

CHAPTER VIII

LAWS ON FRIENDLY RELATIONS WITH FOREIGN STATES RELATING TO PRESS

The interests of maintaining friendly relations with foreign states is not specified in any of the major Constitutions of the world except India as a valid ground for restricting the freedom of expression. The framers of our Constitution and that of India might have been inspired by art. 2(j) of the Covenant on Freedom of Information and the Press prepared by the United Nations Conference in 1948 which approves of legislative restrictions against, "systematic diffusion of deliberately false and distorted reports which undermine friendly relations between peoples or states."

The expression 'friendly relations with foreign states', covers a very wide area and includes not only defamation of foreign dignitaries, inducement of foreign enlistment, but also propaganda in favour of rival claimants to authority in a foreign state after our country has already recognized a particular person or persons to be authority in that state. As a matter of fact it is difficult to define the area constituting friendly relations with foreign states.

We have the following two Acts in our country on the subject. Besides these two Acts, there is, in the chapter relating to principles of our constitution, an article on the subject of Foreign relations.

The Foreign Recruiting Act, 1874

Act No. IV of 1874

(24th February, 1874)

An Act to control recruiting in (Bangladesh) for the service of foreign states

Preamble

WHEREAS it is expedient that the Government should exercise

full control over recruiting in Bangladesh for the service of foreign states ; it is hereby enacted as follows :-

Short title

1. This Act may be called the Foreign Recruiting Act, 1874, It extends to the whole of Bangladesh.

Local extent

2. In this Act—

“Foreign State” includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province or people beyond the limits of Bangladesh.

Power to prohibit or permit recruiting

3. If any person is, within the limits of Bangladesh obtaining or attempting to obtain recruits for the service of any foreign state in any capacity, the Government may, by order in writing, either prohibit such person from so doing, or permit him to do so subject to any conditions which Government thinks fit to impose.

Power to impose conditions

4. The Government may from time to time by general order notified in the official Gazette, either prohibit recruiting for the service of any or any foreign state, or impose upon such recruiting any conditions which it thinks fit.

Power to rescind or vary orders, offences

5. The Government may rescind or vary any order made under this Act in such manner as (it) thinks fit.

Power to rescind or vary orders, offences

6. Whoever, in violation of the prohibition of the Government or of any condition subject to which permission to recruit may have been accorded,-

(a) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any Foreign State, or

(b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or in any other way whatever, shall be liable to imprisonment for a term which may extend to seven years, or to fine to such amount as the court thinks fit, or to both.

Place of trial

7. Any offence against this Act may be inquired into and tried, as well as any district in which the person accused may be found, as in any district in which it might be inquired into and tried under the provisions of the Code of Criminal procedure, 1898.

The foreign relations Act. 1932.

Act No. XII of 1932

8th April, 1932.

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between the Government of Bangladesh and the Governments of certain foreign states.

WHEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between the Government of Bangladesh and the Government of certain foreign states : It is hereby enacted as follows :-

Short title and extent. 1. (1) This Act may be the Foreign Relations Act, 1932.

(2) It extends to the whole of Bangladesh.

2. Where an offence falling under Chapter XXI of the Penal Code is committed against a Ruler of a State outside but adjoining

Power of Govern-
ment to prose-
cute in certain
cases of defama-
tion.

Bangladesh or against the consort or son or principal Minister of such Ruler, the Government may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding any thing contained in section 198 of the Code of Criminal Procedure, 1898, any court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint.

3. The provisions of section 99A to 99G of the Code of Criminal Procedure, 1898, and of section 27B to 27D of the Post Office

Power to forfeit
certain publica-
tions or to detain
them in the course
of transmission
through post.

Act, 1898, shall apply in the case of any book newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining Bangladesh or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between the Govt. of Bangladesh and the Government of such State, in like manner as they apply in the case of a book newspaper or document containing seditious matter within the meaning of those sections ;

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before the High Court Division arising

Proof of status
of persons de-
famed.

out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate under the hand of a Secretary to the Government that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact.

This law (The Foreign Relations Act 1932) provides that where an offence under chapter XXI of the penal code is committed against a ruler or prime Minister of a foreign neighbouring country, the government may make or authorise anybody else to make a complainant to the court. Chapter XXI of the Penal Code relates to defamation.

The Act further provides that section 99A to 99G of the code

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of criminal procedure 1898 and section 27B to 27D of the Post Office Act 1898 shall apply in case of the aforesaid rulers or Ministers.

The relevant provisions of the code of Criminal Procedure are quoted below :

99A (1) Where

Power to declare certain publications forfeited and to issue searchwarrants for the same.

- (a) any newspaper, or book as defined in the Printing Presses and Publications (Declaration and Registration) Act 1973 or
- (b) any document,

Wherever printed, appears to the Government to contain any seditious matter or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of the citizens of Bangladesh or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class, that is to say, any matter the publication of which is punishable under section 123A or section 124A or section 153A or section 295A of the Penal Code, the government may, by notification in the official Gazette, stating the grounds of its opinion declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to government and thereupon any police-officer may seize the same wherever found in Bangladesh and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In Sub-Section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the

Application to High Court Division to set aside order.

Order of forfeiture High Court Division to set aside such order on the ground that the issue of the newspaper, of the book or other document, in respect of which the order was made, did not contain any treasonable or seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A.

99C. Every such application shall be heard and determined by a Special Bench of the High Court Division composed of three judges.
Hearing by special Bench

99D. (1) On receipt of the Application, the Special Bench shall if it is not satisfied that the issue of the newspaper,

or the book or other document, in respect of which the application has been made, contained treasonable or seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A, set aside the order of forfeiture.
Order of Special Bench setting aside forfeiture

(2) Where there is a difference of opinion among the judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those judges.

99E On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order of forfeiture was made.
Evidence to prove nature or tendency of newspaper

99F. The Supreme Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.
Procedure in High Court Division

99G. No order passed or action taken under section 99A shall be called in question in any court otherwise than in accordance with the provisions of section 99B.
Jurisdiction barred.

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Relevant Section of the Post office Act are as under :

27B. (1) Any officer of the Post Office authorised by the Post Master General in this behalf may detain any postal article in course of transmission by post which he suspects to contain.

Power to detain newspapers and other articles being transmitted by post.

(a) (i) any newspaper or book as defined in the Printing Presses and Publications (Declaration and Registration Act 1973) or

(ii) any document, containing any treasonable or seditious matter, that is to say, any matter the publication of which is punishable under section 123, 123A or section 124 A as the case may be, of the Penal Code ; or

(b) any newspaper as defined in the printing presses and publications (Declaration and Registration Act. 1973) edited, printed or published otherwise than in conformity with the rules laid down in that Act ; and shall deliver any postal article so detained to such officer as the government may appoint in this behalf.

(2) Any officer detaining any postal article under the provision of sub-section (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(3) The Government shall cause the contents of any postal article detained under sub-section (1) to be examined, and if it appears to the government that the article contained any newspaper, book or other document, of the nature described in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force.

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to the government for release of that same, and the government shall consider such application and pass such orders thereon as it may deem to be proper,

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court Division for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any treasonable or seditious matter.

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

27C. Every application made under the second proviso to sub-section (3) of section 27B shall be heard and determined in this manner provided by section 99D to 99F of the Code of Criminal Procedure, 1898, by Special Bench of the (High Court Division) constituted in the manner provided by section 99C of that Code.

Procedure for disposal by High Court Division of applications for release of newspapers and articles so detained.

27D. No order passed or action taken under section 27B shall be called in question in any court otherwise than in accordance with the second proviso to sub-section (3) of that section.

Jurisdiction barred.

Provisions in the Constitution

Article 25 which is the only relevant one on this point find place in part II of the Constitution of the People's Republic of Bangladesh. This part of the Constitution, it should be noted, is not judicially enforceable. Neither are they intended to the mere pious declarations. In this Part, the Constitution gives certain directions to the legislature and the executive to show in what manner they should exercise the legislative and the executive power. It is the intention of the Constitution that both the legislature and the executive should not merely pay lipservice to these principles but that they should be made the basis of all legislative and executive action.

The sanction behind the principle is, of course political and not juridical. These principles are not cognisable by the courts and if the Government of the day fails to carry out these objects no courts can make the Government implement them. Yet these prin-

principles have been declared to be "fundamental in the governance of the country."

So far as the courts are concerned, the Directives are not enforceable by any judicial process. No court would be entitled to declare any legislation as invalid on the ground that it does not conform to the spirit of any of the principles. Nor will the court be competent to compel the Government to carry out any principle.

The relevant Article runs thus :

Promotion of international peace, security and solidarity.

25. (1) The state shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter, and on the basis of those principles shall—

(a) strive for the renunciation of the use of force in international relations and for general and complete disarmament ;

(b) uphold the right of every people freely to determine and build up its own social, economic and political system by ways and means of its own free choice ; and

(c) support oppressed peoples throughout the world waging a just struggle against imperialism, colonialism or racialism.

(2) The state shall endeavour to consolidate, preserve and strengthen fraternal relations among Muslim countries based on Islamic solidarity.

CHAPTER IX

- (a) Loss on Religious feelings.
- (b) False statement in connection with election.

While making a report or writing a view, the journalist is required to guard against publication of anything that touches religion adversely. The people of Bangladesh are sensitive and journalists are required by law to respect that sentiment.

Section 295A provides as follows :

295A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious belief.

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Bangladesh, by words, either spoken or written or by visible representations insults or attempts to insult the religions or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

4. "Deliberate and malicious intention. Religious beliefs". To attract the provisions of section 295-A it is not so much the matter of discourse as the manner of it. In other words, the words used should be such as are bound to be regarded by any reasonable man as grossly offensive and provocative and maliciously and deliberately intended to outrage the feelings of any class of citizens of Bangladesh. Intention to outrage religious feelings deliberately and maliciously must be made out. Insult to religion offered unwittingly or carelessly or without any deliberate or malicious intention does not attract section 295-A. Under section 295-A, it is certainly for the prosecution to establish the element of malice by proper evidence. But it has to be realised that malice is a state of mind and often is not capable of direct and tangible proof. In almost all cases where it is required to be proved it has to be inferred from the surrounding circumstances. In Section 95A the word "malicious"

has not been used in the popular sense to establish malice as contemplated by section 295-A. It is not necessary for the prosecution to prove that the applicant bore ill will or enmity against specified persons. If the injurious act was done voluntarily without a lawful excuse malice may be presumed. The intention of the writer of a book must be judged primarily by the language of the book itself though it is permissible to receive and consider external evidence either to prove or to rebut the meaning ascribed to it. If the language is of a nature calculated to produce or to promote feelings of enmity to hatred the writer must be presumed to intend that which his acts was likely to produce.

It is not possible to accept the view that a statement which would otherwise fall within the meaning of section 295-A can be taken out of its merely because it happens to be a true statement. The truth of the language can neither be pleaded nor proved. Even a true statement may outrage religious feeling.

Provocation received from supporters of the opposite view cannot amount to a lawful excuse for writing the offensive books. If the words used are bound to be regarded by any reasonable man grossly offensive and provocative, and are maliciously intended to be regarded as such then an offence would have been committed. It is no defence to a charge under section 295 A for anyone merely to say that he was writing a pamphlet in reply to one written by adherent of another religion who has attacked his own religion. If he chooses to write such a pamphlet, he must take care of the language which he employs. It is no defence that author had incidentally attacked other religious beliefs also.

Reports affecting tranquillity

We have seen in chapter IV that sedition affects public tranquillity. Sections 124A and 123A of the penal code which relate to sedition have already been discussed. Section 153A and 153B which relate to promotion of enmity between classes and inducement to students for political participation have also been discussed.

Reports tending to injure religious feelings have been discussed under section 295A of the code.

171G. *False statement in connection with an election.*

Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate shall be punished with fine.

