ANALYSIS OF AMENDMENTS TO COPYRIGHT ACT

GENERAL INFORMATION

- The Indian Copyright Act was first passed in 1957. A few amendments were made in 1983 and 1984. However, keeping in view the latest developments in the field of technology, especially in the field of computer and digital technologies, there was a need to bring in a new comprehensive Copyright Act. Work to bring in a new act commenced in 1987 and a working group was set up by the Ministry of Human Resource Development in 1990-91. The amendments recommended by this group were introduced in the Parliament and a motion for reference of the Bill to Joint committee of both houses was adopted in August 1992. The Report of the Joint Committee and Bill with the changes recommended by it were presented to the Parliament on 24th August 1993. The Joint committee had the benefit or views on various clauses of the Bill of a wide cross section of members of public no-official organisations concerned with Copyright matters and experts.
- The Copyright (Second Amendment) Bill 1992 as amended and passed by the House of parliament on 11th May 1994 and 13th May 1994 received the assent of the President and forthwith came on the short title and number THE COPYRIGHT (AMENDMENT) ACT, 1994 (38 of 1994).

ANALYSIS OF AMENDMENTS

1. The earlier definition of "Literary work" in the copyright Act read as follows: "Literary work includes tables, compilations and computer programmes, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer based equipment is capable of reproducing any information".
   Following amendment has been brought to the existing definition of "Literary work". Now, the definition reads as follows :
   "Literary work" includes computer programmes, table and compilations including computer data bases."
   The object of the Amendment was to make the definition of "Literary work" consistent with the proposed definition for "Computers" and "Computer Programmes." The existing definition of literary work contained within it the definition for "computer programmes" in separate sub section.

2. "Computer Programme" has been now defined as :
   "Computer programme" means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result."
   The amendment, although enlarges the meaning of a computer programme, but, it is still not very clear as to whether it includes both object code and source code. This probably needs clarification from lawyers. However, keeping in mind the proclaimed object of the amendment, presumably the benefit of the Copyright Act will be available to both.

3. In the existing act the term "computer" was not defined. The definition of computer has now been included. The amended definition of "computer reads as follows.
   "Computer includes any electronic or similar device having information processing capabilities."

4. The existing provisions of the Copyright Act did not specifically define the author of computer generated work. The following amendment has now been incorporated:
   "Author means in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created." The purpose of the amendment was two fold. Firstly, it seeks to clarify the position that computer generated work need not necessarily fall only under ambit of literary work but
includes artistic, dramatic and musical work. Secondly, it provides that the "author" with respect to computer generated work is the person who actually causes the generation of such work i.e. a person who is directly involved in the process of generation of work.

5. The earlier definition of Copyright was as follows:

Copyright means the exclusive right, by virtue of, and subject to the provisions of this Act -
A. in case of a literary, dramatic or musical work to do and authorise 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 work;
   V. to make any cinematographic film or a record in respect of the work;
   VI. to communicate the work by broadcast or to communicate to public by a loudspeaker or any other similar instrument the broadcast of the work;
   VII. to make any adaptation of the work;
   VIII. to do in relation to translation or an adaptation of work any of the acts specified in relation to the work in clauses (i) to (vi),

The amendment reads as follows:

For the purpose of this Act, "Copyright" means the exclusive right, subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:

B. in the case of a computer programme-
   I. to do any of the acts specified in clause (a);
   II. to sell or give on hire, or offer for sale or hire, any copy of the computer programme regardless of whether such copy has been sold or given on hire on earlier occasions;

By the above amendment, the scope of Copyright in case of computer programme has been amplified to include the right to sell or give on hire or offer for sale or hire any copy of a computer programme irrespective of the fact that such copy may have been sold or give on hire on earlier occasion.

