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Copyright (International Conventions) Act, 1911

Act 1 of 1912

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1912/1/eng@1998-12-01

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Copyright (International Conventions) Act, 1911

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eSwatini

Copyright (International Conventions) Act, 1911

Act 1 of 1912

Commenced on 24 June 1912

[This is the version of this document at 1 December 1998.]

An Act to implement the provisions of certain International Conventions.

1. Short title

This Act may be cited as the Copyright (International Conventions) Act, 1911.

2. Application to foreign countries

This Act extends to the following foreign countries, namely, Belgium, Denmark and the Faroe Islands, France, Germany and the German Protectorates, Hayti, Italy, Japan, Liberia, Luxemburg, Monaco, Norway, Portugal, Spain, Sweden, Switzerland, and the Austro-Hungarian Monarchies which are hereinafter referred to as the foreign countries of the Copyright Union.

3. Application of Copyright Act, **No. 36 of 1912**

The Copyright Act, 1912 including the provisions as to existing works, shall subject to the provisions of the said Act and of this Act apply –

- (a) to works first published in a foreign country of the Copyright Union, in like manner as if they had been first published within the parts of the British Commonwealth to which the Copyright Act, 1911 of the United Kingdom extends;
- (b) to literary, dramatic, musical and artistic works, the authors whereof were at the time of the making of the works subjects or citizens of a foreign country of the Copyright Union, in like manner as if the authors had been British subjects;
- (c) in respect of residence in a foreign country of the Copyright Union in like manner as if such residence had been residence in the parts of the British Commonwealth to which the said Copyright Act, 1911 of the United Kingdom extends:

Provided that:

- (i) Sections 3(2)(d) and 18 of the Copyright Act, 1912, and such other part or parts thereof as confer upon the owner of the copyright in a literary, dramatic or musical work the exclusive right of making any record, perforated roll, cinematograph film or other contrivance by means of which the work may be mechanically performed and such other part or parts thereof as confer copyright in any record or perforated roll shall not apply in the case of any work of which the country of origin is Denmark, Italy, or Sweden.
- (ii) The term of copyright with the parts of the British Commonwealth to which this Act applies shall not exceed that conferred by the law of the country of origin of the work.
- (iii) The enjoyment of the rights conferred by the Copyright Act, 1912, shall be subject to the accomplishment of the following conditions and formalities, that is to say:
 - (a) In the case of any newspaper article (not being a serial story or tale) of which the country of origin is one of the foreign countries following, namely, Belgium, France, Germany and the German Protectorates, Hayti, Liberia, Luxemburg, Monaco, Portugal, Spain, Switzerland and Tunis, the right to prevent the reproduction of such article (either in the original language or in a translation) in another newspaper with an

indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper in which the article is published.

- (b) In the case of any newspaper or magazine article (not being a serial story or tale) of which the country of origin is Denmark, Italy, Norway, Sweden or the Austro-Hungarian Monarchy, the right to prevent the reproduction of such article (either in the original language or in a translation) with an indication of the source shall be conditional upon reproduction being forbidden by express declaration in some conspicuous part of the newspaper or magazine in which the article is published.
 - (c) In the case of any literary or dramatic work of which the country of origin is Denmark, Italy, Japan, or Sweden the right after the expiry of ten years from the end of the year in which the work or in the case of a book published in numbers each number of the work was first published, to prevent the production, reproduction, performance in public or publication of any translation of the work shall be conditional upon the publication before the expiration of the above-mentioned period and within the parts of the British Commonwealth to which this Act applies or within any foreign country of the Copyright Union of an authorised translation in the language for which protection is claimed of the work or of each number of the work.
 - (d) In the case of any published musical work of which the country of origin is Denmark, Italy, Japan or Sweden the right to prevent performance in public shall be conditional upon performance in public being forbidden by an express declaration on the title-page or commencement of the work.
 - (e) In the case of any work of which the country of origin is Denmark, Italy or first published in the Austro-Hungarian Monarchy or Sweden the entire rights conferred by the Copyright Act, 1912, shall be conditional upon the accomplishment of the conditions and formalities prescribed by law in the country of origin or that part of the Monarchy in which the work was first published.
- (iv) Nothing in the provisions of the Copyright Act, 1912 as applied to existing works, shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section 5 of the International Copyright Act, 1886 of the United Kingdom.