Ingredients of the offence.—This section punishes any false statement made or published by any person, including a journalist, in relation to the personal character or conduct or any 'candidate [as defined in s. 171A (a), I.P.C.], which such person either knows or believes to be false or does not believe to be true.

This section creates a separate offence, distinct from the offence of defamation under s. 499, in the following respects—

(i) s. 171G is a species of the general offence of defamation and there may be cases which may fall under s. 171G but not under s. 499, and vice-versa.

(ii) S. 171G does not relate to any person other than a candidate at an election.

(iii) Truth is a complete defence under s. 171G ; but it is no defence under s. 499, unless the accused can come under any of the exceptions to the section

(iv) The punishment under s. 500 is more deterrent than under s. 171G.

CHAPTER—X

LAW ON AUTHENTICATIONS

The Printing Presses and Publication (Declaration and Registration) Act, 1973..

Act No. XXIII of 1973

An Act to provide for declaration for the keeping of printing presses and the printing and publication of newspapers and for registration of books.

Whereas it is expedient to provide for declaration for the keeping of printing presses and the printing and publication of newspaper and for registration of books, and for matters connected therewith

It is hereby enacted as follows :—

PART—I

Preliminary

1. *Short title and commencement*.—(1) This Act may be called the Printing Presses and Publications (Declaration and Registration) Act, 1973.

(2). It shall come into force at once and shall be deemed to have taken effect on the 28th day of August, 1973.

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context,-

(a) “authenticated declaration” means a declaration made and subscribed under section 7 and authenticated or deemed to have been authenticated under section 12 ;

(b) “book” includes every volume, part or division of a volume and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed ;

(c) "document" includes any painting, drawing, photograph or other visible representation ;

(d) "editor" means the person who controls the selection of the matter that is published in a newspaper ;

(e) "form" means a form contained in the Schedule ;

(f) "newspaper" means any periodical work containing public news or comments on public news, and includes such other class of periodical works as the Government may, by notification, in the official Gazette, declare to be newspapers ;

(g) "news-sheet" means any document other than a newspaper containing public news or comments on public news ;

(h) "paper" includes a document, leaflet, newspaper, news-sheet and poster ;

(i) "prescribed" means prescribed by rules ;

(j) "press" includes a printing press and all machines, implements and plant and parts thereof and all material used for multiplying documents ;

(k) "printer" means the person who owns or keeps in his possession any press for the printing of books or papers ;

(l) "printing press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing ;

(m) "publisher" means the person who, in any manner whatsoever undertakes, is in control on, or is responsible for the publication of any book or paper and includes the proprietor of the publishing concern ;

(n) "unauthorized newspaper" means any newspaper in respect of which there are not for the time being valid declarations under section 7 ;

(o) "unauthorized news-sheet" means any news-sheet other than a news-sheet published by a person authorized under section 21 to publish it ; and

(p) "unauthorized press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4.

PART—II

Printing Presses

3. *Particulars to be printed on books and papers.*—Every book or paper printed in Bangladesh shall have printed legibly on it the name of the printer and the place of printing, and, if the book or paper be published, the name of the publisher and the place of publication.

4. *Keeper of printing press to make declaration.*—(1) No person shall keep in his possession any press for the printing of books or papers, unless he has made and subscribed before the District Magistrate within whose local jurisdiction such press may be a declaration in Form A.

(2) As often as the place where a printing press is changed, a fresh declaration shall be necessary :

Provided that where the change is for a period not exceeding sixty days and the place to which the printing press is shifted is within the jurisdiction of the same District Magistrate no fresh declaration shall be necessary :—

(a) the keeper of the press continues to be the same ; and

(b) within twenty-four hours of the change, the keeper of the press informs the District Magistrate in writing of the change.

PART—III

Printing and Publication of Newspapers

5. *Publication of newspapers.*—No newspaper shall be printed or published except in conformity with the provisions of this Part and unless there subsists an authenticated declaration in respect thereof.

6. *Name of the editor to be printed on the newspaper.*—Every copy of every newspaper shall contain the name of the editor of the newspaper printed clearly on such copy as the name of the such editor.

7. *Declaration of the printer and publisher.*—The printer and the publisher of every newspaper shall appear, in person or by agent authorised in this behalf in accordance with the rules, before the District Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe, in duplicate originals, a declaration in Form B.

8. *No minor to be printer, publisher or editor.*—No person who has not attained majority in accordance with the provisions of the Majority Act, 1876 (IX of 1875), or of the law to which he is subject in respect of the attainment of majority shall be permitted to make a declaration under section 7, nor shall any such person edit a newspaper.

9. *Effect of non-publication of newspaper.*—(1) If a newspaper in respect of which a declaration has been made under section 7 is not published within three months of the date on which such declaration is authenticated or deemed to have been authenticated under section 12, the declaration shall become null and void.

(2) Where a declaration becomes null and void under sub-section (1), the printer and the publisher shall make and subscribe a fresh declaration under section 7 before printing or publishing the newspaper, and the provision of sub-section (1) shall apply to the fresh declaration and to any subsequent fresh declaration.

3. Where a newspaper having been published is not published,

(a) in the case of a daily newspaper, for three months, and

(b) in the case of any other newspaper, for six months, the declaration made in respect of that newspaper shall become null and void, and the printer and the publisher shall make and subscribe a fresh declaration under section 7 before further printing or publishing the newspaper and to every such fresh declaration the provisions of the two foregoing sub-sections shall, without prejudice to the provisions of this sub-section, apply.

10. *Effect of change of language, periodicity or place of publication.*—If at any time after the making of a declaration under section

7, the newspaper to which the declaration relates is printed or published in a language, with a periodicity or at a place, other than the language or languages, periodicity or place shown in the declaration, the declaration shall become null and void, and any further printing and publication of the newspaper shall be unauthorized unless a fresh declaration under section 7 is made, but nothing in this section shall apply to a temporary change of the place of printing or publication for a period not exceeding thirty days at any one time, if within seventy-two hours of such temporary change the District Magistrate is informed of it in the manner prescribed.

11. *Effect, if printer or publisher leave Bangladesh.*—If at any time the printer or the publisher who has made a declaration under section 7 leaves Bangladesh, the declaration shall become null and void unless,—

(a) the absence of the printer or the publisher from Bangladesh be for a period not exceeding six months, and

(b) the printer or the publisher, before leaving Bangladesh, informs, in writing, the District Magistrate within whose jurisdiction the newspaper is printed or published, of his intended absence and the name of the person who has undertaken to discharge, in his absence and on his behalf, the responsibilities of the printer or the publisher, and furnishes to the District Magistrate a statement, in writing, of that person accepting those responsibilities.

12. *Authentication of the declaration.*—(1) Subject to the provisions of sub-section (2), each of the duplicate originals of every declaration made and subscribed under section 7 shall be authenticated by the signature and official seal of the District Magistrate before whom the said declaration is made:

(2) The District Magistrate shall not authenticate the declaration unless he is satisfied that—

(a) the proprietor, the printer and the publisher are citizens of Bangladesh ;

(b) the proprietor, if he himself is not the printer or the publisher, has authorised the making of such declaration ;

(c) the title of the new paper proposed to be published is not the same as the title of any newspaper already being published in the same language at any place in the country, not being a newspaper of different periodicity published by the same publisher or another edition of the same newspaper published from another place ;

(d) the printer or the publisher was not convicted of an offence involving moral turpitude within five years before the date of his making and subscribing a declaration under section 7 ;

(e) the printer or the publisher has not been found to be a lunatic or of unsound mind by any court ;

(f) the proprietor or the publisher has the financial resources required for regularly publishing the newspaper ; and

(g) the editor possesses reasonable educational qualifications or has had adequate training or experience in journalism.

“Explanation.—A proprietor or a publisher shall be deemed to have the financial resources required for regularly publishing a newspaper if he has such bank balance as the Government may, by notification in the official Gazette, specify from time to time in this behalf.”

(3) If the District Magistrate refuses to authenticate the declaration, the person making the declaration may, within forty five days of such refusal, prefer an appeal to the Government whose decision thereon shall be final.

(4) If the District Magistrate fails to authenticate the declaration within sixty days of the making thereof, the person making the declaration may prefer an application to the Government praying for an order directing the District Magistrate to authenticate the declaration, and the Government shall make such order on such application as it may deem fit.

13. *Deposit of authenticated declaration.*—The duplicate originals of the declaration authenticated under section 12 shall be deposited one each in the office of the District Magistrate and with the officer appointed by the Government under section 37.

14. *Inspection and supply of copies of the declaration.*—The officer in charge of each original deposited under section 13 shall allow any person to inspect that original on payment of a fee of taka two, and shall give to any person applying a copy thereof attested by the seal of the office which has the custody of the original, on payment of a fee of taka four.

15. *Copy of declaration or newspaper to be prima facie evidence.*—In any legal proceeding, whether civil, criminal or otherwise, a copy of a declaration attested in the manner prescribed in section 14 and a copy of the newspaper having the name of a person printed thereon as its editor, shall be sufficient evidence, unless the contrary is proved, as against the person whose name has been subscribed to such declaration, or printed on such newspaper, as the case may be, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every newspaper whereof the title corresponds with the title of the newspaper mentioned in the declaration or the editor of every portion of the issue of the newspaper of which a copy is produced.

16. *New declaration by persons who have signed declaration and subsequently ceased to be printers or publishers.*—Every person who having subscribed a declaration under section 7 subsequently ceases to be the printer or publisher of the newspaper mentioned in such declaration shall appear, in person or by agent authorised in this behalf in the manner prescribed, before the District Magistrate, and make and subscribe in duplicate originals a declaration in Form C

17. *Authentication and filing of declaration under section 16.*—Each of the duplicate originals of the declaration made under section 16 shall be authenticated by the signature and seal of the District Magistrate before whom it is made and one such original shall be filed along with each original of the declaration under section 7.

18. *Inspection and supply of copies of declaration under section 16.*—The officer in charge of each original of the declaration filed

under section 17 shall allow any person applying to inspect that original on payment of a fee of taka one, and shall give to any person applying a copy thereof attested by the seal of the officer having custody of the original, on payment of a fee of taka two.

19. *Putting copy of declaration under section 16 in evidence.*— In any legal proceeding in which a copy of a declaration under section 7 attested in accordance with section 14 has been put in evidence it shall be lawful to put in evidence a copy of a declaration under section 16 attested in accordance with section 18, and the former declaration shall not then be taken to be evidence that the declarant, was at any period subsequent to the date of the latter declaration, printer or publisher of the newspaper therein mentioned.

20. *Cancellation of authentication.*—(1) If, at any time, the District Magistrate, who authenticated a declaration under section 12, is satisfied that, subsequent to the authentication,—

(a) the proprietor, the printer or the proprietor or the publisher ceased to be a citizen of Bangladesh ;

(b) “the printer or the publisher has been convicted of an offence involving moral turpitude ;”

(c) the printer or the publisher has been found to be a lunatic or of unsound mind by any court ; or

“(d. the proprietor or the publisher has ceased to have the financial resources required for regularly publishing the newspaper, he may, by an order in writing stating the reasons therefore, cancel the authentication of the declaration :

Provided that no such order shall be made except after giving the person who made the declaration a reasonable opportunity of being heard.”

(2) Any person aggrieved by an order under sub-section (1) may, within sixty days of the making of such order, prefer an appeal to the Government whose decision thereon shall be final.

“20A. *Power to declare certain publications forfeited and to issue search warrants for the same.*—Where any book or paper wherever made appears to the Government to contain any words, signs

or visible representations which are indecent, obscene or scurrilous, the Government may, by notification in the official Gazette, stating the grounds of its opinion, declare all copies of such book or paper to be forfeited to the Government and thereupon any police officer may seize the same wherever found in Bangladesh, and any District Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such book or paper may be or may be reasonably suspected to be."

