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LEGAL NOTICE NO. 139 OF 2015

Copyright Regulations, 2015

In exercise of the powers vested in me by section 39 of the Copyright Order, 1989¹, I,

LIKELELI TAMPANE

Minister responsible for tourism, arts and culture, make the following regulations:

PART I - PRELIMINARY**Citation and commencement**

1. These Regulations may be cited as the Copyright Regulations, 2015 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires,

“Act” means the Copyright Order of 1989, and any word, phrase or expression used in the Act shall be construed to have the same meaning in or application to these Regulations;

“agent” means a person who is given legal powers to exercise the legal rights of the owner of copyright work;

“author” means the creator of an original literary, artistic and scientific work and the person under whose name the work is disclosed;

“Board” means the Board of the Society established under regulation 4;

“cinematograph film” means any sequence of visual images recorded in any material of any description whether translucent or not, so as to be capable by the use of that material of being -

“communication to the public by electronic transmission” includes the

broadcast of the work and making available to the public the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them by use of flash disks, compact disks, telephone, cellular phones or mobile phones for purposes of reproducing the copyright work;

“copy” means a duplicate or part thereof; of an original literary, artistic or scientific work or expression of folklore and it includes a print, a negative tape, compact disc, dvd, or other article on which the original literary, artistic or scientific work or expression of folklore or part thereof is recorded or fixed;

“copyright” in relation to a work means the exclusive right conferred by virtue of and subject to the provisions of the Act to do or authorize another person in Lesotho or such other foreign country which is a Berne Convention Signator, such acts in relation to that work as are designated in any relevant provisions of the Act, as acts restricted by the copyright work of that description;

“Copyright Administrator” means the Copyright Administrator of the Society appointed as such under regulation 13;

“database” means a collection of independent works, data or other materials which are -

- (a) arranged in a systematic or methodological way; and
- (b) individually accessible by electronic or other means.

“distribution right” means a performer’s right to authorize or prohibit the issue of copies to the public of his or her work;

“hologram” means an adhesive label issued by the Society;

“joint authorship” means two or more creators of original literary, artistic or scientific works with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole;

“licence contract” means a copyright licence contract issued under regulation 18;

“licencing body” means the Society or any other organisation which has as one of its objects, the negotiation or granting of a licence contract, either as owner or prospective owner or agent of the owner or prospective owner of copyright in original literary, artistic or scientific works;

“member” means a person who is an individual or a group or an entity which is registered with the Society in terms of regulation 5;

“publisher” means a person who or a company that prepares and prints books, magazines, newspapers or electronic products or music and makes them available to the public for sale;

“record” means a disc, tape, perforated roll or other device in which sounds, data or signals representing sounds are embodied or represented so as to be capable of being reproduced or performed;

“sound recording” means any fixation or storage of sounds or any data or signals representing sounds which are capable of being reproduced but does not include a sound track associated with a cinematograph film;

“work” means an original literary, artistic, musical, dramatic or scientific work as provided for in Section 3 of the Act and regulation 24;

PART II - COMPOSITION AND PROCEDURE OF THE SOCIETY

Composition of the Society

3. The Society established under Section 31 of the Act shall comprise of -
 - (a) a member rights holder either as a company or an individual and who is registered with the Society; and
 - (b) the secretariat.

Board of the Society

4. (1) The Society is managed by a Board which is the highest executive organ of the Society and consists of the following members who shall be appointed by the Minister by notice published in the Gazette:

- (a) one representative from the music industry, who shall be nominated by the Lesotho Music Rights Association;
- (b) one representative from the producers of sound recordings;
- (c) two representatives from the film, theatre and drama industry, who shall be nominated by the Film, Theatre and Drama Association of Lesotho;
- (d) one representative from visual artists, arts and crafts who shall be nominated by the Arts Association of Lesotho;
- (e) one representative from the Ministry of Tourism, Environment and Culture who has expertise in cultural issues and who holds an office equivalent to the level of Director or above;
- (f) one representative from book publishers and authors, who shall be nominated by the Sesotho Academy;
- (g) one representative from book publishers and authors, who shall be nominated by the Publishers Association of Lesotho; and
- (h) one representative from the Ministry of Law and Constitutional Affairs, who has expertise in copyright and who holds an office equivalent to the level of Director or above.

(2) The members of the Board shall elect among themselves a Chairperson and a Deputy Chairperson.

(3) A member of the Board, except an ex-officio member, is appointed for a term of three years and is eligible for re-appointment but shall not be appointed for more than two consecutive terms.

Registration with the Society

5. (1) A rights holder shall become a member of the Society if he, reg-

isters with the Society.

- (2) The rights holder shall register with the Society if he -
 - (a) submits an application for registration in a form provided for in Schedule I;
 - (b) pays a registration fee of One Hundred Maloti;
 - (c) submits or deposits his or her work to the Copyright Board for screening.

