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**An Bille um Chóipcheart agus Forálacha Eile de chuid an Dlí Maoine  
Intleachtúla, 2018**  
**Copyright and Other Intellectual Property Law Provisions Bill 2018**

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*Mar a ritheadh ag Dáil Éireann*

*As passed by Dáil Éireann*

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**AN BILLE UM CHÓIPCHEART AGUS FORÁLACHA EILE DE CHUID AN DLÍ  
MAOINE INTLEACHTÚLA, 2018  
COPYRIGHT AND OTHER INTELLECTUAL PROPERTY LAW PROVISIONS BILL  
2018**

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MAOINE INTLEACHTÚLA, 2018  
COPYRIGHT AND OTHER INTELLECTUAL PROPERTY LAW PROVISIONS BILL  
2018**

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# Bill

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*entitled*

An Act to amend the Copyright and Related Rights Act 2000 to take account of certain recommendations for amendments to that Act contained in the Report of the Copyright Review Committee entitled “Modernising Copyright” published by that Committee in October 2013 and also to take account of certain exceptions to copyright permitted by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001<sup>1</sup> on the harmonisation of certain aspects of copyright and related rights in the information society; to make certain other amendments to that Act, including amendments in relation to references in that Act to education and fines; to make consequential amendments to The Courts of Justice Act 1924, the Courts (Supplemental Provisions) Act 1961, the Patents Act 1992, the Trade Marks Act 1996 and the Industrial Designs Act 2001; to make a certain amendment to the Patents Act 1992; to make amendments to the Patents Act 1992 and the Trade Marks Act 1996 in relation to references in those Acts to courts and fines; and to provide for related matters.

**Be it enacted by the Oireachtas as follows:** 20

## PART 1

### PRELIMINARY AND GENERAL

#### **Short title, collective citations and commencement**

1. (1) This Act may be cited as the Copyright and Other Intellectual Property Law Provisions Act 2018. 25
- (2) The Courts of Justice Acts 1924 to 2014 and *section 38* may be cited together as the Courts of Justice Acts 1924 to 2018.
- (3) The Courts (Supplemental Provisions) Acts 1961 to 2015 and *section 39* may be cited together as the Courts (Supplemental Provisions) Acts 1961 to 2018.

<sup>1</sup> OJ No. L 167, 22.6.2001, p.10

- (4) The Patents Acts 1992 to 2017, *section 40, Part 3 and Schedule 3* may be cited together as the Patents Acts 1992 to 2018.
- (5) The Copyright and Related Rights Acts 2000 and 2007, *Part 2 and Schedules 1 and 2* may be cited together as the Copyright and Related Rights Acts 2000 to 2018.
- (6) Subject to *subsection (7)*, this Act shall come into operation on such day or days as the Minister for Business, Enterprise and Innovation may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions. 5
- (7) *Sections 2(1), 8 and 20* shall come into operation on the date that is 6 months from the passing of this Act. 10

**Repeals**

- 2. (1) Sections 31A and 78B of the Copyright and Related Rights Act 2000 are repealed.
- (2) Section 96 of the Trade Marks Act 1996 is repealed.

PART 2

AMENDMENT OF COPYRIGHT AND RELATED RIGHTS ACT 2000 15

CHAPTER 1

*Definition*

**Definition**

- 3. In this Part and *Schedules 1 and 2*, “Principal Act” means the Copyright and Related Rights Act 2000. 20

CHAPTER 2

*Court access for intellectual property claims, copyright exceptions and digital deposit of copyright works, etc.*

**Amendment of section 2 of Principal Act**

- 4. Section 2 of the Principal Act is amended in subsection (1)— 25
  - (a) by the substitution of the following definition for the definition of “broadcast”:
    - “ ‘broadcast’ means an electronic transmission of sounds, images or data, or any combination or representation thereof, for direct public reception or for presentation to members of the public;”,
  - (b) by the substitution of the following definition for the definition of “Controller”: 30
    - “ ‘Controller’ means the Controller of Intellectual Property;”,
  - (c) by the substitution of the following definition for the definition of “disability”:

“ ‘disability’ has the meaning assigned to it in section 2 of the Disability Act 2005;”

(d) in the definition of “educational establishment”—

(i) in paragraph (b), by the substitution of “applies,” for “applies, and”, and

(ii) by the insertion of the following paragraph after paragraph (b): 5

“(ba) any relevant provider within the meaning of section 2 of the Qualifications and Quality Assurance (Education and Training) Act 2012, and”

and

(e) by the insertion of the following definitions: 10

“ ‘education’ means instruction, lectures, study, research, teaching or training either in an educational establishment or by any person acting under the authority of an educational establishment, and includes all activities necessary or expedient or ancillary to such a programme, and ‘educational purposes’ shall be construed accordingly; 15

‘electronic transmission’ includes a specified transmission through the Internet and transmission by wireless means, but does not include—

(a) a transmission by means of MMDS, or

(b) a digital terrestrial retransmission;

‘excluded data information’, means— 20

(a) a computer program (whether in whole or in part), or

(b) a program source code of a website;

‘intellectual property claim’ means—

(a) any proceedings instituted, application or reference made, or appeal lodged, under the Patents Act 1992 other than an application under section 47, 49, 50, 51, 52, 53, 54, 57, 59, 74, 86, 91, 96, 108, 123 or 124 of that Act, 25

(b) any proceedings instituted, application or reference made, or appeal lodged, under the Trade Marks Act 1996 other than an application under section 25, 51, 52, 57, 65, 67, 72, 77, 78, 79, 85(5), 88 or 97 of that Act, or under paragraph 14(3) of the Second Schedule to that Act in so far as that paragraph relates to an application under section 51 of that Act, 30

(c) any proceedings instituted, application or reference made, or appeal lodged, under this Act other than an application under section 133, 143, 170, 256, 257, 261, 299B, 366 or 367, or 35

(d) any proceedings instituted, application or reference made, or appeal lodged, under the Industrial Designs Act 2001 other than an application under section 33, 34, 35, 62, 70, 81, 84 or 86 of that Act; 40

‘rights identifying information’, in relation to a work, means data information (other than excluded data information) about the work, including digital data (whether or not it is incorporated within the work or is otherwise associated with it) that provides information about—

5

- (a) the authorship, condition, content, context, origin, ownership, provenance, quality or structure of the work,
- (b) rights pertaining to or associated with the work, or
- (c) matters similar to any matter which falls within paragraph (a) or (b);

10

‘specified transmission through the Internet’ means—

- (a) a transmission taking place simultaneously through the Internet and by other means,
- (b) a concurrent transmission of a live event, or
- (c) a transmission of recorded moving images or sounds, or both, forming part of a programme service offered by the person responsible for making the transmission, being a service in which programmes are transmitted at scheduled times determined by that person;”.

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#### **Amendment of Principal Act - insertion of sections 16A and 16B**

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5. The Principal Act is amended in Part 1, by the insertion of the following sections after section 16:

##### **“Circuit Court**

**16A.** The Circuit Court shall have jurisdiction to hear and determine intellectual property claims.

25

##### **District Court**

**16B.** (1) The District Court shall have jurisdiction to hear and determine intellectual property claims.

- (2) The District Court in which such a claim shall be heard is the District Court Area in which the defendant concerned ordinarily resides or carries on any business, trade or profession.”.

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#### **Amendment of section 21 of Principal Act**

6. Section 21 of the Principal Act is amended in paragraph (b), by the insertion of “(including the soundtrack accompanying the film)” after “film”.

#### **Amendment of section 24 of Principal Act**

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7. Section 24 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

- “(1) The copyright in a literary, dramatic, musical or artistic work, or an original database, shall expire 70 years after the death of the author irrespective of—
- (a) the date (if any) on which the work is first lawfully made available to the public, or 5
- (b) whether the work is ever lawfully made available to the public.”.