PART—IV

Unauthorised News-sheets and Newspapers

21. *Authorization of persons to publish news-sheets*—(1) The District Magistrate may, by order in writing and subject to such condition as he may think fit to impose, authorise any person by name to publish a news-sheet or to publish news-sheets from time to time.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The District Magistrate may at any time revoke an order made by him under sub-section (1).

22. *Power to seize and destroy unauthorised news-sheets and newspapers*.—(1) Any police-officer, or any other person empowered in this behalf by the Government may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(2) Any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class and all documents seized under sub-section (2) shall be produced as soon as may be before the court of the Magistrate who issued the warrant.

(4) If in the opinion of such Magistrate or court any of such documents are unauthorized news-sheets or unauthorized newspapers, the Magistrate or court may cause them to be destroyed; but if, in the opinion of such Magistrate or court, any or such documents are not unauthorized news-sheets or unauthorized newspapers, such Magistrate or court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898 (V of 1898).

23. *Power to seize and forfeit presses producing unauthorized news-sheets and newspapers.*—(1) Where a District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorized news-sheet or unauthorized newspaper is being produced from any press within the limits of his jurisdiction, he may by warrant authorize any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such press may be, or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is used to produce an unauthorized news-sheet or unauthorized newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorized news-sheets or unauthorized newspapers.

(2) The police-officer shall make a report of the search to the court which issued the warrant and shall produce before such court, as soon as may be, all property seized :

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the court only such parts thereof as he may think fit.

(3) If such court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is used to produce an unauthorized news-sheet or unauthorized newspaper, it

may, by order in writing, declare the press to be forfeited to the Government; but if after such inquiry, the court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, (V of 1898)

(4) The Court shall deal with the documents produced before it under this section in the manner provided in sub-section (4) of section 22.

PART—V

Delivery of Books and Newspapers

24. *Copies of books printed to be delivered gratis to government.*—Notwithstanding any agreement between the printer and publisher of a book, the printer of every book printed or lithographed in Bangladesh, shall, within one month of its delivery out of the press, supply free of expense, four copies of every such book, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the book, to such officer and at such place as the Government may by notification appoint.

25. *Receipt of copies delivered under section 24.*—The officer to whom a copy of a book is delivered under section 24 shall give to the printer a receipt in writing therefor.

26. *Copies of newspapers to be delivered gratis to Government.*—The printer of every newspaper shall deliver at such place and to such officer as the Government may by notification direct, free of cost, four copies of each issue of such newspaper as soon as it is published.

PART—VI

Registration of Books

27. *Registration of memoranda of books.*—There shall be kept as such office, and by such officer as the Government may appoint, a book to be called a Catalogue of Books wherein shall be registered,

as soon as may be after the delivery of every book in pursuance of the provisions of section 24, a memorandum of the book so delivered, and such memorandum shall, so far as may be practicable, contain the following particulars, namely :-

- (a) the title of the book and the contents of the title page, with a translation into Bengali of such title and contents, when the same are not in the Bengali language
- (b) the language in which the book is written,
- (c) the name of the author, translator or editor of the book or any part thereof.
- (d) the subject,
- (e) the place of printing and the 'place of publication,
- (f) the name of the printer and the name of the publisher,
- (g) the date of issue from the press or of the publication,
- (h) the number of sheets, leaves or pages,
- (i) the number of the editions.
- (j) the number of copies of which the edition consists,
- (k) whether the book is printed or lithographed,
- (l) the price at which the book is sold to the public, and
- (m) the name and residence of the proprietor of the copyright or of any portion of such copyright.

28. *Publication of the memoranda of books*—The memoranda registered during each quarter in the said Catalogue of Books shall be published in the official Gazette as soon as may be after the end of such quarter.

PART—VII

Penalties for offences under foregoing provisions

29. *Penalty for contravention of section 3*.—Whoever shall print or publish any book or paper in contravention of the provisions of section 3 shall be punishable with fine not exceeding taka two thousand or with simple imprisonment for a term not exceeding six months, or with both.

30. *Penalty for keeping press without making declaration.*—Whoever shall keep in his possession any printing press without making a declaration as is required by section 4 shall be punishable with fine not exceeding taka two thousand, or with simple imprisonment for a term not exceeding six months, or with both.

31. *Punishment for making false statement.*—Any person who shall, in making any declaration under this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be punishable with fine not exceeding taka two thousand and imprisonment for a term not exceeding six months.

32. *Penalty for printing or publishing in contravention of the provisions of this Act.*—Whoever shall edit, print or publish any newspaper in contravention of the provisions of this Act or whoever shall edit, print or publish, or shall cause to be edited, printed or published, any newspaper, knowing that the said provisions have not been observed with respect to that newspaper shall be punishable with fine not exceeding taka two thousand, or imprisonment for a term not exceeding six months, or with both.

33. *Penalty for disseminating unauthorised news-sheets and newspaper.*—(1) Whoever makes, prints or otherwise produces, distributes, publishes or publicity exhibits or keeps for sale, distribution or publication, any unauthorized news-sheet or unauthorized newspaper, shall be punishable with fine not exceeding taka ten thousand.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any offence punishable under sub-section (1), and any abatement of any such offence, shall be cognizable.

34. *Penalty for not delivering books.*—If any printer of any such book as is referred to in section 24 shall neglect to deliver copies of the same in pursuance of that section, he shall for every such default forfeit to the Government such sum not exceeding taka five hundred as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by

that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

35. *Penalty for failure to supply copies of newspapers gratis to Government.*—If any printer of any newspaper published in Bangladesh neglects to deliver copies of the same in compliance with section 26, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorized by that officer in this behalf, be punishable with fine which may extend to taka five hundred for every default.

36. *Recovery of forfeitures and disposal thereof and of fines.* Any sum forfeited to the Government under section 34 may be recovered under the warrant of the Magistrate determining the sum, or of a successor in office, in the manner authorized by the Code of Criminal Procedure, 1898 (V of 1898), and within the period prescribed by the Penal Code (XLV of 1860), for the levy of a fine.

PART—VIII

37. *Appointment of officers.*—The Government may appoint an officer or officers to carry out the purposes of this Act and such officer or officers shall have such duties and powers in respect of the regulation of matters pertaining to printing press, books and publishers as the Government may assign.

38. *Conduct of searches.*—Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898 (V of 1898).

39. *Offence by companies.*—(1) If the person contravening any of the provisions of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if the offence was committed without his knowledge.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence was committed with the consent of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section, -

(a) 'company' means anybody corporate and includes a firm or other association of individuals and

(b) 'director' in relation to a firm means a partner in the firm.

40. *Power to make rules.*—The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

41. *Repeals and savings.*—(1) The Press and Publications Ordinance, 1960 (XV of 1960), and the Printing Presses and Publications (Declaration and Registrations) Ordinance, 1973 (XVI of 1973), are hereby repealed.

(2) Notwithstanding the repeal, any declaration made, subscribed or authenticated, anything done or any action taken under any provision of any of the aforesaid Ordinances shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been made, subscribed, authenticated, done or taken under the corresponding provisions of this Act.

(3) The provisions of the General Clauses Act, 1897 (X of 1897), shall, subject to the provision of sub-section (2) apply to the repeal of the aforesaid Ordinances by this Act.

THE SCHEDULE

FORM A

(See section 4)

Declaration of the Keeper of the Press.

I..... (name), son of
.....residing at
do hereby declare that I have a press for printing at*.....

*Give full description and address of the premises where the press may be situated.

FORM B

(See section 7)

Declaration of the Printer and/or Publisher of Newspaper

I.....(name), son of.....
.....residing at
do hereby declare that I am the printer or publisher or printer and publisher of the newspaper entitled.....appearing as².....
.....in³..... and printed or¹ published or printed and published at⁴

1 Strike out which is not applicable.

2 Here state the periodicity.

Here mention the language or languages.

4 Give full description and address of the premises where the printing or publication is conducted.

FORM C

(See section 16)

Declaration of person who ceases to be Printer and or Publisher

I.....(name), son of
.....residing at
do hereby declare that I have ceased to be the¹ printer or publisher,
or, the printer and the publisher of the newspaper entitled.....
.....appearing as².....in³.....
.....

1 Strike out which is not applicable.

2 Here state the periodicity.

3 Here mention the language or languages.

S.M. Rahman,
Secretary.

Printed by the Manager, Government Printing Press, Tejgaon,
Dhaka. Published by the Assistant controller-in-charge, Bangladesh
Forms and Publications Office, Dhaka.

CHAPTER—XI

LAW ON PRESS COUNCIL

PRESS COUNCIL ACT

Act No XXV of 1974

An Act to establish a Press Council

WHEREAS it is expedient to establish a Press Council for the purpose of preserving the freedom of the press and maintaining and improving the standard of newspapers and news agencies in Bangladesh ;

It is hereby enacted as follows :—

1. *Short title*—This Act may be called the Press Council Act, 1974
2. *Definition*—In this Act, unless there is anything repugnant the subject or context,—
 - (a) “*Chairman*” means the Chairman of the Council ;
 - (b) “*Council*” means the Press Council established under section 3 ;
 - (c) “*editor*” means the person who controls the selection of the matter that is published in a newspaper ;
 - (d) “*member*” means a member of the Council ;
 - (e) “*newspaper*” means any periodical work containing public news or comments on public news and includes such other class of printed periodical work as the Government may, by notification in the Official Gazette, declare to be newspaper ;
 - (f) “*prescribed*” means prescribed by rules made under this Act ;
 - (g) “*working journalist*” means a person who is a whole-time journalist and is employed as such in, or in relation to, any newspaper establishment and includes an editor, a leader writer, news editor, sub-editor, feature writer, reporter, correspondent, copy tester, cartoonist, news photographer, calligraphist and proof-reader.

3. *Establishment of the Council*—(1) With effect from such date as the Government may, by notification in the official Gazette, appoint, there shall be established, in accordance with the provisions of this Act, a Council to be called the Press Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. *Composition of the Council*—(1) The Council shall consist of a Chairman and fourteen other members.

(2) The Chairman shall be a person who is, or is qualified to be appointed as a Judge of the Supreme Court of Bangladesh and shall be nominated by the President of Bangladesh.

(3) Of the other members,

(a) three shall be working journalists nominated by such association of working journalists as the Chairman may notify in this behalf ;

(b) three shall be editors of newspapers and news agencies nominated by such association of editors of newspapers and news agencies as the Chairman may notify in this behalf ;

(c) three shall be persons who own or manage newspapers and news agencies nominated by such association of owners or managers of newspapers and news agencies as the Chairman may notify in this behalf ;

(d) three shall be persons having special knowledge or practical experience in respect of education, science, art, literature and law of whom respectively one shall be nominated by the University Grants Commission, one by the Bangla Academy and one by the Bangladesh Bar Council ; and

(e) two shall be members of Parliament nominated by the Speaker :

Provided that before notifying any association under clause (a) clause (b) or clause (c), the Chairman shall consult such associations

of persons of the category concerned and such individuals or interests concerned as he thinks fit :

Provided further that no working journalist who is an editor of any newspaper or news agency or who owns or manages any newspaper or news agency shall be eligible for nomination under clause (a) :

Provided further that no editor who owns or manages any newspaper or news agency shall be eligible for nomination under clause (b) :

Provided further that not more than one person having interest in any newspaper or news agency or group of newspapers or news agencies shall be eligible for nomination under clause (a), clause (b) or clause (c),

(4) Where any nominating body referred to in clause (a), Clause (b), clause (c) or clause (d) fails to send the names of its nominees to the Chairman when invited by him to do so or where a nominating body does not exist for the time being, the Chairman may nominate members to represent the category concerned.

(5) The names of persons nominated under this section shall be forwarded to the Government and shall be notified by the Government in the Official Gazette and every such nomination shall take effect from the date on which it is so notified.

