



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

COPYRIGHT AMENDMENT BILL

[B13 -2017 UPDATED VERSION]

PROVISIONS IN THE COPYRIGHT AMENDMENT BILL THAT MAY BE RETAINED OR REMOVED

CLAUSE IN THE BILL	SUMMARY OF CLAUSE	INDICATION WITH FAIR DEALING	INDICATION WITH FAIR USE AND/OR OTHER EXCEPTIONS
Preamble		Remove from preamble: to allow for the reproduction of copyright work; to provide for the protection of copyright in artistic work; to allow fair use of copyright work; to provide for access to copyright_works by persons with disabilities; to provide for the protection of ownership of orphan works; to provide for the establishment of the Intellectual Property Tribunal; to provide for the appointment of members of the Intellectual Property Tribunal; to provide for the powers and functions of the Intellectual Property Tribunal; to provide for	Retain. Nothing will be removed.

		prohibited conduct in respect of technological protection measures; to provide for prohibited conduct in respect of copyright management information; to provide for management of digital rights;	
<i>Clause 1. Definitions:</i> Accessible format copy	This includes among others the definition of accessible format copy which defines an alternative form which gives a person with disability access to the work as a person without disability ,	Remove	Retain
Audio visual work	the definition of audiovisual work which is defined as the embodiment of moving images whether or accompanied by sound or by representation which can be perceived, reproduced or communicated through a device and include a cinematographic film. This expression also substitute the use of the phrase cinematographic film with audiovisual work and the phrase film with work in the entire Bill and Act,	Retain	Retain
commercial		remove	Retain

Companies Act		Retain	Retain
Copyright management information		Remove	Retain
orphan work	<p>Definition of Orphan work may have to be removed if we retain fair dealing.</p> <p>Orphan work is work in which copyright subsists and the owner of right can not be identified or can be identified but cannot be located.</p>	Remove	Retain
performer		Retain	Retain
technologically protected work		Remove	Retain
technological protection measure		Remove	Retain
Tribunal		Remove	Retain
<p><i>Clause 2</i> insertion of section 2A <u>Scope of copyright protection</u></p>	<p>Copyright does not protect ideas, procedure, methods of compilation,</p> <p>Protection does not subsist to official texts of legislative,</p>	Retain	<p>Retain</p> <p>Not applicable as fair use provision is not applicable.</p>

	administrative or legal nature or speeches of a political nature or speeches delivered in the course of legal proceedings or in news of the day that are mere items of press information.		
<p><i>Clause 3</i> Amendment to section 5</p> <p><u>Work funded by the state</u></p>	<p>The Clause confers copyright on the work eligible for copyright which is funded by or under the direction or control of the state or international or local organizations.</p> <p>It addresses public funding for e.g research and development using funds allocated by government or government agencies.</p>	<p>Remove – highly contested during public hearings and conflicts with the National Intellectual Property Management Offices (NIPMO) mandate in the Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008 (IRP Act) as it covers how public funds are to be administered in all domains of IP.</p>	<p>Remove</p> <p>Not applicable as fair use provision is not applicable.</p>
<p><i>Clause 4</i> Amendment to section 6 <u>Communicating literal and musical work to the public</u></p>	<p>Copyright in literal or musical work vest an exclusive right to or authorize the doing of among other things: communicating the work by wire or wireless means to the public so that work may be access at the time chosen by that person</p>	<p>Remove</p>	<p>Retain - Fair Use applies to literal and musical works; it will have impact on sound recordings insofar as remixes and mashups. It is recommended by Copyright Review Commission report (CRC), it is in World Intellectual Property Organisation Copyright Treaty (WCT) and World Intellectual Property Organisation Performances and Phonograms Treaty (WPPT) as well as Beijing Treaty on Audio</p>

