

COPYRIGHT (AMENDMENT) BILL 2011

SAMOA

Arrangement of Provisions

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| 1. Short title and commencement | 7. Importation for personal purposes |
| 2. Interpretation | 8. Injunctions and other remedies |
| 3. Replacement of term “Expressions of folklore” | 9. Insertion of new sections |
| 4. Economic rights | 10. Criminal sanctions |
| 5. Private reproduction for personal purposes | 11. Application of international treaties |
| 6. Insertion of new sections | |

2011 No.

A BILL INTITULED

AN ACT to amend the Copyright Act 1998 and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short Title and Commencement – (1) This Act may be cited as the Copyright (Amendment) Act 2011 and is to be read together with and

“**Minister**” means the Minister responsible for Commerce, Industry and Labour;

(b) by inserting after the word “satellite” where it appears in the definition of the term “**Broadcasting**” the follow words:

“or via the internet”;

(c) by inserting the definition of “Traditional cultural expression” after the definition of “Sound recording”, as follows:

“**Traditional cultural expression**” means a group-oriented and tradition-based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means.

3. Replacement of term “Expressions of folklore” – (1) The Principal Act is amended by replacing the phrase “expressions of folklore” or “expression of folklore” wherever they appear in the Principal Act with the phrase “ traditional cultural expressions” or “traditional cultural expression” respectively.

(2) The word “folklore” where it appears in the heading of section 30 is omitted and replaced with the words “traditional cultural expressions”.

4. Economic rights – Section 21v2c8(.)~~rights~~

8F. Recording of programmes and broadcasts for purposes of subsequent viewing or listening - (1) Despite section 6(1)(a) but subject to subsection (2), the copyright in-

- (a) a broadcast; or
- (b) any work contained in a broadcast,

is not infringed by the broadcast or programme being recorded for the sole purpose of enabling it to be viewed or listened to by a person at a more convenient time.

(2) Any recording made under subsection (1) is to be used only for the personal purpose for which it was made and, in particular, must not –

- (a) be distributed, either by business or otherwise, to any person outside the family of the person who made it; or
- (b) be performed in public.

8G. Acts done under statutory authority - Despite section 6(1)(a), the copyright in a work is not infringed by the doing of anything that is specifically authorised by any enactment.

8H. Prescribed dealings in copyright works - (1) Despite section 6(1)(a), but subject to subsection (2), in addition to any other reproduction permitted under this Act, the reproduction of a work is to be permitted in such manner and circumstances as may be prescribed.

- (2) Despite subsection (1):
 - (a) any regulations made under section 35 must not:
 - (i) permit any reproduction to be in conflict with a normal exploitation of the work; or
 - (ii) unreasonably prejudice the legitimate interests of the owner of the copyright; and
 - (b) in making any regulations under paragraph (a), the Head of State, acting on the advice of Cabinet, must have regard to the obligations of Samoa under any international convention, treaty or agreement.”.

7. Importation for personal purposes – Section 14 of the Principal Act is repealed.

8. Injunctions and other remedies – For section 25(3) of the Principal Act, substitute :

“(3) Part VIIIA of the Customs Act 1977 applies to articles and implements protected under this Act.”

9. Insertion of new section – After section 27 of the Principal Act insert:

“27A. Presumptions - (1) The presumptions specified in this section apply in any proceedings, whether civil or criminal, for infringement

then, that named person is presumed to have been the author of the work or the owner, at the time when the work was first lawfully made available to the public, unless the contrary is proved.

(8) Where the author of the work is dead or the identity of the author cannot be ascertained by reasonable enquiry, it is to be presumed, unless the contrary is proved—

- (a) that the work is an original work; and
- (b) that the claims made by the plaintiff as to the date on which the work was first lawfully made available to the public and as to the country, territory, state or area in which the work was first so made available are correct.

(9) The presumptions in subsections (2) to (8) apply to the same extent in any action relating to an infringement which occurred before the date on which copies of a work were first lawfully made available to the public.

(10) In this section “**owner**” includes an exclusive licensee of the copyright.”.

10. Criminal sanctions – Section 27(4) of the Principal Act is repealed.

11. Application of international treaties – Section 33 of the Principal Act is repealed.