5 Term of office of Chairman and members—(1) Save as otherwise provided in this section, the Chairman shall hold office for a period of three years and shall be eligible for re-nomination for one further term.

(2) Save as otherwise provided in this section, a member shall hold office for a period of two years and shall be eligible for re-nomination for one further term.

(3) Where a person nominated as a member under clause (a), clause (b) or clause (c) of sub-section (3) of section 4 is censured under the provisions of sub-section (1) of section 12, he shall cease to be member of the Council.

(4) Where a person is nominated to be a member of the Council by virtue of his holding an office or appointment, he shall cease to be such member as soon he ceases to hold that office or appointment.

(5) A member shall be deemed to have vacated his seat if he absents himself without excuse, sufficient in the opinion of the Chairman, from three consecutive meetings of the Council.

(6) The Chairman may resign his office by giving notice in writing to the Government and any other member may resign his office by giving notice in writing to the Chairman, and upon such resignation being accepted by the Government or the Chairman, as the case may be, he shall be deemed to have vacated his office.

(7) Any vacancy arising under sub-section (2) sub-section (3), sub-section (4) or sub-section (5) or otherwise shall be filled, as soon as may be, by nomination made by the same authority by which and in the same manner in which the member vacating office was nominated and the member so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

6. *Conditions of service of Chairman and members*—(1) The Chairman shall be a whole time officer and shall be paid such salary as the Government may determine.

(2) A member shall receive such allowances or fees for attending the meetings of the Council as may be prescribed.

7. *Committees*.—The Council may constitute from amongst its members such committees as it may deem necessary to assist it in the discharge of its functions :

Provided that the Council may co-opt as members of such committees persons who are not members of the Council.

8. *Meetings of the Council*.—(1) The Council shall meet at such times and places as may be provided by regulations made under this Act :

Provided that, until such regulations are made, the Chairman may summon a meeting of the Council at such time and place as he may deem expedient by notice addressed to each member.

(2) To constitute a quorum at a meeting of the Council, not less than six members, including the Chairman, shall be present.

(3) The meetings of the Council shall be presided over by the Chairman and, in the absence of the Chairman, by a member nominated by the Chairman.

(4) All questions at a meeting of the Council shall be decided by a majority of the members present and voting, and in the case of equality of votes, the person presiding shall have a second or casting vote.

9. *Vacancies, etc. not to invalidate acts or proceedings of the Council*—No act or proceeding of the Council shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Council.

10. *Appointment of Secretary, etc.*—The Council may appoint a Secretary and such other employees as it considers necessary for the efficient performance of its functions on such terms and conditions as may be determined by regulations made under this Act.

11. *Object and function of the Council.*—(1) The object of the Council shall be to preserve the freedom of the press and to maintain and improve the standard of newspapers and news agencies in Bangladesh.

(2) The Council may, in furtherance of its object, perform the following functions, namely :—

- (a) to help newspapers and news agencies to maintain their freedom ;
- (b) to build up a code of conduct for newspapers and news agencies and journalists in accordance with high professional standard ;
- (c) to ensure on the part of newspapers and news agencies and journalists the maintenance of a high standard of public taste and to foster a due sense of both the rights and responsibilities of citizenship ;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism ;

- (e) to keep under review any development likely to restrict the supply and dissemination of information of public interest and importance ;
- (f) to keep under review cases of assistance received by any newspaper or news agency in Bangladesh from any foreign source including such cases as are referred to it by the Government or are brought to its notice by any individual, association of persons or any other organisation :

Provided that nothing in this clause shall preclude the Government from dealing with, in any manner it deems fit, any case of assistance received by a newspaper or news agency in Bangladesh from any foreign source ;

- (g) to undertake studies and research of national and foreign newspapers, their circulation and impact ;
- (h) to provide facilities for proper education and training of persons in the profession of journalism ;
- (i) to promote technical or other research ;
- (j) to promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in the running of news agencies :

Provided that nothing in this clause shall be deemed to confer on the Council any function in regard to dispute to which the Industrial Relations Ordinance, 1969 (XXIII of 1969), applies :

- (k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

12. *Power to warn, admonish and censure* .—(1) Where, on receipt a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standard of journalistic ethics taste or that an editor or a working journalist has committed any professional misconduct or a breach of the code of journalistic ethics, the Council may, after giving the newspaper or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may

be provided by regulations made under this Act, and if it is satisfied that it is necessary so to do, it may for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist, as the case may be.

(2) If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to publish therein, in such manner as the Council thinks fit, any report relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of Law.

(4) The decision of the Council under sub-section (1) or sub-section (2), as the case may be shall be final and shall not be questioned in any court of Law.

13. *General powers of the Council.*—(1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout Bangladesh as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters namely :—

- (a) summoning and enforcing the attendance of persons and examining them on oath ;
 - (b) requiring the discovery and production of documents ;
 - (c) receiving evidence on affidavit ;
 - (d) requisitioning any public record or copies thereof from any court or office ;
 - (e) issuing commissions for the examination of witnesses or documents ;
 - (f) any other matter which may be prescribed ;
- (2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the

source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Penal Code (XLV of 1860).

14. *Payment of the Council.*—The Government may pay to the Council in each financial year such sums as may be considered necessary for the performance of the functions of the Council under this Act.

15. *Fund of the Council.*—(1) The Council shall have its own fund, and all such sums as may, from time to time, be paid by any other authority or person shall be credited to the fund and all payments by the Council shall be made therefrom :

Provided that no grant or advance from any foreign source shall be accepted by the Council without the prior approval of the Government.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Government, be decided by the council.

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Council.

16. *Budget to the Council.*—The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure and sums which are likely to be required from the Government during the financial year, and forward copies thereof to the Government for consideration and sanction of the sums shown in the budget to be required from the Government.

17. *Annual report.*—The Council shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year

and copies thereof shall be forwarded to the Government and the Government shall cause the same to be laid before Parliament.

18. *Accounts and audit.*—The accounts of the Council shall be maintained in such manner as may be prescribed and shall be audited by the Controller and Auditor-General of Bangladesh.

19. *Authentication of orders, etc. of the Council.*—All orders and decisions of the Council shall be authenticated by the signature of the Chairman or any other member authorised by the Chairman in this behalf and other instruments issued by the Council shall be authenticated by the signature of the Secretary or any other officer of the Council authorised by the Secretary in this behalf.

20. *Protection of certain actions* :—(1) No suitor other legal proceeding shall lie against the council or any member thereof or any person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act. (2) No suit or other legal proceeding shall lie against any newspaper in respect of the publication of any matter there in under the authority of the Council.

21. *Public servant* :—The Chairman, members, officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Penal Code (XLV of 1860).

22. *Winding up* :—No provisions of law relating to the winding up of bodies corporate shall apply to the Council and the Council shall not be wound up except by orders of the Government and in such manner as the Government may direct.

23. *Power to make rules* :—The Government may by notification in the official Gazette, make rules to carry out the purposes of this Act.

24. *Power to make regulation.*—The Council may make regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters not provided for by rules and for which provisions are necessary or expedient for carrying out the purposes of this Act.

SHORT NOTES

During the past few years, many democratic countries have established Press Council

It is not untrue that the press in this country had shown considerable restraint in times of crisis and has worked hard for national sovereignty and boosting up the morale of the people at critical junctures. Yet the press has its difficulties.

Bringing to book a recalcitrant journalist or censuring an erring journalist is but one of the many functions entrusted to the Council. The Press Council is not a criminal court to adjudicate on infractions of journalistic ethics. The important object placed before the Council is "to preserve the freedom of the press and to maintain and improve the standards of newspapers in Bangladesh." One of its main tasks is to build up a code of conduct for newspapers and journalists in accordance with high professional standards. Amongst the other functions which the Council has to perform are to help newspapers maintain their independence, high professional standards, high standards of public taste and to foster a due sense of both the rights and responsibilities of citizenship and to provide facilities for the proper education and training of persons to enable them to practise the profession of journalism

Undeniably the Constitution has guaranteed to its citizens freedom of Press, speech and expression. The general complaint of the journalists and sometimes of the editors is that the freedom to express views freely and frankly is at times throttled by those who hold the dominant position in the society

From a reading of the objects for which the Council is established and the functions entrusted to it, it is clear that the Council can play a significant role in maintaining the freedom of the Press and ensuring propriety on the part of the press. The Council acts as a buffer between the press and the public. It is its role as a judicial body sitting as a court to inquire into complaints against breaches of journalistic ethics. In its capacity as an adjudicating body, it enquires into complaints against the conduct of the press towards the public

as also in a sense the conduct of the people and the Government towards the press.

The Press Council Act confers power on the Council to entertain complaints made to it by any member of the public or *suo motu* when it believes that a newspaper or news agency has offended against standards of journalistic ethics or public taste etc. The Council has provided a procedure for this by its regulations which, briefly stated, is that the complainant should furnish the name and address of the newspaper, editor or working journalist against which or whom the complaint is lodged, with a cutting of the news item which according to him offends against journalistic ethics. The complainant should mention in his complaint whether he has drawn the attention of the editor to the matter published in his paper which he thinks offends against journalistic ethics or public taste. He should also state whether any legal proceedings are pending in a court of law in respect of the same subject matter. When these formalities are completed, a show cause notice may be issued to the editor or newspaper asking it or him to submit statement in reply. The matter is considered by a committee of the Council called the Judicial Committee. Both parties can adduce evidence before the committee, either oral or documentary, in support of their respective contentions. The findings of the committee are placed before the Council which takes final decision on the matter. The parties are entitled to appear before the committee either in person or through a legal practitioner.

Most people are reluctant to go to a court or a tribunal because of the long-drawn-out procedures involved in them. There is no eagerness on the part of the people to bring to the notice of courts even matter which affect their rights. The procedure in the Press Council is fairly easy and, as stated above, demands practically no formality.

For a complaint to be lodged with the Press Council, it is not necessary that the complainant should have a personal interest in the matter complained against. A complaint can be made on grounds such as misrepresentation of facts in a news report, or because the

headlines therein are misleading or on the ground that an article in a newspaper has stated as fact which was a mere conjecture and so on. A complaint can be filed where the complainant has "reason to believe that a newspaper has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct or a breach of the code of journalistic ethics." The Act authorises the council to take notice of such misconduct of its own accord. It need not necessarily wait for someone to lodge a complaint. After examining the complaint and the statement of the opposite party in the manner explained earlier, the Council proceeds to express its opinion which, in gross cases, may be a censure.

The Council cannot impose any corporal or financial punishment on the offending journalist nor can the Council award damages to the aggrieved party. The strength of the Council lies in its appeal to conscience. The power conferred by section 12(2) requiring a newspaper to publish therein any particulars relating to any enquiry is, if properly used and constantly exercised can become extremely effective. The public rebuke that the Council administers and the obligation of the offending newspaper to publish its decisions operate both as a penalty and a deterrent. The reason given is that it is a serious matter for a newspaper to have to inform its readers on whose respect it depends that it has been convicted of a breach of journalistic standards.

The Council consists of a Chairman and 14 other members. The Chairman shall be a person who is, or is qualified to be appointed as a Judge of the Supreme Court of Bangladesh and shall be nominated by the President of Bangladesh.

(3) Of the other members,—

- (a) three shall be working journalists nominated by such association of working journalists as the Chairman may notify in this behalf ;
- (b) three shall be editors of newspapers and news agencies nominated by such association of editors of newspapers

and news agencies as the Chairman may notify in this behalf ;

- (c) three shall be persons who own or manage newspapers and news agencies nominated by such association of owners or managers of newspapers and news agencies as the Chairman may notify in this behalf ;
- (d) three shall be persons having special knowledge or practical experience in respect of education, science, art, literature and law of whom respectively one shall be nominated by the University Grants Commission, one by the Bangla Academy and one by the Bangladesh Bar Council ; and
- (e) two shall be member of Parliament nominated by the Speaker ;

The Chairman holds office for three years and other members for a periods of two years. If a member is censured by the Council, he ceases to be a member of the Council'.