			Visual Performances (BTAP). Can only be exercised under Fair Use. It is a grey area.
<i>Clause 5 insertion of section 6A <u>Royalties regarding literal or musical works</u></i>	Allows the author who transfers copyright in literal or musical work to have a right to claim half of the royalty payable to that other person for the use of the copyright work.	Retain– it will be retained and applied only to musical works in terms of the CRC. Amendment to be done in the Bill. It will have to be redrafted for phase 2 as it was meant to ensure that authors get their royalties. It was highly contested by publishers during public hearings on the basis of the proposed sharing which they stated is too high.	Retain. Not applicable as fair use provision is not applicable. Provision retained in terms of musical works.
<i>Clause 6 amendment to section 7 <u>communicating artistic work to the public</u></i>	Copyright in artistic work vest an exclusive right to or authorize the doing of among other things: communicating the work by wire or wireless means to the public so that work may be access at the time chosen by that person	Remove – will be for phase 2.	Retain: If artistic works are made available or communicated to public via wire or wireless it will permit public to benefit through fair use principles. This also has implications for WCT.
<i>Clause 7 insertion of section 7A <u>Royalties regarding artistic work</u></i> Insertion of section 7B <u>Resale of royalty rights regarding artistic work</u> Insertion of section 7C <u>proof of author</u> Insertion of section 7D	Allows the author who transfers copyright in artistic work to have a right to claim half of the royalty payable to that other person for the use of the copyright work. A person if deemed to be author where a mark or name purporting to identify as author of an artist	Remove – will be for phase 2. Removed – will be for phase 2. Removed – will be for phase 2. Remove – will be for phase 2. Remove – will be for phase 2.	Remove. Not applicable as fair use provision is not applicable. To be completed in phase 2.

<p><u>duration of resale royalty right</u> Insertion of section 7E <u>transmission or resale of royalty right</u></p>	<p>appear on such work.</p> <p>This is applicable to artistic work of more than one author as well.</p> <p>It proposes that royalties in artistic works on commercial resale to be payable at the rate prescribed by Minister</p> <p>It sets out grounds of an author who shall be entitled to such resale royalty: he must be a South African citizen when resale is concluded even at time of death if author is deceased, validity of the resale of royalty right has not expired.</p> <p>The clause proposes that the resale of royalty right of an author of an artistic work expires at the end of 50 years calculated from the end of the calendar year in which the author died, for more than one author when the last known author dies.</p> <p>Where author is unknown at the end of the period of 50 years</p>		
---	--	--	--

	<p>calculated from the end of the calendar year in which the work was first made available to the public</p> <p>Insertion of section 7E transmission of resale royalty right The Section provides that a resale royalty right may not be alienated save for transmission on death of holder through testamentary disposition (a Will) or operation of law</p>		
<p><i>Clause 8</i> substitution of section 8 <u>Nature of copyright in audiovisual works</u></p>	<p>The provision substitutes the use of the phrase film with work in this section</p> <p>It also allows for copyright in audiovisual film to vest exclusive right and authorize communicating the work by wire or wireless means to the public.</p>	Remove	Retain - We retain for phase 2 for purposes of definition and alignment with Performers' Protection Amendment Bill (PPAB) as it affects the actor and treaties such as BTAP and WCT.
<p><i>Clause 9</i> insertion of section 8A <u>Royalties regarding audiovisual works</u></p>	<p>Allows the author who transfers copyright in audiovisual work to have a right to claim half of the royalty payable to that other person for the use of the copyright</p>	Remove – will be for phase 2 as it has implications for the PPAB and BTAP.	Retain the provisions to reflect a royalty share of a performer in the audio visual work. The provision to be rephrased. Refer to section 5(4)(a) of the Performers Protection Act for proposed wording for a

