

# COPYRIGHT.

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## No. 25 of 1905.

### An Act relating to Copyright.

[Assented to 21st December, 1905.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

#### PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Copyright Act 1905*.
- Commencement.** 2. This Act shall commence on a day to be fixed by Proclamation.
- Parts.** 3. This Act is divided as follows :—
- Part I.—Preliminary.
  - Part II.—Administration.
  - Part III.—Literary, Musical, and Dramatic Copyright.
  - Part IV.—Artistic Copyright.
  - Part V.—Infringement of Copyright.
  - Part VI.—International and State Copyright.
  - Part VII.—Registration of Copyrights.
  - Part VIII.—Miscellaneous.
- Interpretation.** 4. In this Act, unless the contrary intention appears—
- “Artistic work” includes—
    - (a) any painting, drawing, or sculpture; and
    - (b) any engraving, etching, print, lithograph, woodcut, photograph, or other work of art produced by any process, mechanical or otherwise, by which impressions or representations of works of art can be taken or multiplied:
  - “Author” includes the personal representatives of an author:
  - “Book” includes any book or volume, and any part or division of a book or volume, and any article in a book or volume, and any pamphlet, periodical, sheet of letterpress, sheet of music, map, chart, diagram, or plan separately published, and any illustration therein:

- “Dramatic work,” in addition to being included in the definition of book, means any tragedy, comedy, play, drama, farce, burlesque, libretto of an opera, entertainment, or other work of a like nature, whether set to music or otherwise, lyrical work set to music, or other scenic or dramatic composition :
- “Lecture ” includes a sermon :
- “Musical work ” in addition to being included in the definition of book, includes any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced :
- “Periodical ” means a review, magazine, newspaper, or other periodical work of a like nature :
- “Pirated artistic work ” means a reproduction of an artistic work made in any manner without the authority of the owner of the copyright in the artistic work :
- “Pirated book ” means a reproduction of a book made in any manner without the authority of the owner of the copyright in the book :
- “Portrait ” includes any work the principal object of which is the representation of a person by painting, drawing, engraving, photography, sculpture, or any form of art :
- “Publish ” and “Publication ” in relation to a book refer to offer for sale or distribution, in each case with the privity of the author, so as to make the book accessible to the public :
- “The Registrar ” means the Registrar of Copyrights or a Deputy Registrar of Copyrights :
- “State Copyright Act ” means any State Act relating to the registration of the copyright or performing right, or lecturing right in books, or dramatic or musical works, or in artistic works or fine art works, or in lectures.

5. For the purposes of this Act publication, performance, or delivery in the Commonwealth shall be deemed to be simultaneous with publication, performance, or delivery elsewhere if the period between the publications, performances, or deliveries does not exceed fourteen days.

What is simultaneous publication or performance.

6. No copyright, performing right, or lecturing right shall subsist under this Act in any blasphemous, indecent, seditious, or libellous work or matter.

Blasphemous, &c., matter not protected.

7. Subject to this and any other Acts of the Parliament, the Common Law of England relating to proprietary rights in unpublished literary compositions shall, after the commencement of this Act, apply throughout the Commonwealth.

Application of the Common Law.

8.—(1.) The State Copyright Acts so far as they relate to the copyright in any book, the performing right in any musical or dramatic work, the lecturing right in any lecture, or the copyright in any artistic

State Copyright Acts not to apply to copyright under this Act.

or fine art work shall not apply to any book, dramatic or musical work, lecture, or artistic work in which copyright, performing right, or lecturing right, subsists under this Act.

Saving of  
rights under  
State laws.

(2.) Subject to Part II. of this Act, nothing in this Act shall affect the application of the laws in force in any State at the commencement of this Act to any copyright or other right in relation to books or dramatic or musical works or lectures or artistic or fine art works acquired under or protected by those laws before the commencement of this Act.

## PART II.—ADMINISTRATION.

### DIVISION 1.—THE REGISTRAR AND THE COPYRIGHT OFFICE.

Registrar.

9.—(1.) There shall be a Registrar of Copyrights.

(2.) The Governor-General may appoint one or more Deputy Registrars of Copyrights who shall, subject to the control of the Registrar of Copyrights, have all the powers conferred by this Act on the Registrar.