6. The amendments have further clarified the position regarding assignment as it exists and the existing provision have been amended to read as follows:

SECTION - 19

1. 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.
2. The assignment of copyright in any work shall identify such work, and shall specify the rights assigned and the duration and territorial extent of such assignment.
3. The assignment of Copyright in any work shall also specify the amount of royalty payable if any, to the author or his legal heirs during the currency of the assignment and assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.
4. Where the assignee does not exercise rights assigned to him under any of the subsections of this section within period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.
5. If the period of assignment is not stated, it shall be deemed to be five years from the date of assignment.
6. If the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within India.
7. Nothing in subsection (2) or subsection (3) or subsection (4) or subsection (5) or subsection (6) be applicable to assignments made before the coming into force of the Copyright (2nd Amendment) Act 1994."

SECTION 19A

1. If an assignee fails to make sufficient exercise of the rights assigned to him, and as such
failure is not attributable to any act or omission of the assignor, then the Copyright Board may, on receipt of a complaint from the assignor and after holding such enquiry as it may deem necessary, revoke such assignment.

2. If any dispute arises with respect to the assignment of any copyright, the Copyright Board may, on receipt of a complaint from the aggrieved party and after holding such enquiry as it considers necessary, pass such orders as it may deem fit including an order for the recovery of any royalty payable:

Provided that the Copyright Board shall not pass any order under this subsection to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assignor is also the author:

Provided further that no order or revocation of assignment under this subsection, shall be made within a period of five years from the date of such assignment."

An attempt has been made to spell out the prerequisites for the assignment of Copyright, in the interest of both the assignor and the assignee and to provide for such contingencies with respect to which the instrument of assignment is not clear so as to protect the interest of the assignor. The amendment also provides the assignor with the remedies through the Copyright Board for insufficient exercise of assigned right and / or for nonpayment of royalties by the assignee.

7. Another important amendment incorporated in the Act is in the description of what does not constitute infringement with respect to computer programmes. The existing provision (Section 52) of the act defines, as to what does not constitute infringement of copyright. Computer programme has been included and reads:

Subject to the provisions of Section 52 B, the following acts shall not constitute an infringement of the Copyright namely:

1. the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme, from such copy -
   i. in order to utilise the computer programme for the purpose for which it was supplied: or
   ii. to make up backup copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied;"

By this amendment a general right to reproduce computer programmes for private use has been totally excluded. However, protection would be provided for a lawful possessor of a copy of a computer programme to make backup companies purely as temporarily protection against loss, destruction or damage.

8. By far, the most interesting and far reaching provision of the Bill relates to creation of a new offence if a person knowingly makes use on computer of an infringing copy of a computer programme. According to legal experts, this is probably is the first attempt anywhere in the world along these lines. The relevant provision included vide Section 63 reads as follows:

SECTION 63 B

Any person who knowingly makes use on a computer of an infringing copy of a computer programme shall be punishable with imprisonment for a term which shall not be less than seven days but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

Provided that where the computer programme has not been used for gain in the course of trade or business, the court may, for adequate and special reasons to be mentioned in the judgement, not impose any sentence of imprisonment and may impose a fine which may extend to fifty thousand rupees.
Relevant Extracts (Relating to Software)  
from The Copyright Amendment Act 1994

SECTION 2
1. "Author" means -
   I. relation to a literary or dramatic work, the author of the work.
   II. relation to any literary, dramatic, musical or artistic work which is computer
genenerated, the person who causes the work to be created.
2. "Computer" includes any electronic or similar device having information processing
capabilities.
3. Computer Programme" means a set of instructions expressed in words, codes, schemes
or in any other form, including a machine readable medium, capable of causing a
computer to perform a particular task or achieve a particular result.
4. "Duplicating Equipment" means any mechanical contrivance or device used or intended
to be used for making copies of any work.
5. "Exclusive License" means a license which confers on the licensee or on the licensee
and the 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
licensee" shall be construed accordingly.
6. "Indian work" means a literary, dramatic or musical work,-
   I. the author of which is a citizen of India; or
   II. which is first published in India; or
   III. the author of which, in the case of an unpublished work is, at the time of making
the work, a citizen of India.
7. "Infringing copy" means, in relation to a literary, dramatic, musical or artistic work, a
reproduction thereof otherwise than in the form of a cinematographic film
8. "Literary work" includes computer programmes, tables and compilations including
computer data bases.
9. "Plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer,
negative, duplicating equipment or other device used or intended to be used for printing
or reproducing copies of any work, and any matrix or other appliance by which sound
recording for the acoustic presentation of the work are or are intended to be made.
10. "Work" means any of the following works, namely:-
    I. a literary, dramatic, musical or artistic work
    II. xxxxx
    III. xxxxx
11. "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.

