

COPYRIGHT.

No. 7 of 1963.

An Act to amend the *Copyright Act 1912-1950*.

[Assented to 14th May, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Copyright Act 1963*. Short title and citation.
(2.) The *Copyright Act 1912-1950** is in this Act referred to as the Principal Act.
(3.) The Principal Act, as amended by this Act, may be cited as the *Copyright Act 1912-1963*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section thirteen A of the Principal Act is amended—
(a) by inserting after sub-section (3.) the following sub-section:—
“ (3A.) Unless the submission otherwise provides, the arbitrator shall make his award in writing within three months after receiving the submission, but the arbitrator may extend the time for making the award Voluntary arbitration in dispute concerning public performance of works. ”

* Act No. 20, 1912, as amended by No. 68, 1933; No. 17, 1935; and No. 80, 1950.

(whether fixed by the submission or by this sub-section) either before or after the expiration of the time originally applicable.”; and

(b) by omitting sub-sections (5.), (6.), (7.) and (8.) and inserting in their stead the following sub-sections:—

“ (5.) The arbitrator may—

(a) summon witnesses;

(b) require the production of documents or articles; and

(c) receive evidence on oath or affirmation, whether given orally or otherwise, from persons appearing as witnesses.

“ (6.) The arbitrator may, at any stage of the proceedings, and shall if so directed by the Court, state, in the form of a special case for the opinion of the Court, any question of law arising in the course of the arbitration. The opinion of the Court shall be embodied in an order of the Court and that order is binding on the arbitrator and the parties to the arbitration.

“ (7.) The costs of the arbitration shall be in the discretion of the arbitrator who may, by his award, direct by and to whom, and in what manner, those costs or a part of those costs are or is to be paid and may, if he thinks fit, tax or settle the amount of the costs to be so paid.

“ (8.) Costs directed by the arbitrator to be paid to a party may be recovered by that party in any court of competent jurisdiction.

“ (9.) The Court may remove the arbitrator if he has been guilty of misconduct.

“ (10.) If the arbitrator dies, becomes incapable of acting or is removed by the Court, a new arbitrator may be appointed by agreement between the parties, or, in default of agreement, by the Governor-General.

“ (11.) Unless the submission otherwise provides, the arbitrator has power to correct in an award a clerical mistake or an error arising from an accidental slip or omission.

“ (12.) The Court may set the award of the arbitrator aside if the arbitrator has been guilty of misconduct or the award has been improperly procured.

“(13.) The Court may, on the application of a party to the arbitration proceedings, by order, remit an award, or part of an award, to the arbitrator for reconsideration if it is satisfied that—

- (a) there is a defect or error on the face of the award;
- (b) the arbitrator has made a mistake in the award and desires to correct it;
- (c) material evidence that could not with reasonable diligence have been discovered before the award was made has since been discovered; or
- (d) there has been misconduct on the part of the arbitrator.

“(14.) The Court shall not exercise its powers under the last preceding sub-section unless the application is made within the period of six weeks after the award was made or within such extended period as the Court has, either before or after the expiration of that period of six weeks, allowed for the making of the application.

“(15.) Where an award or part of an award is remitted by the Court for reconsideration—

- (a) the arbitrator shall, unless the order remitting the award or part of the award otherwise directs, make his award on the reconsideration within three months after the making of that order; and
- (b) the provisions of sub-sections (4.) to (14.) (inclusive) of this section apply, so far as they are applicable, in relation to the reconsideration and an award made on the reconsideration.

“(16.) Copyright in any work or record in respect of which the dispute has arisen is not infringed by the performance of the work in public, or the use of the record for public performance, by a party to the arbitration or a person claiming through or under such a party if—

- (a) payment for the right so to perform the work or use the record is made at the rates and in the method determined by the arbitrator in pursuance of this section; and

(b) the performance of the work or the use of the record is in accordance with the terms and conditions so determined.

“(17.) In this section—

‘person’ includes a company, association or body of persons;

‘the Court’ means the High Court.

“(18.) The regulations may prescribe matters for and in relation to—

(a) the fees payable to an arbitrator selected or appointed under this section; and

(b) the practice and procedure in arbitration proceedings under this section to the extent that those matters are not provided for by the preceding provisions of this section.”.

4. After section thirteen A of the Principal Act the following section is inserted in Part II.:—

Disobedience
to summons,
failure to
produce
documents,
&c., an
offence.

“13B.—(1.) A person who has been summoned under the last preceding section to appear as a witness before an arbitrator shall not, without lawful excuse, and after tender of reasonable expenses, fail to appear in obedience to the summons.

“(2.) A person who has been required by an arbitrator under the last preceding section to produce a document or article shall not, without lawful excuse, and after tender of reasonable expenses, fail to produce the document or article.

“(3.) A person who appears before an arbitrator in proceedings under the last preceding section shall not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, which he is required by the arbitrator to produce or answer.

Penalty: Fifty pounds.”.

Application
of amendments.

5. The Principal Act, as amended by this Act, extends to and in relation to an arbitration pending at the commencement of this Act.