Copyright  
Office.

10. For the purposes of this Act an office shall be established which shall be called the Copyright Office.

Seal of  
Copyright  
Office.

11. There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed.

### DIVISION 2.—THE TRANSFER OF THE ADMINISTRATION OF THE STATE COPYRIGHT ACTS.

Transfer of  
administration.

12. The Governor-General may, by proclamation, declare that, from and after a date specified in the proclamation, the administration of the State Copyright Acts of any State so far as they relate to the registration of the copyright in any book, the performing right in any musical or dramatic work, the lecturing right in any lecture, and the copyright in any artistic or fine art work, or to the registration of any assignment or grant of, or licence in relation to, any such right, shall be transferred to the Commonwealth and thereupon, so far as is necessary for the purposes of this section—

Effect of  
transfer of  
administration.  
Cf. *Patents Act*  
1903, ss. 18 and  
19.

(a) the State Copyright Acts of the State shall cease to be administered by the State, and shall thereafter be administered by the Commonwealth so far as is necessary for the purpose of completing then pending proceedings and of giving effect to then existing rights, and the Registrar shall collect for the State all fees which become payable thereunder; and

(b) all powers and functions under any State Copyright Act vested in the Governor of the State or in the Governor with the advice of the Executive Council of the State or in any Minister officer or authority of the State shall vest in the Governor-General or in the Governor-General in Council or in the Minister officer or authority exercising similar powers under the Commonwealth as the case requires or as is prescribed; and

- (c) all records registers deeds and documents of the Copyright Office of the State vested in or subject to the control of the State shall, by force of this Act, be vested in and made subject to the control of the Commonwealth.

### PART III.—LITERARY, MUSICAL, AND DRAMATIC COPYRIGHT.

13.—(1.) The copyright in a book means the exclusive right to do, or authorize another person to do, all or any of the following things in respect of it :—

Copyright in books.

- (a) To make copies of it :
- (b) To abridge it :
- (c) To translate it :
- (d) In the case of a dramatic work, to convert it into a novel or other non-dramatic work :
- (e) In the case of a novel or other non-dramatic work, to convert it into a dramatic work : and
- (f) In the case of a musical work, to make any new adaptation, transposition, arrangement, or setting of it, or of any part of it, in any notation.

(2.) Copyright shall subsist in every book, whether the author is a British subject or not, which has been printed from type set up in Australia, or plates made therefrom, or from plates or negatives made in Australia in cases where type is not necessarily used, and has, after the commencement of this Act, been published in Australia, before or simultaneously with its first publication elsewhere.

14.—(1.) The performing right in a dramatic or musical work means the exclusive right to perform it, or authorize its performance, in public.

Performing right in dramatic and musical works.

(2.) Performing right shall subsist in every dramatic or musical work, whether the author is a British subject or not, which has, after the commencement of this Act, been performed in public in Australia, before or simultaneously with its first performance in public elsewhere.

15.—(1.) The lecturing right in a lecture means the exclusive right to deliver it, or authorize its delivery, in public, and, except as hereinafter provided, to report it.

Lecturing right in lectures.

(2.) Lecturing right shall subsist in every lecture, whether the author is a British subject or not, which has, after the commencement of this Act, been delivered in public in Australia, before or simultaneously with its first delivery in public elsewhere.

16.—(1.) The copyright in a book shall begin with its first publication in Australia.

Commencement of copyright, performing right, and lecturing right.

(2.) The performing right in a dramatic or musical work shall begin with its first performance in public in Australia.

(3.) The lecturing right in a lecture shall begin with its first delivery in public in Australia.

Term of  
copyright, per-  
forming right,  
and lecturing  
right.

17.—(1.) The copyright in a book, the performing right in a dramatic or musical work, and the lecturing right in a lecture, shall subsist for the term of forty-two years or for the author's life and seven years whichever shall last the longer.

(2.) Where the first publication of a book, the first performance in public of a musical or dramatic work, or the first delivery in public of a lecture takes place after the death of the author, the copyright, performing right, or lecturing right, as the case may be, shall subsist for the term of forty-two years.