**Transitional provisions for section 31A**

8. The Principal Act is amended by the insertion of the following section after section 31A:

- “**31B.** (1) An act to which subsection (2) applies is not an infringement of the copyright in a design registered under the Industrial Designs Act 2001 if— 10
- (a) that act is done pursuant to a contract entered into before the relevant date, and
- (b) that act, if it were done immediately before the relevant date, would not, by virtue of section 31A, have been such an infringement. 15
- (2) An act to which this subsection applies is any of the following acts done, in relation to a design referred to in subsection (1), during the 6 months period immediately following and including the relevant date:
- (a) the copying of the design;
- (b) the provision of means for making a copy of the design; 20
- (c) the importation into the State of a copy of the design.
- (3) An act to which subsection (4) applies is not an infringement of the copyright in a design registered under the Industrial Designs Act 2001 if that act, if it were done on the day immediately before the relevant date, would not, by virtue of section 31A, have been such an infringement. 25
- (4) An act to which this subsection applies is any of the following acts done, in relation to a design referred to in subsection (3), during the 6 months period immediately following and including the relevant date:
- (a) the issuing or selling, or renting or lending, to the public of a copy of the design that was made in, or imported into, the State— 30
- (i) before the relevant date, or
- (ii) during that 6 months period pursuant to a contract entered into before the relevant date;
- (b) the communication to the public of that design in connection with anything done in reliance on paragraph (a). 35
- (5) In this section, ‘relevant date’ means the date referred to in *section 1(7) of the Copyright and Other Intellectual Property Law Provisions Act 2018*.”.

### **Making available of work not previously made available**

9. The Principal Act is amended by the substitution of the following section for section 34:

“34. (1) Subject to subsection (2), any person who, after the expiration of the copyright in a work, lawfully makes available to the public for the first time a work which was not previously so made available, shall benefit from rights equivalent to the rights of an author (other than the moral rights) for 25 years from the date on which the work is first lawfully made available to the public. 5

(2) A work is not lawfully made available to the public by a person for the purposes of subsection (1) if the person has made the work available to the public without first obtaining the express consent of the owner of the physical medium in which the work is embodied, or on which the work is recorded, to do so.” 10

### **Amendment of section 37 of Principal Act**

10. Section 37 of the Principal Act is amended by the substitution of the following subsection for subsection (3): 15

“(3) For the purposes of any reference in this Act to the undertaking of an act restricted by the copyright in a work—

(a) ‘work’ shall be construed as a reference to—

(i) the work as a whole, 20

(ii) any substantial part of the work, or

(iii) rights identifying information embedded or otherwise incorporated in the work, and

(b) the undertaking of an act indirectly, as well as directly, shall be taken to be included in such reference.”. 25

### **Amendment of section 51 of Principal Act**

11. Section 51 of the Principal Act is amended—

(a) by the substitution of the following subsections for subsection (2):

“(2) It is not an infringement of the rights conferred by this Part if a copy of a work (other than a photograph) on current economic, political or religious matters or similar matters is made by a media business (within the meaning of section 28A(1) of the Competition Act 2002) and communicated by the media business to the public if— 30

(a) such use is not expressly reserved, and

(b) the copy and communication are accompanied by a sufficient acknowledgement. 35

(2A) Where a copy which would otherwise be an infringing copy is made under subsection (2) but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the

public, it shall be treated as an infringing copy for those purposes and for all subsequent purposes.”,

and

(b) in subsection (3), by the substitution of “this Act” for “this Part”.

#### **Amendment of section 52 of Principal Act**

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12. Section 52 of the Principal Act is amended by the insertion of the following subsection:

“(5) Fair dealing with a work for the purposes of caricature, parody or pastiche shall not infringe the copyright in that work.”.

#### **Text and data mining for non-commercial research**

13. The Principal Act is amended by the insertion of the following section after section 53: 10

“53A. (1) Subject to subsection (3), the making of a copy of a work by a person who has lawful access to the work does not infringe copyright in the work where the copy is—

(a) made in order that the person may carry out a computational analysis of anything in the work for the sole purpose of research for a non-commercial purpose, and 15

(b) accompanied by a sufficient acknowledgement.

(2) A copy made under subsection (1) of a work which was, at the time when the copy was made, available without a restriction as to its access does not infringe copyright, and whether or not that work continues to be so available after that time. 20

(3) Where a copy of a work has been made under subsection (1) by a person, the copyright in the work is infringed where the copy—

(a) is transferred to any other person, except where the transfer is authorised by the copyright owner, or 25

(b) is used for any purpose other than the purpose referred to in subsection (1)(a).

(4) Without prejudice to section 374, nothing in Part VII shall be construed as operating to prevent a person from undertaking an act permitted by this section. 30

(5) Without prejudice to the generality of section 52(1), where the publication of the results of a computational analysis referred to in subsection (1)(a) of a copy of a work includes the reproduction of extracts from the work, such inclusion shall constitute inclusion in an incidental manner referred to in section 52(1) if the extracts are not more than are reasonably necessary to explain, or to assist in explaining, the results of the analysis.”. 35

**Amendment of Principal Act - substitution of section 57**

14. The Principal Act is amended by the substitution of the following sections for section 57:

**“Illustration for education, teaching or scientific research**

57. It is not an infringement of the rights conferred by this Part to make or cause to be made a copy or communication of a work for the sole purpose of illustration for education, teaching or scientific research or of preparation for education, teaching or scientific research. 5

**Distance learning provided by educational establishment**

57A. It is not an infringement of the rights conferred by this Part for—

- (a) an educational establishment, for the educational purposes of that establishment, to communicate a work as part of a lesson or examination to a student of that establishment by telecommunication, and 10
- (b) a student who has received such a lesson or examination to make a copy of the work in order to be able to listen to or view it at a more convenient time. 15

**Use by educational establishment of work available through Internet**

- 57B. (1) Subject to subsection (2), it is not an infringement of the rights conferred by this Part if an educational establishment, for the educational purposes of that establishment, makes a copy or communication of a work that is available through the Internet. 20
- (2) Subsection (1) shall not apply unless the copy or communication of the work concerned is accompanied by a sufficient acknowledgement.

**Licensing schemes for educational establishments**

- 57C. (1) An exemption in respect of education provided in section 50, 50A, 57, 57A, 57B, 61(2), 62(2), 67(3), 92, 221, 225B, 225C, 225D, 229(2), 234(3), 245(3)(a) or 329 shall not apply where— 25
- (a) there is a licensing scheme certified under section 173 that is applicable to the exemption concerned, and
  - (b) the person making use of the work knew or ought to have been aware of the existence of the licensing scheme. 30
- (2) The terms of a licence granted to an educational establishment on foot of a licensing scheme certified under section 173 shall be void in so far as they purport to restrict the proportion of a work which may be copied or communicated (whether on payment or free of charge) to less than that which would be permitted under section 57, 61 or 62, as the case may be. 35
- (3) Sections 152 to 155 shall apply in relation to a licensing scheme referred to in subsection (1)(a) as if the scheme were one to which those sections applied pursuant to section 150.”. 40



**Amendment of section 59 of Principal Act**

15. Section 59 of the Principal Act is amended in subsection (2)—
- (a) by the substitution of “sections 60 to 70” for “sections 60 to 67”,
  - (b) in paragraphs (a) and (b), by the insertion of “, or causes to be made and supplied,” after “supplies”, 5
  - (c) in paragraph (c), by the insertion of “, or causes to be made,” after “makes”, and
  - (d) in paragraph (d), by the insertion of “, or causing to be made or supplied,” after “supplying”.

**Amendment of section 66 of Principal Act**

16. Section 66 of the Principal Act is amended— 10
- (a) in subsection (1)—
    - (i) by the insertion of “, or cause to be made,” after “make”,
    - (ii) in paragraph (c), by the insertion of “(including a published catalogue relating to an exhibition)” after “catalogue”, and
  - (b) by the substitution of the following subsection for subsection (2): 15
    - “(2) This section shall apply to copying—
      - (a) conducted for the curatorial purposes referred to in subsection (1),
      - (b) to an extent reasonably justified by the non-commercial purpose to be achieved, and
      - (c) accompanied by a sufficient acknowledgement.”. 20

**Format shifting by librarians or archivists**

17. The Principal Act is amended by the insertion of the following section after section 68:
- “68A. (1) Subject to subsection (2), it is not an infringement of the rights conferred by this Part where the librarian or archivist of a prescribed library or prescribed archive makes, or causes to be made, a copy of a work, in the permanent collection of the library or archive, in a different form to that which the copy takes if— 25
- (a) that librarian or archivist lawfully uses the means used to make the copy, and
  - (b) the copy is made solely for preservation or archival purposes where those purposes are neither directly nor indirectly commercial. 30
- (2) Subsection (1) shall not apply where—
- (a) the work being copied is an infringing copy, and
  - (b) the librarian or archivist making the copy, or causing it to be made, did not have reasonable grounds for believing that the work was not an infringing copy.”. 35

### **Fair dealing by librarians and archivists**

18. The Principal Act is amended by the insertion of the following section before section 70:

- “69A. (1) Without prejudice to the generality of section 50(1), the communication, by the librarian or archivist of a prescribed library or prescribed archive, to members of the public of copies of works in the permanent collection of the library or archive, by dedicated terminals on the premises of the library or archive, shall constitute fair dealing with the works for the purposes of that section where the communication is—
- (a) undertaken for the sole purpose of education, teaching, research or private study, and
- (b) accompanied by a sufficient acknowledgement.
- (2) Without prejudice to the generality of section 50(1), the brief and limited display of a copy of a work—
- (a) either—
- (i) in a prescribed library or prescribed archive or by the librarian or archivist of a prescribed library or prescribed archive, or
- (ii) during the course of a public lecture given in a prescribed library or prescribed archive or given by the librarian or archivist of a prescribed library or prescribed archive,
- (b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and
- (c) accompanied by a sufficient acknowledgement,
- shall constitute fair dealing with the work for the purposes of section 50(1).”.