SECTION 3
For the purpose of this Act, "publication" means a work available to the public by issue
of copies or by communicating the work to the public.

SECTION 13
Works in which copyright subsists. Subject to the provisions of this section and other
provisions of this Act, Copyright shall subsist throughout India in the following classes of
works that is to say,-

I. original literary, dramatic, musical and artistic works;
II. xxxxx

SECTION 14
Meaning of Copyright. For the purpose of this Act, "Copyright" means the exclusive
right subject to the provisions of this Act, to do or to authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely-

a. In the case of a literary, dramatic or musical work, not being a computer programme,-
   i. to reproduce the work in any material form including the storing of it in any medium by electronic means;
   ii. to issue copies of the work to the public not being copies already in circulation;
   iii. to perform the work in public, or communicate it to the public;
   iv. xxxx
   v. xxxx
   vi. xxxx
   vii. xxxx
b. in the case of a computer programme,-
   i. to do any of the acts specified in clause (a);
   ii. to sell or give on hire, or offer for sale or hire any copy of the computer programme, regardless of whether such copy has been sold or given on hire on earlier occasions;

SECTION 17
First owner of Copyright. Subject to the provisions of this Act, the Author of a work shall be the owner of the copyright therein:

Provided that-

a. xxxx
b. xxxx
c. in the case of a work made in the course of 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. xxxx
e. xxxx

SECTION 18
Assignment of a Copyright.

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

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 Act as the owner of copyright and the provisions of this Act shall have effect accordingly.

SECTION 19
Mode of Assignment.

1. 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.
2. The assignment of copyright in any work shall identify such work, and shall specify the rights assigned and duration and territorial extent of such assignment.
3. The assignment of copyright in any work shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the currency of the assignment and
the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by parties.

4. Where the assignee does not exercise the rights assigned to him under any of the subsections of this section within a period of one year from the date of assignment in respect of such rights shall be deemed to have lapsed after the expiry of said period unless otherwise specified in the assignment.

5. If the period of assignment is not stated, it shall be deemed to be five years from the date of assignment.

6. If the territorial extent of the assignment of the rights is not specified, it shall be presumed to extend within India.

7. Nothing in sub section (2) or sub section (3) or sub section (4) or sub section (5) or sub section (6) shall be applicable to assignments made before the coming into force of the Copyright (Amendment) Act, 1994.

SECTION 19A
Disputes with respect to assignment of Copyright.

1. If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act of omission of the assignor, then, the Copyright Board may, on receipt of a complaint from the assignor and after holding such enquiry as it may deem necessary, revoke such assignment.

2. If any dispute arises with respect to the assignment of any copyright, the Copyright Board may, on receipt of complaint from the aggrieved party and after holding such enquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable.

Provided that the Copyright Board shall not pass any order under this sub section to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assigner is also the author:

Provided further that no order of revocation of assignment under this sub section, shall be made within a period of five years from the date of such assignment.

SECTION 22
Term of Copyright in published literary, dramatic, musical and artistic work.
Except as otherwise hereinunder provided, copyright shall subsist in any literary, dramatic, musical or artistic work published within the lifetime of the author until sixty years from the beginning of the calendar year next following the year in which the author dies.

SECTION 30
Licenses by owners of copyright.
The owner of the Copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in right by license in writing signed by him or by his duly authorised agent:

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

SECTION 30A
Application of Sections 19 and 19A.
The provisions of sections 19 and 19A shall, with necessary adaptations and modifications, apply in relation to assignment of copyright in a work.

SECTION 45
Entries in the Register of Copyright.

