

- (c) it is proved or admitted in the proceedings that the person registered as the proprietor of the design was not the proprietor thereof for the purposes of the Act of 1949, and was so registered without the knowledge of the owner of the copyright in the artistic work.

2. For the purposes of those proceedings (but subject to the next following paragraph) the registration shall be treated as never having been effected, and accordingly, in relation to that registration, nothing in section 2 of the United Kingdom Designs (Protection) Act in the Law of Fiji (Cap.242) shall be construed as affording any defence in those proceedings.

3. Notwithstanding anything in the last preceding paragraph, if in the proceedings it is proved or admitted that any act to which the proceedings relate -

- (a) was done in pursuance of an assignment or licence made or granted by the person registered as proprietor of the design, and
- (b) was so done in good faith in reliance upon the registration, and without notice of any proceedings for the cancellation of the registration or for rectifying the entry in the register of designs relating thereto,

subsection (1) of section ten of this Act shall apply in relation to that act for the purposes of the first-mentioned proceedings.

4. In this Schedule "the Act of 1949" means the Registered Designs Act, 1949, and "corresponding design" has the meaning assigned to it by subsection (7) of section ten of this Act.

Section 11

SECOND SCHEDULE

DURATION OF COPYRIGHT IN ANONYMOUS AND PSEUDONYMOUS WORKS

1. Where the first publication of a literary, dramatic, or musical work, or of an artistic work other than a photograph, is anonymous or pseudonymous, then subject to the following provisions of this Schedule -

- (a) subsection (3) of section two of this Act, or, as the case may be, subsection (4) of section three of this Act, shall not apply, and

- (b) any copyright subsisting in the work by virtue of either of those sections shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.

2. The preceding paragraph shall not apply in the case of a work if, at any time before the end of the period mentioned in that paragraph, it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry.

3. For the purposes of this Act a publication of a work under two or more names shall not be taken to be pseudonymous unless all those names are pseudonyms.

Section 11

THIRD SCHEDULE

WORKS OF JOINT AUTHORSHIP

1. In relation to a work of joint authorship, the references to the author in subsections (1) and (2) of section two of this Act, in subsections (2) and (3) of section three of this Act, and in paragraph 2 of the Second Schedule to this Act, shall be construed as references to any one or more of the authors.

2. In relation to a work of joint authorship, other than a work to which the next following paragraph applies, references to the author in subsection (3) of section two, in subsection (4) of section three, and in subsection (6) of section seven, of this Act, shall be construed as references to the author who died last.

3.-(1) This paragraph applies to any work of joint authorship which was first published under two or more names, of which one or more (but not all) were pseudonyms.

(2) This paragraph also applies to any work of joint authorship which was first published under two or more names all of which were pseudonyms if, at any time within the period of fifty years from the end of the calendar year in which the work was first published, it is possible for a person without previous knowledge of the facts to ascertain the identity of any one or more (but not all) of the authors by reasonable inquiry.

(3) In relation to a work to which this paragraph applies, references to the author in subsection (3) of section two of this Act, and in subsection (4) of section three of this Act, shall be construed as references to the author whose identity was disclosed, or, if the identity of two or more of the authors was disclosed, as references to that one of those authors who died last.

(4) For the purposes of this paragraph the identity of an author shall be taken to have been disclosed if either -

- (a) in his case, the name under which the work was published was not a pseudonym, or
- (b) it is possible to ascertain his identity as mentioned in subparagraph (2) of this paragraph.

4.-(1) In relation to a work of joint authorship of which one or more of the authors are persons to whom this paragraph applies, subsection (1) of section four of this Act shall have effect as if the author or authors, other than persons to whom this paragraph applies, had been the sole author, or (as the case may be) sole joint authors, of the work.

(2) This paragraph applies, in the case of a work, to any person such that, if he had been the sole author of the work, copyright would not have subsisted in the work by virtue of Part I of this Act.

