingdom of Bhutan within thirty days of the date of first publication, irrespective of the nationality or residence of their authors.

- (2) The provisions of this Act shall also apply to works that are to be protected in the Kingdom of Bhutan by virtue of and in accordance with any international convention or other international agreement to which the Kingdom of Bhutan is party.
33. (1) The provisions of this Act on the protection of performers shall apply to -
- a. performers who are nationals of the Kingdom of Bhutan;
 - b. performers who are not nationals of the Kingdom of Bhutan but whose performances -
 - i. take place on the territory of the Kingdom of Bhutan; or
 - ii. are incorporated in sound recordings that are protected under this Act; or
 - iii. have not been fixed in a sound recording but are carried by broadcasts qualifying for protection under this Act.
- (2) The provisions of this Act on the protection of sound recordings shall apply to -
- a. sound recordings the producers of which are nationals of the Kingdom of Bhutan;
 - b. sound recordings in the case of which the first fixation of the sounds was made in the Kingdom of Bhutan; and
 - c. sound recordings that were first published in the Kingdom of Bhutan.
- (3) The provisions of this Act on the protection of broadcasts shall apply to -
- a. broadcasts of broadcasting organizations the headquarters of which are situated in the Kingdom of Bhutan; and
 - b. broadcasts transmitted from transmitters situated in the Kingdom of Bhutan
- (4) The provisions in this Act shall also apply to performers who, and to producers of sound recordings and broadcasting organizations which, are to be protected by virtue of, and in accordance with, any international convention or other international agreement to which the Kingdom of Bhutan is party.

Miscellaneous

34. The Minister of Trade and Industry shall be authorized to regulate by order questions whose regulation may be necessary for the implementation of this Act, including the

setting up of one or more organizations to administer rights on behalf of the owners of such rights and determining the conditions under which such organizations shall work.

Done at the 79th Session of the Gyalyong Tshogdu Chhenmo on the 26th day of the 5th month of the Female Iron Snake Year corresponding to 17 July, 2001.

**THE COPYRIGHT ACT
OF THE KINGDOM OF BHUTAN, 2001**

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