1. The author or the Publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed from accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in

the Register of Copyrights.

Provided that in respect of an artistic work which is used or is capable of being used in relation to any goods, the application shall include a statement to the effect and shall be accompanied by a certificate from the Registrar of Trademarks referred to in section 4 of the Trade and Merchandise Marks Act, 1958, to the effect that no trade mark identical with or deceptively similar to such artistic work had been registered under the Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.

2. On receipt of an application in respect of any work under sub section (1), the Registrar of Copyrights may, after holding such enquiry as he may deem fit, enter the particulars of the work in the Register of Copyright.

Comments: The copyrights exist whether the registration is done or not, and the registration is merely a piece of evidence as to when a certain author started claiming copyrights in some artistic or some other work. Glaxo Operations U.K. v. Samrat Pharmaceuticals, AIR 1984 Del. 1984 Raj. L.R. 291

SECTION 51

When copyright infringed. Copyright in a work shall be deemed to be infringed:

a. when any person without a license granted by the owner of the Copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a license so granted or of any conditions imposed by a competent authority under this Act-
   i. does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or
   ii. permits for profit any place to be used for the communication of the work to the public where such communications constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public 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 of trade displays or offers for sale or hire, or
   ii. distributes either for the purpose of trade or to such an extent as to effect prejudicially the owner of the copyright, or
   iii. by way of trade exhibits in public, or
   iv. imports into India,

any infringing copies of the work:

provided that nothing in sub clause (iv) shall apply to the import of two copies of any work, other than a cinematographic film or record, for private and domestic use of the importer.

SECTION 52

Certain acts not to be infringement of copyright.

The following acts shall not constitute an infringement of copyright, namely:-

a. a fair dealing with a literary, dramatic, musical or artistic work no being a computer programme for the purposes of-
   i. private use including research;
   ii. criticism or review, whether of that work or any other work

b. the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme from such copy-
   i. in order to utilise the computer programme for the purpose for which it was supplied; or
   ii. to make back up copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied.

SECTION 53

Importation of infringing copies.

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10/6/2003
1. The Registrar of Copyrights, on application by the owner of the copyright in any work or by his duly authorised agent on payment of the prescribed fee, may, after making such enquiry as he deems fit, order that copies made out of India of the work which if made in India would infringe copyright shall not be imported.

2. Subject to any rules made under this Act, the Registrar of Copyrights or any person authorised by him in this behalf may enter any ship, 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 import had been prohibited or restricted under section 11 of the Customs Act, 1962 (51 of 1962), and all the provisions of the Act shall have effect accordingly: Provided that all such copies confiscated under the provisions of the said Act shall not vest in the Government but shall be delivered to the owner of the copyright in the work.

SECTION 54

@1@Definition.

For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include-

i. an exclusive licensee;

ii. xxxx

SECTION 55

Civil remedies for infringement of copyright.

1. Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, 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 and had no reasonable ground for believing that copyright subsisted 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 part of the profits made by the defendant by 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 published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding.

SECTION - 56

Protection of separate rights.

Subject to the provisions of this Act, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extend of that right, be entitled to the remedies provided by this Act and may individually enforce such rights by means of any suit, action or other proceeding without making the owner of any other right party to such suit, action or proceeding.

Section - 57

Author's special right.

1. Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right:-

i. to claim authorship of the work; and

ii. to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work which is done before the expiration of the term of copyright if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation:
Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub section (1) of section 52 applies.

2. The right conferred upon an author of a work by sub section (1), other than the right to claim authorship of the work, may be exercised by the legal representative of the author.

SECTION 58
Rights of owner against persons possessing or dealing with infringing copies.
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 and had no reasonable ground to believe that copyright subsisted in the work of which such copies are alleged to be infringing copies; or
b. that he had reasonable grounds for believing that such copies or plates do not involve infringement of the copyright in any work.