- (3) The Copyright Administrator shall, on receipt of the work of the rights holder, screen the work to determine -

- (a) if the work is original;
- (b) the quality of the work; and
- (c) if the work contains words, drawings or pictures which incite provocation or violence.

- (4) A rights holder shall be registered with the Society if the Copyright Administrator is satisfied that the rights holder complies with the requirements in regulation (1) and (2) and shall allocate a registration number for the rights holder and for their respective works.

Procedure and administration of the Society

6. (1) Where membership of the Board comprise of rights holder in sound recordings and performing artists, the Board shall have equal representation of both rights holder in sound-recordings and performers to take part in the decision making process.

- (2) The Board shall be subject to the collective control of rights holders rights under the Act and shall in such manner -

- (a) obtain the rights holders approval for the Society's procedures of collection and distribution of fees;

- (b) obtain the rights holders approval for the utilization of any amounts collected as fees for any purpose other than for distribution of fees to the owner; and
- (c) provide the rights holders with regular, full and detailed information concerning all its activities in relation to the administration of their rights.

(3) For purposes of subregulation (2)(c), the Board shall provide a rights holder with the following information:

- (a) an annual statement of accounts and a list of persons who constitute the Board of the Society;
- (b) a report of the Board of the Society and of an auditor submitted at the general meeting;
- (c) where appropriate, the text and motivation of resolutions submitted to the general meeting of members and any information concerning candidates for the Board and senior management; and
- (d) the overall amount, certified by auditors, of the remuneration paid to any director or other employee of the Society.

(4) The Board shall have exclusive authorisation to administer the economic rights of its members in any work to issue licences, inspect premises which the Board believes a person has or is in possession of an infringing copy of the work or collection of licence fees in accordance with the Act and these Regulations.

(5) A rights holder shall have the right to withdraw authorisation without prejudice to the rights of the Society.

(6) The Board shall issue licences, collect and distribute fees among rights holders in proportion to the actual use of a rights holders work and in accordance with a scheme of tariffs provided for in Schedule 1.

(7) The Board shall, whenever desirable or expedient, enter into re-

ciprocal agreements or contracts with other like foreign Societies or with any other person, author, artist or performer on behalf of the members and shall administer the rights entrusted to it and distribute at least eighty percent of the money collected to its members and shall retain not more than twenty percent after distribution to defray its costs or apply otherwise.

(8) For purposes of obtaining approval of rights holders for collection and distribution of fees, the Board shall maintain the following registers at its registered or administrative office:

- (a) register of all works, declared by the rights holders with the Society; and
- (b) register of its members and their bank details.

Resignation of a member of the Board

7. A member of the Board may resign by giving a signed one month notice of resignation to the Board.

Vacation from office of a member of the Board

8. The Minister may require a member of the Board to vacate his or her office if the Minister is satisfied that the member of the Board -

- (a) is declared by the court of law as insolvent;
- (b) is for whatever reason mentally or physically incapable of performing his or her duties as a member of the Board;
- (c) has neglected the duties of a member of the Board or has engaged in misconduct;
- (d) has been absent from three consecutive meetings of the Board without leave of the Chairperson; or
- (e) has been convicted of an indictable offence or an offence against this Act.

Filling of Vacancy of a member of the Board

9. Where there is a vacancy as a result of vacation or resignation of a member of the Board, the Minister shall appoint another person to fill the vacancy for the remainder of the period of the member who has vacated or resigned.

Meetings of the Board

10. (1) Subject to subregulation (2), the Board shall hold an ordinary meeting at least four times each year.

(2) The Chairperson of the Board may, convene an extra-ordinary meeting within twenty-one days of the receipt by him of a request in writing signed by not less than three members of the Board and specifying the purpose for which the meeting is to be convened.

(3) At any meeting of the Board, the Chairperson shall preside and in his absence, the Deputy Chairperson shall preside.

(4) In the absence of both the Chairperson and the Deputy Chairperson, the members present and forming a quorum shall elect one of their member to preside.

(5) The quorum of the meeting shall be formed by eight voting members.

(6) A decision at a meeting of the Board shall be that of the majority of the members of the Board present and voting.

(7) The Chairperson shall have a deliberative vote and in the event of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

Co-opted person

11. The Board may in its discretion and for any period, invite a person who has expertise in copyright law and the Minister may, in like manner, nominate an officer in the public service, who has expertise in cultural issues or copyright law to attend a meeting of the Board and take part in the deliberations of the meeting, but such a person is not entitled to vote.

Remuneration and expenses of members of the Board

12. A member of the Board shall be paid from the funds of the Society, such allowances as the Minister in consultation with the Minister of Finance determine.

