

JAMAICA

No. 09— 2023

I assent,

[L.S.]

Sgd. P. L. Allen

Governor-General.

15th day of June 2023

AN ACT to Amend the Copyright Act.

[15th day of June 2023]

BE IT ENACTED by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Copyright (Amendment) Act, 2023, and shall be read and construed as one with the Copyright Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

2. Section 2(1) of the principal Act is amended by deleting the definitions, “accessible format” and “authorized body”.

Amendment
of section 2
of principal
Act.

Amendment
of section 51
of principal
Act.

3. The principal Act is amended by deleting section 51 and substituting therefor the following—

“Interpreta-
tion of
Part VI.

51.—(1) In this Part—

““accessible format”, in relation to a work, means a version of the work in Braille, large-print, sign language, electronic format or otherwise modified to provide a person with a print or hearing disability with access to the work as feasibly and comfortably as a person without a disability, and “accessible format copy” shall be construed, accordingly;

“authorized body” means—

- (a) the Abilities Foundation of Jamaica;
- (b) the Caribbean Christian Centre for the Deaf;
- (c) the Combined Disabilities Association;
- (d) the Early Stimulation Programme;
- (e) the Jamaica Association for the Deaf;
- (f) the Jamaica Christian School for the Deaf;
- (g) the Jamaica Council for Persons with Disabilities;
- (h) the Jamaica Society for the Blind;
- (i) the McCam Child Development Centre;

- (j) the Ministry with responsibility for Education;
- (k) the Mustard Seed Communities;
- (l) the National Library of Jamaica;
- (m) the Salvation Army School for the Blind and Visually Impaired;
- (n) any other organization designated under subsection (4);

“authorized entity” means an entity in another Contracting Party to the Marrakesh Treaty, other than Jamaica, that is authorized or recognized by the government of that Contracting Party to provide education, instructional training, adaptive reading or information access to persons with a print disability, on a non-profit basis;

“authorized person” means—

- (a) for the purposes of section 65A, a person with a print disability;
- (b) for the purposes of section 65B, a person with a hearing disability;
- (c) a person acting on behalf of any person referred to in paragraphs (a) or (b);
- (d) an authorized body, or an organization acting on behalf of an authorized body;

“Marrakesh Treaty” means the Marrakesh Treaty to Facilitate Access to Published

Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled, adopted at Marrakesh on the 27th day of June, 2013;

“sufficient acknowledgement” means an acknowledgement identifying the work in question by its title or other description and identifying the author, unless—

- (a) in the case of a published work, it is published, anonymously, or the author has agreed or required that no acknowledgement of his name should be made;
- (b) in the case of an unpublished work, it is not possible for a person to ascertain the identity of the author by reasonable inquiry.

(2) For the purposes of this Part, a person has a print disability if that person—

- (a) is blind;
- (b) has a severe impairment of sight;
- (c) has a physical disability and, therefore, is unable to hold or manipulate printed material, or focus or move their eyes to the extent that would normally be acceptable for reading;
- (d) has a visual impairment or a perceptual or reading disability and is unable to read printed works to substantially the same degree as a person without an impairment or disability.

(3) For the purposes of this Part, a person has a hearing disability if that person—

- (a) has severe or profound deafness; or
- (b) is not able to discriminate speech, in a meaningful way, from other sounds.

(4) The Minister may, by order, designate an organization to be an authorized body, if the Minister is satisfied that the organization is established in Jamaica to provide education, instructional training, adaptive reading or information access to persons with print or hearing disabilities, on a non-profit basis.”.

4. The principal Act is amended by deleting section 65A and substituting therefor the following—

Repeal and replacement of section 65A of principal Act.

“ Print disability.