4. Musical works published prior to Copyright Act, [No. 36 of 1912](#)

Subject to the provisions of proviso (i) of [section 3](#) where any musical work to which this Act applied has been published before the commencement of the Copyright Act, 1912, but (except in the case of the Austro-Hungarian Monarchy) no contrivances by means of which the work may be mechanically performed have before the commencement of this Act been lawfully made, or placed on sale, within the parts of the British Commonwealth to which this Act applies, copyright in the work shall include all rights conferred by the said Copyright Act with respect to the making of records, perforated rolls and other contrivances by means of which the work may be mechanically performed.

5. Interpretation of “country of origin”

In this Act the expression “**the country of origin**” as applied to a work has the same meanings as in the third paragraph of Article 4 of the Berlin Confession.

6. Application to British Commonwealth

- (1) This Act applies to all parts of the British Commonwealth except the —
 - Dominion of Canada
 - Commonwealth of Australia

Dominion of New Zealand

Newfoundland.

- (2) This Act also applies to Cyprus, Botswana, Kenya, Tanzania, Gambia, the Gilbert and Ellice Islands Protectorate, Ghana, Malawi, Zambia, Rhodesia, Sierra Leone, Somalia, Solomon Islands Protectorate, Swaziland, Uganda, and Weihaiwei.

7. Construction

- (1) This Act shall be construed as one with the Copyright Act, 1912.
- (2) The Conventions set out in the schedules hereto shall, subject to the provisions of this Act, apply in Swaziland.

First Schedule

Berlin Convention

Convention for the purpose of revising the Convention of Berne of the 9th September, 1886, the Additional Article and the Final Protocol attached to the same Convention, and the Additional Act and the Interpretative Declaration of Paris of the 4th May, 1896; made on the 13th day of November, 1908, between His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; The President of the Republic of Liberia; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Serene Highness the Prince of Monaco; His Majesty the King of Norway; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English translation of the Convention, with the omission of the formal beginning and end.]

Article 1

The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

Article 2

The expression "literary and artistic works" shall include any production in the literary, scientific, or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings; dramatic or dramatico-musical works, choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise; musical compositions with or without words; works of drawing, painting, architecture, sculpture, engraving, and lithography; illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science.

Translations, adaptations, arrangements of music and other reproductions in an altered form of a literary or artistic work as well as collections of different works, shall be protected as original works without prejudice to the rights of the author of the original work.

The contracting countries shall be bound to make provision for the protection of the above-mentioned works.

Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows.

Article 3

The present Convention shall apply to photographic works and to works produced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.

Article 4

Authors who are subjects or citizens of any of the countries of the Union shall enjoy in countries other than the country of origin of the work, for their works, whether unpublished or first published in a country of the Union, the rights which the respective laws do now or may hereafter grant to natives as well as the rights specially granted by the present Convention.

The enjoyment and the exercise of these rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations from the present Convention, the extent of protection, as well as the means of redress secured to the author to safeguard his rights shall be governed exclusively by the laws of the country where protection is claimed.

The country of origin of the work shall be considered to be: in the case of unpublished works, the country to which the author belongs; in the case of published works, the country of first publication; and in the case of works published simultaneously in several countries of the Union, the country the laws of which grant the shortest term of protection. In the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country shall be considered exclusively as the country of origin.

By published works must be understood, for the purposes of the present Convention, works copies of which have been issued to the public. The representation of a dramatic or a dramatico-musical work, the performance of a musical work, the exhibition of a work of art, and the construction of a work of architecture shall not constitute a publication.