	work.		'Fair Use' provision.
<i>Clause 10</i> amendment to section 9 <u>communicating sound recording to the public</u>	Copyright in sound recording vests an exclusive right to, among other things communicating the sound recording by wire or wireless means to the public	Retain – it is in line with CRC report however due to Fair Use discussions it may have effect on WCT.	Retain – it is in line with CRC, and prepares the country for ratification of WCT and WPPT and supports doctrine of Fair Use.
<i>Clause 11</i> insertion of section 9A <u>Royalties regarding sound recording</u>	<p>The section prohibits a person from transmitting sound recording, broadcast sound recording or communicate sound recording to the public without payment of royalty to the owner of copyright.</p> <p>The person who intends to so transmit, broadcast or communicate must submit a prescribe notice to the performer, copyright owner or collecting society of intention to either broadcast, transmit or communicate the sound recording.</p> <p>The notice must indicate date of performance and terms and conditions of the payment of royalties</p> <p>To agree the performer or</p>	Retain – however, the words 'prior', 'Indigenous community', and the 'national trust' should be removed. This applicable to all clauses that make reference to these abovementioned terms.	Retain - however, the words 'prior', 'Indigenous community', and the 'national trust' should be removed. This applicable to all clauses that make reference to these abovementioned terms.

	<p>collecting society signs the notice with proposal.</p> <p>Where the person fails to submit the notice to the owner, performer or collecting society, he will notify them, pay the generally applicable licence fees as published by the owner or collecting society and pay the royalties calculated from date of first use regardless of whether the date was prior to coming into operation of this Act. Parties may refer disputes in this regard to the Tribunal for adjudication</p> <p>The Tribunal may order that payment of royalties be made into a trust account of an attorney pending finalization of terms and royalty payable.</p> <p>The provision further proposes that the performers share of the royalty will represent an equitable remuneration as determined by the agreement between the performer and the owner of the</p>		
--	---	--	--

	copyright or the collecting society		
<i>Clause 12</i> substitution for section 11 <u>nature of copyright in programme carrying signals</u>	Copyright in programme carrying signal vests exclusive right to undertake or to authorize the, among other things, the communication of the work by wire or wireless means to the public.	Remove - it has implications for BTAP and WPPT Treaties. It will be for phase 2.	Retain - prepares the country for ratification of BTAP, WPPT and supports doctrine of Fair Use.
<i>Clause 13</i> repeals section 12 Fair dealing	Section 12 provides for Fair Dealing Fair dealing currently sets out categories of acceptable uses It provides that copyright is not infringed by fair dealing in literal work or musical work: for purposes of research or private study by person using the work or for personal or private use or for purposes of criticism or review of the work or for reporting current events in a newspaper, magazine or by means of broadcasting or in cinematograph film This provision requires for the name of the author to be	Retain fair dealing – therefore repeal falls away. The impact of retaining the current fair dealing has the following implications: The digitisation in terms of international treaties the dti intends acceding too – WPPT; WCT; BTAP, Marrakesh Treaty for the Blind and Visually Impaired Persons will be greatly affected. The retention of fair dealing does not allow for exceptions in the following areas amongst others such as education, libraries, archives and persons with disabilities i.e without the exception to the law the disabled will have to pay for accessible formats the same applies for all affected sectors such as libraries. Possible constitutional implication in terms of infringing the Bill of Rights.	Retain clause to repeal fair dealing.

	mentioned as well as the source		
<p><i>Clause 14</i> insertion for section 12A <i>Fair use general exceptions from copyright protection</i></p> <p>Insertion for section 12B <u>specific exception from copyright protection applicable to all works</u></p> <p>Insertion for section 12C <u>temporary reproduction and adaptation</u></p> <p>Insertion for section 12D <u>reproduction for educational and academic activities</u></p>	<p>Section 12A deals with uses specifically authorized fair use in respect of work or performance of work not infringing copyright for purposes of research for private or personal use; for criticism or review; for reporting current events; scholarship, teaching and education; for comment, illustration, parody, satire, caricature or pastiche; preservation and access to the collection of libraries, archives and museums and expanding access to undeserved populations</p> <p>TEST TO DETERMINE FAIR USE</p> <p>Nature of the work</p> <p>Amount and substantiality of the part of the work affected in relation to the whole of the work</p> <p>Purpose and character of the use (whether it is of commercial nature and what purpose it serves)</p>	<p>Remove</p> <p>Remove</p> <p>Remove</p> <p>Remove</p>	<p>Retain clause to introduce Fair Use [general exception from copyright]</p> <p>Retain clause to introduce Fair Use [general exception from copyright]</p> <p>Retain clause to introduce Fair Use [general exception from copyright]</p>