Copyright Administrator

13. (1) The Board shall appoint a Copyright Administrator who shall be the head of the Secretariat upon the terms and conditions as may be approved by the Minister.

(2) The Copyright Administrator shall, subject to the direction of the Board, be responsible for the day to day administration and management of the affairs of the Society.

(3) The Copyright Administrator may after consultation with the Board, appoint such other staff as he or she considers necessary or desirable in the discharge of his or her duties and upon such terms and conditions he or she may determine.

(4) The Copyright Administrator shall be the Secretary to the Board.

Tariffs of copyright Scheme

14. (1) The Copyright Administrator shall, as soon as the tariffs of scheme is developed by the Board, call a meeting with the rights holders to discuss the tariffs set.

(2) The quorum for the meeting shall be two-thirds majority of the members of the Society present.

(3) The rights holders shall at the meeting approve the tariffs of scheme if satisfied with them.

(4) The Copyright Administrator shall not change the tariffs of scheme approved by the rights holders at the meeting without the explicit consent of the rights holders.

(5) The Copyright Administrator may at any time convene a special

meeting of the Board and shall do so if asked by at least two thirds majority of the members.

(6) The meeting of the Board shall be held two times a year.

(7) A member of the Board shall each have one vote in a general meeting or special meeting convened by the society.

(8) The Minister shall, as soon as the tariffs of Scheme is approved by the rights holders, publish the approved tariffs of scheme by notice published in the Gazette.

Types of membership to the Society

15. The following are two types of membership under which a member may register:

- (a) individual membership where rights holders creates his or her own work;
- (b) group membership, where a group of rights holders create a work; and
- (c) joint membership, where two or more rights holders create a work together.

Membership requirements to the Society

16. (1) Where a rights holder is registered with the Society, he shall enter into an agreement with the Society where the members shall give a mandate to the Society to collect royalties from the users and administer the rights holders rights on his behalf.

(2) A rights holder shall, when giving a mandate to the Society, state clearly which rights, in terms of section 7 of the Act, the Society is being mandated to administer on behalf of the rights holder.

(3) A rights holder may declare his or her rights wholly or partly.

(4) The Society shall, after entering into an agreement with a rights

holder, in terms of subregulation (1), sign a reciprocal agreement with other Societies from other countries.

(5) The Copyright Administrator shall upon registration of a rights holder, issue to the rights holder:

- (a) a membership form as set out in Schedule II which contains the following details -
 - (i) name of the rights holder, or group of authors, artists, or performers;
 - (ii) date of birth of the rights holder;
 - (iii) place of birth of the rights holder;
 - (iv) home address;
 - (v) contact details;
 - (vi) bank details; and
 - (vii) for group members, the year in which the group was created;
- (b) a work declaration form as set out in Schedule III which provides for the following details -
 - (i) title of the work;
 - (ii) description of the work;
 - (iii) year of creation of the work;
 - (iv) document status;
 - (v) music duration;
 - (vi) genre or type of music or any other work;

- (vii) instruments or material used to produce the work;
 - (viii) languages used in the work;
 - (ix) publishing contract;
 - (x) evidence of work by way of depositing a copy of the work;
 - (xi) the composer of the work;
 - (xii) the arranger of the work; and
 - (xiii) the publisher of the work.
- (c) a beneficiary form as set out in schedule IV where a member declares a list of his or her beneficiaries to receive his or her royalties upon his or her death.
 - (d) the duration of the licence contract;
 - (e) the number of copies to be reproduced distributed or imported, or the number of performances to be made or communicated to the public; and
 - (f) the type of work to which the rights are assigned.

Work submitted for protection

17. An author, artist or a performer shall, when declaring his or her work or their work to the Society -

- (a) ensure that the work is in a fixed form such as a cassette, CD, DVD or a book;
- (b) submit a member contract or a publisher contract if the work is a published work;
- (c) if the work is a hymn song, submit together with the

work, an authorisation letter from church elders who are responsible for the hymn song; and

- (d) submit his or her stage or pseudonym name.

Licence Contracts

18. (1) For purposes of section 16 of the Act, a person is prohibited to reproduce, distribute, import or export for distribution, a work to the public by,

- (a) selling the work;
- (b) copying the work;
- (c) issuing the copy or copies of the work;
- (d) broadcasting the work;
- (e) performing, showing or playing the work;
- (f) communicating the work; and
- (g) making an adaptation of the work or doing any of the above in relation to adaptation,

unless he or she is issued with a licence contract by the Society.

(2) The Society shall make available, on non-discriminatory terms, for any potential user of a copyrighted work, complete repertoire of records in respect of which the copyrighted work is owned by a Lesotho citizen and a foreign right holder that is represented by the society.

(3) The Society may enter into a licencing agreement with representative trade associations and user groups to administer the use of the copyrighted work of the rights holder.