(3.) Where a book or a dramatic or musical work is written by joint authors the copyright and the performing right shall subsist for the term of forty-two years or their joint lives and the life of the survivor of them, and seven years, whichever shall last the longer.

(4.) If a lecture is published as a book with the consent in writing of the owner of the lecturing right, the lecturing right shall cease.

Ownership in  
copyright, per-  
forming right,  
and lecturing  
right.

18.—(1.) The author of a book shall be the first owner of the copyright in the book.

(2.) The author of a dramatic work or musical work shall be the first owner of the performing right in the dramatic or musical work.

(3.) The author of a lecture shall be the first owner of the lecturing right in the lecture.

Ownership in  
the case of  
joint authors.

19. Where there are joint authors of a book, or of a dramatic or musical work, or of a lecture, the copyright, or the performing right, or the lecturing right, as the case may be, shall be the property of the authors.

Separate  
authors.

20. Where a book is written in distinct parts by separate authors and the name of each author is attached to the portion written by him, each author shall be entitled to copyright in the portion written by him in the same manner as if it were a separate book.

Encyclopædia  
and similar  
works.

21. The proprietor or projector of an encyclopædia or other similar permanent work of reference who employs some other person for valuable consideration in the composition of the whole or any part of the work shall be entitled to the copyright in the work in the same manner as if he were the author thereof.

Copyright in  
articles  
published in  
periodicals.

22.—(1.) The author of any article, contributed for valuable consideration to and first published in a periodical, shall be entitled to copyright in the article as a separate work, but so that—

(a) he shall not be entitled to publish the article or authorize its publication until one year after the end of the year in which the article was first published, and

(b) his right shall not exclude the right of the proprietor of the periodical under this section.

(2.) The proprietor of a periodical in which an article, which has been contributed for valuable consideration, is first published shall be entitled to copyright in the article, but so that—

(a) he shall not be entitled to publish the article or authorize its publication except in the periodical in its original form of publication, and

(b) his right shall not exclude the right of the author of the article, under this section.

23. The author of any article contributed without valuable consideration to, and first published in, a periodical, shall be entitled to copyright in the article as a separate work.

Copyright in articles published in periodicals without valuable consideration.

24. The copyright in a book, the performing right in a dramatic or musical work, and the lecturing right in a lecture shall be personal property, and shall be capable of assignment and of transmission by operation of law.

Copyright, &c., to be personal property.

25. The copyright in a book, and the performing right in a dramatic or musical work and the lecturing right in a lecture shall be deemed to be distinct properties for the purposes of ownership, assignment, licence, transmission, and all other purposes.

Copyright and other rights to be separate properties.

26. The owner of the copyright in a book, or of the performing right in a dramatic or musical work, or of the lecturing right in a lecture, may assign his right either wholly or partially and either generally or limited to any particular place or period, and may grant any interest therein by licence; but an assignment or grant shall not be valid unless it is in writing signed by the owner of the right in respect of which it is made or granted.

Assignment of copyright.

27. Any second or subsequent edition of a book containing material or substantial alterations or additions shall be deemed to be a new book, but so as not to prejudice the right of any person to reproduce a former edition of the book or any part thereof after the expiration of the copyright in the former edition.

New editions.

Provided that while the copyright in a book subsists no person, other than the owner of the copyright in the book or a person authorized by him, shall be entitled to publish a second or subsequent edition thereof.

28. Copyright in a book shall not be infringed by a person making an abridgment or translation of the book for his private use (unless he uses it publicly or allows it to be used publicly by some other person), or by a person making fair extracts from or otherwise fairly dealing with the contents of the book for the purpose of a new work, or for the purposes of criticism, review, or refutation, or in the ordinary course of reporting scientific information.

Making of abridgment, &c., for private use.

29. Where the author has parted with the copyright in his book and a translation or abridgment of the book is made with the consent of the owner of the copyright by some person other than the author, notice shall be given in the title-page of every copy of the translation or abridgment that it has been made by some person other than the author.

Translations or abridgments.

30. Where a translation of a book into a particular language is not made within ten years from the date of the publication of the book by the owner of the copyright or by some person by his authority—

Failure of author to make or cause translation of book.