For the purpose of performing its functions or holding an enquiry under the Act, the Council has been clothed with powers exercisable throughout Bangladesh as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908. It can summon and enforce the attendance of persons and examine them. It can require discovery and production of documents, receive evidence on affidavits, requisition public records or copies thereof from any court or office, issue commissions for the examination of persons or documents and finally for any other matter which may be prescribed. The Act recognises immunity of a journalist from disclosing his source of information. It says that the Council cannot compel any newspaper or a journalist to disclose the source of any news or information, published by that newspaper or received or reported by news agency, editor or journalist.

The Government pays to the Council in each financial year such sums as are necessary for the performance of the functions of the Council under the Act.

The annual report of the Council is to consist of a summary of its activities during the previous year.

Immunity is conferred on the Council and the members from any legal action in respect of anything which is done in good faith or intended to be done under the Act. Where a newspaper publishes any report of the Council under the authority of the Council, no suit or other legal proceedings shall lie against any newspaper in respect of such publication.

CHAPTER XII

Preamble

THE COPYRIGHT ORDINANCE, 1962

ORDINANCE NO. XXXIV OF 1962

An ordinance to amend and consolidate the law relating to Copyright.

WHEREAS it is expedient to amend and consolidate the law relating to copyright ;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance ;

CHAPTER I

PRELIMINARY

Extent and Commencement

1. (1) *This Ordinance may be called the Copyright Ordinance 1962.*
 - (2) it extends to the whole of Bangladesh.
 - (3) it shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
2. *Definitions*.—In this Ordinance, unless there is anything repugnant in the subject or context,—
- (a) “Adaptation” means,—
 - (i) in relation to a dramatic work, the conversion of the

- work into a non-dramatic work ;
- (ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;
 - (iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical ; and
 - (iv) in relation to a musical work, any arrangement or transcription of the work ;
- (b) Architectural work of art” means by building having an artistic character or design or any model of such building ;
- (c) “Artistic work” means—
- (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph whether or not any such work possesses artistic quality ;
 - (ii) an architectural work of art ; and
 - (iii) any other work of artistic craftsmanship ;
- (d) “Author” means,—
- (i) in relation to a literary or dramatic work, the author of the work ;
 - (ii) in relation to a musical work, the composer ;
 - (iii) in relation to an artistic work other than a photograph, the artist ;
 - (iv) in relation to a photograph, the person taking the photograph ;
 - (v) in relation to a cinematographic work, the owner of the work at the time of its completion ; and
 - (vi) in relation to a record, the owner of the original plate from which the record is made at the time of the making of the plate ;

- (e) "Bangalee work" means a literary, dramatic, musical or artistic work the author of which is a citizen of Bangladesh and includes a cinematographic work or a record made or manufactured in Bangladesh ;
- (f) "Board" means the Copyright Board constituted under section 45 ;
- (g) "Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan, separately printed or lithographed, but does not include a newspaper ;
- (h) "Broadcast" means communication to the public by any means of radio-diffusion including telecast or by wire or by both, and "broadcasting" shall be construed accordingly ;
- (i) "Broadcasting Authority" means any person who, or any authority which, operates a broadcast transmitting station ;
- (j) "Building" includes any structure ;
- (k) "Calendar year" means the year commencing on the first day of January ;
- (l) "Cinematographic work" means any sequence of visual images fixed on material of any description (whether translucent or not) so as to be capable of being shown as a moving picture and of being the subject of reproduction, whether silent or accompanied by sound ;
- (m) "Copy" means a reproduction in a written form or in the form of a sound recording or cinematographic work or in any other material form, whether in two or three dimensions ;
- (n) "Copyright" means copyright under this Ordinance ;
- (o) "Delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by broadcast or telecast.
- (p) "Dramatic work" includes any play for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematographic work ;

- (q) "Engravings" include etchings, lithographs, wood-cuts, print and other similar works, not being photographs ;
- (r) "Exclusive licence" means a licence which confers on the licensee and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work and "exclusive" shall be construed accordingly;
- (s) "Fixation" means the incorporation of sounds or images or both in a device by means of which they can later be made aurally or visually perceivable ;
- (t) "Government work" means a work which is made or published by or under the direction or control of—
 - (i) the Government or any department of the Government, or
 - (ii) any court, tribunal or other judicial or legislative authority in Bangladesh ;
- (u) "Infringing copy means"—
 - (i) in relation to a literary, dramatic, musical or artistic work, a reproduction in any material form of the whole work or a part thereof otherwise than in the form of a cinematographic work ;
 - (ii) in relation to a cinematographic work, a copy of the work or a record embodying the whole or a part of the recording in any part or the sound-track associated with the film ;
 - (iii) in relation to a record, any record embodying the same recording either in its original form or in any form derived from the original ; and
 - (iv) in relation to a programme in which broadcast reproduction right subsists under section 24, a cinematographic work or a record, recording the whole programme or a part thereof, if such reproduction, copy or record is made or imported in contravention of any of the provisions of this Ordinance ;
 - (v) "Lecture" includes address, speech and sermon ;

- (w) "Licence" means a licence granted under Chapter VII of this ordinance ;
- (x) "Literary work" includes works on humanity, religion, social and physical sciences, tables and compilations ;
- (y) "Manuscript" means the original documents embodying the work, whether written by hand or not ;
- (z) "Musical work" means any combination of melody and harmony or either of them printed, reduced to writing or otherwise graphically produced or reproduced ;
- (za) "Newspaper" means a newspaper as defined in section 2(f) of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), printed or published in conformity with the provisions of Part III of the said Act ;
- (zb) "Performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematographic work, or by means of broadcast, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture ;
- (zc) "Performing rights society" means a society, association or other body, whether incorporated or not, which carries on in Bangladesh the business of issuing or granting licences for the performance in Bangladesh of any works in which copyright subsists ;
- (zd) "Photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematographic work ;
- (ze) "Plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative tape, wire, optical film, or other device used or intended to be used for printing or reproducing copies of any work, any matrix or other appliances by which records for the acoustic presentation of the work are or are intended to be made ;
- (zf) "Prescribed" means prescribed by rules made under this Ordinance ;

- (zg) "Public libraries" means the National Library of Bangladesh designated as such by the Government and any three other libraries as may be specified by the Government in this behalf by notification in the official Gazette ;
- (zh) "Rebroadcast" means a simultaneous or subsequent broadcast by one Broadcasting Authority of the broadcast of another Broadcasting Authority, whether situated in Bangladesh or abroad, and includes distribution of such broadcast over wires and "rebroadcasting" shall be construed accordingly ;
- (zi) "Record" means any disc, tape, wire, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a soundtrack associated with a cinematographic work ;
- (zj) "Recording" means the aggregate of the sound, embodied in, and capable of being reproduced by means of a record ;
- (zk) "Reproduction" in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematographic work or the sorting of the work in a computer or other device by means of which it can be read or otherwise perceived and, in the case of an artistic work, includes a version produced by converting the work into a three dimensional form or if it is in three dimensions, by converting it into a two-dimensional form be construed accordingly ;
- (zl) "Registrar" means the Registrar of Copyrights appointed under section 44 and includes a Deputy Registrar of Copyrights discharging any function of the Registrar ;
- (zm) "Work" means any of the following works, namely ;
- (i) a literary, dramatic, musical or artistic work ;
 - (ii) a cinematographic work ;
 - (iii) a record ; and (iv) a broadcast ;

- (zn) "Work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors ; and
- (zo) "Work or sculpture" includes casts and models.

Meaning of Copyright

3. (1) For the purposes of this Ordinance, "Copyright" means the exclusive right, by virtue of, and subject to the provisions of, this Ordinance ;

- (a) in the case of a literary, dramatic or musical work, to do and authorize the doing of any of the following acts, namely
- (i) to reproduce the work in any material form ;
 - (ii) to publish the work ;
 - (iii) to perform the work in public ;
 - (iv) to produce, reproduce, perform or publish any translation of the work ;
 - (v) to use the work in a cinematographic work or make a record in respect of the work ;
 - (vi) to broadcast the work or to communicate the broadcast of the work to the public by a loudspeaker or any other similar instrument ;
 - (vii) to make any adaptation of the work ;
 - (viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (vi) ;
- (b) in the case of an artistic work, to do or authorize the doing of any of the following acts, namely ;
- (i) to reproduce the work in any material form ;
 - (ii) to publish the work ;
 - (iii) to use the work in a cinematographic work ;
 - (iv) to show the work in television ;
 - (v) to make any adaptation of the work ;

- (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv) ;
- (c) in the case of a cinematographic work, to do or authorize the doing of any of the following acts, namely ;—
- (i) to make a copy of the work ;
 - (ii) to cause the work in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds to be heard in public ;
 - (iii) to make any record embodying the recording in any part of the sound track associated with the work by utilising such sound track ;
 - (iv) to broadcast the work ;
- (d) in the case of a record, to do or authorize the doing of any of the following acts by utilizing the record, namely.—
- (i) to make any other record embodying the same recording ;
 - (ii) to use the record in the sound track of a cinematographic work ;
 - (iii) to cause the recording embodied in the record to be heard in public ;
 - (iv) to communicate the recording embodied in the record by broadcast.

(2) Any reference in sub-section (1) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a part thereof.

Meaning of Publication

- 4.(i) For the purposes of this Ordinance, "Publication" means ;-
- (a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities ;

- (b) in the case of a cinematographic work, the sale or hire or offer for sale or hire of the work or copies thereof to the public
- (c) in the case of a record, the issue of records to the public in sufficient quantities ;

but does not, except as otherwise expressly provided in this Ordinance, include.

- (i) in the case of a literary, dramatic or musical work, the issue of any records recording such work ;
- (ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

(2) If any question arises under sub-section (1) whether copies of any literary dramatic, musical or artistic work, or records issued to the public are sufficient in quantities, it shall be referred to the Board whose decision thereon shall be final.

**When the work not deemed to be published or performed in public,
When work deemed to be first published in Bangladesh**

5. Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public or delivered in public, without the licence of consent of the owner of the copyright.

6. (1) For the purposes of this Ordinance, a work published in Bangladesh shall be deemed to be first published in Bangladesh notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work ; and a work shall be deemed to be published a simultaneously in Bangladesh and in another country if the time between the publication in Bangladesh and the publication in such other country does not exceed thirty days.

(2) If any question arises under sub-section (1) whether the term of copyright for any work is shorter in any other country than that

provided in respect of that work under this Ordinance, it shall be referred to the Board whose decision thereon shall be final.

Nationality of author where the making of unpublished work is extended over considerable period. Domicile of Corporation

7. Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Ordinance, be deemed to be citizen of, or domiciled in, the country of which he was a citizen of wherein he was domiciled during the major part of that period.

8. For the purposes of this Ordinance, a body corporate shall be deemed to be domiciled in Bangladesh if it is incorporated under any law in force in Bangladesh or if it has an established place of business in Bangladesh.

No copyright except as provided on this ordinance

9. No person shall be entitled to copyright or any similar right in any work whether published or unpublished, otherwise than under and in accordance with the provisions of this Ordinance, or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

Works in which copyright subsists

10. (1) Subject to the provisions of this section and to the other provisions of this Ordinance, copyright shall subsist throughout Bangladesh in the following classes of works, that is to say,—

- (a) Original literary, dramatic, musical and artistic works ;
- (b) Cinematographic works ;
- (c) Records ; and
- (d) Broadcasts.