### **Amendment of section 70 of Principal Act**

19. Section 70 of the Principal Act is amended by the substitution of “, 68, 68A or 69A” for “or 68”.

### **Transitional provisions for section 78B**

20. The Principal Act is amended by the insertion of the following section after section 78B:

- “78C. (1) An act to which subsection (2) applies is not an infringement of the copyright in an artistic work if—
- (a) that act is done pursuant to a contract entered into before the relevant date, and
- (b) that act, if it were done immediately before the relevant date, would not, by virtue of section 78B, have been such an infringement.

- (2) An act to which this subsection applies is any of the following acts done, in relation to an artistic work, during the 6 months period immediately following and including the relevant date:
- (a) the copying of the work;
  - (b) the provision of means for making a copy of the work; 5
  - (c) the importation into the State of a copy of the work.
- (3) An act to which subsection (4) applies is not an infringement of the copyright in an artistic work if that act, if it were done on the day immediately before the relevant date, would not, by virtue of section 78B, have been such an infringement. 10
- (4) An act to which this subsection applies is any of the following acts done, in relation to an artistic work, during the 6 months period immediately following and including the relevant date:
- (a) the issuing or selling, or renting or lending, to the public of a copy of the work that was made in, or imported into, the State— 15
    - (i) before the relevant date, or
    - (ii) during that 6 months period pursuant to a contract entered into before the relevant date;
  - (b) the communication to the public of that work in connection with anything done in reliance on paragraph (a). 20
- (5) In this section, ‘relevant date’ means the date referred to in *section 1(7) of the Copyright and Other Intellectual Property Law Provisions Act 2018*.”.

**Use of notes or recordings of spoken words in certain cases**

21. The Principal Act is amended by the substitution of the following section for section 89: 25
- “89. (1) (a) Paragraph (b) applies where a record of spoken words (including political speeches and extracts from public lectures or similar works) is made, in writing or otherwise, for the purposes of—
- (i) reporting current events, or
  - (ii) broadcasting, including in a cable programme service, or otherwise communicating to the public, the record. 30
- (b) Subject to compliance with the conditions specified in subsection (2), it is not an infringement of the rights conferred by this Part—
- (i) to use the record or material taken from it for the purposes referred to in paragraph (a), or 35
  - (ii) to copy the record or material taken from it and use the copy for the purposes referred to in paragraph (a).
- (2) The conditions referred to in subsection (1)(b) are:

- (a) that the record is a direct record of the spoken words;
  - (b) that the making of the record was not prohibited by the speaker and, where copyright already subsisted in the work, did not infringe the copyright in the work;
  - (c) that the use made of the record or material taken from it was not prohibited by or on behalf of the speaker or copyright owner before the record was made; 5
  - (d) that the use made of the record or material taken from it is by or with the authority of a person who is lawfully in possession of the record; 10
  - (e) that the use made of the record or material taken from it is accompanied by a sufficient acknowledgement.
- (3) Where a record which would otherwise be an infringing copy is made under this section but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an infringing copy for those purposes and for all subsequent purposes.”. 15

**Amendment of section 94 of Principal Act**

22. Section 94 of the Principal Act is amended by the substitution of the following subsection for subsection (1): 20

“(1) It is not an infringement of the copyright in an artistic work to copy it, or to make available to the public copies of it, for the purpose of advertising the sale or public exhibition of the work if the copying is done, and the copies are used—

- (a) only to an extent reasonably justified for achieving that purpose, and 25
- (b) for no other commercial purpose.”.

**Amendment of section 99 of Principal Act**

23. Section 99 of the Principal Act is amended by the insertion of the following subsection after subsection (3): 30

“(4) Where, by virtue of subsection (1), a person (in this subsection referred to as ‘the licensee’) is deemed to be licensed by the owner of the copyright in a work to copy or authorise the copying of that work by means of his or her own facilities, such facilities shall include those of a person acting on behalf of and under the responsibility of the licensee.”. 35

**Definitions - sections 103A to 104B**

24. The Principal Act is amended by the insertion of the following section after section 103:

“103A. In this section and sections 104 to 104B—

‘designated body’ means a designated body as defined in section 104(3);

‘relevant work’ means a work—

(a) which is not accessible to a person with a disability because of that disability, and

(b) in respect of which a copy can be made and that copy then modified so that the modified copy of the work is accessible to that person.”. 5

#### **Amendment of section 104 of Principal Act**

**25.** Section 104 of the Principal Act is amended by the substitution of the following subsections for subsection (1): 10

“(1) Subject to subsection (1A) and section 104A(1), a designated body may do any of the following in respect of a relevant work without infringing the copyright in that work:

(a) make, or cause to be made, a copy of the work for the purpose of modifying the copy; 15

(b) supply the modified copy of the work to a person with a disability;

(c) supply the modified copy of the work to another designated body;

(d) receive a modified copy of the work from—

(i) another designated body, or

(ii) a person with a disability; 20

(e) supply the modified copy of the work that it has received under paragraph (d) to—

(i) a person with a disability, or

(ii) another designated body.

(1A) Subsection (1) shall not apply unless the modified copy concerned of the relevant work— 25

(a) bears or otherwise incorporates an express statement to the effect that the copy has been made under this section, and

(b) is accompanied by a sufficient acknowledgement.

(1B) (a) Subject to section 104A(1), a use to which paragraph (b) applies may be made of a relevant work by a person with a disability without infringing the copyright in that work provided that the use is for the benefit of the person, is directly related to the disability, is for a non-commercial purpose and is made only to the extent required by the nature of the disability. 30 35

(b) A use to which this paragraph applies is any of the following:

(i) make, or cause to be made, a copy of the relevant work for the purpose of modifying the copy;

- (ii) access a modified copy of the work which has been modified pursuant to subparagraph (i) or supplied pursuant to subsection (1);
- (iii) supply such modified copy to a designated body.”.

**Amendment of Principal Act - insertion of sections 104A and 104B** 5

26. The Principal Act is amended by the insertion of the following sections after section 104:

**“Circumstances in which section 104 shall not apply**

**104A.** (1) Section 104 shall not apply to a relevant work where—

- (a) there is a licensing scheme certified under section 173 that is applicable to section 104 in so far as that work is concerned, and 10
  - (b) the designated body or person with a disability making, or causing to be made, a modified copy of that work knew or ought to have been aware of the existence of the licensing scheme.
- (2) Any terms of a licence granted on foot of the licensing scheme referred to in subsection (1) that purports to restrict the obligation imposed under section 104B(1) on the publisher of that work shall be unenforceable. 15

**Electronic form of relevant work**

**104B.** (1) Subject to subsection (3), the publisher of a relevant work first published in the State on or after the commencement of *section 26* of the *Copyright and Other Intellectual Property Law Provisions Act 2018* shall make or cause to be made at least one electronic form of the work which complies with the requirements of subsection (2) unless the publisher already has, in the publisher’s possession, custody or control, at least one electronic form of the work which complies with those requirements. 20

- (2) The electronic form of the relevant work shall enable copies of the work to be made—
  - (a) without undue difficulty,
  - (b) which are easily navigated, and 30
  - (c) which are capable of being modified.

(3) A designated body may make a relevant request of the publisher of a relevant work to which subsection (1) applies to deliver, within one month of the publisher’s receipt of the request, the relevant material in respect of the work, and the publisher shall, subject to subsection (4), comply with that request. 35

(4) The publisher of a relevant work who is the subject of a relevant request may, by notice in writing given to the designated body which made the request, decline to comply with the request until the publisher receives a payment to cover the reasonable costs of the publisher that would be incurred in complying with the request. 40

- (5) Where a publisher fails to comply with this section he or she shall be guilty of an offence and shall be liable on summary conviction to a class E fine.
- (6) In this section—
- ‘relevant request’ means a request in writing that the publisher deliver, 5  
in the manner specified in the request, the relevant material—
- (a) in such digital or electronic or other technological form specified in the request and to the address (which may be an electronic address) specified in the request, or
- (b) by permitting the designated body to access the relevant material; 10
- ‘relevant material’ means the electronic form of a relevant work and any other material required to ensure that such electronic form complies with subsection (2).”.