	<p>Section 12C temporary reproduction and adaptation: Provision allows for transient or incidental copies or adaptations of work where such are integral and essential part of technical process and where the purpose of those copies is to enable transmission of work in a network between third parties or to adapt work to allow use in a different device.</p> <p>Section 12D Reproduction for educational and academic activities: Provision allows person to make copies or recording of works for purposes of educational and academic purposes provided it does not exceed the extent justified by the purpose.</p> <p>Educational institutions may incorporate such copies in printed and electronic course packs, study packs etc.</p>		
--	--	--	--

	It allows for reproduction of a whole textbook where the text book is out of print or where the owner of the copyright can not be found or where the same edition of the text book is not for sale in RSA		
<i>Clause 15</i> amendment to section 16 <u>deletion of subsection 1</u> (cinematograph films)	Deals with deletion of cinematographic films	Retain cinematograph films. Therefore deletion falls away.	Remove. With introduction of Fair Use the deletion is retained.
<i>Clause 16</i> repeals section 17 (general exceptions protection of sound recordings)	Section 17 deals with general exceptions for protection of sound recordings If section 12 (fair dealing is retained exceptions relating thereto in relation to sound recording may need to be revived.	Retain general exception for protection of sound recordings. Therefore repeal falls away.	Remove. With introduction of Fair Use the repeal is retained.
<i>Clause 17</i> repeals section 18 (general exceptions protection of broadcast)	Section 18 deals with general exceptions for protection of broadcasts If section 12 (fair dealing) is retained exceptions relating thereto in relation to broadcasts	Retain general exceptions for broadcasts. Therefore repeal falls away.	Remove. With introduction of Fair Use the repeal is retained.

	may need to be revived.		
<i>Clause 18</i> repeals section 19A (protection of published editions)	Section 19 deals with general exceptions for protection of published editions. If section 12 is retained exception relating thereto in relation to exceptions for protection of programme carrying signal may need to be revived	Retain protection of published editions. Therefore repeal falls away.	Remove. With introduction of Fair Use the repeal is retained.
<i>Clause 19</i> substituted for section 19B <u>general exceptions regarding protection of computer programs</u>	Section 19B deals with general exceptions for protection of computer programs Provides that a person with a right to use a copy of a computer program may without authorization of owner, observe, study or tests the functioning of the program.	Remove as fair dealing is retained.	Retain exception for Fair Use as it is not contested e.g. it promotes open source software.

<p><i>Clause 20</i>_insertion of section 19C and section 19D</p> <p>Insertion of section 19C <u>General exceptions for protection of copyright work for libraries, archives, museums and galleries.</u></p> <p>Insertion of section 19D <u>General exception for protection of copyright work for persons with disabilities</u></p>	<p>Section 19C deals with general exceptions for protection of copyright work for libraries, archives, museums and galleries</p> <p>The provision allows for library, archive, museum or gallery to use copyright work in its activities without authorization provided it is not for commercial use.</p> <p>It further allows them to make copy of any work in its collection for purposes of back up and preservation, to procure or make a copy of missing parts from another library, archive or museum.</p> <p>It allows for format-shifting or conversion of work from ageing to obsolete technologies to new technologies in order to preserve works without consent.</p> <p>Section 19D deals with general exceptions for protection of copyright work for persons with disability</p>	<p>Remove - as Fair Use is required.</p> <p>Remove – as Fair Use is required.</p>	<p>Retain as it prepares the country for ratification of Marrakesh for the Blind and Visually Impaired Persons. It allows these institutions to carry out their mandate of preservation and access for the vulnerable. It supports the DAC position on exceptions and limitations for education, libraries, archives, galleries and people with disabilities. The DAC supports section 19C and 19D.</p>
---	--	---	---