5. In the proviso to subsection (6) of section six of this Act, the reference to other excerpts from works by the author of the passage in question -

- (a) shall be taken to include a reference to excerpts from works by the author of that passage in collaboration with any other person, or
- (b) if the passage in question is from a work of joint authorship, shall be taken to include a reference to excerpts from works by any one or more of the authors of that passage, or by any one or more of those authors in collaboration with any other person.

6. Subject to the preceding provisions of this Schedule, any reference in this Act to the author of a work shall (unless it is otherwise expressly provided) be construed, in relation to a work of joint authorship, as a reference to all the authors of the work.

SEVENTH SCHEDULE
TRANSITIONAL PROVISIONS

PART 1

PROVISIONS RELATING TO PART I OF ACT

Conditions for subsistence of copyright

1. In the application of sections two and three to works first published before the commencement of those sections, subsection (2) of section two, and subsection (3) of section three, shall apply as if paragraphs (b) and (c) of those subsections were omitted.

Duration of copyright

2. In relation to any photograph taken before the commencement of section three, subsection (4) of that section shall not apply, but, subject to subsection (3) of that section, copyright subsisting in the photograph by virtue of that section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph was taken, and shall then expire.

Ownership of copyright

- 3.-(1) Subsections (2) to (4) of section four shall not apply -
- (a) to any work made as mentioned in subsection (2) or subsection (4) of that section, if the work was so made before the commencement of that section, or
 - (b) to any work made as mentioned in subsection (3) of that section, if the work was or is so made in pursuance of a contract made before the commencement of that section.

(2) In relation to any work to which the preceding sub-paragraph applies, subsection (1) of section four shall have effect subject to the proviso set out in paragraph 1 of the Eighth Schedule to this Act (being the proviso to subsection (1) of section five of the Act of 1911).

Infringements of copyright

4. For the purposes of section five, the fact that, to a person's knowledge, the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement if the article had been made in the place into which it is imported, shall have the like effect as if, to that person's knowledge, the making of the article had constituted an infringement of copyright under this Act.

5. Subsection (7) of section six does not apply to assignments made or licences granted before the commencement of that section.

6.-(1) References in section eight to records previously made by, or with the licence of, the owner of the copyright in a work include references to records previously made by, or with the consent of, the owner of the copyright in that work under the Act of 1911.

(2) The repeal by this Act of any provisions of section nineteen of the Act of 1911, or of the provisions of the Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928, shall not affect the operation of those provisions, or of any regulations or order made thereunder, in relation to a record made before the repeal.

7.-(1) In relation to a painting, drawing, engraving, photograph or cinematograph film made before the commencement of section nine, subsection (6) of that section shall apply if, by virtue of subsection (3) or subsection (4) of that section, the making of the painting, drawing, engraving, photograph or film would not have constituted an infringement of copyright under this Act if this Act had been in operation at the time when it was made.

(2) In subsection (10) of section nine, the reference to construction by, or with the licence of, the owner of the copyright in any architectural drawings or plans includes a reference to construction by, or with the licence of, the person who, at the time of the construction, was the owner of the copyright in the drawings or plans under the Act of 1911, or under any enactment repealed by that Act.

8.-(1) Section ten and the First Schedule to this Act do not apply to artistic works made before the commencement of that section.

(2) Copyright shall not subsist by virtue of this Act in any artistic work made before the commencement of section ten which, at the time when the work was made, constituted a design capable of registration under the Registered Designs Act, 1949, or under the enactments repealed by that Act, and was used, or intended to be used, as a model or pattern to be multiplied by any industrial process.

(3) The provisions set out in paragraph 2 of the Eighth Schedule to this Act (being the relevant provisions of the Copyright (Industrial Designs) Rules, 1949) shall apply for the purposes of the last preceding sub-paragraph.

