

RAJYA SABHA
NOTICE OF AMENDMENTS
THE COPYRIGHT (AMENDMENT) BILL, 2010
(As introduced in the Rajya Sabha)
[To be moved at a sitting of the Rajya Sabha]

ENACTING FORMULA

BY SHRI KAPIL SIBAL:

1. That at page 1, line 1, ***for*** the word “Sixty-first”, the word “Sixty-second” be ***substituted***.

CLAUSE 1

BY SHRI KAPIL SIBAL:

2. That at page 1, line 2, ***for*** the figure “2010” the figure “2011” be ***substituted***.

CLAUSE 2

BY SHRI KAPIL SIBAL:

3. That at page 1, lines 7 to 10, be ***deleted***.
4. That at page 2, lines 1 to 4, be ***deleted***.
5. That at page 2, line 5, ***for*** the brackets and roman numeral “(ii)”, the brackets and roman numeral “(i)” be ***substituted***.
6. That at page 2, line 7, ***for*** the brackets and roman numeral “(iii)”, the brackets and roman numeral “(ii)” be ***substituted***.
7. That at page 2, ***after*** line 11, the following be ***inserted***, namely;-
“*Explanation-* For the purposes of this clause, ‘a non-profit library or non-profit educational institution’ means a library or educational institution which receives grants from the Government or exempted from payment of tax under the Income-Tax Act, 1961”.
8. That at page 2, line 12, ***for*** the brackets and roman numeral “(iv)”, the brackets and roman numeral “(iii)” be ***substituted***.
9. That at page 2, lines 23 to 26, be ***deleted***.
10. That at page 2, line 27, ***for*** the brackets and roman numeral “(vi)”, the brackets and roman numeral “(iv)” be ***substituted***.
11. That at page 2, line 33, ***for*** the brackets and roman numeral “(vii)”, the brackets and roman numeral “(v)” be ***substituted***.
12. That at page 2, line 42, ***for*** the brackets and roman numeral “(viii)”, the brackets and roman numeral “(vi)” be ***substituted***.

43 of
1961.

13. That at page 3, lines 1 to 4, be deleted.

NEW CLAUSES 2A and 2B

BY SHRI KAPIL SIBAL:

14. That at page 3, after line 4, the following new clauses be inserted, namely;-

“2A. In section 11 of the principal Act,-

Amendment of
section 11.

(a) in sub-section (1), for the words “not less than two nor more than fourteen other members”, the words “two other members” shall be substituted;

(b) For sub-section (2), the following shall be substituted,-

“(2) The salaries and allowances payable to and the other terms and conditions of service of Chairman and other members of the Copyright Board shall be such as may be prescribed:

Provided that neither the salary and allowances nor other terms and conditions of service of the Chairman or any other member shall be varied to his disadvantage after appointment.”;

(c) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) The Central Government may, after consultation with the Chairman of the Copyrights Board, appoint a Secretary to the Copyright Board and such other officers and employees as may be considered necessary for the efficient discharge of the functions of the Board.”.

“2B. In section 12 of the principal Act, in sub-section (2), for the words “members, each Bench consisting of not less than three members”, the word “members.” shall be substituted.

Amendment of
section 12.

CLAUSE 5

BY SHRI KAPIL SIBAL:

15. That at page 3, for lines 30 and 31, the following be substituted, namely;-

“5. In section 17 of the principal Act, in clause (e), the following proviso shall be inserted at the end, namely:-”

Amendment of
section 17.

16. That at page 3, lines 32 to 41, be deleted.

17. That at page 3, line 42, the word “further” be deleted.

CLAUSE 6

BY SHRI KAPIL SIBAL:

18. That at page 4, for lines 7 to 11, the following be substituted, namely;-

“Provided also that the author of the literary or musical work included in a cinematograph film shall not assign or waive the right to receive royalties to be shared on an equal basis with the assignee of copyright for the utilization of such work in any form other than for the communication to the public of the work along with the cinematograph film in a cinema hall, except to the legal heirs of the authors or to a copyright society for collection and distribution and any agreement to contrary shall be void:

Provided also that the author of the literary or musical work included in the sound recording but not forming part of any cinematograph film shall not assign or waive the right to receive royalties to be shared on an equal basis with the assignee of copyright for any utilization of such work except to the legal heirs of the authors or to a collecting society for collection and distribution and any assignment to the contrary shall be void.”.

CLAUSE 7

BY SHRI KAPIL SIBAL:

19. That at page 4, for lines 19 to 22, the following be substituted, namely;-

“(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 utilization 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 utilization of such work in any form.”.

CLAUSE 8

BY SHRI KAPIL SIBAL:

20. That at page 4, for line 23, the following be substituted, namely;-

“8. In section 19A of the principal Act,-

(i) In sub-section (2), in second proviso, for”.

21. That at page 4, after line 29, the following be inserted, namely;-

“(ii) after sub-section (2), the following sub-section shall be inserted, namely:-

(3) Every complaint received under sub-section (2) shall be dealt with by the 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 Board will record the reasons thereof.”.

CLAUSE 17

BY SHRI KAPIL SIBAL:

22. That at page 5, for lines 26 to 29, the following be substituted, namely;-
“31B.(1) Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Copyright Board, in such”.
23. That at page 6, line 1, for the word “issued”, the words “issued including the rate of royalty” be substituted.
24. That at page 6, lines 6 and 7, be deleted.
25. That at page 7, lines 1 to 3, for the words “communicating to the public by way of a broadcast or by way of performance of a literary or musical work and sound recording”, the words “communication to the public by way of a radio broadcast of a literary or musical work and sound recording ” be substituted.
26. That at page 7, line 26, for the figure “2010”, the figure “2011” be substituted.