65A. For the purpose of providing access to a copyright work in a way for it to be enjoyed by a person with a print disability, an authorized person may, without consent from the copyright owner, and if the conditions in section 65C are complied with, do any of the following without infringing any copyright in the work—

- (a) translate, adapt or reproduce in Braille, large-print or other accessible format, copyright works;
- (b) perform, in public, a copyright work, either live or in another accessible format;
- (c) make, access, obtain, import, supply, distribute, make available and use accessible format copies of all copyright works;
- (d) take any intermediate steps to facilitate the making, obtaining or supplying of accessible format copies;

- (e) assist a person with a print disability to make and use an accessible format copy of a copyright work, provided that the person with the print disability has lawful access to that work or a copy of that work;
- (f) obtain accessible format copies of copyright works from an authorized body or authorized entity, including by non-commercial lending or by electronic communication, by wire or by wireless means, provided that the accessible format copy obtained is used only for the benefit of persons with a print disability; and
- (g) distribute or make available accessible format copies to an authorized entity, another authorized body, or a person with a print disability in Jamaica or in a Contracting Party to the Marrakesh Treaty, provided that prior to the distribution or making available of such copies, the originating authorized person did not know or have reasonable grounds to know that the accessible format copy would be used for persons other than persons with a print disability.”.

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Repeal and replacement of section 65B of principal Act.

5. The principal Act is amended by deleting section 65B and substituting therefor the following—

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“Hearing disability.

65B. For the purpose of providing access to a copyright work in a way for it to be enjoyed by a person with a hearing disability, an authorized person may, without consent from the copyright owner, and if the conditions in section 65C are complied with, do

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any of the following without infringing any copyright in the work—

- (a) translate, adapt or reproduce in sign language or other accessible format, copyright works;
- (b) perform, in public, a copyright work, in sign language, either live or in another accessible format;
- (c) make, access, obtain, import, supply, distribute, make available and use accessible format copies of all copyright works;
- (d) make subtitled films or broadcasts;
- (e) take any intermediate steps to facilitate the making, obtaining or supplying of accessible format copies;
- (f) assist a person with a hearing disability to make and use an accessible format copy of a copyright work, provided that the person with a hearing disability has lawful access to that work or a copy of that work;
- (g) obtain accessible format copies of copyright works from an authorized body, including by non-commercial lending or by electronic communication, by wire or by wireless means, provided that the accessible format copy obtained is used only for the benefit of persons with a hearing disability; and
- (h) distribute or make available accessible format copies to an authorized body or to a person with a hearing disability in

Jamaica, provided that prior to the distribution or making available of such copies, the originating authorized person did not know or have reasonable grounds to know that the accessible format copy would be used for persons other than persons with a hearing disability.”.

Insertion of new sections 65C and 65D in principal Act.

6. The principal Act is amended by inserting next after section 65B the following—

“ Conditions for accessing copyright works.

65C. The conditions referred to in sections 65A and 65B are that—

- (a) the authorized person who intends to undertake any of the activities referred to in sections 65A and 65B, has lawful access to the copyright work or a copy of that work;
- (b) the work is converted to an accessible format copy, which may include the means needed to navigate information in the accessible format, but which does not have the effect of introducing changes other than those needed to make the work accessible to the person with a print disability or hearing disability;
- (c) the accessible format copies are supplied exclusively to be used by persons with a print disability or hearing disability;
- (d) if any person with a print disability or hearing disability to whom the copy is to be provided is required to pay for the copy, the payment required is no higher than a sum consisting of the cost of the production of the copy and a reasonable

contribution to the general expenses of the authorized person, with no element of profit.

Protection from infringement of copyright.

65D. Circumvention of a technological protection measure, for any of the purposes referred to in sections 65A and 65B, shall not be deemed a commission of an offence or infringement of any copyright in the work.”.

Passed in the Senate this 12th day of May, 2023 with two (2) amendments.

THOMAS TAVARES-FINSON, OJ, CD, KC, JP

President.

Passed in the Honourable House of Representatives this 7th day of June, 2023.

MARISA DALRYMPLE PHILIBERT, CD

Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Valrie A. Curtis
Clerk to the Houses of Parliament.