**Amendment of section 198 of Principal Act**

27. Section 198 of the Principal Act is amended by the substitution of the following subsections for subsection (4): 15
- “(4) Where, on or after the commencement of *section 27 of the Copyright and Other Intellectual Property Law Provisions Act 2018*, subsection (1) applies to the publisher of a book referred to in that subsection, a Board or authority referred to in that subsection may, by notice in writing given to the publisher, request that the copy or copies of the book that the Board or authority is entitled to have delivered to it under that subsection be delivered to it in physical form or electronic form, or both, and the publisher shall comply with that request unless the publisher has already given the copy or copies in the form or forms requested before the publisher received that notice. 20 25
- (4A) (a) Where, on or after the commencement of *section 27 of the Copyright and Other Intellectual Property Law Provisions Act 2018*, a digital publication is first published in the State by a publisher, a Board or authority referred to in subsection (1) may, by notice in writing given to the publisher, request that the publisher comply with that subsection, in so far as that subsection relates to the Board or authority making the request, as if the digital publication were a book referred to in that subsection and the publisher shall comply with that request and subsection (2) shall be construed accordingly. 30 35
- (b) In paragraph (a), ‘digital publication’ means any publication published online or offline which is made available to the public in a medium other than print (including any publication in any digital or electronic or other technological form, but does not include any sound recording or film or any combination thereof).” 40

**Fair dealing with performances, etc.**

28. The Principal Act is amended by the substitution of the following section for section 221:

“221. (1) Fair dealing with a performance or recording for the purposes of—

- (a) criticism or review, of that or another performance or recording, or of a work, 5
- (b) reporting current events, or
- (c) education, research or private study,

shall not infringe any of the rights conferred by this Part.

- (2) Fair dealing with a recording of a performance for the purposes of caricature, parody or pastiche shall not infringe the copyright in that work. 10
- (3) In this Part, ‘fair dealing’ means the making use of a performance or recording which has been lawfully made available to the public for a purpose and to an extent which will not unreasonably prejudice the interests of the rightsowner where such use is accompanied by a sufficient acknowledgement.”. 15

**Amendment of Principal Act - insertion of sections 225A to 225D**

29. The Principal Act is amended by the insertion of the following sections after section 225:

**“Text and data mining for non-commercial research**

225A.(1) Subject to subsection (3), the making of a copy of a performance or recording by a person who has lawful access to the performance or recording does not infringe any of the rights conferred by this Part where the copy is— 20

- (a) made in order that the person may carry out a computational analysis of anything in the work for the sole purpose of research for a non-commercial purpose, and 25
- (b) accompanied by a sufficient acknowledgement.

(2) A copy made under subsection (1) of a performance or recording which was, at the time when the copy was made, available without a restriction as to its access does not infringe copyright, and whether or not that work continues to be so available after that time. 30

(3) Where a copy of a performance or recording has been made under subsection (1) by a person, the copyright in the performance or recording is infringed where the copy—

- (a) is transferred to any other person, except where the transfer is authorised by the copyright owner, or 35
- (b) is used for any purpose other than the purpose referred to in subsection (1)(a).



- (4) Without prejudice to section 374, nothing in Part VII shall be construed as operating to prevent any person from undertaking an act permitted by this section.
- (5) Without prejudice to the generality of section 52(1), where the publication of the results of a computational analysis referred to in subsection (1)(a) of a copy of a performance or recording includes the reproduction of extracts from the performance or recording, such inclusion shall constitute inclusion in an incidental manner referred to in section 52(1) if the extracts are not more than are reasonably necessary to explain, or to assist in explaining, the results of the analysis.

**Illustration for education, teaching or scientific research**

**225B.**(1) Subject to subsections (2) to (5), it is not an infringement of the rights conferred by this Part—

- (a) to make or to cause to be made a copy or communication of a recording of a performance for the sole purpose of illustration for education, teaching or scientific research or of preparation for education, teaching or scientific research, or
  - (b) without prejudice to the generality of paragraph (a), for an educational establishment, for the educational purposes of that establishment, to copy or cause to be copied a recording of a performance, or to do or to cause to be done any other reasonably necessary act in order to display it.
- (2) Subsection (1) shall not apply unless the copy or communication is—
- (a) made for purposes that are neither directly nor indirectly commercial,
  - (b) made only to an extent reasonably justified by the non-commercial purposes referred to in paragraph (a), and
  - (c) accompanied by a sufficient acknowledgement.
- (3) Subsection (1) shall not apply if—
- (a) the recording being copied or communicated is an infringement of the rights conferred by this Part, and
  - (b) the person making the copy or communication or causing it to be made did not have reasonable grounds to believe that the recording was not such an infringement.
- (4) Where a copy which would otherwise be an illicit recording is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an illicit recording for those purposes and for all subsequent purposes.
- (5) Subsection (1) shall not apply if the recording is commercially available in the State—

- (a) in a medium that is appropriate for any purpose referred to in that subsection,
- (b) by or with the authority of the owner of the rights in that recording,
- (c) on commercial terms no less favourable than those that apply to the recording in a medium other than the medium referred to in paragraph (a), and 5
- (d) in sufficient supply to meet the likely demand for that recording in the medium referred to in paragraph (a).

**Distance learning provided by educational establishment**

**225C.**(1) Subject to subsections (2) and (3), it is not an infringement of the rights conferred by this Part for— 10

- (a) an educational establishment, for the educational purposes of that establishment, to communicate a recording of a performance, sound recording, film, broadcast or cable programme as part of a lesson or examination to a student of that establishment by telecommunication, and 15
- (b) a student who has received such a lesson or examination to make a copy of such recording, film, broadcast or cable programme in order to be able to listen to or view it at a more convenient time.

(2) Subsection (1) shall not apply if— 20

- (a) the recording, film, broadcast or cable programme being communicated or copied is an infringement of the rights conferred by this Part, and
- (b) the person making the communication or copy or causing it to be made did not have reasonable grounds to believe that the recording, film, broadcast or cable programme was not such an infringement. 25

(3) Where a copy which would otherwise be an illicit recording is made under this section but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an illicit recording for those purposes and for all subsequent purposes. 30

**Use by educational establishment of recording of performance available through the Internet**

**225D.**(1) Subject to subsection (2), it is not an infringement of the rights conferred by this Part for an educational establishment, for the educational purposes of that establishment, to copy or communicate a recording of a performance that is available through the Internet if that copy or communication is accompanied by a sufficient acknowledgement. 35

(2) Subsection (1) shall not apply if— 40

- (a) the recording is protected by a technological protection measure,

- (b) the educational establishment knew or ought to have been aware that the recording was made available through the Internet without the consent of the copyright owner, or
- (c) a clearly visible notice, and not merely the copyright symbol, prohibiting the copying or communication of the recording is posted on the Internet website concerned or on the recording itself.”. 5

**Amendment of section 233 of Principal Act**

**30.** Section 233 of the Principal Act is amended—

- (a) in subsection (2), by the substitution of “Subsection (1) shall apply to copying conducted for the curatorial purposes specified in that subsection” for “This section shall apply to copying conducted for the curatorial purposes specified in subsection (1)”, and 10
- (b) by the insertion of the following subsections:
  - “(3) Subject to subsection (4), the librarian or archivist of a prescribed library or prescribed archive may, where the prescribed conditions are complied with, make a copy of a recording of a performance in the permanent collection of the library or archive for the purposes of— 15
    - (a) compiling or preparing a catalogue, or
    - (b) publishing an image or clip from the recording in a catalogue relating to an exhibition, 20
      - without infringing any copyright in that recording.
  - (4) Subsection (3) shall apply to copying—
    - (a) conducted for the curatorial purposes referred to in that subsection,
    - (b) to an extent reasonably justified by the non-commercial purpose to be achieved, and 25
    - (c) accompanied by a sufficient acknowledgement.”.