Article 5

Authors being subjects or citizens of one of the countries of the Union, who first publish their works in another country of the Union, shall have in the latter country the same rights as native authors.

Article 6

Authors not being subjects or citizens of one of the countries of the Union, who first publish their works in one of those countries, shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present Convention.

Article 7

The term of protection granted by the present Convention shall include the life of the author and fifty years after his death.

Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where protection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far as such provisions are consistent with their domestic laws.

For photographic works and works produced by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, provided that the said term shall not exceed the term fixed in the country of origin of the work.

Article 8

The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of those countries shall enjoy, in the other countries of the Union, during the whole term of the right in the original work, the exclusive right of making or authorising a translation of their works.

Article 9

Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.

With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

The protection of the present Convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.

Article 10

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies, the effect of the legislation of the countries of the Union and of special arrangements existing or to be concluded between them is not affected by the present Convention.

Article 11

The stipulations of the present Convention shall apply to the public representation of dramatic or dramatico-musical works, and to the public performance of musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorised public representation of translations of their works.

In order to enjoy the protection of the present Article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.

Article 12

The following shall be specially included among the unlawful reproductions to which the present Convention applies: unauthorised indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale, or piece of poetry into a dramatic piece and *vice versa*, etc. when they are only the reproduction of that work, in the same form or in another form without essential alterations, additions, or abridgments, and do not present the character of a new original work.

Article 13

The authors of musical works shall have the exclusive right of authorising (1) the adaptation of those works to instruments which can reproduce them mechanically; (2) the public performance of the said works by means of these instruments.

Reservations and conditions relating to the application of this Article may be determined by the domestic legislation of each country in so far as it is concerned; but the effect of any such reservations and conditions will be strictly limited to the country which has put them in force.

The provisions of paragraph 1 shall not be retroactive, and consequently shall not be applicable in any country of the Union to works which have been lawfully adapted in that country to mechanical instruments before the coming into force of the present Convention.

Adaptations made by virtue of paragraphs 2 and 3 of the present Article, and imported without the authority of the interested parties into a country where they would not be lawful, shall be liable to seizure in that country.

Article 14

Authors of literary, scientific, or artistic works shall have the exclusive right of authorising the reproduction and public representation of their works by cinematography.

Cinematograph productions shall be protected as literary or artistic works, if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the work a personal and original character.

Without prejudice to the rights of the author of the original work the reproduction by cinematography of a literary, scientific, or artistic work shall be protected as an original work.

The above provisions apply to reproduction or production effected by any other process analogous to cinematography.

Article 15

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works the publisher, whose name is indicated on the work, shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author.

Article 16

Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

In such a country the seizure may also apply to reproductions imported from a country where the work is not protected, or has ceased to be protected.

The seizure shall take place in accordance with the domestic legislation of each country.

Article 17

The provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures or domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

Article 18

The present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.

If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew in that country.

The application of this principle shall take effect according to the stipulations contained in special Conventions existing, or to be concluded, to that effect between countries of the Union. In the absence of such stipulations, the respective countries shall regulate, each in so far as it is concerned, the manner in which the said principle is to be applied.

The above provisions shall apply equally in case of new concessions to the Union, and also in the event of the term of protection being extended by the application of Article 7.

Article 19

The provisions of the present Convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favour of foreigners in general.

Article 20

The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.

Article 21

The International Office established under the name of the "Office of the International Union for the Protection of Literary and Artistic Works" shall be maintained.

That Office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organisation and supervises its working.

The official language of the office shall be French.

Article 22

The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and by the aid of documents placed at its disposal by the different Administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with the view to furnish them with any special information which they may require relative to the protection of literary and artistic works.

The Director of the International Office shall make an Annual Report on his Administration, which shall be communicated to all the members of the Union.