(2) Copyright shall not subsist in any work specified in subsection (1), other than a work to which the provisions of section 53 or section 54 apply, unless—

- (i) in the case of a published work, the work is first published in Bangladesh, or where the work is first published outside Bangladesh, the author is at the date of such publication, or in a case where the author was dead at the date, was at the time of his death, a citizen of Bangladesh or domiciled in Bangladesh ;
 - (ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of Bangladesh or domiciled in Bangladesh
 - (iii) in the case of an architectural work of art, the work is located in Bangladesh.
 - (iv) in the case of a record, the recording is made in Bangladesh ; and
 - (v) in the case of a broadcast, the broadcasting is transmitted from within Bangladesh.
- (3) Copyright shall not subsist—
- (a) in any cinematographic work, if a substantial part of the work is an infringement of the copyright in any other work ;
 - (b) in any record made in respect of a literary, dramatic or musical work, of, in making the record copyright in such work has been infringed ; and
 - (c) in any broadcast, if a substantial part of the broadcast, is an infringement of the copyright in any other work.

(4) The copyright or the lack of copyright in a cinematographic work or a broadcast or a record shall not effect the separate copyright in any work in respect of which or a substantial part of which, the work or the broadcast or, as the case may be, the record is made.

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to the processes or methods of construction.

Work of joint authors

(11) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Ordinance, the work shall be treated for the purpose of this Ordinance as if the other author or authors had been the sole author or authors thereof ;

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions.

Provisions as to designs registrable under act 11 of 1911

12. (1) Copyright shall not subsist under this Ordinance in any design which is registered under the Patents and Designs Act, 1911.

(2) Copyright in any design which is capable of being registered under the Patents and Designs Act, 1911, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence by any other person.

First owner of Copyright

13. Subject to the provisions of the Ordinance, the author of a work shall be the first owner of the copyright therein ;

Provided that,—

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or

similar periodical, the said proprietor shall, in the owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work ;

- (b) subject to the provisions of clause (a) in the case of a photograph taken, or a painting or portrait done, or an engraving or a cinematographic work made, for valuable consideration at the instance of any person, such persons shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;
- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein,
- (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;
- (e) in the case of a work to which the provisions of section 53 apply, the international organization concerned shall be the first owner of the copyright therein.

14. (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof ;

Provided that, in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence :

Provided further that, where the owner of the copyright in a work is the author of the work, no assignment of the copyright in the work or of any interest in such copyright shall be made, or if made shall be effective (except where the assignment is made in favour of Government or an educational, charitable, religious or non-profit institution) for a period of more than ten years beginning from the calendar year next following the year in which the assignment is made ; if an assignment of the copyright in a work is made in contravention of this proviso, the copyright in the work shall, on the expiry of the period specified in this proviso, revert to the author (who may re-assign the copyright in the work subject to the provisions therein contained), or if the author be dead to his representatives in interest :

Provided further that the copyright in an unpublished work assigned by its author to any person or organisation for the specific purpose of publication shall revert to the author if it is not published within a period of three years from the date of its assignment, subject to the condition that prior to such assignment the work is registered under this Ordinance.

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Ordinance as the owner of copyright and the provisions of this Ordinance shall have effect accordingly.

(3) In this section, the expression "assignee" as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

Mode of Assignment

15. No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent.

Transmission of copyright in manuscript by testamentary disposition

16. Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator's will or any codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Right of owner to relinquish copyright

17 (1) The owner of the copyright in a work may relinquish all or any of the rights comprised in the copyright by giving notice in the prescribed form to the Registrar and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar shall cause it to be published in the official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any right subsisting in favour of any person on the date of the notice referred to in sub-section (1).

Term of copyright in published literary, dramatic, musical and artistic work

18. Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the life time of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation—In this section, the reference to the author shall in the case of a work of joint authorship, be construed as a reference to the author who dies last.

Term of copyright in posthumous work

19. (1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author, who dies last but which or any adaptation of which, had not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.

Term of copyright in cinematographic works, records and photographs

20. (1) In the case of a cinematographic work, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is published.

(2) In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

(3) In the case of photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

Term of copyright in broadcast

20A. In the case of a broadcast, copyright shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast first took place.

Term of copy right in anoyomous and psendonymous work

21. (1) In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) in sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship be construed,—

- (a) where the identity of one of the authors is disclosed as references to that author ;
- (b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors ;
- (c) in sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,—
 - (a) where the names of one or more (but not all) of the authors are pseudonym and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such one of those authors who dies last ;
 - (b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the authors who dies last from amongst the authors whose names are no pseudonyms and the authors whose names are pseudonyms and are disclosed ; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or, if the identity of two or more of such authors is disclosed, as references to such one of those authors who dies last.

Explanation—For the purposes of this section, the identity of an author shall be deemed to have been disclosed if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Board by that author.

Term of copyright in Govt. works and in works of international organisations

22. (1) Copyright in a Government work shall, where Government is the first owner of the copyright therein, subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

(2) In the case of a work of an international organisation to which the provisions of section 53 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Term of copyright in unpublished work

23.(1) If a work, whose author's identity is known, is not published posthumously within fifty years after the death of the author, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) If a work, whose author's identity is not known, is not published within fifty years of its creation, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the work is created.

Rights of broadcasting organisation

24. (1) Broadcasting organizations shall enjoy the right to authorise—
- (a) the rebroadcasting of their broadcasts ;
 - (b) the fixation of their broadcasts ; and
 - (c) the copying of fixations made of their broadcasts.

Application of other provisions of this ordinance to broadcasts

25. Any person who, without the authorization of the broadcasting organization, does or causes the doing of any of the acts referred to in section 24 shall be deemed to infringe the rights of the broadcasting organizations, and the provisions contained in Chapter XII to XVI shall, within the limits permitted by the nature of the matter, apply to broadcasting organizations and broadcasts as if they were authors and works, respectively.

26. Omitted by Act LIV of 1974. x.x. 8 & 9.

Other rights not affected

27. For the removal of doubts, it is hereby declared that the rights conferred upon broadcasting organizations shall not affect the copyright in any literary, dramatic, musical, artistic or cinematographic work, or in any record used in the broadcast.

Protection of and term of protection

28. The publisher of an edition of a work shall enjoy the right to authorise the making, by any photographic or similar process, of copies, intended for sale in commerce, of the typographical arrangement of the edition, and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the edition was first published.

Infringements etc.

29. Any person who, without the authorization of the publisher makes or causes the making of, by any photographic or similar process, copies, intended for sale in commerce, of the typographical arrangement of the edition or any substantial part thereof, shall be deemed to infringe the right of the publisher, and the provisions contained in Chapter XII to XVI shall, within the limits permitted by the nature of the matter, apply to the publisher and the typographical arrangements of editions as if they were authors and works respectively.

Explanation—“Typographical arrangement” shall include calligraphy.

Protections to copyright

30. For the removal of doubts, it is hereby declared that the right conferred upon publishers by this chapter shall.—

- (a) subsist irrespective of the question whether the edition is that of a work protected or unprotected by copyright ;
- (b) not affect the copyright, if any, in the literary, dramatic, musical or artistic work itself.

Performing rights society of file statements of fees, charges and royalties

31 (1) Every performing rights society shall within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar, statements of all fees, charges or royalties which it proposes to collect for the grant of licences for the performance in public or works in respect of which it has authority to grant such licences.

(2) If any such society fails, in relation to any work, to prepare, publish or file with the Registrar the statements referred to in sub-section (1) in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar.

Objections relating to published statements

32. Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 31 may at any time lodge such objections in writing at the Copyright Office.

Determination of Objections

33 (1) Every objection lodged at the Copyright Office under section 32 shall, as soon as may be, be referred to the Board, and the Board shall decide such objection in the manner hereinafter provided.

(2) The Board shall, notwithstanding that no objection has been lodged, take notice of any matter which, in its opinion, is one for objection.

(3) The Board shall give notice in respect of every objection to the performing rights society concerned and shall give to such society and the person who lodged the objection a reasonable opportunity of being heard.

(4) The Board shall, after making the prescribed enquiry, make such alterations in the statements as it may think fit, and shall transmit the statements thus altered or unchanged, as the case may be, to the Registrar, who shall thereupon as soon as practicable after the receipt of such statements publish them in the official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

(5) The statements of fees, charges or royalties as approved by the Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the issue or grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(6) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of

the performing rights in any work claimed by such society against any person who has tendered or paid to such society the fees, charges or royalties which have been approved by the Board as aforesaid.

Existing rights not affected

34. Nothing in this chapter shall be deemed to affect—
- (a) any rights or liabilities in relation to the performing rights in work accrued or incurred before the commencement of this Ordinance ; and
 - (b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

Licence by owners of copyright

35. The owner of the copyright in any existing work of the prospective owner of the copyright in any future work may grant any interest in the copyright by licence in writing signed by him or by his duly authorised agent :

Provided that in the case of a licence relating to copyright in any future work ; the licence shall take effect only when the work comes into existence.

Explanation—When a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

Compulsory licence in work withhold from public

36(1) If at any time during the term of copyright in any Bangalye's work which has been published or performed in public, an application is made to the Board that the owner of the copyright in the work.

- (a) has refused to republish or allow the republication of the work or
- has refused to allow the performance in public of the work

and by reason of such refusal the work is withhold from the public ; or

(b) has refused to allow communication to the public by broadcast of such work or, in the case of record the work recorded in such record, in terms which the applicant considers reasonable ;

the Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that such refusal is not in the public interest, or that the grounds for such refusal are not reasonable, direct the Registrar to grant to the applicant a licence to republish the work, perform the work in public or communicate the work to the public by broadcast as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other term and conditions as the Board may determine ; and thereupon the Registrar shall grant the licence to the applicant in accordance with the directions of the Board, on payment of such fees as may be prescribed.

(2) Where two or more persons have made applications under sub-section (1), the licence shall be granted to the applicant who, in the opinion of the Board, would best serve the interests of the general public.

Licence to produce and publish translations

37. (1) Any citizen of Bangladesh or a person domiciled in Bangladesh may apply to the Board for a licence to produce and publish a translation of a literary or dramatic work in Bengali or a language ordinarily used in Bangladesh.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar such fee as may be prescribed.

(4) When an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public calculated at such rate as the Board may, in the circumstances of each case, determine in the prescribed manner :

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within seven years of the first publication of the work, or if a translation has been so published, it has been out of print ;
- (b) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation or that he was unable to find the owner of the copyright ;
- (c) where the applicant is unable to find the owner of the copyright he has sent a copy of his request for such authorization to the publisher whose name appears from the work, not less than two months before the application for the licence ;
- (d) the Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section ;
- (e) the author has not withdrawn from circulation copies of the work ;
- (f) an opportunity of being heard is given wherever practicable to the owner of the copyright in the work ; and

- (g) the Board is satisfied, for reason to be recorded in writing, that the grant of the licence will be in the public interest.

Righter of Copyrights, Indexes form and inspection of Register

38. The Registrar shall keep at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which shall be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

(2) The Registrar shall also keep such indexes of Register of copyrights as may be prescribed.

(3) The Register of Copyrights and the indexes thereof kept under this section shall at all reasonable time be open to inspection, and any person shall be entitled to take copies of, or make extracts from, any such register or index on payment of such fee and subject to such conditions as may be prescribed.

Registration of copyrights

39. (1) The author or publisher of, or the owner of, or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1) the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any work.

Registration assignment of copyright

40. (1) Any person interested in the grant of an interest in a copyright, either by assignment or licence may make an applica-

tion in the prescribed form, accompanied by the prescribed fee, the original instrument of such grant and a certified copy thereof, to the Registrar for entering the particulars of the grant in the Register of Copyrights.

(2) On receipt of an application in respect of any work under subsection (1), the Registrar shall, after holding such inquiry as he deems fit, enter the particulars of the grant in the Register of Copyrights unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any grant.

(3) The certified copy of the grant shall be retained at the Copyright Office and the original shall be returned to the person depositing it, with a certificate of Registration endorsed thereon or affixed thereto.