**Fair dealing by librarians and archivists**

**31.** The Principal Act is amended by the insertion of the following section after section 235:

- “**235A.**(1) Without prejudice to the generality of section 50(1), the communication, by a librarian or archivist of a prescribed library or prescribed archive, to members of the public of recordings of performances in the permanent collection of the library or archive, by dedicated terminals on the premises of the library or archive, shall constitute fair dealing with the recording for the purposes of that section where the communication is— 30 35
  - (a) undertaken for the sole purpose of education, teaching, research or private study, and

- (b) accompanied by a sufficient acknowledgement.
- (2) Without prejudice to the generality of section 50(1) but subject to subsection (3), the brief and limited display of a still image or very short clip from a recording of a performance in the permanent collection of a prescribed library or prescribed archive— 5
  - (a) either—
    - (i) in that library or another prescribed library or in that archive or another prescribed archive, or
    - (ii) by the librarian or archivist of the first-mentioned library or archive, by another person acting under the authority of that librarian or archivist, and 10
  - (b) during a public lecture given—
    - (i) in that library or another prescribed library or in that archive or another prescribed archive,
    - (ii) by the librarian or archivist of the first-mentioned library or archive or by another person acting under the authority of that librarian or archivist, 15

shall constitute fair dealing for the purposes of section 50(1).

- (3) Subsection (2) shall not apply unless the communication or display is— 20
  - (a) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and
  - (b) accompanied by a sufficient acknowledgement.- (4) The communication through the Internet or otherwise of the display referred to in subsection (2) shall constitute fair dealing for the purposes of section 50(1) where the display is— 25
  - (a) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and 30
  - (b) accompanied by a sufficient acknowledgement.”.

**Amendment of section 370 of Principal Act**

32. Section 370 of the Principal Act is amended by the substitution of the following subsection for subsection (2):

- “(2) A person who lawfully makes available to the public or re-utilises the copies referred to in subsection (1) has the same rights and remedies as the rightsowner has in respect of an infringement of any of his or her rights under this Act against a person who— 35
  - (a) (i) makes,

- (ii) sells, rents or lends, or offers or exposes for sale, rental or loan,
- (iii) imports into the State, or
- (iv) has in his or her possession, custody or control,

a protection-defeating device, knowing or having reason to believe that it has been or is to be used to circumvent rights protection measures, 5

- (b) provides information, or offers or performs any service, intended to enable or assist persons to circumvent rights protection measures, or
- (c) circumvents rights protection measures in a work otherwise than with the agreement of the rightsowner or pursuant to section 374.”. 10

### **Rights protection measures and permitted acts**

33. The Principal Act is amended by the substitution of the following section for section 374:

“374. (1) Nothing in this Chapter shall be construed as operating to prevent any person from undertaking any act permitted (in this section referred as ‘the permitted act’)— 15

- (a) in relation to works protected by copyright under Chapter 6 of Part II, by that Chapter 6,
- (b) in relation to performances, by Chapter 4 of Part III, or
- (c) in relation to databases, by Chapter 8 of Part V. 20

(2) Where the beneficiary is legally entitled to access the protected work or subject-matter concerned, the rightsowner or licensee shall make available to the beneficiary the means of benefiting from the permitted act, save where other copies of such work or other subject-matter have been made available to the public on reasonable and agreed contractual terms by, or with the authority of, the rightsowner, in a form which does not prevent or unreasonably restrict the beneficiary from undertaking the permitted act. 25

(3) Where a technological protection measure has prevented a person (in this section referred to as ‘the complainant’) from undertaking in respect of a work the permitted act, the complainant may request the owner or licensee of the rights in that work (in this section referred to as ‘the respondent’) to provide an effective means of carrying out that act. 30

(4) Where, within a period of 30 working days from the date of the request, the respondent declines or fails to provide such an effective means of allowing the complainant to undertake in respect of the work the permitted act, the complainant may apply to the appropriate court for an order directing the permitted act.”. 35

**Amendment of section 375 of Principal Act**

34. Section 375 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) The rightsowner or exclusive licensee has the same rights in respect of an infringement of copyright or related rights notwithstanding that he or she is not the person issuing to the public copies of, or communicating, the work to the public. 5

(b) A person lawfully issuing to the public copies of, or lawfully communicating to the public, the work has the same rights as the rightsowner has in respect of an infringement of copyright.”, 10

and

(b) in subsection (2), by the substitution of “, embedded in, or appear in connection with, or are otherwise associated with or incorporated in,” for “or appear in connection with”.

**Amendment of section 376 of Principal Act**

15

35. Section 376 of the Principal Act is amended in subsection (1), by the insertion of “commit,” after “alteration is to”.

**Certain acts infringe rights of rightsowner of rights management information**

36. The Principal Act is amended by the insertion of the following section after section 376:

“377. It is an infringement of the rights of the rightsowner of rights management information for a person to— 20

(a) remove or alter that information from copies of copyright works, copies of recordings of performances or copies of databases knowing or having reason to believe that the primary purpose or effect of such removal or alteration is to commit, induce, enable, facilitate or conceal an infringement of any right conferred by this Act, 25

(b) make available to the public copies of copyright works or copies of recordings of performances or re-utilise copies of databases, referred to in paragraph (a), knowing or having reason to believe that rights management information has been removed or altered from those copies, or 30

(c) (i) sell, rent or lend, or offer or expose for sale, rental or loan,  
(ii) import into the State, or

(iii) in the course of a business, trade or profession, have in his or her possession, custody or control, 35

copies of copyright works, copies of recordings of performances or copies of databases, referred to in paragraph (a), knowing or having

reason to believe that rights management information has been removed or altered from those copies.”.

#### **Amendment of First Schedule to Principal Act**

37. The First Schedule to the Principal Act is amended in paragraph 9(1), by the insertion of “which have been made available to the public and” after “duration of copyright in works”.

### CHAPTER 3

#### *Consequential amendments*

#### **Amendment of section 77 of The Courts of Justice Act 1924**

38. Section 77 of the The Courts of Justice Act 1924 is amended in paragraph A, by the insertion of the following clause after clause (v):

“(vi) in an intellectual property claim within the meaning of section 2 of the Copyright and Related Rights Act 2000 where the amount of the claim does not exceed such sum as stands specified by or under any Act of the Oireachtas to be the jurisdiction of the District Court for actions in contract.”.

#### **Amendment of Third Schedule to Courts (Supplemental Provisions) Act 1961**

39. The Third Schedule to the Courts (Supplemental Provisions) Act 1961 is amended by the insertion of the following after reference number 29:

“

30.	An intellectual property claim within the meaning of section 2 of the Copyright and Related Rights Act 2000.	Where the amount of the claim exceeds €75,000.	The judge of the circuit where the defendant or one of the defendants resides or carries on business.
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”.

#### **Amendment of Patents Act 1992**

40. The Patents Act 1992 is amended—

(a) in section 2(1)—

- (i) by the substitution of the following definition for the definition of “the Controller”:

“ ‘Controller’ means the Controller of Intellectual Property;”,

and

- (ii) by the substitution of the following definition for the definition of “the Office”:

“ ‘Office’ means the Intellectual Property Office of Ireland;”,

- (b) in section 6, by the insertion of the following subsections after subsection (4):
- “(5) The Patents Office continued in being by this section shall, from the commencement of *section 40* of the *Copyright and Other Intellectual Property Law Provisions Act 2018*, cease to be known as the Patents Office and instead be known as the Intellectual Property Office of Ireland. 5
- (6) The Controller of Patents, Designs and Trade Marks continued in being by this section shall, from the commencement of *section 40* of the *Copyright and Other Intellectual Property Law Provisions Act 2018*, cease to be known as the Controller of Patents, Designs and Trade Marks and instead be known as the Controller of Intellectual Property.”, 10
- (c) in section 31(1), by the deletion of “, following the substantive examination and investigation carried out in pursuance of section 29(5) or 30(5),”
- (d) in section 127— 15
- (i) in subsection (1), by the insertion of “and shall, subject to section 127A, also be capable of being treated as an application for a patent under Part II” after “European patent designating the State”,
- (ii) in subsection (5), by the insertion of “designates the European Patent Office and” after “which”, and 20
- (iii) in subsection (6), by the insertion of “designates the European Patent Office and” after “which”,
- and
- (e) by the insertion of the following section: 25
- “Circumstances in which international application for patent designating State shall be treated as application for patent under Part II**
- 127A.**(1) If an international application for a patent which designates the State is refused a filing date under the Treaty and following a request made in the prescribed manner and within the prescribed period, the Controller determines that the refusal was caused by an error or omission in an institution having functions under the Treaty, he may direct that the application shall be treated as an application under Part II, having such date of filing as he may direct. 30
- (2) Subject to compliance with the prescribed conditions, an international application for a patent which designates the State shall be treated as an application under Part II if— 35
- (a) the applicant withdraws the international application at any time prior to the expiration of 31 months from the filing date or the priority date of the application, whichever is the earlier, and the international processing procedures in the international phase are discontinued, 40