Article 23

The expenses of the Office of the International Union shall be shared by the contracting States. Until a fresh arrangement be made they cannot exceed the sum of 60,000 francs a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 24.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:

1st class	25 units.
2nd class	20 units.
3rd class	15 units.
4th class	10 units.
5th class	5 units.
6th class	3 units.

These coefficients are multiplied by the number of countries of each class, and the total product thus obtained gives the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss Administration prepares the Budget of the Office, superintends its expenditure, makes the necessary advances, and draws up the annual account which shall be communicated to all the other Administrations.

Article 24

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries. The Administration of the country where a Conference is to meet prepares, with the assistance of the International Office, the programme of the Conference. The Director of the Office shall attend at the sitting of the Conferences, and shall take part in the discussions without the right to vote.

No alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

Article 25

States outside the Union which make provision for the legal protection of the rights forming the object of the present Convention may accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention. It may nevertheless contain an indication of the provisions of the Convention of the 9th September, 1886, or of the Additional Act of the 4th May, 1896, which they may judge necessary to substitute, provisionally at least, for the corresponding provisions of the present Convention.

Article 26

Contracting countries shall have the right to accede to the present Convention at any time for their Colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their Colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

Such Declaration shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Article 27

The present Convention shall replace, in regard to the relations between the Contracting States, the Convention of Berne of the 9th September, 1886, including the Additional Article and the Final Protocol of the same date, as well as the Additional Act and the Interpretative Declaration of the 4th May, 1896. These instruments shall remain in force in regard to relations with States which do not ratify the present Convention.

The Signatory States of the present Convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the Conventions which they have previously signed.

Article 28

The present Convention shall be ratified, and the ratifications exchanged at Berlin not later than the 1st July, 1910.

Each Contracting Party shall, as regards the exchange of ratifications, deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the procès-verbal of the exchange of ratifications signed by the Plenipotentiaries who took part.

Article 29

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the government of the Swiss Confederation. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

Article 30

The States which shall introduce in their legislation the duration of protection for fifty years contemplated by Article 7, first paragraph, of the present Convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other States of the Union.

The same procedure shall be followed in the case of the States renouncing the reservations made by them by virtue of Articles 25, 26, and 27.

Reservations made to the Berlin Convention

Part I		
Country	Subject	Provisions remaining in force
Great Britain	Retrospective effect	Article 14 and paragraph 4 of the Final Protocol of the Berne Convention, as amended by the Additional Act.
Part II		
France Tunis	Works of art applied to industrial purposes	Provisions of Berne Convention and Additional Act.
Japan	Translating right	Article 5 of the Berne Convention, as amended by the Additional Act.
	Performing right in musical works	Article 9, paragraph 3, of the Berne Convention.
	Works of architecture	Article 4 of the Berne Convention.
Norway	Newspaper and magazine articles	Article 7 of the Berne Convention.
	Retrospective effect	Article 14 of the Berne Convention.

Second Schedule

Berne Convention

Convention for protecting effectively and in as uniform a manner as possible, the rights of authors over their literary and artistic works. Made on the fifth day of September, 1887, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the German Emperor, King of Prussia; His Majesty the King of the Belgians; Her Majesty the Queen Regent of Spain, in the name of His Catholic Majesty the King of Spain; the President of the French Republic; the President of the Republic of Hayti; His Majesty the King of Italy; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis.

[The following is an English translation of the Convention, with the omission of the formal beginning and end.]

Article I

The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

Article II

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

The enjoyment of these rights shall be subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and must not exceed in the other countries the term of protection granted in the said country of origin.

The country of origin of the work shall be considered to be that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them the laws of which grant the shortest term of protection.

For unpublished works the country to which the author belongs shall be considered to be the country of origin of the work.

Article III

The stipulations of the present Convention shall apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

Article IV

The expression “literary and artistic works” shall include books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of drawing, painting, sculpture, and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

Article V

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.

