

New Zealand.



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1928, No. 47.

Title.

AN ACT to amend the Copyright Act, 1913.

[9th October, 1928.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Copyright (Temporary) Amendment Act, 1928, and shall be read together with and deemed part of the Copyright Act, 1913 (hereinafter referred to as the principal Act).

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Broadcasting service” means a broadcasting service carried on by any person or company for the time being party to an agreement with the Minister of Telegraphs entered into pursuant to section six of the Post and Telegraph Amendment Act, 1924:

The expression “the said period” means the period commencing on the first day of October, nineteen hundred and twenty-seven, and terminating on the thirty-first day of August, nineteen hundred and twenty-nine.

Performance of musical work in broadcasting service not an infringement of copyright.

3. Copyright in a musical work shall not be deemed to be infringed or to have been infringed by the performance of such musical work at any time within the said period in connection with a broadcasting service.

4. From the fees charged and becoming payable to any person or company pursuant to an agreement entered into under section six of the Post and Telegraph Amendment Act, 1924, in respect of the use during the said period of apparatus capable of receiving wireless-telegraphic communications, there shall be deducted such percentage thereof as may be determined in accordance with the next succeeding section.

Establishment of fund to provide for payment of compensation to owners of copyright in musical works for performance of such works in broadcasting service.

5. (1) The percentage to be deducted as aforesaid from the fees referred to in the last preceding section shall be ascertained as follows:—

Percentage of deductions to be fixed in accordance with this section.

(a) The Minister of Telegraphs may fix such percentage (not exceeding in any case seven and one-half per centum) by agreement with any association or body of persons which he is satisfied represents a substantial majority of the owners of copyright in the musical works performed or intended to be performed during the said period in connection with a broadcasting service.

(b) If the Minister is not satisfied as to the existence of any such representative association or body of persons, or if he is unable to arrive at an agreement with any such association or body, he shall fix the percentage at such rate (not exceeding seven and one-half per centum) as in his opinion is just.

(2) All amounts deducted from fees in accordance with the foregoing provisions of this Act shall be paid into the Post Office Account.

(3) The total amount that may be paid out of the Post Office Account in the settlement of claims under the next succeeding section shall not exceed the amount deducted from fees and paid into that account pursuant to this section.

6. (1) Every person who if this Act had not been passed would have had a claim for damages for the infringement of copyright in any musical work by reason of its performance in connection with a broadcasting service at any time during the said period may, within the said period or within one month after the expiration thereof but not later, make application in writing to the Minister of Telegraphs for compensation in accordance with this Act.

Claims for compensation, how made and determined.

(2) Every such claim shall be referred by the said Minister to one or more persons appointed by the Governor-General to hear and determine such claims.

(3) The person or persons so appointed to hear and determine claims under this section shall for such purpose have all the powers of a Commission appointed under the Commissions of Inquiry Act, 1908, and may make an award for the payment to the claimant of such amount (if any) in respect of damages and costs as in his or their opinion is just.

(4) In considering any claim under this section the person or persons appointed to hear and determine the same shall have regard not only to the merits of such claim but also to the total value of all claims made or likely to be made hereunder and to the limitation fixed by subsection three of the last preceding section with respect to the total compensation that may be paid in respect of all such claims.

(5) Any award under this section shall be subject to a condition that the amount awarded may be proportionately reduced in the event of the total amount awarded for all claims being in excess of the amount limited by subsection three of the last preceding section.

(6) Subject to the foregoing provisions of this section every award hereunder shall be final and conclusive, and any amount so awarded may be paid out of the Post Office Account without further authority than this section. Notwithstanding the making of any such award, payment in terms thereof may in the discretion of the Minister of Telegraphs be postponed until all claims hereunder have been heard and determined, but payment shall not in any case be later than three months after the expiration of the said period.

Application of
residue of fund after
settlement of claims
under this Act.

7. The residue (if any) of the total amount deducted from fees pursuant to this Act remaining after the settlement of all claims as aforesaid and after the payment of the expenses of the tribunal established to hear and determine such claims shall be refunded to the person or company entitled to receive such fees under section six of the Post and Telegraph Amendment Act, 1924.

Regulations.

8. The Governor-General may by Order in Council make regulations prescribing the procedure to be adopted with respect to the making of claims under this Act, for the hearing and determination thereof, and otherwise for the purpose of giving effect to the provisions of this Act.