- (b) the International Bureau determines, for any reason, that the international application or the designation of the State in it, is withdrawn or considered withdrawn,
  - (c) the international application is considered to be withdrawn on the ground that it has not, within the period prescribed by Article 20 (as that Article is construed in accordance with Rule 47 of the Treaty Regulations), 22(1) or 39(1) of the Treaty, been received by the European Patent Office, or
  - (d) the applicant decides, at any time prior to the expiration of 31 months from the filing date or the priority date of the international application designating the State, whichever is the earlier, to request the Controller to treat the international application as a patent application under Part II.
- (3) Subject to compliance with the prescribed conditions, an international application for a patent designating the State which has, under subsection (1) or (2), ceased to be deemed to be an application for a European patent designating the State shall, upon that cesser taking effect, be treated as an application under Part II.
- (4) Subsection (5) applies to an international application for a patent designating the State which is treated as an application for a patent under Part II.
- (5) An application for an international patent designating the State which has been published by the International Bureau in accordance with the Treaty in a language other than Irish or English shall be treated, for the purposes of sections 56 and 66(3), as published under section 28 when a translation into Irish or English of the claims of the application have been filed and published by the Office.
- (6) Article 2 of the Treaty shall apply to the interpretation of this section as that Article applies to the interpretation of the Treaty.
- (7) In this section, ‘Treaty Regulations’ means the Regulations under the Treaty as such Regulations are in force from 1 July 2016.’.

**Amendment of section 2 of Trade Marks Act 1996**

41. Section 2 of the Trade Marks Act 1996 is amended in subsection (1)—

- (a) by the substitution of the following definition for the definition of “the Controller”:

“ ‘Controller’ means the Controller of Intellectual Property;”,

and

- (b) by the substitution of the following definition for the definition of “the Office”:

“ ‘Office’ means the Intellectual Property Office of Ireland;”.

**Amendment of section 2 of Industrial Designs Act 2001**

42. Section 2 of the Industrial Designs Act 2001 is amended in subsection (1), by the substitution of the following definition for the definition of “Controller”:

“ ‘Controller’ means the Controller of Intellectual Property;”.

CHAPTER 4

5

*Miscellaneous amendments of Principal Act in relation to education and fines*

**Miscellaneous amendments of Principal Act in relation to education**

43. (1) The provision of the Principal Act specified in column (2), opposite a reference number specified in column (1), is amended by the substitution of the words specified in column (4), opposite that reference number, for the words specified in column (3) opposite that reference number. 10
- (2) In *subsection (1)*, a reference to a column is a reference to the column of the Table set out in *Schedule 1*.

**Miscellaneous amendments of Principal Act in relation to fines**

44. (1) The provision of the Principal Act specified in column (2), opposite a reference number specified in column (1), is amended by the substitution of the words specified in column (4), opposite that reference number, for the words specified in column (3) opposite that reference number. 15
- (2) In *subsection (1)*, a reference to a column is a reference to the column of the Table set out in *Schedule 2*. 20

PART 3

AMENDMENT OF PATENTS ACT 1992 IN RELATION TO COURTS AND FINES

CHAPTER 1

*Definition*

- Definition** 25
45. In this Part and *Schedule 3*, “Act of 1992” means the Patents Act 1992.

CHAPTER 2

*Miscellaneous amendments of Act of 1992 in relation to courts*

**Amendment of section 2 of Act of 1992**

46. Section 2 of the Act of 1992 is amended in subsection (1)— 30
- (a) by the deletion of the definition of “the Court”,

(b) in the definition of “prescribed”, by the substitution of “the appropriate court” for “the Court”, and

(c) by the insertion of the following definition:

“ ‘appropriate court’ means—

(a) the District Court, where the damages or the value of the other relief sought in any action to which the application relates is not liable to exceed such sum as stands specified by an enactment to be the jurisdiction of the District Court for actions in contract or tort, 5

(b) the Circuit Court, where the damages or the value of the other relief sought in any action to which the application relates is not liable to exceed such sum as stands specified by an enactment to be the jurisdiction of the Circuit Court for actions in contract or tort, and 10

(c) in any other case, the High Court;”.

**Amendment of section 38 of Act of 1992**

47. Section 38 of the Act of 1992 is amended in subsections (1), (2), (5), (6) and (7) by the substitution of “appropriate court” for “Court” in each place that it occurs. 15

**Amendment of section 45 of Act of 1992**

48. Section 45 of the Act of 1992 is amended in subsection (3) by the substitution of “appropriate court” for “Court”.

**Amendment of section 46 of Act of 1992**

49. Section 46 of the Act of 1992 is amended in subsections (2) and (3) by the substitution of “appropriate court” for “Court” in each place that it occurs. 20

**Amendment of section 47 of Act of 1992**

50. Section 47 of the Act of 1992 is amended in subsections (1) and (2) by the substitution of “High Court” for “Court” in each place that it occurs. 25

**Amendment of section 49 of Act of 1992**

51. Section 49 of the Act of 1992 is amended in subsections (2) and (3) by the substitution of “High Court” for “Court”.

**Amendment of section 50 of Act of 1992**

52. Section 50 of the Act of 1992 is amended— 30

(a) in subsections (1), (2) and (3), by the substitution of “High Court” for “Court” in each place that it occurs, and

(b) in subsection (4)—

(i) by the substitution of “The High Court” for “The Court”, and

(ii) by the substitution of “High Court’s” for “Court’s”.

**Amendment of section 51 of Act of 1992**

53. Section 51 of the Act of 1992 is amended in subsection (1) by the substitution of “High Court” for “Court”.

**Amendment of section 52 of Act of 1992**

5

54. Section 52 of the Act of 1992 is amended in subsections (1) and (2) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 53 of Act of 1992**

55. Section 53 of the Act of 1992 is amended in subsection (1) by the substitution of “High Court” for “Court”.

10

**Amendment of section 54 of Act of 1992**

56. Section 54 of the Act of 1992 is amended in subsections (1) and (2) by the substitution of “High Court” for “Court”.

**Amendment of section 56 of Act of 1992**

57. Section 56 of the Act of 1992 is amended in subsections (1) and (3) by the substitution of “appropriate court” for “Court” in each place that it occurs.

15

**Amendment of section 57 of Act of 1992**

58. Section 57 of the Act of 1992 is amended in subsections (1), (2), (5) and (6) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 59 of Act of 1992**

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59. Section 59 of the Act of 1992 is amended in subsections (1), (2) and (3) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 62 of Act of 1992**

60. Section 62 of the Act of 1992 is amended by the substitution of “appropriate court” for “Court” in each place that it occurs.

25

**Amendment of section 66 of Act of 1992**

61. Section 66 of the Act of 1992 is amended by the substitution of the following subsection for subsection (5):

“(5) References to the High Court in sections 47, 49, 50, 51, 52 and 54 in relation to an action for infringement of a short-term patent shall be construed as including references to the Circuit Court.”.

30

**Amendment of section 74 of Act of 1992**

62. Section 74 of the Act of 1992 is amended in subsection (3), by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 77 of Act of 1992**

63. Section 77 of the Act of 1992 is amended in subsection (6) by the substitution of “appropriate court” for “Court” in each place that it occurs. 5

**Amendment of section 81 of Act of 1992**

64. Section 81 of the Act of 1992 is amended in subsections (1), (2) and (4) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 82 of Act of 1992**

65. Section 82 of the Act of 1992 is amended in subsection (1) by the substitution of “appropriate court” for “Court”. 10

**Amendment of section 86 of Act of 1992**

66. Section 86 of the Act of 1992 is amended in subsections (1), (2), (3), (4), (5), (6) and (7) by the substitution of “High Court” for “Court” in each place that it occurs. 15

**Amendment of section 91 of Act of 1992**

67. Section 91 of the Act of 1992 is amended in subsection (2) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 92 of Act of 1992**

68. Section 92 of the Act of 1992 is amended in subsection (5) by the substitution of “High Court” for “Court”. 20

**Amendment of section 95 of Act of 1992**

69. Section 95 of the Act of 1992 is amended—
- (a) in subsection (1), by the substitution of “appropriate court” for “Court” in each place that it occurs, and 25
  - (b) in subsection (3), by the substitution of “by the appropriate court” for “by the Court”.

**Amendment of section 96 of Act of 1992**

70. Section 96 of the Act of 1992 is amended—
- (a) in subsections (1), (3) and (4) by the substitution of “High Court” for “Court”, 30
  - (b) in subsection (5) by the substitution of “the High Court” for “the Court”,

- (c) in subsection (6)(a) by the substitution of “High Court” for “Court” in each place that it occurs, and
- (d) in subsection (7) by the substitution of “the High Court” for “the Court”.