For works published in incomplete parts (“*livraisons*”) the period of ten years shall commence from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections (“*cahiers*”) published by literary or scientific societies, or by private persons, each volume, bulletin, or collection shall be with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the terms of protection, the 31st December of the year in which the work was published shall be regarded as the date of publication.

Article VI

Lawful translations shall be protected as original works. They shall consequently enjoy the protection stipulated in Articles II and III as regards their unauthorised reproduction in the countries of the Union.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

Article VII

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it shall be sufficient if the prohibition is indicated in general terms at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or miscellaneous information.

Article VIII

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the effect of the legislation of the countries of the Union, and of special arrangements existing or to be concluded between them, is not affected by the present Convention.

Article IX

The stipulations of Article II shall apply to the public representation of dramatic or dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their lawful representatives, shall be, during the existence of their exclusive right of translation, equally protected against the unauthorised public representation of translations of their works.

The stipulations of Article II shall apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title page or commencement of the work that he forbids the public performance thereof.

Article X

The following shall be specially included amongst the illicit reproductions to which the present Convention applies: unauthorised indirect appropriations of a literary or artistic work, of various kinds, such as adaptations, musical arrangements, etc. when they are only the reproduction of a particular work, in the same form, or in another form, without essential alterations, additions, or abridgments, so as not to present the character of a new original work.

It is agreed that, in the application of the present Article, the tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

Article XI

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the Courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the lawful representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the tribunals may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in the country of origin have been accomplished, as contemplated in Article II.

Article XII

Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place in accordance with the domestic legislation of each country.

Article XIII

It is understood that the provisions of the present Convention cannot in any way derogate from the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

Article XIV

Under the reserves and conditions to be determined by common agreement, the present Convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin.

Article XV

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into separate and particular arrangements between each other provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

Article XVI

An International Office shall be established, under the name of "Office of the International Union for the Protection of Literary and Artistic Works".

This Office, of which the expenses will be borne by the Administrations of all the countries of the Union, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its direction. The functions of this office shall be determined by common accord between the countries of the Union.

Article XVII

The present Convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries.

It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

Article XVIII

Countries which have not become parties to the present Convention and which make provisions by their domestic law for the protection of the rights forming the object of the present Convention, shall be admitted to accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present Convention.

Article XIX

Countries acceding to the present Convention shall also have the right to accede thereto at any time for their Colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their Colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

Article XX

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government authorised to receive accessions. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

Article XXI

The present Convention shall be ratified, and the ratifications exchanged at Berne within the space of one year at the latest.

Additional Article

The Convention concluded this day shall in nowise affect the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to this Convention.

Final Protocol

1. As regards Article IV it is agreed that those countries of the Union where the character of artistic works is not refused to photographs, engage to admit them to the benefits of the Convention concluded today, from the date of its coming into force. They shall, however, not be bound to protect the authors of such works further than is permitted by their own legislation except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between those who have legal rights.

2. As regards Article IX it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs in which copyright subsists shall not be considered as constituting an infringement of musical copyright.

4. The common agreement contemplated in Article XIV of the Convention is established as follows:

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force, shall take effect according to the stipulations on this head contained in special Conventions existing, or to be concluded, to that effect.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each in so far as it is concerned, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

5. The organisation of the International Office established by virtue of Article XVI of the Convention shall be fixed by a regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office shall be French.

The International Office will collect every kind of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will undertake the study of questions of general interest concerning the Union, and, by the aid of documents placed at its disposal by the different Administrations, will edit a periodical publication in the French language on the questions which concern the objects of the Union. The Governments of the countries of the Union reserve to themselves the power to authorise, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with the view to furnish them with any special information they may require relative to the protection of literary and artistic works.

The Administration of the country where a Conference is to meet will prepare the programme of the Conference with the assistance of the International Office.

The Director of the International Office shall attend the sittings of the Conferences, and shall take part in the discussions without the right to vote. He shall make an annual report on his administration, which shall be communicated to all the members of the Union.