	<p>This provisions allows for any person serving persons with disabilities to make accessible format copy for the benefit of person with disability without authorization</p> <p>The person making an accessible format must have lawful access to the copyright work, must convert the work into accessible format copy and must not introduce changes except those needed to make work accessible to person with disability</p> <p>Must not be for commercial purposes.</p>		
<p><i>Clause 21</i>_amendment to section 20 <u>moral rights</u></p>	<p>The provision allows the author of work a right to claim authorship and object to any distortion , mutilation or modification of the work where an action seeks to prejudice the honour or reputation of the author</p>	<p>Retain</p>	<p>Retain. Not applicable as it is not applicable to Fair Use. DAC supports.</p>
<p><i>Clause 22</i> amendment to section 21 <u>commissioned</u></p>	<p>The provision deals where a person commissioned work such</p>	<p>Remove – as it is for phase 2 as it relates to photographers and film makers.</p>	<p>Remove. Not applicable as it is not applicable to Fair Use. DAC supports</p>

<p><u>work</u></p>	<p>as taking photograph, painting, drawing of portrait, making sound recording or audiovisual work and agrees to pay money for it, the ownership of such work is governed by contract where contract does not exist ownership vests in a person commissioning the work</p>		<p>provision of commissioned works and that it be dealt with under phase 2 as it relates to section 21 (3)(c).</p>
<p><i>Clause 23</i> amendment to section 22 <u>government funding and ownership of the work</u></p>	<p>The provision provides that government funded work may not be assigned Any assignment of copyright work must be in writing and assignment shall be valid for a period of 25 years from the date of agreement of such assignment</p>	<p>Retain- In terms of CRC the amendment regarding reversionary clause of 25 years and limit it to music publishers and composers only. highly contested during public hearings and conflicts with the National Intellectual Property Management Offices (NIPMO) mandate in the Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008 (IRP Act) as it covers how public funds are to be administered in all domains of IP.</p>	<p>Retain- In terms of CRC the amendment regarding reversionary clause of 25 years and limit it to music publishers and composers only. Remove with regard to government funded as it was highly contested during public hearings and conflicts with the National Intellectual Property Management Offices (NIPMO) mandate in the Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008 (IRP Act) as it covers how public funds are to be administered in all domains of IP.</p>
<p><i>Clause 24</i> insertion of section 22A <u>assignment in respect of orphan work</u></p>	<p>Orphan work is copyright protected work for which right holder cannot be located.</p>	<p>Remove – will be for phase 2.</p>	<p>Retain – framework for orphan works is possible under Fair Use.</p>

	<p>The section provides that where person wishes to obtain licence or resale royalty right in respect of orphan work can apply to Commission</p> <p>The Commission may conduct an enquiry before granting the licence and order the applicant to deposit the amount for royalties as determined into a particular account for his heirs, executor to claim at any time.</p>		
<p><u>Clause 25</u> insertion of Chapter 1A <u>Collecting Societies and related matters</u></p>	<p>Section 22B provides for the registration and accreditation of Collecting societies</p> <p>Provides for an application to be made to the Commission</p> <p>Commission may issue a registration certificate after consultation with any person</p> <p>Registration certificate shall be valid for period not more than 5 years and be renewable</p> <p>Clause 25 to Clause 27 insertion of Chapter 1A COLLECTION</p>	<p>Retain – however, registration is already dealt with by Company law for Non Profit Companies (NPC). Collecting Societies should not be making profit due to the nature of their registration.</p> <p>Only accreditation should remain and accreditation certificate should be issued only for 5 years.</p> <p>Removal is required of the words ‘National Trust’ and ‘Indigenous Community’ wherever it appears.</p> <p>Accreditation requirements will be included in Regulations.</p>	<p>Retain - however, registration is already dealt with by Company law. Non Profit Companies (NPC) as Collecting Societies should not be making profit due to the nature of their registration.</p> <p>Only accreditation should remain and accreditation certificate should be issued only for 5 years.</p> <p>Removal is required of the words ‘National Trust’ and ‘Indigenous Community’ wherever it appears.</p>