**Amendment of section 101 of Act of 1992**

71. Section 101 of the Act of 1992 is amended by the substitution of “appropriate court” for “Court”. 5

**Amendment of section 106 of Act of 1992**

72. Section 106 of the Act of 1992 is amended in subsections (4) and (8) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 108 of Act of 1992**

73. Section 108 of the Act of 1992 is amended— 10
- (a) in subsections (4) and (6) by the substitution of “High Court” for “Court” in each place that it occurs, and
  - (b) in subsection (7) by the substitution of “the High Court” for “the Court” in each place that it occurs. 15

**Amendment of section 119 of Act of 1992**

74. Section 119 of the Act of 1992 is amended in subsection (3) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 121 of Act of 1992**

75. Section 121 of the Act of 1992 is amended in subsection (1) by the substitution of “appropriate court” for “Court”. 20

**Amendment of section 123 of Act of 1992**

76. Section 123 of the Act of 1992 is amended—
- (a) in subsection (1) by the substitution of “High Court” for “Court”,
  - (b) in subsections (3) and (4) by the substitution of “the High Court” for “the Court”, 25
  - (c) in subsection (5) by the substitution of “High Court” for “Court” in each place that it occurs,
  - (d) in subsection (6) by the substitution of “the High Court” for “the Court” in each place that it occurs, and
  - (e) in subsection (7)(b) by the substitution of “High Court” for “Court”. 30

**Amendment of section 124 of Act of 1992**

77. Section 124 of the Act of 1992 is amended—

- (a) in subsection (1) by the substitution of “the High Court” for “the Court”, and
- (b) in subsection (2) by the substitution of “The High Court” for “The Court”.

**Amendment of section 130 of Act of 1992**

- 78.** Section 130 of the Act of 1992 is amended in subsection (2) by the substitution of “appropriate court” for “Court”. 5

**Amendment of section 131 of Act of 1992**

- 79.** Section 131 of the Act of 1992 is amended in paragraph (a) by the substitution of “the appropriate court” for “the Court” in each place that it occurs.

CHAPTER 3

*Miscellaneous amendments of Act of 1992 in relation to fines* 10

**Miscellaneous amendments of Act of 1992 in relation to fines**

- 80.** (1) The provision of the Act of 1992 specified in column (2), opposite a reference number specified in column (1), is amended by the substitution of the words specified in column (4), opposite that reference number, for the words specified in column (3) opposite that reference number. 15
- (2) In *subsection (1)*, a reference to a column is a reference to the column of the Table set out in *Schedule 3*.

PART 4

AMENDMENT OF TRADE MARKS ACT 1996 IN RELATION TO COURTS AND FINES

CHAPTER 1 20

*Definition*

**Definition**

- 81.** In this Part and *Schedule 4*, “Act of 1996” means the Trade Marks Act 1996.

CHAPTER 2

*Miscellaneous amendments of Act of 1996 in relation to courts* 25

**Amendment of section 2 of Act of 1996**

- 82.** Section 2 of the Act of 1996 is amended in subsection (1)—
- (a) by the deletion of the definition of “the Court”,
  - (b) in the definition of “prescribed”, by the substitution of “the appropriate court” for “the Court”, and 30

(c) by the insertion of the following definition:

“ ‘appropriate court’ means—

- (a) the District Court, where the damages or the value of the other relief sought in any action to which the application relates is not liable to exceed such sum as stands specified by an enactment to be the jurisdiction of the District Court for actions in contract or tort, 5
- (b) the Circuit Court, where the damages or the value of the other relief sought in any action to which the application relates is not liable to exceed such sum as stands specified by an enactment to be the jurisdiction of the Circuit Court for actions in contract or tort, and 10
- (c) in any other case, the High Court;”.

**Amendment of section 19 of Act of 1996**

83. Section 19 of the Act of 1996 is amended in subsections (1) and (2) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 20 of Act of 1996**

15

84. Section 20 of the Act of 1996 is amended in subsections (1), (2) and (4) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 23 of Act of 1996**

85. Section 23 of the Act of 1996 is amended—

- (a) in subsections (1) and (2) by the substitution of “appropriate court” for “Court” in each place it occurs, 20
- (b) in subsection (3) by the substitution of “the appropriate court” for “the Court”, and
- (c) in subsections (4) and (5) by the substitution of “appropriate court” for “Court”.

**Amendment of section 24 of Act of 1996**

25

86. Section 24 of the Act of 1996 is amended in subsection (1) by the substitution of “appropriate court” for “Court”.

**Amendment of section 29 of Act of 1996**

87. Section 29 of the Act of 1996 is amended—

- (a) in subsection (2)(e) by the substitution of “the appropriate court” for “a court”, and 30
- (b) in subsection (4) by the substitution of “appropriate court” for “Court” in each place that it occurs.



**Amendment of section 34 of Act of 1996**

88. Section 34 of the Act of 1996 is amended in subsections (4) and (6) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of section 36 of Act of 1996**

89. Section 36 of the Act of 1996 is amended in subsections (1), (3)(a) and (c), (4) and (5) by the substitution of “appropriate court” for “Court” in each place that it occurs. 5

**Amendment of section 51 of Act of 1996**

90. Section 51 of the Act of 1996 is amended in subsections (4) and (6)(b) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 52 of Act of 1996**

91. Section 52 of the Act of 1996 is amended in subsections (3) and (4) by the substitution of “High Court” for “Court” in each place that it occurs. 10

**Amendment of section 57 of Act of 1996**

92. Section 57 of the Act of 1996 is amended in subsection (2)(d) by the substitution of “courts” for “Courts”. 15

**Amendment of section 65 of Act of 1996**

93. Section 65 of the Act of 1996 is amended in subsection (4) by the substitution of “High Court” for “Court”.

**Amendment of section 67 of Act of 1996**

94. Section 67 of the Act of 1996 is amended in subsections (2) and (3) by the substitution of “High Court” for “Court” in each place that it occurs. 20

**Amendment of section 72 of Act of 1996**

95. Section 72 of the Act of 1996 is amended in subsections (1), (2) and (3) by the substitution of “High Court” for “Court” in each place that it occurs.

**Amendment of section 77 of Act of 1996**

96. Section 77 of the Act of 1996 is amended in subsections (1) and (2) by the substitution of “High Court” for “Court” in each place that it occurs. 25

**Amendment of section 78 of Act of 1996**

97. Section 78 of the Act of 1996 is amended in subsections (1) and (2) by the substitution of “High Court” for “Court” in each place that it occurs. 30

**Amendment of section 79 of Act of 1996**

98. Section 79 of the Act of 1996 is amended in subsections (1)(a), (2)(a) and (b) and (3) by the substitution of “the High Court” for “the Court” in each place that it occurs.

**Amendment of section 80 of Act of 1996**

99. Section 80 of the Act of 1996 is amended by the substitution of “any court” for “Courts”. 5

**Amendment of section 85 of Act of 1996**

100. Section 85 of the Act of 1996 is amended—

(a) in subsection (5) by the substitution of “High Court” for “Court” in each place that it occurs, and

(b) in subsection (8)(b) by the substitution of “appropriate court” for “Court”. 10

**Amendment of section 88 of Act of 1996**

101. Section 88 of the Act of 1996 is amended—

(a) in subsections (3), (4) and (5) by the substitution of “High Court” for “Court” in each place that it occurs, and

(b) in subsection (6)— 15

(i) by the substitution of “decision of the High Court” for “decision of the Court”, and

(ii) by the substitution of “leave of the High Court” for “leave of the Court”.

**Amendment of section 97 of Act of 1996**

102. Section 97 of the Act of 1996 is amended in subsection (3) by the substitution of “High Court” for “Court”. 20

**Amendment of First Schedule to Act of 1996**

103. The First Schedule to the Act of 1996 is amended in paragraph 11(4)(a) and (6) by the substitution of “appropriate court” for “Court” in each place that it occurs.

**Amendment of Second Schedule to Act of 1996**

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104. The Second Schedule to the Act of 1996 is amended—

(a) in paragraph 13(4)(a) and (6) by the substitution of “appropriate court” for “Court” in each place that it occurs, and

(b) in paragraph 14(3) by the substitution of “High Court” for “Court”.

CHAPTER 3

*Miscellaneous amendments of Act of 1996 in relation to fines*

**Miscellaneous amendments of Act of 1996 in relation to fines**

- 105.** (1) The provision of the Act of 1996 specified in column (2), opposite a reference number specified in column (1), is amended by the substitution of the words specified in column (4), opposite that reference number, for the words specified in column (3) opposite that reference number. 5
- (2) In *subsection (1)*, a reference to a column is a reference to the column of the Table set out in *Schedule 4*.