(4) The Society may, depending on the licence contract, or in the absence of a licence contract, by way of negotiation, enter into a non-exclusive licence contract with an individual user or a user group.

(5) A licence contract or an individual non-exclusive licence contract, shall contain the following terms and conditions -

- (a) rights provided for in section 7 of the Act;
- (b) the type of equipment to be used to work to produce, distribute, perform or import for the distribution, the work;
- (c) a licencing fee of One Hundred Maloti;
- (d) the duration of the licence contract;
- (e) the number of copies to be reproduced, distributed or imported or the number of performances to be made or communicated to the public; and
- (f) the type of work to which the rights are assigned.

(6) The Society may, as part of a licencing contract or non-exclusive licence contract negotiate with a trade association, a representative body or body of a potential user, user group or an individual user, a tariff that determines the amount and manner of payment of royalties in respect of the use in question, as well as the conditions of use and the information to be furnished to the Society, to enable to the proper distribution of any payments received.

(7) A tariff accepted by the Society and a trade association, a representative body, a user, a user group or an individual user as the case may be, may be jointly submitted by the trade association, a representative body of a user, user group or an individual user, to the Copyright Administrator for who shall, upon approval, rights holder, publish the tariffs by notice published in the Gazette.

(8) A potential user who or a user group which falls within the scope of the tariff published in terms of Subregulation (7) and complies with its terms, shall be granted a licence contract by the Society once the user or user group assumes the obligation.

(9) Acts restricted by copyright which a user or a group of users may be authorized by the Society to do include -

-
- (a) copying of the work;
 - (b) rental or lending of copies of the work to the public;
 - (c) performing, showing or playing the work in public; and
 - (d) communicating the work to the public.

(10) For purposes of this regulation, “licence” means a licence contract provided for under section 16 of the Act which authorises a user or a group of users to do any of the acts restricted by copyright and a licencing agreement means an agreement between the Society and a trade association.

Adhesive Hologram

19. (1) A hologram shall be affixed to a sound recording, audio-visual recording or audio work which is distributed or offered or otherwise exposed to the public for distribution by way of sale, hire, rental or otherwise within Lesotho.

(2) The hologram shall be affixed to a sound recording, audio-visual recording or audio works exclusively by the Society after the Society has made a verification that the sound recording, audio-visual recording or audio works is produced or published in Lesotho or is imported into Lesotho without infringing any copyright granted under the Act.

(3) A work or sound recording, audio-visual recording or audio work which is not affixed with a hologram and which is imported, distributed, offered or exposed to the public for sale, rental or otherwise, within Lesotho, shall be considered as a copy infringing copyright granted under the Act and shall be seized by the Society, a police officer or an officer of the Customs and Excise.

(4) The Board shall retain the seized infringing copy for a period of sixty days from the date of seizure.

(5) The owner of the seized infringing copy may submit an objection against the seizure to the Board within the sixty days of the seizure and giving reasons for the objection.

Destruction of seized works

20. (1) Customs and Excise shall, on the recommendation of the Board, and after the expiration of sixty days from the date of seizure, destroy the sound-recording, audio-visual recording or audio work seized if no person raises an objection against the seizure of the work or recording despite the objection, the Board deems that the seized work or recording is an infringing copy.

(2) Where a person raises an objection against the seizure of the work or recording and the Board considers that the seized work or recording is an infringing copy, the courts shall make an order to destroy the work or recording where it is satisfied that the seized work is an infringing copy.

Seizure of a work or a recording by a customs and excise officer

21. A customs and excise officer shall seize, impound or retain a sound recording or an audio work imported into Lesotho if the sound-recording, audio-visual recording or audio work exceeds a quantity of three copies of the same recording until such importation has been consented to, verified and authenticated by the Society through a notice of seizure provided for in Schedule V.

Clearance of application form

22. (1) A person who wishes to make an application to clear imported pre-recorded sound recording, audio-visual recording or an audio work shall submit the application for clearance to the Copyright Administrator in the form set out in Schedule VI.

(2) After receipt of the application, the Copyright Administrator shall issue an authorisation certificate which clears the imported recordings, if satisfied that the recordings are original copies -

- (a) produced in conformity with the Act and these regulations;
- (b) the Society has affixed a hologram to each recording offered for sale, hire or rental; and

(c) a levy of One Loti for the hologram acquired by the applicant is paid to the Society.

(3) An application for an importation licence shall be made by an applicant to the Society in the form set out in Schedule VII.

(4) An importation licence applied for in terms of subregulation (3) shall be issued by the Society in the form set out in Schedule VII.

(5) An application for a reproduction licence shall be made by an applicant to the Society in the form set out in Schedule VII.

(6) A reproduction licence applied for in terms of regulation 19(7) shall be issued by the Society in the form set out in Schedule VII .