The expenses of the Office of the International Union shall be shared by the contracting States. Until a fresh arrangement be made, they cannot exceed the sum of 60,000 francs a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article XVII.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:

1st class	25 units.
2nd class	20 units.
3rd class	15 units.
4th class	10 units.
5th class	5 units.
6th class	3 units.

These coefficients will be multiplied by the number of countries of each class and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss Administration will prepare the Budget of the office, superintend its expenditure, make the necessary advances, and draw up the annual account, which shall be communicated to all the other Administrations.

6. The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.

The French Government will fix the date within these limits after having consulted the International Office.

7. It is agreed that, as regards the exchange of ratifications contemplated in Article XXI, each Contracting Party shall deliver a single instrument, which shall be deposited with those of the other countries, in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the *procès-verbal* of the exchange of ratifications, signed by the Plenipotentiaries who took part.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force, effect, and duration.

Third Schedule

Additional Act of Paris

[The following is an English translation of the Additional Act with the omission of the formal beginning and end.]

Article I

The International Convention of the 9th September, 1886, is modified as follows:

1. Article II. — The first paragraph of Article II shall run as follows:

“Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether unpublished, or first

published in one of those countries, the rights which the respective laws do now or may hereafter grant to natives.”

A fifth paragraph is added in these terms:

“Posthumous works shall be included among those to be protected.”

2. Article III. — Article III shall run as follows:

“Authors not being subjects or citizens of one of the countries of the Union, who first publish or cause to be first published, their literary or artistic works in one of those countries, shall enjoy, in respect of such works, the protection granted by the Berne Convention, and by the present Additional Act.”

3. Article V. — The first paragraph of Article V shall run as follows:

“Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorising the translation of their works during the entire term of their right over the original work. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published in one of the countries of the Union, a translation in the language for which protection is to be claimed”.

4. Article VII. — Article VII shall run as follows:

“Serial stories, including tales, published in the newspapers or periodicals of one of the countries of the Union, may not be reproduced, in original or translation, in the other countries, without the sanction of the authors or of their lawful representatives.

“This stipulation shall apply equally to other articles in newspapers or periodicals, when the authors or editors shall have expressly declared in the newspaper or periodical itself in which they shall have been published that reproduction is forbidden. In the case of periodicals it shall be sufficient if such prohibition is indicated in general terms at the beginning of each number.

“In the absence of prohibition, such articles may be reproduced on condition that the source is indicated.

“The prohibition cannot in any case apply to articles of political discussion, to news of the day, or to miscellaneous information”.

5. Article XII. — Article XII shall run as follows:

“Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

“The seizure shall take place in accordance with the domestic legislation of each country.”

6. Article XX. — The second paragraph of Article XX shall run as follows:

“Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.”

Article II

The Final Protocol annexed to the Convention of the 9th September, 1886, is modified as follows:

1. No. 1 - This clause shall run as follows:

“As regards Article IV, it is agreed as follows —

“(A) In countries of the Union where protection is accorded not only to architectural plans but also to the architectural works themselves, these works shall be admitted to the benefits of the Berne Convention and of the present Additional Act.

“(B) Photographic works and works produced by an analogous process shall be admitted to the benefits of these engagements in so far as the domestic laws of each State may permit, and to the extent of the protection accorded by such laws to similar national works.

“It is understood that an authorised photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the Berne Convention and by the present Additional Act, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between those who have legal rights.”

2. No. 4. - This clause shall run as follows:

“The common agreement contemplated in Article XIV of the Convention is established as follows:

“The application of the Berne Convention and of the present Additional Act to works which have not fallen into the public domain within the country of origin at the time when these engagements come into force, shall take effect according to the stipulations on this head contained in special Conventions existing, or to be concluded, to this effect.

“In the absence of such stipulations between any of the countries of the Union, the respective countries shall regulate, each in so far as it is concerned, by its domestic legislation, the manner in which the principle contained in Article XIV is to be applied.