9.-(1) Where, before the repeal by this Act of section three of the Act of 1911, 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 the said section three), then, as respects reproductions by that person of that work after the repeal of that section by this Act, that proviso shall have effect as if it had been re-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 sixteen and seventeen respectively of the Act of 1911 as is applicable to the said proviso), as if those provisions had also been re-enacted in this Act.

(2) For the purposes of the operation of the said proviso in accordance with the preceding sub-paragraph, any regulations made by the Board of Trade thereunder before the repeal of section three of the Act of 1911 shall have effect as if they had been made under this Act, and the power of the Board of Trade to make further regulations thereunder shall apply as if the proviso had been re-enacted as mentioned in the preceding sub-paragraph.

Works of joint authorship

10.-(1) Notwithstanding anything in section eleven, or in the Third Schedule to this Act, copyright shall not subsist by virtue of Part I of this Act in any work of joint authorship first published before the commencement of section eleven, if the period of copyright had expired before the commencement of that section.

(2) In this paragraph "the period of copyright" means whichever is the longer of the following periods, that is to say, -

- (a) the life of the author who died first and a term of fifty years after his death, and
- (b) the life of the author who died last.

PART II

PROVISIONS RELATING TO PART II OF ACT

Sound recordings

11. In the case of a sound recording made before the commencement of section twelve, subsection (3) of that section shall apply with the substitution, for the period mentioned in that subsection, of the period of fifty years from the end of the calendar year in which the recording was made.

12. Subsection (6) of section twelve shall not apply to a sound recording made before the commencement of that section.

13. Notwithstanding anything in section twelve, copyright shall not subsist by virtue of that section in a sound recording made before the first day of July, nineteen hundred and twelve, unless, immediately before the commencement of that section, a corresponding copyright subsisted, in relation to that recording, by virtue of subsection (8) of section nineteen of the Act of 1911 (which relates to records made before the commencement of that Act).

Cinematograph films

14. Section thirteen shall not apply to cinematograph films made before the commencement of that section.

15. Where a cinematograph film made before the commencement of section thirteen was an original dramatic work within the definition of "dramatic work" set out in paragraph 9 of the Eighth Schedule to this Act (being the definition thereof in the Act of 1911), the provisions of this Act, including the provisions of this Schedule other than this paragraph, shall have effect in relation to the film as if it had been an original dramatic work within the meaning of this Act; and the person who was the author of the work for the purposes of the Act of 1911 shall be taken to be the author thereof for the purposes of the said provisions as applied by this paragraph.

16. The provisions of this Act shall have effect in relation to photographs forming part of a cinematograph film made before the commencement of section thirteen as those provisions have effect in relation to photographs not forming part of a cinematograph film.

Television broadcasts and sound broadcasts

17. Copyright shall not subsist in any country by virtue of section fourteen in any television broadcast or sound broadcast made before the date on which that section was extended to the country in which the broadcast was made, whichever is the later.

18. In any country for the purposes of subsection (3) of section fourteen, a previous television broadcast or sound broadcast shall be disregarded if it was made before the date on which that section was extended to that country or the date on which that section was extended to the country in which the previous broadcast was made whichever is the later.

Supplementary

19. For the purposes of subsection (2) to (4) of section sixteen, the fact that, to a person's knowledge, the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement if the article had been made in the place into which it is imported, shall have the like effect as if, to that person's knowledge, the making of the article had constituted an infringement of copyright under this Act.

PART III

PROVISIONS RELATING TO PART III OF ACT

20. Nothing in section seventeen shall apply to any infringement of copyright under the Act of 1911, or shall affect any proceedings under that Act, whether begun before or after the commencement of that section.

21. Section eighteen shall not apply with respect to any article made, or, as the case may be, imported, before the commencement of that section; but, notwithstanding the repeal by this Act of section seven of the Act of 1911 (which contains provisions corresponding to subsection (1) of section eighteen), proceedings may (subject to the provisions of that Act) be brought or continued by virtue of the said section seven in respect of any article made or imported before the repeal, although the proceedings relate to the conversion or detention thereof after the repeal took effect.