(7) An application for a distribution licence shall be made by an applicant to the Society in the form set out in Schedule IX.

(8) A distribution licence applied for in terms of subregulation 7, shall be issued by the Society in the form set out in Schedule VII.

(9) A reproduction, importation and distribution licence shall be given to users of copyrighted works and he shall pay Two Thousand, Five Hundred Maloti.

Distribution of royalties

23. (1) Distribution of royalties shall be made in accordance with the following rights -

- (a) performance rights;
- (b) mechanical rights;
- (c) broadcasting rights; and
- (d) reciprography rights.

(2) All works that are in use shall be eligible to be given royalties to their rights holders.

(3) Distribution of royalties shall be made in accordance with the use of the work of the author, artist or performer and a user of the copyright work shall produce information relating to the usage of the work in a form provided for in Schedule VIII.

(4) The Society shall, before it distributes royalties to an author, artist or performer, deduct from the royalties -

- (a) thirty percent of the royalties to the Society as an administration fee; and
- (b) ten percent of the royalties to a cultural fund of the author, artist or performer.

Copyright works

24. (1) For purposes of Section 3 and section 4 of the Act, original -

- (a) literacy work, means any work other than a dramatic or musical work, which is written, spoken or sung and includes -
 - (i) books, pamphlets and other writings,
 - (ii) a table or compilation other than a database;
 - (iii) a computer program;
 - (iv) preparatory design material for a computer program;
 - (v) a database;
 - (vi) lectures, address, sermons;
 - (vii) a collection of literacy works such as encyclopedias and the anthologies which by reason of the selection and arrangement of their contents constitute intellectual creations; and

-
- (viii) translations, adaptations, arrangements of music and other alterations of a literary work which is protected as an original work without prejudice to the copyright in the original work.
 - (b) scientific works means musical work consisting of music, exclusive of any words or actions intended to be sung, spoken or performed with the music;
 - (c) artistic work means -
 - (i) works of drawing, painting, engraving, lithography, a graphic work, a photographic work to which are assimilated works expressed by a process analogous to photography sculpture or collage, irrespective of its artistic quality;
 - (ii) a work of architecture being a building or a model for a building, illustrations, maps, plans, sketches and three dimensional works relative to geography, topography, architecture or science;
 - (iii) a work of artistic craftsmanship; or
 - (iv) cinematographic works which are to be assimilated works expressed by a process analogous to cinematography.

(2) Subject to section 3(2) and (3) of the Act, Copyright protection in an original literary, artistic or musical work does not subsist unless and until it is fixed in material form or it is recorded in writing or otherwise.

(3) For purposes of subregulation (1)(c),

“building” includes any fixed structure and a part of a building or fixed structure;

“graphic work” includes -

- (a) any painting, drawing, diagram, map, chart or plan; and

- (b) any engraving, etching, lithograph, woodcut or similar work;

“photograph” means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced and which is not part of a film; and

“sculpture” includes a cast or model made for purposes of sculpture.

Infringement

25. For purposes of section 7 of the Act, an exclusive right of a rights holder -

- (a) to reproduce a work, in relation to -
 - (i) a literary, artistic and scientific work, is infringed by copying or reproducing the work in any material form and includes storing the work in any medium by electronic means;
 - (ii) an artistic work, is infringed by copying the work in a three dimension of a two dimension work and in a two dimension of a three dimension work;
 - (iii) a film or broadcast is infringed by making a photograph of the whole or a substantial part of an image forming part of the film or broadcast;
 - (iv) the typographical arrangement of a published edition, is infringed by making a facsimile copy of the arrangement; and
 - (v) any description of work, is infringed by making of copy which is transient or is incidental to some other use of the work;
- (b) to communicate a work to the public, by performance, broadcasting, distribution by cable or other means, is infringed if the work is put into circulation in Lesotho

or outside Lesotho and copies of the work which were not previously into circulation in Lesotho without the authority of the rights holder; and

(c) an adaptation, translation, arrangement or other transformation of the work is infringed if the work is recorded in writing or otherwise and such an act, in relation to -

(i) a literary work, other than a computer programme or a database; and

(ii) an artist work,

is a translated or converted work into a non-dramatic work or as the case may be, of a non-dramatic work which is converted into a dramatic work and a version of a work which the story or action is conveyed wholly or mainly by means of a picture in a form suitable for reproduction in a book, newspaper, magazine or similar periodical;

(iii) a computer programme, is an arrangement of an altered version of the programme or a translation of it and the translation in this regard, includes a version of the programme in which it is converted into a different computer language or code;

(iv) a database, is an arrangement or an altered version of the database or a translation of it; and

(v) a musical work, is an arrangement or a transcription of the work.