Correction of entries in the Register of Copyright and indexes etc.

41. (1) The Registrar may in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights and the indexes by—

- (a) correcting any error in any name, address or particulars ;
or
- (b) correcting any other error which may have arisen therein by accidental slip or commission.

(2) The Board, on application of the Registrar or of any person aggrieved, may order the rectification of the Register of Copyrights by—

- (a) the making of any entry wrongly omitted to be made in the Register, or
- (b) the expunging of any entry wrongly made in or, remaining on, the Register, or
- (c) the correction of any error or defect in the Register.

42. (1) The Register of Copyrights and the indexes shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entry therein or extracts therefrom

certified by the Registrar and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof of production of the original.

(2) A certificate of registration of copyright in a work shall be *prima facie* evidence that copyright subsists in the work and that the person shown in the certificate as the owner of the copyright is the owner of such copyright.

Copyright Office

43. (1) There shall be established for the purposes of this ordinance an office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of the Registrar of Copyright who shall act under the superintendence and direction of the Government.

(3) The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

Registrar and Deputy Registrar of Copyrights

44. (1) The Government shall, for the purposes of this Ordinance appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) The Registrar shall,—

- (i) sign all entries made in the Register of Copyrights kept under this Ordinance ;
- (ii) sign all certificate of registration of copyrights and certified copies under the seal of the Copyright Office ;
- (iii) exercise the powers conferred and perform the duties imposed upon him by or under this Ordinance ;
- (iv) be the Secretary of the copyright Board ; and
- (v) shall perform such other functions as may be prescribed.

(3) A Deputy Registrar of Copyrights shall discharge, under the superintendence and direction of the Registrar, such functions of

the Registrar under this Ordinance as the Registrar may, from time to time, assign to him.

45. (1) The Government shall constitute a Board to be called the Copyright Board consisting of the following members, namely :—

- (i) A Chairman appointed by the Government ;
- (ii) not less than three and not more than five other members appointed by the Government ; and
- (iii) the Registrar, ex-officio.

(2) The members, including the Chairman of the Board, other than the ex-officio member, shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman shall be appointed from among eminent jurists and educationists.

Powers and procedure of the Board

46. (1) The Board shall, subject to any rules that may be made under this Ordinance, have power to regulate its own procedure including the fixing of places and times of its sittings.

(2) If there is a difference of opinion among the members of the Board in respect of any matter coming before it for decision under this Ordinance, the opinion of the majority shall prevail ;

Provided that where there is no such majority the opinion of the Chairman shall prevail.

(3) The Board may authorize any of its members to exercise any of its powers under section 78 and any order made or act done in exercise of any such power by the member so authorized shall be deemed to be the order or act, as the case may be, of the Board.

(4) No act done or proceeding taken by the Board under this Ordinance shall be questioned on the ground merely of the exercise of any vacancy in, or defect in the constitution of the Board.

(5) The Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal procedure, 1898, and all proceedings before the Board shall be deemed to be judicial

proceedings within the meaning of sections 193 and 228 of the Penal Code.

(6) No member of the board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

Delivery of books to Public Libraries

47(1) Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in section 24 of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), the publisher of every book published in Bangladesh after the commencement of this Ordinance, shall, notwithstanding any agreement to the contrary, deliver at his own expense, one copy of the book to each of the four public libraries within thirty days from the date of its publication.

(2) The copy delivered to the National Library of Bangladesh shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the same, and shall be bound, sewed or stitched together and on the best paper on which any copy of the book is printed.

(3) The copy delivered to any other public library shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(4) Nothing contained in sub-section (1) shall apply to any second or subsequent edition of a book in which edition no additions or alterations either in the letter press or in the maps, book prints or other engravings belonging to the book have been made, and a copy of the first or any other edition of which book has been delivered under this section.

Delivery of newspapers to Public Libraries

48. Subject to any rules that may be made under this Ordinance,

but without prejudice to the provisions contained in section 26 of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), the publisher of every newspaper published in Bangladesh shall deliver at his own expense one copy of each issue of such newspaper as soon as it is published to each of the four public libraries.

Receipt for books delivered

49. The person in charge of a public library (whether called a librarian or any other name) or any other person authorized by him in this behalf to whom a copy of a book is delivered under section 47 shall give to the publisher a receipt in writing therefor,

Penalty

50. Any publisher who contravenes any provision of this chapter or of any rule made thereunder shall be punishable with fine which may extend to fifty taka and if the contravention is in respect of a book, shall also be punishable with the fine which shall be equivalent to the value of the book and the court trying the offence may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to the public library to which the book or newspaper, as the case may be, ought to have been delivered.

Cognizance of offences under this chapter

51. (1) No court shall take cognizance of any offence punishable under this chapter save on complaint made by an officer empowered in this behalf by the Government by a general or special order.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this chapter.

Application of this chapter, books and newspapers published by Government

52. This Chapter shall also apply to books and newspapers published by or under the authority of the Government, but shall not apply to books meant for official use only.

Provision as to works of certain international organization

53. (1) The Government may, by notification in the official Gazette, declare that this section shall apply to such organizations, as may be specified therein of which one or more sovereign powers or the Government or Government thereof are members.

(2) Where—

- (a) any work is made or first published by or under the direction or control of any organization to which this section applies ; and
- (b) there would, apart from this section, be no copyright in the work in Bangladesh at the time of the making or, as the case may be, of the first publication thereof ; and
- (c) either—
 - (i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright if any, in the work, or
 - (ii) under section 13 any copyright in the work would belong to the organization ;

there shall subsist copyright in the work throughout Bangladesh.

(3) Any organization to which this section applies which at the material time had not the legal capacity of a body corporate shall have, and be deemed at all material times to have had, the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright; and in connection with all legal proceedings relating to copyright.

Powers to extend copyright foreign works

54. The Government may, by order published in the official Gazette, direct that all or any of the provisions of this ordinance shall apply—

- (a) to works first published in a foreign country to which the order related in like manner as if they were first published within Bangladesh ;
- (b) to unpublished works, or any class thereof, the authors whereof were at the time of making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of Bangladesh ;
- (c) in respect of domicile in a foreign country to which the order relates in like manner as if such domicile were in Bangladesh ;
- (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order related in like manner as if the author was a citizen of Bangladesh at the date of time ;

and thereupon, subject to the provisions of this chapter and of the order, this ordinance shall apply accordingly ;

Provided that—

- (i) before making an order under this section in respect of any foreign country (other than a country with which Bangladesh has entered into a treaty or which is a party to a convention relating to copyright to which Bangladesh is also a party), the Government shall be satisfied that foreign country has made or has undertaken to make such provisions, if any, as it appears to the Government expedient to require for the protection in that country, of works entitled to copyright under the provisions of this Ordinance ;
- (ii) the order may provide that the provisions of this Ordinance shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order ;

- (iii) the order may provide that the term of copyright in Bangladesh shall not exceed that conferred by the law of the foreign country to which the order relates ;
- (iv) the order may provide that the provisions of this Ordinance as to delivery of copies of books to public libraries shall not apply to works first published in such foreign country except so far as is provided by the order ;
- (v) in applying the provisions of this Ordinance as to ownership of copyright the order may make such modification as appears necessary, having regard to the law of the foreign country ;
- (vi) the order may provide this Ordinance or any part thereof shall not apply to works made, or first published before the commencement of this order.

Power to restrict right in works of foreign authors first published in Bangladesh

55. If it appears to the Government that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Bangladesh authors, the government may, by order published in the official Gazette, direct that such of the provisions of this ordinance as confer copyright on works first published in Bangladesh shall not apply to works, published after the date specified in the order the authors whereof are subjects or citizens of such foreign country and are not domiciled in Bangladesh, and thereupon those provisions shall not apply to such works.

The copyright infringed

56. Copyright in a work shall be deemed to be infringed—
- (a) when any person, without the consent of the owner of the copyright or without licence granted by such owner or the Registrar under this Ordinance or in contravention

of the conditions of a licence so granted or of any condition imposed by a competent authority under this Ordinance.

- (i) does anything, the exclusive right to do which is by this ordinance conferred upon the owner of the copyright ; or
 - (ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware, and had no reasonable ground for suspecting, that such performance would be an infringement of copyright ; or
- (b) when any person
- (i) makes for sale or hire, or sells or lets for hire or by way trade displays or offers for sale or hire ; or
 - (ii) distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright ; or
 - (iii) by way of trade exhibits in public ; or
 - (iv) imports into Bangladesh.
- any infringing copies of the work.

Explanation—For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematographic work shall be deemed to be an “infringing copy.”

Certain acts not to be infringement of copyright

57. (1) The following acts shall not constitute an infringement of copyright, namely :

- (a) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of—
 - (i) research for private study ;
 - (ii) criticism or review, whether of that work or of any other work ;

- (b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events—
 - (i) in a newspaper, magazine or similar periodical ; or
 - (ii) by broadcast or in a cinematographic work or by means of photograph ;
- (c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of judicial proceeding ;
- (d) the publication in a newspaper of a report of an address of political nature delivered at a public meeting unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given and, except whilst the building is being used for public worship, in a position near the lecture ; but nothing in this clause shall affect the provisions as to newspaper summaries ;
- (e) the reproduction of any literary, dramatic, or musical work in the certified copy made or supplied in accordance with any law for the time being in force ;
- (f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work ;
- (g) the publication in a collection, mainly composed of non-copyright matter, bonafide intended for the use of educational institutions and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists ;

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years ;

Explanation—In the case of a work of joint authorship references in this clause to passages from works shall include references to passages from works by any one or more of the authors or those passage or by any one or more of those author's in collaboration with any other person.

(h) The production or adaptation of a literary, dramatic, musical or artistic work—

(i) in the course and for the sole purpose of instruction whether at an educational institution or elsewhere where the reproduction or adaptation is made by a teacher or a pupil otherwise than by the use of a printing process ; or

(ii) as part of the questions to be answered in an examination.
or

(iii) in answers to such questions :

(i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematographic work or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution. ;

(j) the making of records in respect of any literary, dramatic or musical work, if—

(i) records recording the work have previously been made by or with the licence or consent of the owner of the copyright in the works ; and

(i) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Board in this behalf.

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and, omissions have

been previously made by, or with the licence or consent of the owner of the copyright, or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question ;:

- (k) the causing of a recording embodied in a record to be heard in public utilising the record.
 - (i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or
 - (ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit ;
- (l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious, charitable or educational institution.
- (m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the owner of copyright of such article has expressly reserved to himself the right of such reproduction ;
- (n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered to public ;
- (o) the making of not more than three copies of a book (including a pamphlet, sheet of music, tape, disc recording, map, chart or plan) by or under the direction of the person in charge of a public library or a non-profit library available for use by the public free of charge or a library attached to an educational institution for the use of such library if such book is not available for sale ;
- (p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access.

Provided that where the identity of the author of any such work, or in the case of a work of joint authorship, of any of the authors, is known to the library, museum or other institution as the case may

be, the provision of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known, from the death of such one of those authors who dies last ;

- (q) the reproduction or publication of—
 - (i) any matter which has been published in any official Gazette, or the report of any committee, commission, council, board or other like body appointed by the Government unless the reproduction or publication of such matter or report is prohibited by the Government ;
 - (ii) Any judgement or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgement or order is prohibited by the court, tribunal or other judicial authority, as the case may be ;
- (r) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art ;
- (s) the making or publishing of a painting, drawing, engraving or photograph of a sculpture or other artistic work if such work is permanently situate in a public place or any premises to which the public has access ;
- (t) the inclusion in a cinematographic work of—
 - (i) any artistic work permanently situate in a public place or any premises to which the public has access ; or
 - (ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the work ;
- (u) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the works .