22. Section nineteen shall not apply to any licence granted before the commencement of that section, and shall not affect any proceedings under the

23. For the purposes of section twenty-one the definition of "infringing copy" in section eighteen shall apply as if any reference to copyright in that definition included a reference to copyright under the Act of 1911.

24. Where before the commencement of section twenty-two a notice had been given in respect of a work under section fourteen of the Act of 1911 (which contains provisions corresponding to section twenty-two), and that notice had not been withdrawn and had not otherwise ceased to have effect before the commencement of section twenty-two, the notice shall have effect after the commencement of that section as if it had been duly given thereunder:

Provided that a notice shall not continue to have effect by virtue of this paragraph after the end of the period of six months beginning with the commencement of section twenty-two.

PART V

PROVISIONS RELATING TO PART V OF ACT

27. In section thirty-three, subsection (2) shall not apply to works made before the commencement of that section, and subsection (3) shall not apply to works first published before the commencement of that section.

PART VI

PROVISIONS RELATING TO PART VI OF ACT

Assignments, licences and bequests

28.-(1) Where by virtue of any provision of this Act copyright subsists in a work, any document or event which -

(a) was made or occurred before the commencement of that provision, and

(b) had any operation affecting the title to copyright in the work under the Act of 1911, or would have had such an operation if the Act of 1911 had continued in force,

shall have the corresponding operation in relation to the copyright in the work under this Act:

Provided that, if the operation of any such document was or would have been limited to a period specified in the document, it shall not have any operation in relation to the copyright under this Act, except in so far as that period extends beyond the commencement of the provision of this Act by virtue of which copyright subsists in the work.

(2) For the purposes of the operation of a document in accordance with the preceding sub-paragraph, -

(a) expressions used in the document shall be construed in accordance with their effect immediately before the commencement of the provision in question, notwithstanding that a different meaning is assigned to them for the purposes of this Act; and

(b) subsection (1) of section thirty-seven shall not apply.

(3) Without prejudice to the generality of sub-paragraph (1) of this paragraph, the proviso set out in paragraph 6 of the Eighth Schedule to this Act (being the proviso to subsection (2) of section five of the Act of 1911) shall apply to assignments and licences having effect in relation to copyright under this Act in accordance with that sub-paragraph, as if that proviso had been re-enacted in this Act.

(4) In relation to copyright under this Act in a sound recording or in a cinematograph film, the preceding provisions of this paragraph shall apply subject to the following modifications, that is to say, -

(a) in the case of a sound recording, references to the copyright under the Act of 1911 shall be construed as references to the copyright under that Act in records embodying the recording, and

(b) in the case of a cinematograph film, references to the copyright under the Act of 1911 shall be construed as references to any copyright under that Act in the film (in so far as it constituted a dramatic work for the purposes of the Act of 1911) or in photographs forming part of the film.

(5) In this paragraph "operation affecting the title," in relation to copyright under the Act of 1911, means any operation affecting the ownership of that copyright, or creating, transferring or terminating an interest, right or licence in respect of that copyright.

29.-(1) Section thirty-eight shall not apply to a bequest contained in the will, or a codicil to the will, of a testator who died before the commencement of that section.

(2) In the case of an author who died before the commencement of section thirty-eight, the provisions set out in paragraph 7 of the Eighth Schedule to this Act (being subsection (2) of section seventeen of the Act of 1911) shall have effect as if it had been re-enacted in this Act.

Crown and Government departments

30. Subsection (4) of section thirty-nine shall apply in relation to photographs taken before the commencement of that section as if the proviso to that subsection were omitted.

31.-(1) In the application of subsection (5) of section thirty-nine to a sound recording made before the commencement of that section, paragraph (b) of that subsection shall apply as if for the period mentioned in that paragraph there were substituted the period of fifty years from the end of the calendar year in which the recording was made.