(a) Any person desirous of translating the book into that language may make an application in writing to the Minister for permission so to do:

- (b) The Minister may thereupon by notice in writing inform the owner of the copyright of such application and request him to make or cause to be made a translation of the book into that language within such time as the Minister deems reasonable or to show cause why such application should not be granted :
- (c) If the owner of the copyright fails to comply with such notice the Minister may grant such application.

Copyright in translations.

31. Copyright shall subsist in a lawfully-produced translation or abridgment of a book in like manner as if it were an original work.

Notice of reservation of performing right.

32.—(1.) Where a dramatic or musical work is published as a book, and it is intended that the performing right is to be reserved, the owner of the copyright, whether he has parted with the performing right or not, shall cause notice of the reservation of the performing right to be printed on the title page or in a conspicuous part of every copy of the book.

Defendant's rights where no notice of reservation of performing right.

(2.) Where—

- (a) proceedings are taken for the infringement of the performing right in a dramatic or musical work published as a book, and
- (b) the defendant proves to the satisfaction of the Court that he has in his possession a copy of the book containing the dramatic or musical work and that that copy was published with the consent of the owner of the copyright, and does not contain the notice required by this Act of the reservation of the performing right,

judgment may be given in his favour either with or without costs as the Court, in its discretion, thinks fit ; but in any such case the owner of the performing right (if he is not the owner of the copyright) shall be entitled to recover from the owner of the copyright damages in respect of the injury he has incurred by the neglect of the owner of the copyright to cause due notice to be given of the reservation of the performing right.

Report of lecture in a newspaper.

33.—(1.) Unless the reporting of a lecture is prohibited by a notice as in this section mentioned, the lecturing right in a lecture shall not be infringed by a report of the lecture in a newspaper.

(2.) The notice prohibiting the reporting of a lecture may be given—

- (a) orally at the beginning of the lecture ; or
- (b) by a conspicuous written notice affixed, before the lecture is given, on the entrance doors of the building in which it is given or in a place in the room in which it is given.

(3.) When a series of lectures is intended to be given by the same lecturer on the same subject, one notice only need be given in respect of the whole series.

## PART IV.—ARTISTIC COPYRIGHT.

34. The copyright in an artistic work means the exclusive right of the owner of the copyright to reproduce or authorize another person to reproduce the artistic work, or any material part of it, in any manner, form, or size, in any material, or by any process, or for any purpose.

Meaning of copyright.

35. Copyright shall subsist in every artistic work whether the author is a British subject or not, which is made in Australia after the commencement of this Act.

Copyright in artistic works.

36. The copyright in an artistic work shall begin with the making of the work, and shall subsist for the term of forty-two years or for the author's life and seven years whichever shall last the longer.

Commencement and term of artistic copyright.

37. The author of an artistic work shall be the first owner of the copyright in the work.

Ownership of copyright in artistic work.

38. When an artistic work, being a portrait, is made to order for valuable consideration, the person to whose order it is made shall be entitled to the copyright therein as if he were the author thereof.

Copyright in portraits.

39.—(1.) When a photograph is made to order for valuable consideration the person to whose order it is made shall be entitled to the copyright therein as if he were the author thereof.

Copyright in photographs.

(2.) Subject to sub-section (1) of this section, when a photograph is made by an employee on behalf of his employer the employer shall be deemed to be the author of the photograph.

40.—(1.) Subject to section thirty-four of this Act the engraver or other person who makes the plate or other instrument by which copies of an artistic work are multiplied shall be deemed to be the author of the copies produced by means of the plate or instrument.

Engravings and prints.

(2.) When the plate or other instrument mentioned in this section is made by an employee on behalf of his employer the employer shall be deemed to be the author of the copies produced by means of the plate or instrument.

41.—(1.) When the owner of the copyright in any artistic work being a painting, or a statue, bust, or other like work, disposes of such work for valuable consideration, but does not assign the copyright therein, the owner of the copyright (except as in this section mentioned) may in the absence of any agreement in writing to the contrary make a replica of such work.

Copyright in case of sale of painting, statue, or bust

(2.) When a statue, bust, or other like work, whether made to order or not, is placed or is intended to be placed in a street or other like public place, the author may, in the absence of any agreement to the contrary, make replicas thereof.

Right of author to make replicas of statues, &c. in public places.