PART 5

10

DIGITAL LEGAL DEPOSIT SCHEME

**Digital legal deposit scheme**

- 106.** Within twelve months of the enactment of this Bill the Government shall bring forward a report on the feasibility of establishing a digital legal deposit scheme to serve as a web archive for .ie domain contents and advise on steps taken towards that goal. 15

SCHEDULE 1

Section 43

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT IN RELATION TO EDUCATION

Table

<b>Reference No. (1)</b>	<b>Provision of Principal Act (2)</b>	<b>Words to be substituted (3)</b>	<b>Substituting words (4)</b>	
1	section 50(1)	research	education, research	5
2	section 50(2)	research	education, research	
3	section 50(3)	researcher or private student	person undertaking the education, research or private study	10
4	section 53(1)	instruction or of preparation for instruction	education or of preparation for education	15
5	section 53(2)(a)	instruction	education	
6	section 53(3)	instruction or of preparation for instruction	education or of preparation for education	
7	section 53(4)(a)	instruction	education	20
8	section 55(1)(b)	instruction	education	
9	section 55(2)	instruction	education	
10	section 61(2)	research	education, research	
11	section 62(2)	research	education, research	
12	section 63(2)(b)	instructions	education	25
13	section 67(3)	research	education, research	
14	section 92(3)(a)	research	education, research	
15	section 168(1)	instruction	education	
16	section 171(1)	instruction	education	
17	section 172(1)	instruction	education	30
18	section 223(1)	instruction or preparation for instruction where the copying is done by or on behalf of a person giving or receiving instruction	education or of preparation for education where the copying is done by or on behalf of a person giving or receiving education	35
19	section 224(1)(b)	instruction	education	
20	section 229(2)	research	education, research	
21	section 230(2)(b)	instructions	education	
22	section 234(3)	research	education, research	
23	section 245(3)(a)	research	education, research	40
24	section 329(1)	research	education, research	
25	section 330(1)	instruction or of preparation for instruction	education or of preparation for education	
26	section 330(1)(a)	instruction	education	45

SCHEDULE 2

Section 44

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT IN RELATION TO FINES

<b>Reference No. (1)</b>	<b>Provision of Principal Act (2)</b>	<b>Words to be substituted (3)</b>	<b>Substituting words (4)</b>	
1	section 14(5)	fine not exceeding £1,500	class C fine	5
2	section 140(7)(a)	fine not exceeding £1,500	class C fine	
3	section 140(7)(b)	£100,000	€130,000	
4	section 140(8)(a)	fine not exceeding £1,500	class C fine	10
5	section 140(8)(b)	£100,000	€130,000	
6	section 141	£100,000	€130,000	
7	section 143(3)	fine not exceeding £1,500	class C fine	
8	section 181(3)(a)	fine not exceeding £1,500	class C fine	
9	section 181(3)(b)	£100,000	€130,000	15
10	section 198(9)	fine not exceeding £500	class D fine	
11	section 258(6)(a)	fine not exceeding £1,500	class C fine	
12	section 258(6)(b)	£100,000	€130,000	
13	section 258(7)(a)	fine not exceeding £1,500	class C fine	
14	section 258(7)(b)	£100,000	€130,000	20
15	section 259	£100,000	€130,000	
16	section 261(3)	fine not exceeding £1,500	class C fine	
17	section 262(2)	fine not exceeding £1,500	class C fine	
18	section 286(3)(a)	fine not exceeding £1,500	class C fine	
19	section 286(3)(b)	£100,000	€130,000	25
20	section 361(3)(a)	fine not exceeding £1,500	class C fine	
21	section 361(3)(b)	£100,000	€130,000	
22	section 371	fine not exceeding £1,500	class C fine	
23	section 376(2)(a)	fine not exceeding £1,500	class C fine	
24	section 376(2)(b)	£100,000	€130,000	30

SCHEDULE 3

Section 80

MISCELLANEOUS AMENDMENTS OF ACT OF 1992 IN RELATION TO FINES

<b>Reference No. (1)</b>	<b>Provision of Act of 1992 (2)</b>	<b>Words to be substituted (3)</b>	<b>Substituting words (4)</b>
1	section 92(6)	fine not exceeding £1,000	class C fine
2	section 106(5)	fine not exceeding £500	class D fine
3	section 106(5)	£1,000	a class C fine
4	section 111	fine not exceeding £1,000	class C fine
5	section 112(1)	fine not exceeding £1,000	class C fine
6	section 113	fine not exceeding £500	class D fine
7	section 125(4)	fine not exceeding £500	class D fine
8	section 125(4)	£1,000	a class C fine

5

10

SCHEDULE 4

*Section 105*

MISCELLANEOUS AMENDMENTS OF ACT OF 1996 IN RELATION TO FINES

<b>Reference No. (1)</b>	<b>Provision of Act of 1996 (2)</b>	<b>Words to be substituted (3)</b>	<b>Substituting words (4)</b>
1	section 85(6)	fine not exceeding £500	class D fine
2	section 85(6)	£1,000	a class C fine
3	section 92(4)(a)	fine not exceeding £1,000	class C fine
4	section 92(4)(b)	£100,000	€130,000
5	section 93(3)(a)	fine not exceeding £1,000	class C fine
6	section 93(3)(b)	£200,000	€255,000
7	section 94(3)	fine not exceeding £1,000	class C fine
8	section 94(3)	further fine not exceeding £100	class E fine
9	section 97(2)	fine not exceeding £1,000	class C fine
10	section 97(2)	further fine not exceeding £100	class E fine

An Bille um Chóipcheart agus Forálacha  
Eile de chuid an Dlí Maoine Intleachtúla,  
2018

# BILLE

(mar a ritheadh ag Dáil Éireann)

*dá ngairtear*

Acht do leasú an Achta Cóipchirt agus Ceart Gaolmhar, 2000 chun go gcuirfeadh i gcountas moltaí áirithe maidir le leasuithe ar an Acht sin atá sa Tuarascáil ón gCoiste um Athbhreithniú ar Chóipcheart dar teideal “Cóipcheart a Nuachóiriú” a d’fhoilsigh an Coiste sin i nDeireadh Fómhair 2013 agus, ina theannta sin, chun go gcuirfeadh i gcountas eisceachtaí áirithe ó chóipcheart a cheadaítear le Treoir 2001/29/CE ó Pharlaimint na hEorpa agus ón gComhairle an 22 Bealtaine 2001 maidir le comhchuíbhiú gnéithe áirithe den chóipcheart agus de chearta gaolmhara sa tsochaí faisnéise; do dhéanamh leasuithe áirithe eile ar an Acht sin, lena n-áirítear leasuithe i ndáil le tagairtí san Acht sin d’oideachas agus d’fhíneálacha; do dhéanamh leasuithe iarmhartacha ar an Acht Cúirteanna Breithiúnais, 1924, ar Acht na gCúirteanna (Forálacha Forlíontacha), 1961, ar Acht na bPaitinní, 1992, ar Acht na dTrádmharcanna, 1996 agus ar an Acht um Dhearai Tionscail, 2001; do dhéanamh leasú áirithe ar Acht na bPaitinní, 1992; do dhéanamh leasuithe ar Acht na bPaitinní, 1992 agus ar Acht na dTrádmharcanna, 1996 i ndáil le tagairtí sna hAchtanna sin do chúirteanna agus d’fhíneálacha; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Ritheadh ag Dáil Éireann,*

*5 Iúil, 2018*

Copyright and Other Intellectual Property  
Law Provisions Bill 2018

# BILL

(as passed by Dáil Éireann)

*entitled*

An Act to amend the Copyright and Related Rights Act 2000 to take account of certain recommendations for amendments to that Act contained in the Report of the Copyright Review Committee entitled “Modernising Copyright” published by that Committee in October 2013 and also to take account of certain exceptions to copyright permitted by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society; to make certain other amendments to that Act, including amendments in relation to references in that Act to education and fines; to make consequential amendments to the Courts of Justice Act 1924, the Courts (Supplemental Provisions) Act 1961, the Patents Act 1992, the Trade Marks Act 1996 and the Industrial Designs Act 2001; to make a certain amendment to the Patents Act 1992; to make amendments to the Patents Act 1992 and the Trade Marks Act 1996 in relation to references in those Acts to courts and fines; and to provide for related matters.

*Passed by Dáil Éireann,*

*5th July, 2018*

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

FOILSEACHÁIN RIALTAIS,

52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.

(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)

nó trí aon díoltóir leabhar.

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