(2) With respect to cinematograph films made before the commencement of section thirty-nine -

- (a) subsection (5) of that section shall not apply, but
- (b) in the case of a cinematograph film made as mentioned in that subsection, but before the commencement of section thirty-nine, if it was an original dramatic work as mentioned in paragraph 15 of this Schedule, the provisions of subsection (1) to (3) of section thirty-nine shall apply in accordance with that paragraph, and
- (c) in relation to photographs forming part of such a cinematograph film the provisions of subsection (1), (2) and (4) of section thirty-nine (as modified by the last preceding paragraph) shall apply as they apply in relation to photographs not forming part of a cinematograph film.

False attribution of authorship

32.-(1) Paragraphs (b) and (c) of subsection (2) of section forty-three shall apply to any such act as is therein mentioned, if done after the commencement of that section, notwithstanding that the name in question was inserted or affixed before the commencement of that section.

(2) Subject to the preceding sub-paragraph, no act done before the commencement of section forty-three shall be actionable by virtue of that section.

(3) In this paragraph "name" has the same meaning as in section forty-three

Other provisions

33.-(1) In the application of subsection (2) of section forty-nine to a publication effected before the commencement of that section, the reference in paragraph (d) to thirty days shall be treated as a reference to fourteen days.

(2) For the purposes of the application of subsection (3) of section forty-nine to an act done before the commencement of a provision of this Act to which that subsection applies, references to copyright include references to copyright under the Act of 1911, and, in relation to copyright under that Act, references to the licence of the owner are references to the consent or acquiescence of the owner.

PART VII

WORKS MADE BEFORE 1ST JULY, 1912

34.-(1) This part of this Schedule applies to works made before the first day of July, nineteen hundred and twelve.

(2) In this part of the Schedule "right conferred by the Act of 1911," in relation to a work, means such a substituted right as, by virtue of section twenty-four of the Act of 1911, was conferred in place of a right subsisting immediately before the commencement of that Act.

35. Notwithstanding anything in Part I of this Schedule, neither subsection (1) or subsection (2) of section two, nor subsection (2) or subsection (3) of section three, shall apply to a work to which this Part of this Schedule applies, unless a right conferred by the Act of 1911 subsisted in the work immediately before the commencement of section two or section three, as the case may be.

36.-(1) Where, in the case of a dramatic or musical work to which this Part of this Schedule applies, the right conferred by the Act of 1911 did not include the sole right to perform the work in public, then, in so far as copyright subsists in the work by virtue of this Act, the acts restricted by the copyright shall be treated as not including those specified in sub-paragraph (3) of this paragraph.

(2) Where, in the case of a dramatic or musical work to which this Part of this Schedule applies, the right conferred by the Act of 1911 consisted only of the sole right to perform the work in public, then, in so far as copyright subsists in the work by virtue of this Act, the acts restricted by the copyright shall be treated as consisting only of those specified in

- (3) The said acts are -
- (a) performing the work or an adaptation thereof in public;
 - (b) broadcasting the work or an adaptation thereof;
 - (c) causing the work or an adaptation thereof to be transmitted to subscribers to a diffusion service.

37. Where a work to which this Part of this Schedule applies consists of an essay, article or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, and immediately before the commencement of section two a right of publishing the work in a separate form subsisted by virtue of the provision set out in paragraph 8 of the Eighth Schedule to this Act (being the note appended to the First Schedule to the Act of 1911), that provision shall have effect, in relation to that work, as if it had been re-enacted in this Act with the substitution, for the word "right" where it first occurs, of the word "copyright."

38.-(1) Without prejudice to the generality of sub-paragraph (1) of paragraph 28 of this Schedule, the provisions of this paragraph shall have effect where -

- (a) the author of a work to which this Part of this Schedule applies had, before the commencement of the Act of 1911, made such an assignment or grant as is mentioned in paragraph (a) of the proviso to subsection (1) of section twenty-four of that Act (which relates to transactions whereby the author had assigned, or granted an interest in, the copyright or performing right in a work for the full term of that right under the law in force before the Act of 1911), and
- (b) copyright subsists in the work by virtue of any provision of this Act.