“The stipulations of Article XIV of the Berne Convention and of the present clause of the Final Protocol shall apply equally to the exclusive right of translation in so far as such right is established by the present Additional Act.

“The above-mentioned temporary stipulations shall apply in case of new accessions to the Union.”

Article III

The countries of the Union which are not parties to the present Additional Act shall at any time be allowed to accede thereto on their request to that effect. This stipulation shall apply equally to countries which may hereafter accede to the Convention of the 9th September, 1886. It will suffice for this purpose that such accession should be notified in writing to the Swiss Federal Council, who shall in turn communicate it to the other Governments.

Article IV

The present Additional Act shall have the same force and duration as the Convention of the 9th September, 1886.

It shall be ratified, and the ratifications shall be exchanged at Paris, in the manner adopted in the case of that Convention, as soon as possible, and within the space of one year at the latest.

It shall come into force as regards those countries which shall have ratified it three months after such exchange of ratifications.

Fourth Schedule

Austria-Hungary Convention

Convention for securing the rights of authors, or their legal representatives, over their literary or artistic works; made on the 24th day of April, 1893, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of Austria, King of Bohemia, and Apostolic King of Hungary.

[The following is the English text of the Convention, omitting the formal beginning and end.]

Article I

Authors of literary or artistic works and their legal representatives including publishers, shall enjoy reciprocally in the dominions of the high contracting parties, the advantages which are or may be granted by law there for the protection of works of literature or art.

Consequently, authors of literary or artistic works which have been first published in the dominions of one of the high contracting parties, as well as their legal representatives, shall have in the dominions of the other high contracting party the same protection and the same legal remedy against all infringement of their rights as if the work had been first published in the country where the infringement may have taken place.

In the same manner, the authors of literary or artistic works, and their legal representatives, who are subjects of one of the high contracting parties, or who reside within its dominions, shall in the dominions of the other contracting party enjoy the same protection and the same legal remedies against all infringements of their rights as though they were subjects of or residents in the State in which the infringement may have taken place.

These advantages shall only be reciprocally guaranteed to authors and their legal representatives when the work in question is also protected by the laws of the State where the work was first published, and the duration of protection in the other country shall not exceed that which is granted to authors and their legal representatives in the country where the work was first published.

Article II

The right of translation forming part of the copyright, the protection of the right of translation is assured under the conditions laid down by this Convention. If ten years after the expiry of the year in which a work to be protected in Her Majesty's dominions on the basis of this Convention has appeared, no translation in English has been published, the right of translating the work into English shall no longer within those dominions exclusively belong to the author.

In the case of a book published in numbers, the aforesaid period of ten years shall commence at the end of the year in which each number is published.

Article III

Authorised translations are protected as original works. They consequently enjoy the full protection granted by this Convention against the unauthorised reproduction of original works.

It is understood that in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

Article IV

The expression “literary or artistic works” comprehends books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions, with or without words; works of design, painting, sculpture, and engraving, lithographs, illustrations, geographical charts, plans, sketches, and plastic works relating to geography, topography, architecture or science, in general; in fact every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

Article V

In the British Empire, and in the Kingdoms and States represented in the Austrian Reichsrath, the enjoyment of the rights secured by the present Convention is subject only to the accomplishment of the conditions and formalities prescribed by the law of that State in which the work is first published; and no further formalities or conditions shall be required in the other country.

Consequently it shall not be necessary that a work which has obtained legal protection in one country should be registered, or copies thereof deposited in the other country, in order that the remedies against infringement may be obtained which are granted in the other country to works first published there.

In the dominions of the Hungarian Crown the enjoyment of these rights is subject, however, to the accomplishment of the conditions and formalities prescribed by the laws and regulations both of Great Britain and of Hungary.