SECTION 60
Remedy in the case of groundless threat of legal proceedings.
Where any person claiming to be the owner of copyright in any work, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of an alleged infringement of the copyright, any person aggrieved thereby may, notwithstanding anything contained in section 34 of the Specific Relief Act, 1963 (47 of 1963), institute a declaratory suit that the alleged infringement to which threats related was not in fact an infringement of any legal rights of the person making such threats and may in any such suit-

a. obtain an injunction against the continuance of such threats; and
b. recover such damages, if any, as he has sustained by reason of such threats:
Provided that this section does not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him.

SECTION 61
Owners of copyright to be party to the proceeding.
1. In every Civil Suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the Court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee.

2. Where any Civil Suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee is successful, no fresh suit or other proceedings in respect of the same cause of action shall lie at the instance of the owner of the copyright.

SECTION 62
Jurisdiction of Court over matters arising under this Chapter.
1. Every suit or other civil proceeding arising under this chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction.

2. For the purpose of sub section (1), a "District Court having jurisdiction" shall, notwithstanding anything contained in the Code of Civil Procedure, 19088 (5 of 1908) or any other law for the time being in force include a District Court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceedings, the person instituting the suit or other proceedings or, where there are more than one
such persons, any of them actually and voluntarily resides or carries on business or personally works for gain.

SECTION 63

¡@¡@Offences of infringement of copyright or other rights conferred by this Act.

¡@¡@Any person who knowingly infringes or abets the infringement of -

a. the copyright in a work; or

b. any other right conferred by this Act, except the right conferred by Section 53A shall be punishable with imprisonment for a term which shall not be less than six months but which may be extended to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

¡@¡@provided that where the infringement has not been made for gain on the course of trade or business the Court may, for adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of not less than six months or a fine of less than fifty thousand rupees.

SECTION 63A

¡@¡@Enhanced penalty on second and subsequent convictions.

¡@¡@Whoever having already been convicted of an offence under section 63 is again convicted of any such offence shall be punishable for the second and every subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

¡@¡@provided that where infringement has not been made for gain on the course of trade or business the court may, for adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than one year or a fine of less than one lakh rupees.

¡@¡@Provided further that for the purposes of this section, no cognisance shall be taken of any conviction made before the commencement of Copyright (Amendment) Act, 1984 (65 of 1984).

SECTION 63 B

¡@¡@Knowing use of infringing copy of computer programme to be an offence.

¡@¡@Any person who knowingly makes use on a computer of an infringing copy of a computer programme shall be punishable with imprisonment for a term which shall not be less than seven days but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

¡@¡@provided that where the computer programme has not been used for gain or in the course of trade or business, the court may, for adequate and special reasons to be mentioned in the judgement, not impose any sentence of imprisonment and may impose a fine which may extend to fifty thousand rupees.

SECTION 64

¡@¡@Power of police to seize infringing copies.

1. Any police officer, not below the rank of a sub inspector, may if he is satisfied that an offence under section 63 in respect of infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant, all copies of the work, where ever found, and all copies and plates so seized shall, as soon as practicable, be produced before a Magistrate.

2. Any person having an interest in any copies of a work, or plates seized under sub section (1) may, within fifteen days of such seizure, make an application to the Magistrate for such copies or plates being restored to him and the Magistrate, after hearing the applicant and the complainant and making such further enquiry as may be necessary, shall make such order on the application as he may deem fit.
SECTION 65
¡@¡@Possession of plates for the purpose of making infringing copies.-
¡@¡@Any person who knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists shall be punishable with imprisonment which may extend to two years and also be liable to fine.

SECTION 66
¡@¡@Disposal of infringing copies or plates for purpose of making infringing copies.
¡@¡@The court trying any offence under this Act 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 be infringing copies, or plates for the purpose of making infringing copies, be delivered up to the owner of the copyright.

SECTION 69
¡@¡@Offences by companies.
1. Where any offence under this Act 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 business of the company, as well as the company shall be deemed to be guilty of such an offence and shall be liable to be proceeded against and punished accordingly:
a. 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 Act 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 purpose 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.

SECTION 70
¡@¡@Cognizance of offence.
¡@¡@No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.