42. The copyright in an artistic work shall be personal property, and shall be capable of assignment and of transmission by operation of law.

Artistic copyright is personal property.



Copyright and ownership in artistic works.

43. The copyright in an artistic work and the ownership of the artistic work shall be deemed to be distinct properties for the purposes of ownership, assignment, licence, transmission, and all other purposes.

Assignment of copyright.

44. The owner of the copyright in an artistic work may assign his right wholly or partially and either generally or limited to any particular place or period and may grant any interest therein by licence ; but an assignment or grant shall not be valid unless it is in writing signed by the owner of the copyright.

#### PART V.—INFRINGEMENT OF COPYRIGHT.

Infringement of rights under Act.

45. If any person infringes any right conferred by this Act in respect of the copyright in a book, the performing right in dramatic or musical work, the lecturing right in a lecture, or the copyright in an artistic work, the owner of the right infringed may maintain an action for damages or penalties or profits, and for an injunction, or for any of those remedies.

Damages in case of performing right or lecturing right.

46. In assessing the damages in respect of the infringement of the performing right in a dramatic or musical work or the lecturing right in a lecture, regard shall be had to the amount of profit made by the infringer by reason of the infringement, and to the amount of actual damage incurred by the owner of the performing or lecturing right.

Notice of objection to title.

47. The plaintiff in any action for the infringement of a right conferred by this Act shall be presumed to be the owner of the right which he claims, unless the defendant in his pleadings in defence pleads that the defendant disputes the title of the plaintiff, and states the grounds on which the plea is founded, and the name of the person, if any, whom the defendant alleges to be the owner of the right.

Limitation of actions.  
(Cf. 5-6 Vict. c. 45, s. 26.)

48. No action for any infringement of copyright, performing right, or lecturing right under this Act shall be maintainable unless it is commenced within two years next after the infringement is committed.

Property in pirated books or artistic work.

49. All pirated books and all pirated artistic works shall be deemed to be the property of the owner of the copyright in the book or work and may, together with the plates, blocks, stone, matrix, negative, or thing, if any, from which they are printed or made, be recovered by him by action or other lawful method.

Penalties for dealing with pirated books.

50. If any person—

- (a) sells, or lets for hire, or exposes offers or keeps for sale or hire, any pirated book or any pirated artistic work ; or
- (b) distributes, or exhibits in public, any pirated book or any pirated artistic work ; or
- (c) imports into Australia any pirated book or any pirated artistic work,

he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Five pounds for each copy of such

pirated book or pirated artistic work dealt with in contravention of this section, and also to forfeit to the owner of the copyright every such copy so dealt with, and also to forfeit the plates, blocks, stone, matrix, negative, or thing, if any, from which the pirated book or pirated artistic work was printed or made.

Provided that the whole penalties inflicted on any one offender in respect of the same transaction shall not exceed Fifty pounds.

Provided also that no person shall be convicted of an offence under this section if he proves to the satisfaction of the court at the hearing that he did not know, and could not with reasonable care have ascertained, that the book was a pirated book or the work was a pirated artistic work.

51. Where a dramatic or musical work is performed in a theatre or other place in infringement of the performing right of the owner of that right, the proprietor tenant or occupier who permitted the theatre or place to be used for the performance shall be deemed to have infringed the performing right and shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding Five pounds for each such offence and the court may, in addition to the penalty, order the defendant to pay to the owner of the performing right in respect of each such infringement a sum by way of damages to the amount of Ten pounds, or to such amount as the court deems equal to the profits made by the performance of the work, whichever sum is greater.

Liability in respect of use of theatre.

Provided that no person shall be convicted of an offence under this section if he proves to the satisfaction of the court at the hearing that he did not know and could not with reasonable care have ascertained that the dramatic or musical work was performed in infringement of the performing right of the owner of that right.

52.—(1.) A Justice of the Peace may upon the application of the owner of the copyright in any book or in any artistic work or of the agent of such owner appointed in writing :—

Search warrant and seizure of pirated copies.