Secondary infringement of a work

26. (1) A person who provides means for making infringing copies without a licence contract of the rights holder or his or her agent, makes a secondary infringement to the work if the person -

- (a) makes, imports, possesses in the course of a business or sells, lets for hire, offers or exposes for sale or hire, a work specifically designed or adapted for making copies of that work, with the knowledge or having reason to believe that the work is to be used to make infringing copies;
- (b) imports an infringing copy into Lesotho, otherwise than for his private and domestic use, which is and which he knows or has reason to believe is an infringing copy;
- (c) possesses or deals with an infringing copy by -
 - (i) having possession of the infringing copy in the course of his or her business;
 - (ii) sells or lets for hire, offers or exposes for sale or hire;
 - (iii) exhibits in public or distributes the infringing copy, in the course of a business; or
 - (iv) distributes other than in the course of a business, to such an extent as to affect prejudicially, the owner of the copyright work which is and which he or she knows or has reason to believe is an infringing copy of the work;
- (d) by permitting use of premises for infringing performance if, without the licence of the rights holder, a copyright in a literary, artistic or scientific work is infringed by a performance at a place of public entertainment, and the person gave permission for that place to be used for the performance unless where a person who gave the permission believed on reasonable grounds the performance would not infringe the copyright; and
- (e) by providing an apparatus for infringing performance without the licence of the rights holder for -

-
- (i) playing sound recordings;
 - (ii) showing films;
 - (iii) receiving visual images or sounds conveyed by electronic means; and

provision of an apparatus constitutes infringements to,

- (iv) a person who supplied the apparatus or any substantial part of it if when he supplied the apparatus, he knew or had reason to believe that the apparatus is likely to be used to infringe the copyright;
- (v) to an occupier of premises who gave permission for the apparatus to be brought onto the premises if when he or she gave the permission he knew or had reason to believe that the apparatus is likely to be used to infringe the copyright; and
- (vi) to a person who supplied a copy of a sound recording or a film used to infringe copyright if when he supplied the sound recording or a film, he knew or had reason to believe that what he supplied or a copy made directly or indirectly is likely to infringe the copyright.

(2) There shall be a blanket levy of ten percent of the selling price of a device which is used to reproduce literary, artistic, musical or scientific works.

Acts permitted in relation to copyright works

27. (1) Section 9 of the Act, provides for permitted acts which may be used for a copyright work without the author's consent and without the obligation to pay remuneration for the use of the work.

(2) The permitted acts relate only to the question of infringement or copyright and do not affect any other right or obligation restricting the usage of

any of the specified acts.

(3) For purposes of Section 9 of the Act, the usage of a protected copyright work shall be permitted -

- (a) except where otherwise provided, if not more than one copy of a reasonable portion of the work is made, having regard to the totality and meaning of the work; and
- (b) if the cumulative effect of a usage or reproduction does not conflict with normal exploitation of the work to the unreasonable prejudice of the legal interest and residuary rights of the author.

Reproduction by library or archive, and museums, non commercial documentation centres, scientific institutions and educational establishments

28. Subject to the provisions of regulation 27, a library, archive, museum, non commercial documentation centre and an educational establishment or any of its employees acting within the scope of their employment, may, after reproduction, of a copy of a work, distribute such copy on the following conditions -

- (a) the reproduction or distribution shall not be made with any intention of deriving direct or indirect commercial advantage;
- (b) the collections of the library, or archive, museum, non-commercial documentation centre or educational establishment or any of its employees shall be open to the public or available to researchers affiliated to the library, archive, museum, non-commercial documentation centre or educational establishment of which it is a part and to any other person doing research in a specialized field;
- (c) the reproduction of a work shall incorporate a copyright warning;
- (d) the rights of reproduction and distribution shall apply to a copy of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or

for deposit or research use in another library, archive, non-commercial documentation centre or educational establishment:

Provided that the copy reproduced is to be placed in the collection of the library, archive, non-commercial documentation centre or educational establishment;

- (e) the right of reproduction shall apply to a copy of published duplicated in facsimile form solely for the purpose of replacement of a copy that is deteriorating or that has been damaged, lost or stolen:

Provided that the library, archive, non-commercial documentation centre or an educational establishment has, after a reasonable effect, determined that an unused replacement cannot be obtained at a fair price;

- (f) the rights of reproduction and distribution shall apply to a copy made from the collection of a library, archive, non-commercial documentation centre or an educational establishment to which the user addressed his request or from that of another library, archive, non-commercial documentation centre or an educational establishment of not more than one article or other contribution to a copyright collection or periodical issue or to a copy of a reasonable portion of any other copyright work:

Provided that the copy shall become the property of the user and the library, archive, non-commercial documentation centre or educational establishment has had no notice that the copy would be used for any purpose other than for private study or the personal or private use of the person using the work;