CLAUSE 18

BY SHRI KAPIL SIBAL:

27. That at page 7, for lines 27 to 41, the following be substituted, namely;-
“18. In section 33 of the principal Act,-
Amendment
of section
33.

(i) In sub-section (1) for the words “Provided further”, the following shall be substituted, namely:-
“Provided further that the business of issuing or granting license in respect of literary, dramatic, musical and artistic works incorporated in a cinematograph films or sound recordings shall be carried out only through a copyright society duly registered under this Act;;
Provided also”.
- (ii) after sub-section (3), the following shall be inserted, namely:-
“(3A) The registration granted to a copyright society under sub-section (3) shall be for a period of five years and may be renewed from time to time before the end of every five years on a request in the prescribed form and the Central Government may renew the registration after considering the report of Registrar of Copyrights on the working of the copyright society under section 36:
Provided that the renewal of the registration of a copyright society shall be subject to the continued collective control of the copyright society being shared with the authors of works in their capacity as owners of copyright or of the right to receive royalty:

Provided further that every copyright society already registered before the coming into force of the copyright (Amendment) Act, 2011 shall get itself registered under this Chapter within a period of one year from the date of commencement of the Copyright (Amendment) Act, 2011.”;

(iii) in sub- sections (4) and (5), for the words “owners of rights”, the words “authors and other owners of right” shall be substituted;

(iv) in sub-section (5), after the word “concerned” the words “ or for non-compliance of sections 33A, sub-section (3) of section 35 and section 36 or any change carried out in the instrument by which the copyright society is established or incorporated and registered by the Central Government without prior notice to it” shall be inserted.

CLAUSE 20

BY SHRI KAPIL SIBAL:

28. That at page 8, line 14, ***for*** the words “author of works”, the words “author and other owners of right” be ***substituted***.

CLAUSE 22

BY SHRI KAPIL SIBAL:

29. That at page 8, lines 17 and 18, ***for*** the words “author of work”, the words “author and other owners of right” be ***substituted***.

30. That at page 8, ***for*** lines 19 and 20, the following be ***substituted***, namely:-

“(b) after sub-section (2) the following sub-sections shall be inserted, namely:-

(3) Every copyright society shall have a governing body with such number of persons elected from among the members of the society consisting of equal number of authors and owners of work for the purpose of the administration of the society as may be specified.

(4) All members of the copyrights society shall enjoy equal membership rights and there shall be no discrimination between authors and owners of rights in the distribution of royalties.”.

CLAUSE 23

BY SHRI KAPIL SIBAL:

31. That at page 8, line 25, ***for*** the figure “2010”, the figure “2011” be ***substituted***.

CLAUSE 27

BY SHRI KAPIL SIBAL:

32. That at page 9, line 23, ***after*** the figure and alphabet “33A”, the figures “34, 35, 36” be ***substituted***.

33. That at page 9, line 28, ***for*** the word “on”, the word “no” be ***substituted***.

34. That at page 9, line 29, ***for*** the words “shall take”, the words “shall be given” be ***substituted***.

CLAUSE 31

BY SHRI KAPIL SIBAL:

35. That at page 10, line 7, **for** the word “events”, the words “events and current affairs” be **substituted**.
36. That at page 10, line 15, **for** the word “and”, the word “or” be **substituted**.
37. That at page 10, line 18, **for** the word “and”, the word “or” be **substituted**.
38. That at page 10, **for** lines 23 to 26, the following be **substituted**, namely:-

“Provided that if the person responsible for the storage of the copy has received a written complaint from the owner of copyright in the work, complaining that such transient or incidental storage is an infringement, such person responsible for the storage shall refrain from facilitating such access for a period of twenty-one days or till he receives an order from the competent court refraining from facilitating access and in case no such order is received before the expiry of such period of twenty-one days, he may continue to provide the facility of such access.

39. That at page 11, line 29, the word “clauses”, be **deleted**.
40. That at page 11, **for** lines 31 to 34, the following be **substituted**, namely:-

“(zb) the adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format, by-

(i) any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research; or

(ii) any organisation working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons:

Provided that the copies of the works in such accessible format are made available to the persons with disabilities on a nonprofit basis but to recover only the cost of production:

Provided further that the organisation shall ensure that the copies of works in such accessible format are used by persons with disabilities and takes reasonable steps to prevent its entry into ordinary channels of business.

Explanation.- For the purposes of the sub-clause, “any organisation” includes an organization registered under section 12A of the Income Tax Act, 1961 and working for the benefit of persons with disability or recognized under Chapter X of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 or receiving grants from the Government for facilitating access to persons with disabilities or an educational institution or library or archives recognized by the Government.”

43 of 1961.
1 of 1996.

CLAUSE 38

BY SHRI KAPIL SIBAL:

41. That at page 13, after line 25, the following be inserted, namely;-
 “(i) for clause (a), the following clause shall be substituted, namely:-
 (a) the salaries and allowances payable to and the other terms and conditions of service of the Chairman and other members of the Copyright Board”;
42. That at page 13, line 26, for the brackets and roman numeral “(i)”, the brackets and roman numeral “(ii)” be substituted.
43. That at page 13, line 40, for the brackets and roman numeral “(ii)”, the brackets and roman numeral “(iii)” be substituted.
44. That at page 13, after line 44, the following be inserted, namely;-
 “(ccC) the form of application for renewal of registration of a copyright society and the fee which may accompany such application under sub-section (3A) of section 33;”.
45. That at page 13, line 45, for the brackets and roman numeral “(iii)”, the brackets and roman numeral “(iv)” be substituted.

**New Delhi;
August 27, 2011.**

**V.K. AGNIHOTRI
SECRETARY-GENERAL**