- (a) If satisfied by evidence that there is reasonable ground for believing that pirated books or pirated artistic works are being sold, or offered for sale—issue a warrant, in accordance with the form prescribed, authorizing any constable to seize the pirated books or pirated artistic works and to bring them before a court of summary jurisdiction.
- (b) If satisfied by evidence that there is reasonable ground for believing that pirated books or pirated artistic works are to be found in any house, shop, or other place—issue a warrant, in accordance with the form prescribed, authorizing any constable to search, between sunrise and sunset, the place where the pirated books or pirated artistic works are supposed to be, and to seize and bring them or any books or artistic works reasonably suspected to be pirated books or pirated artistic works before a court of summary jurisdiction.

(2.) A court of summary jurisdiction may, on proof that any books or artistic works brought before it in pursuance of this section are pirated books or pirated artistic works, order them to be destroyed or to be delivered up, subject to such conditions, if any, as the court thinks fit, to the owner of the copyright in the book or artistic work.

Power of owner of copyright to require delivery to him of pirated books and works.

53.—(1.) The owner of the copyright in any book or artistic work, or the agent of such owner appointed in writing, may by notice, in accordance with the prescribed form, require any person to deliver up to him any pirated reproduction of the book or work, and every person to whom such notice has been given, and who has any pirated reproduction of the book or work in his possession or power, shall deliver up the pirated reproduction of the book or work in accordance with the notice.

Penalty : Ten pounds.

(2.) A person shall not give any notice in accordance with this section without just cause.

Penalty : Twenty pounds.

(3.) In any prosecution under sub-section (2) of this section the defendant shall be deemed to have given the notice without just cause unless he proves, to the satisfaction of the court at the hearing, that at the time of giving the notice he was the owner of the copyright in the book or artistic work or was the agent of such owner appointed in writing, and had reasonable ground to believe that the person to whom the notice was given had pirated reproductions of the book or work in his possession or power.

Power of owner of performing right to forbid performance in infringement of his right.

54.—(1.) The owner of the performing right in a musical or dramatic work, or the agent of the owner appointed in writing, may, by notice in writing in accordance with the prescribed form, forbid the performance of the musical or dramatic work in infringement of his right, and require any person to refrain from performing or taking part in the performance of the musical or dramatic work, and every person to whom a notice has been given in accordance with this section shall refrain from performing or taking part in the performance of the musical or dramatic work specified in the notice in infringement of the performing right of such owner.

Penalty : Ten pounds.

(2.) A person shall not give any notice in pursuance of this section without just cause.

Penalty : Twenty pounds.

(3.) In any prosecution under sub-section (2) of this section, the defendant shall be deemed to have given the notice without just cause unless he proves, to the satisfaction of the court at the hearing, that at the time of giving the notice he was the owner of the performing right in the musical or dramatic work, or the agent of the owner appointed in writing, and had reasonable ground to believe that the person to whom the notice was given was about to perform or take part in the performance of the musical or dramatic work in infringement of the performing right of the owner.

55. Any person, who in any notice given in pursuance of this Act, makes a representation, which is false in fact and which he knows to be false or does not believe to be true, that he is

Penalty for false representations in notices.

(a) the owner of the copyright in any book or artistic work, or

(b) the owner of the performing right in a musical or dramatic work, or

(c) the agent of any such owner,

shall be guilty of an offence against this Act.

Penalty : Two years' imprisonment.

56.—(1.) The owner of the copyright in any book or artistic work or the agent of such owner appointed in writing may, in accordance with the prescribed form, request that any pirated reproductions of the book or work be seized by the police, and may lodge the request at any police station.

Request to police to seize pirated books and works.

(2.) Any police constable in the town or district in which the police station is situated (whether in the service of the Commonwealth or of a State) may, at any time in the day time within seven days after the request was so lodged, seize all pirated reproductions of the book or work mentioned in the notice, and all reproductions of the book or work which he has reasonable ground to believe are pirated reproductions, found by him in the possession of any person other than the owner of the copyright in the book or work.

(3.) Every police constable who seizes any books or works in pursuance of this section shall forthwith bring all such books or works before a court of summary jurisdiction.

(4.) A court of summary jurisdiction may, on the application of any person interested, make such order for the disposal of the books or works as it thinks just.

(5.) A person shall not lodge any request at any police station in accordance with this section without just cause.

Penalty : Twenty pounds.