(2) If, before the commencement of that provision of this Act, any event occurred, or notice was given, which in accordance with paragraph (a) of the said proviso had any operation affecting the ownership of the right conferred by the Act of 1911 in relation to the work, or creating, transferring or terminating an interest, right or licence in respect of that right, that event or notice shall have the corresponding operation in relation to the copyright in the work under this Act.

(3) Any right which, at a time after the commencement of that provision of this Act, would, by virtue of paragraph (a) of the said proviso, have been exercisable in relation to the work, or to the right conferred by the Act of 1911, if this Act had not been passed, shall be exercisable in relation to the work or to the copyright therein under this Act, as the case may be.

(4) If, in accordance with paragraph (a) of the said proviso, the right conferred by the Act of 1911 would have reverted to the author or his personal representatives on the date referred to in that paragraph, and the said date falls after the commencement of the provision of this Act whereby copyright subsists in the work, then on that date -

- (a) the copyright in the work under this Act shall revert to the author or his personal representatives, as the case may be, and
- (b) any interest of any other person in that copyright which subsists on that date by virtue of any document made before the commencement of the Act of 1911 shall thereupon determine.

PART VIII

GENERAL AND SUPPLEMENTARY PROVISIONS

39.- (1) The provisions of this paragraph shall have effect for the construction of any reference in any provision of this Act -

- (a) to countries to which that provision extends, or
- (b) to qualified persons.

(2) Where, at any time after the commencement of any provisions of this Act, a provision which contains such a reference -

- (a) has not yet been extended by virtue of section thirty-one to a country to which the Act of 1911 extended (or which, by virtue of that Act, was to be treated as a country to which it extended), and
- (b) has not been applied in the case of that country by virtue of section thirty-two,

then, with respect to any time before the provision is so extended or applied, the reference shall be construed as if the provision did extend to that country.

(3) For the purpose of determining whether copyright subsists in any work or other subject-matter at a time when a provision containing such a reference has been extended to a country other than the United Kingdom, the reference shall be construed, in relation to past events, as if that provision had always been in operation and had always extended to that country.

(4) In relation to photographs taken before the commencement of section three, and to sound recordings made before the commencement of section twelve, the definition of "qualified person" in subsection (5) of section one shall apply as if, in paragraph (b) of that subsection, for the words "body incorporated under the laws of" there were substituted the words "body corporate which has established a place of business in".

42. The mention of any particular matter in the preceding provisions of this Schedule with regard to the repeal of any of the provisions of the Act of 1911 shall not affect the general application to this Act of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), either in relation to the Act of 1911 or to any other enactment repealed by this Act.

43. For the purposes of the application, by virtue of any of the preceding paragraphs of this Schedule, of any of the provisions set out in the Eighth Schedule to this Act, -

- (a) the expressions of which definitions are set out in paragraph 9 of that Schedule (being the definitions of those expressions in the Act of 1911) shall, notwithstanding anything in this Act, be construed in accordance with those definitions; and
- (b) where, for those purposes, any of those provisions is to be treated as if re-enacted in this Act, it shall be treated as if it had been so re-enacted with the substitution, for the words "this Act", wherever the reference is to the passing or the commencement of the Act of 1911, of the words "the Copyright Act, 1911".

44. Without prejudice to the operation of any of the preceding provisions of this Schedule -

- (a) any enactment or other document referring to an enactment repealed by this Act shall be construed as referring (or as including a reference) to the corresponding enactment of this Act;

- (b) any enactment or other document referring to copyright, or to works in which copyright subsists, if apart from this Act it would be construed as referring to copyright under the Act of 1911, or to works in which copyright subsists under that Act, shall be construed as referring (or as including a reference) to copyright under this Act, or, as the case may be, to works or any other subject-matter in which copyright subsists under this Act;
- (c) any reference in an enactment or other document to the grant of an interest in copyright by licence shall be construed, in relation to copyright under this Act, as a reference to the grant of a licence in respect of that copyright.