	<p>SOCITIES (CS) AND RELATED MATTERS</p> <p>Section 22C provides for the administration of rights by collecting society</p> <p>Provides that any collecting society may accept an authorization from performer or owner or another collecting society to administer any right by issuing a licence or collecting of licence fee</p> <p>CS may therefore issue a licence, collect fees and royalties, distribute such collected royalties and may negotiate royalty rates</p> <p>CS may enter agreements with foreign societies to administer corresponding rights</p> <p>Clause 25 to Clause 27 insertion of Chapter 1A COLLECTION SOCITIES (CS) AND RELATED MATTERS</p> <p>Section 22F Suspension and cancellation of CS</p>	<p>‘Suspension and Withdrawal’ of accreditation of the collecting society for the heading of section 22F instead of using the word ‘Cancellation’.</p>	<p>Accreditation requirements will be included in Regulations.</p> <p>‘Suspension and Withdrawal’ of accreditation of the collecting society for the heading of section 22F instead of using the word ‘Cancellation’.</p> <p>The DAC supports.</p>
--	---	--	--

	<p>Commission may issue the CS with compliance notice if the Commission believes the CS contravenes the registration conditions or manages in a manner detrimental to interest of the performer or owner</p> <p>Commission may apply to Tribunal for an order suspending registration of the Tribunal pending inquiry. Commission will take responsibility of CS during suspension. Clause</p> <p>26 amendment of section 23</p> <p>Provides for infringement of copyright where person tampers with information kept to administer copyright or abuse copyright and technological protection measures in order to constitute a defence to claim copyright liability</p>		
<p><i>Clause 26</i> amendment of section 23 (Infringements and Remedies)</p>		<p>Retain – this clause adds tempering with information and Technological Protection Measures (TPM) as infringements.</p>	<p>Retain – this clause adds tempering with information and Technological Protection Measures (TPM) as infringements.</p>

<i>Clause 27</i> amendment of section 27 (Penalties and proceedings in respect of dealings which infringe copyright)		Remove – Will be for phase 2. It has impact on WCT, and is removed due to removal of Fair Use in Bill for phase 1 purposes. It has possible impact on WPPT and BTAP.	Retain – it is a protection measure in the digital environment.
<i>Clause 28</i> amendment of section 28 <u>provision for restricting importation of copies and infringement in country of origin</u>	Provides for restricting importation of copies and infringement in country of origin	Remove – will be for phase 2 as it is hinged on decision on issues pertaining to cross border in respect of Marrakesh Treaty for the Blind and Visually Impaired Persons.	Retain as it supports the ratification of Marrakesh treaty for the Blind and Visually Impaired Persons.
<i>Clause 29</i> insertion for section 28O to section 28S <u>prohibited conduct in respect of technological protection measures</u>	Provides prohibited conduct in respect of technological protection measure It prohibits a person from making, selling, importing, distributing a technological protection measure circumvention if a person knows it will be used to infringe copyright in technological protected work Technological protection measure is deemed to be effective if the use of the work is controlled by exclusive licensee or copyright owner	Remove (Section 28 O-P) – in terms of digitisation it impacts on WCT and exceptions and limitations. Will be for phase 2. Retain (Section 28Q) – this section re-emphasises what is already provided for in principal Act. Remove (Section 28R-S) – in terms of digitisation it impacts on WCT and exceptions and limitations. Will be for phase 2.	Retain (Section 28O-S) as it relates to protection measures in the digital environment. There is a need to strengthen capacity with regards to enforcement. Supported by DAC by stating that this kind of law should be by no means designed to restrict access to information but be used as a means to promote reasonable access to information, the circumvention of TPM in order to restrict unauthorised downloading of content.
<i>Clause 30</i> substitution of chapter 3 heading to	Clause 30 the insertion of REGULATORY ENFORCEMENT	Remove the provisions that relate to establishment of a new IP Tribunal as the position	Remove the provisions that relate to establishment of a new IP Tribunal as the