(6.) In any prosecution under sub-section (5) of this section the defendant shall be deemed to have lodged the request without just cause unless he proves, to the satisfaction of the court at the hearing, that at the time of lodging the request he was the owner of the copyright in the book or artistic work, or was the agent of such owner appointed in writing and had reasonable ground to believe that pirated reproductions of the book or work were being unlawfully sold, or let for hire, or exposed or offered or kept for sale or hire, or distributed, or exhibited in public, in the town or district in which the police station is situated.

57. Where proceedings for any penalty under this Act are instituted by the owner of the copyright in any book or in any artistic work or by the owner of the artistic work, the penalty shall be paid to him by way of compensation for the injury he has sustained. In any other case the penalty shall be paid to the Consolidated Revenue Fund.

Application of penalties.

Aiders and abettors.

58. Whoever aids, abets, counsels, or procures, or by act or omission is in any way, directly or indirectly, knowingly concerned in the commission of any offence against this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

Limitation of actions in court of summary jurisdiction.

59. Proceedings may be instituted in any court of summary jurisdiction for the recovery of any penalty under this Act, but no such proceedings shall be instituted after the expiration of six months from the date of the offence in respect of which the penalty is imposed.

Appeal from courts of summary jurisdiction.

60. An appeal shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a court of summary jurisdiction, exercising jurisdiction with respect to any offence or matter under this Act, to the court and in the manner and time provided by the law of the State in which the proceedings were instituted in the case of appeals from courts of summary jurisdiction in that State.

Importation of pirated works.

61.—(1.) The following goods are prohibited to be imported:—

- (a) All pirated books in which copyright is subsisting in Australia (whether under this Act or otherwise): and
- (b) All pirated artistic works in which copyright is subsisting in Australia (whether under this Act or otherwise).

(2.) All pirated books and pirated artistic works imported into Australia contrary to this section shall be forfeited and may be seized by any officer of Customs.

(3.) Subject to this Act the provisions of the *Customs Act* 1901 shall apply to the seizure and forfeiture of pirated books and artistic works under this section to the same extent as if they were prohibited imports under that Act.

(4.) The provisions of this section shall not apply to any book or artistic work unless the owner of the copyright therein or his agent has given written notice to the Minister of the existence of the copyright and of its term.

(5.) A notice given to the Commissioners of Customs of the United Kingdom, by the owner of the copyright or his agent, of the existence of the copyright in a book or artistic work and of its term, and communicated by the said Commissioners to the Minister shall be deemed to have been given by the owner to the Minister.

#### PART VI.—INTERNATIONAL AND STATE COPYRIGHT.

Protection in Australia of International and State copyright.

62. The owner of any copyright or performing right in any literary, musical, or dramatic work or artistic work entitled to protection in Australia by virtue of any Act of the Parliament of the United Kingdom or entitled to protection in any State by virtue of any State Copyright Act in force at the commencement of this Act shall on obtaining a certificate of the registration of his copyright or performing right under this Part of this Act have the same protection in

the Commonwealth against the infringement of his copyright or performing right as the owner of any copyright or performing right under this Act.

63.—(1.) The owner of any copyright or performing right who desires to obtain the benefit of this Part of this Act may, in manner and in accordance with the form prescribed, make application to the Registrar for the registration of his copyright or performing right. Registration of international copyright.

(2.) The Registrar may thereupon, and on being satisfied by proof of the prescribed particulars and on payment of the prescribed fee, register the copyright or performing right and issue to the applicant a certificate of registration in accordance with the prescribed form.

#### PART VII.—REGISTRATION OF COPYRIGHTS.

64. The following Registers of Copyrights shall be kept by the Registrar at the Copyright Office :— Copyright Registers.

The Register of Literary Copyrights.

The Register of Fine Arts Copyrights.

The Register of International and State Copyrights.

65. The owner of any copyright performing right or lecturing right under this Act may obtain registration of his right in the manner prescribed. Method of registration.

66. When any person becomes entitled to any copyright performing right or lecturing right under this Act by virtue of any assignment or transmission, or to any interest therein by licence, he may obtain registration of the assignment, transmission, or licence in the manner prescribed. Registration of assignments and transmissions.