45.--(1) Except in so far as it is otherwise expressly provided in this Schedule, the provisions of this Act apply in relation to things existing at the commencement of those provisions as they apply in relation to things coming into existence thereafter.

(2) For the purposes of any reference in this Schedule to works, sound recording or cinematograph films made before the commencement of a provision of this Act, a work, recording or film, the making of which extended over a period, shall not be taken to have been so made unless the making of it was completed before the commencement of that provision.

46.--(1) Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.

(2) Any reference in this Schedule to the commencement of a provision of this Act is a reference to the date on which that provision comes into operation as part of the law of the United Kingdom.

47.--(1) In this Schedule "photograph" has the meaning assigned to it in the definition set out in paragraph 9 of the Eighth Schedule to this Act, and not the meaning assigned to it by section forty-eight.

(2) In this Schedule "the Act of 1911" means the Copyright Act, 1911.

EIGHTH SCHEDULE

PROVISIONS OF COPYRIGHT ACT, 1911, AND RULES, REFERRED TO IN

SEVENTH SCHEDULE

1. Proviso to s. 5(1) of the Copyright Act, 1911 (referred to in paragraph 3 of Seventh Schedule):

Provided that -

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and
- (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

2. Rule 2 of the Copyright (Industrial Designs) Rules, 1949 (referred to in paragraph 8 of Seventh Schedule):

A design shall be deemed to be used as a model or pattern to be multiplied by any industrial process -

- (a) when the design is reproduced or is intended to be reproduced on more than fifty single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set of articles as defined in subsection (1) of section 44 of the Registered Designs Act, 1949, or

- (b) when the design is to be applied to -
- (i) printed paper hangings,
 - (ii) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces,
 - (iii) textile piece goods, or textile goods manufactured or sold in lengths or pieces, or
 - (iv) lace, not made by hand

3. Proviso to s.3 of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. S.16(1) of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):

In the case of a work of joint authorship ... references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter ...

5. S.17(1) of Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule):

In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, ... the proviso to section three of this Act shall ... apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

6. Proviso to s.5 (2) of the Copyright Act, 1911 (referred to in paragraph 28 of Seventh Schedule):

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

7. S. 17(2) of the Copyright Act, 1911 (referred to in paragraph 29 of Seventh Schedule):

The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be prima facie proof of the copyright being with the owner of the manuscript.

8. Note to First Schedule to the Copyright Act, 1911 (referred to in paragraph 37 of Seventh Schedule):

In the case of an eassay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

9. Definitions in s. 35 (1) of the Copyright Act, 1911 (referred to in paragraphs 15, 43 and 47 of Seventh Schedule):

"literary work" includes maps, charts, plans, tables, and compilations;

"dramatic work" includes any piece for recitation, choregraphic work or entertainment in dumb show the scenic arrangement of acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

"photograph" includes photo-lithograph and any work produced by any process analogous to photography;

"collective work" means -

- (a) any encyclopaedia, dictionary, year book, or similar work;
- (b) a newspaper, review, magazine, or similar periodical; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"delivery" in relation to a lecture, includes delivery by means of any mechanical instrument;

"lecture" includes address, speech and sermon.

Note - In this Schedule "this Act" means the Copyright Act, 1911.

Section 50

NINTH SCHEDULE

ENACTMENTS REPEALED

Section and Chapter	Short title	Extent of repeal
1 & 2 Geo. 5. c.46	The Copyright Act, 1911	The whole Act
18 & 19 Geo. 5. c.Iii	The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.	The whole Act
1 & 2 Geo. 5. c.46	The Copyright Act, 1911	The whole Act
18 & 19 Geo. 5. c.Iii	The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.	The whole Act