Provided that he does not thereby repeat or imitate the main design of the work ;

- (v) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not expert relation to objects of that description, to be a reproduction of the artistic work ;
- (w) the reconstruction of building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed ;

Provided that the original construction was made with the content or licence of the owner of copyright in such drawings or plans ;

- (x) in relation to a literary, dramatic or musical work recorded or reproduced in any cinematographic work, the exhibition of such work after the expiration of the term of copyright therein :

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (f) (g) (m) and (p) shall not apply as respects any act unless that act is accompanied by an acknowledgement,

- (i) identifying the work by its title or other descriptions ; and
- (ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

Explanation—For the purposes of clause (a) or clause (b) of this sub-section—

- (i) in relation to a literary or dramatic work in prose : a single extract up to four hundred words, or a series of extracts (with comments interposed) upto a total of eight hundred words with no one extract exceeding three hundred words ; and
- (ii) in relation to a literary, or dramatic work in poetry, an extract or extracts upto a total of forty lines and in no case exceeding one-fourth of the whole of any poem may be deemed to be fair dealing with such work ;

Provided that in a review of a newly published work, reasonably longer extracts may be deemed fair dealing with such work.

(2) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic musical or artistic work as they apply in relation to the work itself.

Importation of infringing copies

58 (1) The Registrar, on application by the owner of copyright in any work or by his duly authorized agent and on payment of the prescribed fee, may after making such enquiry as he deems fit, order that copies made out of Bangladesh of the work which if made in Bangladesh would infringe copyright shall not be imported.

(2) Subject to any rules that may be made under this Ordinance, the Registrar or any person authorised by him in this behalf may enter any ship, vehicle, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies,

(3) All copies to which any order made under sub-section (1) applies shall be deemed to be goods of which the bringing into Bangladesh has been prohibited or restricted under section 16 of the custom Act, 1969 (IV of 1969), and all the provisions of that Act shall have effect accordingly.

Definition

59. For the purposes of this chapter, unless the context otherwise requires, the expression "owner of copyright" shall include—

- (a) an exclusive licensee ;
- (b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author

and the publisher or is otherwise established to the satisfaction of the Board by that author or his legal representatives.

Civil remedies for infringement of copyright

60. (1) Where copyright in any work which has been registered under this Ordinance or is otherwise deemed to have complied with the formalities of registration has been infringed, the owner of the copyright shall, except as otherwise provided by this Ordinance, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right :

Provided that if the defendant proves that at the date of the infringement he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical, or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or, in the case on an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

Protection of separate rights

61. Subject to the provisions of this Ordinance, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to this Ordinance and may

individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit or proceeding.

Author's special rights

62 (1) Notwithstanding that the author of a work may have assigned or relinquished the copyright in the work, hee shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of any distortion, mutilation or other modification of the said work, or any other action in relation to the said work which would be prejudicial to his honour or reputation.

(2) The right conferred upon an author of a work by sub-section (i) other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

Right of owner against persons possessing or dealing with infringing copies

63. All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof :

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

- (a) that he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work of which such copies are alleged to be infringing copies : or
- (b) that he had reasonable ground for believing that such copies or plates do not involve infringement of the copyright in any work.

Restriction on remedies to the case of works of architecture

64. (1) Where the construction of a building or other structure which infringes or which, if completed would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition.

(2) Nothing in section 63 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

Jurisdiction of court and limitation

65. (1) Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the court of the District Judge

(2) Where all the parties to a suit or other proceeding regarding infringement of copyright, in any work agree in writing that the suit or proceeding, as the case may be, be referred to the decision of the Board, the suit or other proceeding shall, notwithstanding anything contained in sub-section (1) be referred to the Board for decision, and no court or other tribunal shall hear, try or entertain such suit or proceeding.

(3) The decision of the Board in any matter referred to it for decision under sub-section (2) shall, subject to the provisions as to appeal be final, and shall be executed in the manner provided in section 79.

Offences of infringement of copyright or other rights conferred by this Ordinance

66. Any person who knowingly infringes or abets the infringement of—

(a) the copyright in a work, or

(b) any other right conferred by this Ordinance, shall be punishable, with fine which may extend to five thousand taka or with imprisonment which may extend to two years, or with both.

Explanation—Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work, shall not be an offence under this section.

Possession of plates for purpose of making infringing copies

67. If any person knowingly makes or has in possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five thousand taka or with imprisonment which may extend to two years, or with both.

**Penalty for making false entries in the Register, etc.
or producing or tendering false evidence**

68. Any person who,—

- (a) makes or cause to be made a false entry in the Register of Copyrights, or
- (b) makes or causes to be made a writing falsely purporting to be a copy of any entry in the Register, or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

shall be punishable with fine which may extend to five thousand taka or with imprisonment which may extend to two years, or with both.

**Penalty for making false statements for the purpose of
deceiving or in influencing any authority or officer**

69. Any person who,—

- (a) with a view to deceiving any authority or officer in the performance of any of his functions under any of the provisions of this Ordinance, or

- (b) with a view to inducing or influencing the doing or omission of anything in relation to this Ordinance or any matter thereunder.

makes a false statement or representation knowing the same to be false, shall be punishable, with fine which may extend to five thousand taka or with imprisonment which may extend to two years, or with both.

False attribution of authorship etc. whosoever

70. Whosoever—

- (1) inserts or affixes the name of any person in or on a work of which that person is not the author, or in or a reproduction of such a work, in such a way as to imply that such person is the author of the work ; or
- (2) publishes, or sells or lets for hire, or by way of trade offers, exposes for sale or hire, or by way of trade exhibits in public a work in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, or the publisher of the work, who to his knowledge is not the author or the publisher, as the case may be of such work ; or (3) does any of the acts mentioned in clause (2) in relation to, or distributes, reproductions of a work, being reproductions in or on which any persons name has been inserted or affixed in such a way as to imply that such person is the author of the work, who to his knowledge is not the author of such work, or performs in public, or broadcasts the work as being the work of a particular authors, who to his knowledge is not the author of such work ; shall be punishable with fine which may extend to five thousand taka, or with imprisonment which may extend to two years, or with both.

Offence by companies

71. (1) Where any offence under this Ordinance has been committed by a company, every person who at the time the offence

was committed was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Ordinance has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of persons ; and
- (b) “director” in relation to a firm means a partner in the firm.

Cognizance of offence

72. No court inferior to that of a Magistrate of the first class shall try any offence under this Ordinance.

Power of the court to dispose of infringing copies or places for purpose of making infringing copies

73. The court before which any offence under this Ordinance is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purposes of making infringing copies, be destroyed or delivered to the owner of the copyright or otherwise dealt with as the court may think fit.

Power of police to seize infringing copies

74. (1) Where a Magistrate has taken cognizance of any offence under section 72 in respect of the infringement of copyright in any work it shall be lawful for any police officer not below the rank of sub-inspector to seize with warrant from the Magistrate all copies of the work which appears to him to be infringing copies of the work and all copies to be seized shall as soon as practicable be produced before the Magistrate :

Provided that no such copy as is owned by any public library, or a library attached to an educational institution or a non-profit library available for use by the public free of charge or is in the possession of any person for his bonafide use shall be seized.

(2) Any person having an interest in any copies of a work seized under sub-section (1), may within fifteen days of such seizure make an application to the Magistrate for such copies being restored to him and the Magistrate after hearing the applicant and the complainant and making such further inquiry as may be necessary shall make such order on the application as he may deem fit.

Appeals against certain orders of Magistrate

75. Any person aggrieved by an order made under section 73 or sub-section (2) of section 74 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal.

Appeals against orders of Registrar

76. Any person aggrieved by any final decision or order of the Registrar may, within three months from the date of the decision or order, appeal to the Board.

Provided that the Registrar shall not sit as a member of the Board when the Board hears an appeal under this section.

Appeals against order of the Board

77. (1) Any person aggrieved by any final decision or order of the Board, not being a decision or order made in an appeal under section 76 may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily reside or carries on business or personally works for gain ;

Provided that no such appeal shall be against a decision of the Board under sub-section (2) of section and sub-section (2) of section 6.

2. In calculating the period of three months provided for an appeal under section 76 and sub-section (1), the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

Registrar and Board to possess certain powers of civil court

78. The Registrar and the Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908 in respect of the following, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) requisitioning any public record or copy thereof from any court or office ;
- (f) any other matter of procedure which may be prescribed.

Explanation—For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar or the Board, as the case may be, shall be the whole of Bangladesh.

**Order for payment of money passed by Registrar or Board
to be executable as a decree**

79. Every order made by the Registrar or the Board under this Ordinance for the payment of any money or by the High Court division in any appeal against any such order of the Board shall, on a certificate issued by the Registrar, the Board or the Registrar or the High Court Division as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

Indemnity

80. No suit or other legal proceeding shall be against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance.

Certain persons to be public servants

81. Every officer appointed under this Ordinance and every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

Powers to make rules

82. (1) The Government may, after previous publication, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the rules may provide or all or any of the following, namely :—

- (a) the term of office and conditions of service of the Chairman and other members of the Board ;
- (b) the form of complaints and applications to be made, and the licences to be granted, under this Ordinance ;
- (c) the procedure to be followed in connection with any proceeding before the Registrar or the Board ;
- (d) the manner of determining any royalties payable under this Ordinance, and the security to be taken for the payment of such royalties ;
- (e) the form of Register of Copyrights to be kept under this Ordinance and the particulars to be entered therein ;

- (f) the matters in respect of which the Registrar and the Board shall have powers of a civil court ;
- (g) the fees which may be payable under this Ordinance ;
- (h) the regulation of business of the Copyright Office and of all things by this Ordinance placed under the direction or control of the Registrar.

Repeal

83. The Copyright Act, 1914 and the Copyright Act of 1911 passed by the Parliament of the United Kingdom, as modified in its application to Bangladesh by the Copyright Act, 1914, are hereby repealed.

Savings and transitory provisions

84. (1) Where any person has, before the commencement of this ordinance, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction would, but for the coming into force of this Ordinance, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such actions which are subsisting and valuable at the said date, unless the person who, by virtue of this Ordinance, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Board.

(2) Copyright shall not subsist by virtue of this Ordinance in any work in which copyright did not subsist immediately before the commencement of this Ordinance under any Act repealed by section 83.

(3) Where copyright subsisted in any work immediately before the commencement of this Ordinance, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 3 in relation to the class of works to which such work belongs, and where any new rights are conferred by that section the owner of such rights shall be—

- (a) in any case where copyright in the work was wholly assigned before the commencement of this Ordinance, the assignee or his successor-in-interest ; and
- (b) in any other case, the person who was the first owner of the copyright in the work under any act repealed by section 83 or his legal representatives ;

4. Except as otherwise provided in this Ordinance, where any person was entitled immediately before the commencement of this Ordinance to copyright in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Ordinance had not come into force.

(5) Nothing contained in this ordinance shall be deemed to render any act done before its commencement an infringement of copyright if that act would not otherwise have constituted such an infringement.

SHORT NOTE

Infringement of Copyright is an offence punishable under section 66 of the Copyright Ordinance, 1962.

Section 13 of the ordinance provides that the author of a work shall be the first owner of the copyright therein ; Provided that,—

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper magazine or similar periodicals, the said proprietor shall in the absence of any agreement to the contrary, be the owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published but in all other respects the author shall be the first owner of the copyright in the work ;

- (b) subject to the provision of clause (a) in the case of photograph taken, or a painting or portrait drawn, or an engraving or a cinematographic work made, for valuable consideration at the instance of any person, such persons shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;
- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship to which clause (a) or clause (b) does not apply the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;
- (d) in the case of a Government work Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;
- (e) in the case of a work to which the provision of section 53 apply, the international organisation concerned shall be the first owner of the copyright therein.

However, Section 57(1) (m) of the Ordinance lays down that it is not infringement of copyright if there is a reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topic unless the owner of copyright of such article has expressly reserved to himself the right to such reproduction!