<p><u>Regulatory enforcement</u> <u>Agencies</u></p>	<p>AGENCIES Clause 31 Provides for establishment of the Tribunal The provision establishes a Tribunal which is a juristic person This clause can only be retained if the Tribunal is established in terms of legislation Should the Tribunal continues under the umbrella of the CIPC, then this clause and related clauses in this chapter will have to be removed.</p>	<p>on this matter is to strengthen the current Copyright Tribunal. The concerns on how it will unfold will have to be discussed. Some of the provisions that are already in the Bill will be checked on how we can retain them.</p>	<p>position on this matter is to strengthen the current Copyright Tribunal. The concerns on how it will unfold will have to be discussed. Some of the provisions that are already in the Bill will be checked on how we can retain them. Having a Tribunal will address concerns about litigation that will flow from Fair use. It is easy and less costly. DAC supports .</p>
<p><i>Clause 31</i>_substitution of subsection 29 establishment of <u>Tribunal</u></p>		<p>Remove – reasons regarding Tribunal stated above apply.</p>	<p>Remove the provisions that relate to establishment of a new IP Tribunal as the position on this matter is to strengthen the current Copyright Tribunal. The concerns on how it will unfold will have to be discussed. Some of the provisions that are already in the Bill will be checked on how we can retain them. Having a Tribunal will address concerns about litigation that will flow from Fair use. It is easy and less costly. DAC supports.</p>
<p><i>Clause 32</i>_insertion for section 29A to section</p>		<p>Remove - reasons regarding Tribunal stated above apply.</p>	<p>Remove the provisions that relate to establishment of a new IP Tribunal as the</p>

<p><u>29S functions of the Tribunal appointment, proceedings of the Tribunal and related matters</u></p>			<p>position on this matter is to strengthen the current Copyright Tribunal. The concerns on how it will unfold will have to be discussed. Some of the provisions that are already in the Bill will be checked on how we can retain them. Having a Tribunal will address concerns about litigation that will flow from Fair use as It is easy and less costly. DAC supports.</p>
<p><i>Clause 33</i> repeals section 30, 31, 32, 33 and 36</p>		<p>The repeal falls away.</p>	<p>Remove. With introduction of Fair Use the repeal will be revived. We will expand jurisdiction of Tribunal to deal with all copyright related matters.</p>
<p><i>Clause 34</i> amendment to section 39 <u>prescribed rules for Tribunal process</u></p>		<p>Remove - reasons regarding Tribunal stated above apply.</p>	<p>Remove the provisions that relate to establishment of a new IP Tribunal as the position on this matter is to strengthen the current Copyright Tribunal. The concerns on how it will unfold will have to be discussed. Some of the provisions that are already in the Bill will be checked on how we can retain them. Having a Tribunal will address concerns about litigation that will flow from Fair use as It is easy and less costly. DAC supports.</p>
<p><i>Clause 35</i> insertion for section 39B</p>	<p>Clause 35 the insertion of section 39A unenforceable contracts.</p>	<p>Retain – as it ensures that any unfair contractual term is unenforceable.</p>	<p>Retain – as it ensures that any unfair contractual term is unenforceable.</p>

<p><u>unenforceable contractual term</u></p>	<p>Unenforceable contracts are those that purport to prevent or restrict an act which by virtue of this Act would not infringe copyright without necessarily prohibiting open licence, settlement agreement and terms of service licences.</p>		
<p>Clause 36 insertion of Schedule 2 Part A <u>Translation licences</u></p>	<p>Clause 36 the insertion of Schedule 2 Part A Translation of Licences Allows for translation of work to language that is official language in RSA or foreign language regularly used in RSA, by making application for licence to the Tribunal The Tribunal may grant the licence Or grant the licence with conditions</p>	<p>Retain</p>	<p>Retain</p>
<p>Part B <u>Reproduction Licences</u></p>	<p>Part B Reproduction Licences Allows for application for licence to reproduce and publish copyright work before the Tribunal for licence to reproduce and</p>	<p>Retain</p>	<p>Retain</p>

	<p>publish particular edition of the work in printed or analogous form of reproduction</p> <p>The Tribunal may grant the licence</p> <p>Or grant the licence with conditions</p> <p>The applications for the licence in terms of Part A and B before the Tribunal will have to be assessed if current Tribunal is well capacitated to handle the process required in terms of these provisions.</p>		
<p><i>Clause 37</i> <u>Short title and Commencement</u></p>		<p>Retain</p>	<p>Retain</p>