

ABBOZZ TA' LIĠI
msejjah

ATT biex jemenda l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 415

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, ħareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2008 li jemenda l-Att dwar id-Drittijiet ta' l-Awtur, u għandu jinqara u jiftiehem ħaġa waħda ma' l-Att dwar id-Drittijiet ta' l-Awtur, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minflok il-kliem "F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort oħra –" għandhom jidhlu l-kliem "(1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra –";

(b) is-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(i) fit-tifsira "artisti", minflok il-kliem "tinkludi kantanti, mużiċisti, atturi jew artisti oħrajn li jkantaw, jirreċtaw, jiddeklamaw, jagħmluha jew jilgħabuha ta' xi ħaddiehor jew xort oħra" għandhom jidhlu l-kliem

“tinkludi kantanti, mużiċisti, żeffiena, atturi jew artisti oħra li jkantaw, jirreċtaw, jiddeklamaw, jagħmluha jew jilgħabuha ta’ xi haddieħor, jinterpretaw jew xort oħra”;

(ii) fit-tifsira “komunikazzjoni lill-pubbliku”, fl-ewwel paragrafu tagħha, minflok il-kliem “xogħol bil-fili jew mingħajr fili u” għandhom jidhlu l-kliem “xogħol jew funzjonament jew reġistrazzjoni ta’ smiġħ bil-fili jew mingħajr fili lill-pubbliku u”, u minflok it-tieni paragrafu tagħha għandhom jidhlu l-kliem:

“Izda l-provdiment sempliċi ta’ facilitajiet fiżiċi sabiex tkun tista’ ssir jew għal għemil ta’ komunikazzjoni ma tammontax fiha nnifisha għal att ta’ komunikazzjoni lill-pubbliku:

Izda wkoll għall-finijiet ta’ l-artikolu 19, komunikazzjoni lill-pubbliku tinkludi wkoll li tagħmel il-ħsejjes jew rappreżentazzjonijiet ta’ ħsejjes li jsiru f’ reġistrazzjoni ta’ smiġħ li jinstema’ mill-pubbliku;”;

(iii) minnufih wara t-tifsira “prodott minn semikonduttur” għandha tidhol din it-tifsira għdida li ġejja:

“ “produttur ta’ reġistrazzjoni ta’ smiġħ” tfisser l-enti legali li tiegħu l-inizjattiva u li jkollha r-responsabbiltà ta’ l-ewwel fissazzjoni tal-ħsejjes ta’ esekuzzjoni jew ta’ ħsejjes oħra jew tar-rappreżentazzjoni ta’ ħsejjes”; u

(ċ) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fis-subparagrafu (a) tiegħu, minflok il-kliem “xogħol għandu jitqies” għandhom jidhlu l-kliem “xogħol jew reġistrazzjoni ta’ smiġħ għandhom jitqiesu” u minflok il-kliem “għall-pubbliku;” għandhom jidhlu l-kliem “għall-pubbliku:” u minnufih wara għandu jizdied dan il-proviso li ġej:

“izda fil-każ ta’ xogħol, li jkun sar disponibbli għall-pubbliku, dan għandu jkun sar bil-kunsens ta’ l-awtur jew tal-proprjetarju ta’ drittijiet ta’ l-awtur

l-ieħor, u fil-każ ta' reġistrazzjoni ta' smiġh, bil-kunsens tal-produttur tar-reġistrazzjoni ta' smiġh jew tas-suċċessur tiegħu fit-titolu;”;

(ii) il-paragrafi (b) u (ċ) tiegħu għandhom jiġu enumerati mill-ġdid bħala (ċ) u (d) rispettivament;

(iii) minnufih wara paragrafu (a) tiegħu għandu jiżdied dan il-paragrafu ġdid li ġej:

“(b) għall-finijiet ta' l-artikolu 19, reġistrazzjoni ta' smiġh li tkun saret disponibbli għall-pubbliku b'mezzi bil-fili jew mingħajr fili b'dak il-mod li l-membri tal-pubbliku jistgħu ikollhom aċċess għaliha minn lok f'hin li jiġi individwalment magħżul minnhom, għandu jiġi ikkunsidrat daqs li kieku kien ippubblikat għal finijiet kummerċjali;”.

3. Minnufih fi tmiem is-subartikolu (2) ta' l-artikolu 3 ta' l-Att prinċipali, għandu jiżdied dan il-kliem li ġej:

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

“Barra minn hekk, il-protezzjoni tad-drittijiet ta' l-awtur m'għandhiex testendi għal ideat, proċeduri, metodi ta' thaddim jew kuncetti matematiċi bħal dawk.”.

4. F'paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 9 ta' l-Att prinċipali, fit-test Inġliż biss minflok il-kelma “nore” għandha tidhol il-kelma “nor”, u l-kliem “msemmiġja fl-artikolu 42(3) u (4)” għandhom jiġu mħassra.

Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

5. Minflok il-paragrafu (b) ta' l-artikolu 15 ta' l-Att prinċipali, għandu jidhol dan il-paragrafu li ġej:

Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

“(b) il-kirja u s-self, anke wara d-distribuzzjoni tagħhom, jew bis-saħħa ta' awtorizzazzjoni, mill-produttur;”.

6. Minflok il-kliem “lill-artisti.” fl-artikolu 19 ta' l-Att prinċipali, għandhom jidhlu l-kliem “lill-artisti:” u minnufih wara għandu jiżdied dan il-proviso li ġej:

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

“Izda għall-fini ta' dan l-artikolu, reġistrazzjonijiet ta' smiġh li jkunu saru disponibbli għall-pubbliku b'mezzi bil-fili jew mingħajr fili, b'tali mod li l-membri tal-pubbliku jista' jkollhom aċċess għalihom minn lok u f'hin li huma jagħżlu

individwalment, għandhom jiġu ikkunsidrati daqs li kieku dawn gew ippubblikati għal finijiet kummerċjali.”.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz hu sabiex l-Att dwar id-Drittijiet ta' l-Awtur ikun isir konfomi ma' l-obbligazzjonijiet li joħorġu mit-Trattat tal-Organizzazzjoni Dinija tal-Propjeta Intelletwali dwar id Drittijiet tal-Awtur u mit-Trattat tal-Organizzazzjoni Dinija tal-Propjeta Intelletwali dwar id Drittijiet l-Artisti u l-Produtturi.

**A BILL
entitled**

AN ACT to amend the Copyright Act, Cap. 415

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. The short title of this Act is the Copyright (Amendment) Act, 2008, and this Act shall be read and construed as one with the Copyright Act, hereinafter referred to as “the principal Act”.

Short title.

2. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) for the words “In this Act, unless the context otherwise requires -” there shall be substituted the words “(1) In this Act, unless the context otherwise requires -”;

(b) subarticle (1) thereof as renumbered shall be amended as follows:-

(i) in the definition “communication to the public”, in the first paragraph thereof, for the words “a work by wire or wireless means and” there shall be substituted the words “a work or performance or sound recording

by wire or wireless means to the public and”, and for the second paragraph thereof, there shall be substituted the following:

“Provided that the mere provision of physical facilities for enabling or making of a communication does not in itself amount to an act of communication to the public:

Provided further that for the purposes of article 19, communication to the public also includes making the sounds or the representations of sounds fixed in a sound recording audible to the public;”;

(ii) in the definition “performers”, for the words “includes singers, musicians, actors or other artists who sing, deliver, declaim, play in, act in or otherwise” there shall be substituted the words “includes singers, musicians, dancers, actors or other artists who sing, deliver, declaim, play in, act in, interpret or otherwise”;

(iii) immediately after the definition “prescribed”, there shall be inserted the following new definition:

“ “producer of a sound recording” means the legal entity who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds or the representation of sounds”; and

(c) subarticle (2) thereof shall be amended as follows:

(i) in subparagraph (a) thereof, for the words “a work shall be” there shall be substituted the words “a work or a sound recording shall be” and for the words “to the public;” there shall be substituted the words “to the public:” and immediately thereafter there shall be added the following proviso:

“provided that in the case of a work, the making available to the public had taken place with the consent of the author or other owner of copyright, and in the case of a sound recording, with the consent of the producer of the sound recording or his successor in title;”;

(ii) paragraphs (b) and (c) thereof shall be renumbered as paragraphs (c) and (d) respectively;

(iii) immediately after paragraph (a) thereof there shall be inserted the following new paragraph:

“(b) for the purposes of article 19, a sound recording made available to the public by wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them, shall be considered as if it had been published for commercial purposes;”.

3. Immediately at the end of subarticle (2) of article 3 of the principal Act, there shall be added the following words:

Amendment of article 3 of the principal Act.

“Furthermore, copyright protection shall not extend to ideas, procedures, methods of operations or mathematical concepts as such.”.

4. In paragraph (c) of subarticle (1) of article 9 of the principal Act, for the word “nore” in the English text only there shall be substituted the word “nor”, and the words “referred to in article 42(3) and (4)” shall be deleted.

Amendment of article 9 of the principal Act.

5. For paragraph (b) of article 15 of the principal Act, there shall be substituted the following:

Amendment of article 15 of the principal Act.

“(b) the rental and lending, even after their distribution, or pursuant authorization, by the producer;”.

6. For the words “to the performers.” in article 19 of the principal Act, there shall be substituted the words “to the performers:” and immediately thereafter there shall be added the following proviso:

Amendment of article 19 of the principal Act.

“Provided that for the purpose of this article, sound recordings made available to the public by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, shall be considered as if they have been published for commercial purposes.”.

Objects and Reasons

The object of this Bill is to render the Copyright Act compliant with the obligations emanating from the WIPO Copyright Treaty 1996 and the WIPO Performances and Phonograms Treaty 1996.