- (g) the library, archive, non-commercial documentation centre or an educational establishment shall display prominently, at the place where notices are accepted and include on its notice form, a copyright warning in terms of regulation 31; and

- (h) the rights of reproduction and distribution shall apply to the entire work or to a substantial portion of it, copied from the collection of a library, archive, non-commercial documentation centre or an educational establishment which the user addressed his or her request from or from that of another library, archive, non-commercial documentation centre or an educational establishment if the library, archive, non-commercial documentation centre or an educational establishment has first determined, on the basis of a reasonable investigation, that an unusual copy of the copyright work cannot be obtained at a fair price;

Provided that:

- (i) the copy shall become the property of the user and the library, archive, non-commercial documentation centre or an educational establishment has had no notice that the copy would be used for any purpose other than private study or the personal or private use of the person using the work; and
- (ii) the library, archive, non-commercial documentation centre or educational establishment shall display prominently, at the place where orders are accepted and include on its order form, a copyright warning in terms of regulation 31.

Exemptions and savings

29. Nothing in these regulations shall -

- (a) be construed as imposing any liability for copyright infringement upon a library, archive, non-commercial documentation centre or an educational establishment or its employees for the unsupervised use of reproducing equipment located on its premises:

Provided that a notice that the making of a copy may be

subject to the Copyright Order, 1989, shall be prominently displayed on such equipment;

- (b) absolve any person who uses such reproducing equipment or requests a copy under Regulation 28 from liability for copyright infringement for any such act, or for any later use of such copy, if it exceeds the extent of the copying permitted under the Act; and
- (c) in any way affect any contractual obligations assumed at any time by the library, archive, non-commercial documentation or educational establishment when it obtained a copy of a work for its collection.

Multiple Copies

30. (1) The rights of reproduction and distribution of a copyright work shall extend to the isolated and unrelated reproduction or distribution of the single copy of the same material on separate occasions, but shall not extend to cases where the library, archive, non-commercial documentation centre or educational establishment or its employee -

- (a) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies of the same material other than periodical articles of a scientific or technical nature, whether made, on one occasion or over a period of time and whether intended for average use by one or more individuals or for separate use by the individual members of a group, or
- (b) engages in the systematic reproduction or distribution of a single or multiple copies of material described in Regulation 28(f) other than periodical articles of scientific nature:

Provided that nothing in these Regulations shall prevent a library archive, non-commercial documentation centre or an educational establishment from participating in interlibrary arrangements that are not designed to or do

not have the effect of providing the library, archive, non-commercial documentation centre or educational establishment receiving such copies for distribution with such aggregate quantities that they are a substitute for a subscription to a purchase of such work.

(2) The rights of reproduction and distribution shall apply to literary works, except that no such limitation shall apply with respect of rights under Regulation 28(d) and (e) or with respect to pictorial or graphic works published as illustrations, diagrams or similar adjuncts to works of which copies are reproduced or distributed in accordance with regulation 28(f) and (h).

Copyright warning

31. (1) A warning of copyright shall consist of a verbatim production of the notice in this subregulation in such size and form as and displayed in such manner as to conform to subregulation (3).

(2) Copyright warnings shall be displayed at the place where a notice for a copy is accepted by a library, archive, a non-commercial documentation centre or an educational establishment and shall be incorporated in all forms supplied by the library, an archive, non-commercial documentation centre and an educational establishment and shall be used by their subscribers or the general public for ordering copy and where an unsupervised equipment is located.

(3) Copyright warning required to be displayed by subregulation (1) shall be printed on a heavy paper or other durable material in type at least eighteen points in size and shall be displayed prominently and in such a manner and position as to be clearly visible, legible and comprehensible to a casual observer in the immediate vicinity of the place where a notice is accepted or where an unsupervised equipment is located.

(4) The copyright warning required to be incorporated in a notice form in accordance with subregulation (1) shall be printed within a box located prominently on the notice form itself either on the face of the form or immediately adjacent to the space calling for the name or signature of the person using the form.

(5) The notice shall be printed in a type size which is no smaller than that used predominantly throughout the form and the type size shall not be

smaller than eight points.

Multiple copies for class-room use

32. Subject to the provisions of regulation 30, multiple copies not exceeding one copy per pupil per course, may be made by or for a teacher for purposes of a class-room use or for discussion.

Copies for teachers

33. Subject to the provisions of regulation 27, a single copy may be made by or for a teacher at his or her request for purposes of research, teaching or the preparation for teaching in a class.

Prohibition on copies for class-room use or for the use of teachers

34. Notwithstanding the provisions of regulation 27 and 28, the following copying shall be prohibited -

- (a) copying to use a copyrighted work to create, replace or substitute anthologies, compilations or collective works;
- (b) copying used out of a copyrighted work which is intended to be ephemeral, including workbooks, exercises, standardized tests and tests booklets and answer sheets and similar ephemeral material; and
- (c) copying used -
 - (i) as a substitute for the purchase of a book, a publisher, reprint or a periodical; and
 - (ii) repealed in respect of the same material by the same teacher from term to term.