67. The registration of any copyright performing right or lecturing right under this Act, or of any assignment or transmission thereof or of any interest therein by licence, shall be effected by entering in the proper register the prescribed particulars relating to the right, assignment, transmission, or licence. How registration effected.

68.—(1.) No notice of any trust expressed, implied, or constructive shall be entered in any Register of Copyrights under this Act or be receivable by the Registrar. Trusts not registered.

(2.) Subject to this section, equities in respect of any copyright performing right or lecturing right under this Act may be enforced in the same manner as equities in respect of other personal property.

69. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entry therein or extracts therefrom certified by the Registrar and sealed with the seal of the Copyrights Office shall be admissible in evidence in all Federal or State courts without further proof or production of the originals. Register to be evidence.

Certified  
copies.

70. Certified copies of entries in any register under this Act or of extracts therefrom shall on payment of the prescribed fee be given to any person applying for them.

Inspection of  
register.

71. Each register under this Act shall be open to public inspection at all convenient times on payment of the prescribed fee.

Correction of  
register.

72. The Registrar may, in prescribed cases and subject to the prescribed conditions, amend or alter any register under this Act by—

- (a) correcting any error in any name, address, or particular ; and
- (b) entering any prescribed memorandum or particular relating to copyright or other right under this Act.

Rectification of  
Register by  
the Court.

73.—(1.) Subject to this Act the Supreme Court of any State or a Judge thereof may, on the application of the Registrar or of any person aggrieved, order the rectification of any register under this Act by—

- (a) the making of any entry wrongly omitted to be made in the register ; or
- (b) the expunging of any entry wrongly made in or remaining on the register ; or
- (c) the correction of any error or defect in the register.

(2.) An appeal shall lie to the High Court from any order for the rectification of any register made by a Supreme Court or a Judge under this section.

Owner cannot  
sue before  
registration.

74.—(1.) The owner of any copyright or performing right under this Act or of any interest therein by licence shall not be entitled to bring any action or suit or institute any proceedings for any infringement of the copyright or performing right unless such right or interest has been registered in pursuance of this Act.

(2.) When such right or interest has been registered the owner thereof may, subject to this Act, bring actions or suits or institute proceedings for infringements of the copyright or performing right, whether those infringements happened before or after the registration.

(3.) This section shall not affect the right of the owner of the lecturing right in a lecture to bring actions or suits or institute proceedings for infringements of his lecturing right.

Delivery of  
books to  
Registrar.

75.—(1.) Every person applying for the registration of the copyright in any book shall deliver to the Registrar two copies of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published and bound, sewed, or stitched together, and on the best paper on which the book is printed.

(2.) Every person applying for the registration of the copyright in any work of art shall deliver to the Registrar one copy of the work of art or a photograph of it.

(3.) The Registrar shall refuse to register the copyright in any book or work of art until sub-sections (1) and (2) of this section have been complied with.

(4.) One copy of each book delivered to the Registrar in pursuance of this section shall be forwarded by him to the librarian of the Parliament, and the other copy shall be retained by the Registrar, until otherwise prescribed.

76. No person shall wilfully make any false statement or representation to deceive the Registrar or any officer in the execution of this Part of this Act, or to procure or influence the doing or omission of any thing in relation to this Part of this Act or any matter thereunder.

Penalty : Three years' imprisonment

False representation to Registrar. Patents Act 1903, s. 112.

#### PART VIII.—MISCELLANEOUS.

77. If the Governor-General is satisfied that the owner of the copyright in any book, or of the performing right in any dramatic work or musical work, or of the lecturing right in any lecture, has refused, after the death of the author, to republish or allow republication of the book, or the public performance of the dramatic or musical work, or the publication as a book of the lecture, and that by reason thereof the book, dramatic work, musical work, or lecture is withheld from the public, he may grant any person applying for it a licence to republish the book, or to perform the dramatic work, or musical work, or to publish the lecture as a book, in such manner and subject to such conditions as to the Governor-General seem fit.

Provision against suppression of books.

78. In any action or proceeding taken in any Court under this Act, the Court shall have power to award costs at its discretion.

Power to award costs.

79. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, or for the conduct of any business relating to the Copyrights Office.

Regulations.