Article VI

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be, consequently, admitted to institute proceedings in respect of the infringement of copyright before the Courts of the other State, it will suffice that their name be indicated on the work in the accustomed manner.

The Tribunals may, however, in case of doubt, require the production of such further evidence as may be required by the laws of the respective countries.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work is entitled to protect the rights belonging to the author. He is, without other proof, reputed the legal representative of the anonymous or pseudonymous author, until the latter or his legal representative has declared and proved his rights.

Article VII

The provisions of the present Convention cannot in any way derogate from the right of each of the high contracting parties to control, or to prohibit by measures of domestic legislation or police, the circulation, representation, exhibition, or sale of any work or production.

Each of the high contracting parties reserves also its right to prohibit the importation into its own territory of works which, according to its internal laws, or to the stipulations of treaties with other States, are or may be declared to be illicit reproductions.

Article VIII

The provisions of the present Convention shall be applied to literature or artistic works produced prior to the date of its coming into effect, subject, however, to the limitations prescribed by the following regulations:

(a) In the Austro-Hungarian Monarchy —

Copies completed before the coming into force of the present Convention, the production of which has been hitherto allowed, can also be circulated in future.

In the same manner, appliances for the reproduction of works, such as stereotypes, wood-blocks, and engraved plates of every description, such as lithographers' stones, if their production has not hitherto been prohibited, may continue to be used during a period of four years from the coming into force of the present Convention.

The distribution of such copies, and the use of the said appliances is, however, only permitted if an inventory of the said copies and appliances is taken by the government in question, in consequence of an application of the interested party, within three months from the coming into force of the present Convention, and if these copies and appliances are marked with a special stamp.

Dramatic and dramatico-musical works, or musical compositions legally performed before the coming into force of the present Convention, can also be performed in the future.

(b) In the United Kingdom of Great Britain and Ireland —

The author and publisher of any literary or artistic work first produced before the date at which this Convention comes into effect shall be entitled to all legal remedies against infringement; provided that where any person has, before the date of the publication of the Order-in-Council putting this Convention into effect, lawfully produced any work in the United Kingdom any rights or interests arising from or in connection with such production, which are subsisting and valuable at the said date, shall not be diminished or prejudiced.

Article IX

The of the present Convention shallr Britannic Majesty, excepting to those herein after named; that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.

Provided always that the provisions of the present Conventions shall apply to any of the above-named colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative at the Court of His Imperial and Royal Apostolic Majesty within two years from the date of the exchange of ratifications of the present Convention.

Article X

The present Convention shall remain in force for ten years from the day on which the ratifications are exchanged; and in case neither of the two high contracting parties shall have given notice twelve months before the expiration of the said period of ten years of their intention of terminating the present Convention, it shall remain in force until the expiration of one year from the day on which either of the high contracting parties shall have given such notice.

Her Britannic Majesty's Government shall also have the right to denounce the Convention in the same manner, on behalf of any of the colonies or foreign possessions mentioned in Article IX separately.

Article XI

The present Convention shall be ratified, and the ratifications shall be exchanged at Vienna as soon as possible. It shall come into effect ten days after its publication in conformity with the forms prescribed by the laws of the high contracting parties respectively.

Explanatory note (1)

Orders-in-Council, of the dates named below, for securing the privileges of copyright in His Majesty's Dominions to authors of literary and artistic works first produced in the Austro-Hungarian Monarchy, namely:

30th April, 1894.

2nd February, 1895.

11th May, 1895.

Explanatory note (2)

This Act has been created out of an Order-in-Council applying the Copyright Act, 1911 of the United Kingdom to Swaziland, part of which Order being the Copyright (Berne Convention) Order-in-Council and the Copyright (Austria-Hungary Convention) Order-in-Council, 1912. These two latter Orders contained two International Conventions regulating the recognition of copyrights of and by countries which were parties to the said Conventions. The Berne Convention was originally published as H.C.N.56/1912 and the Austria-Hungary Convention as H.C.N.57/1912.