Reproduction of building plans by a local authority

35. Notwithstanding the provisions of regulation 24(1)(c), the copyright in a building plan in respect of which the original or a reproduction is lodged for purposes of record at an office of a local authority, shall not be infringed by the

making of a reproduction of such plan by the person in charge of such office or by any other person acting by or with the authority of such person, if the owner of land upon which a building has been erected in accordance with that plan, requires copies of the plan or any portion thereof for the purpose of making additions or alterations to such building.

SCHEDULES

SCHEDULE I

REGISTRATION FORM

(Reg. 5(2)(a))

SURNAME

NAMES.....

DATE OF BIRTH

MARITAL STATUS

SPOUSE

GENDER

NUMBER OF CHILDREN

RESIDENTIAL ADDRESS

CELL

BENEFECIARY

BENEFICIARY'S PASSPORT

SCHEDULE II

SOCIETY OF AUTHORS AND ARTISTS

P.O. Box 52
Maseru 100

Tel: 266 22 321426
Fax: 266 22 310 196

**APPLICATION FOR MEMBERSHIP FOR
PUBLISHER/PRODUCER**

(Reg. 16(5)(a))

1. Corporate Name
- Role
2. Foundation Date
3. Foundation Place
4. Country of Foundation
5. Registry of Commerce Number
6. Contact Address
- Telephone
- Fax
- E-mail
7. Bank Address
8. Account Number
9. Signature

SCHEDULE III

SOCIETY OF AUTHORS AND ARTISTS

WORK DECLARATION

(Reg. 16(5)(b))

WRITER(S)/COMPOSER(S)

TITLE TRACK

PRODUCER/PUBLISHER

STUDIO NAME DIRECTOR /PRODUCER

NO.	CAST	EFFECTS e.g. SOUND/ LIGHTS	YEAR OF CREATION	PRODUCER/ DIRECTOR	PROPS INSTRUMENTS COSTUMES	TYRE/GENRE	DURATION
1							
2							
3							
4							
5							
6							
7							

I/ We hereby assign to the Society of Authors and Artists (SAA) the economic rights in the work/s declared above in the SAA Membership Contract. Further, I hereby certify that the information I/ We have given above is true.

Name/s Signature Date

SCHEDULE IV

BENEFICIARY FORM

(Reg. 16(5)(c))

SURNAME

NAMES

DATE OF BIRTH

MARITAL STATUS

SPOUSE

GENDER.....

NUMBER OF CHILDREN

RESIDENTIAL ADDRESS

CELL

BENEFECIARY

BENEFICIARY'S PASSPORT

SCHEDULE V

SOCIETY OF AUTHORS AND ARTISTS

(Reg 21)

Form.....

NOTICE OF SEIZURE

In the exercise of the powers conferred upon me by Regulation 19 (3) and 21 of the Copyright Regulations 2013

I..... of the SAA whose postal address is P.O. Box 52, Maseru 100 / Lesotho Police do hereby put on record and

notify you:-

Name

Address
.....

Of the seizure by the Society of (Description of the material seized and quantities)
.....
.....

You are further notified that the reclaim of the seized items should be made within the period stipulated in the Regulations hereof by producing authentic evidence or documents as per Copyright Law requirements. The Society shall destroy all seized items which have not been reclaimed or that no authentic evidence or documentation of ownership has been produced within the period stipulated in the Regulations seizure.

Date

Signature of Officer withholding material

Distribution

- Original** : Owner
- Duplicate** : SAA
- Triplicate** : Police

SCHEDULE VI

**SOCIETY OF AUTHORS AND ARTISTS
(SAA)**

COPYRIGHT (REPRODUCTION, IMPORTATION AND DISTRIBUTION OF SOUND, LITERACY MATERIALS AND AUDIO-VISUAL RECORDINGS) COPYRIGHT REGULATIONS, 2015

(Reg. 22)

DISTRIBUTION LICENCE NO. 033

Name:

Of:

Is hereby licensed to undertake sound recordings, audio-visual recordings or audio, literacy works distribution subject to the conditions contained at the back of the licence.

This licence is valid from: to

Amount:

Amount in words:

.....
Date

.....
Signature

SCHEDULE VIII**(Reg 23)****DETAILED ACCOUNT****DISTRIBUTION OF ROYALTIES**

TITLE	USER	AMOUNT	RATE	SHARE
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LIKELELI TAMPANE
MINISTER OF TOURISM, ARTS AND CULTURE

NOTE

1. Order No. 13 of 1989