

Copyright (Amendment) Act, 2012, (Central)

Section 32 - Amendment of Section 52

In section 52 of the principal Act, in sub-section (1),-

(i) for clause (a), the following clause shall be substituted, namely:-

(a) a fair dealing with any work, not being a computer programme, for the purposes of-

(i) private or personal use, including research;

(ii) criticism or review, whether of that work or of any other work;

(iii) the reporting of current events and current affairs, including the reporting of a lecture delivered in public.

Explanation.-The storing of any work in any electronic medium for the purposes mentioned in this clause, including the incidental storage of any computer programme which is not itself an infringing copy for the said purposes, shall not constitute infringement of copyright.";

(ii) for clauses (b), (c), (d), (e), (f), (g), (h), (i) and (j), the following shall be substituted, namely:-

"(b) the transient or incidental storage of a work or performance purely in the technical process of electronic transmission or communication to the public;

(c) transient or incidental storage of a work or performance for the purpose of providing electronic links, access or integration, where such links, access or integration has not been expressly prohibited by the right holder, unless the person responsible is aware or has reasonable grounds for believing that such storage is of an infringing copy:

Provided that if the person responsible for the storage of the copy has received a written complaint from the owner of copyright in the work, complaining that such transient or incidental storage is an infringement, such person responsible for the storage shall refrain from facilitating such access for a period of twenty-one days or till he receives an order from the competent court refraining from facilitating access and in case no such order is received before the expiry of such period of twenty-one days, he may continue to provide the facility of such access;

(d) the reproduction of any work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;

(e) the reproduction or publication of any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;"

(f) the reproduction of any work in a certified copy made or supplied in accordance with any law for the time being in force;

(g) the reading or recitation in public of reasonable extracts from a published literary or dramatic work;

(h) the publication in a collection, mainly composed of non-copyright matter, bona fide intended for instructional use, and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for such use in which copyright subsists:

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

Explanation.-In the case of a work of joint authorship, references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(i) the reproduction of any work-

(i) by a teacher or a pupil in the course of instruction; or

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

(iii) in answers to such questions;

(j) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a sound recording if the audience is limited to such staff and students, the parents and guardians of the students and persons connected with the activities of the institution or the communication to such an audience of a cinematograph film or sound recording;"

(iii) for clause (n), the following clause shall be substituted, namely:-

"(n) the storing of a work in any medium by electronic means by a noncommercial public library, for preservation if the library already possesses a non-digital copy of the work;"

(iv) in clause (o), for the words "public library", the words, "non-commercial public library" shall be substituted;

(v) after clause (v), the following clause shall be inserted, namely:-

"(w) the making of a three-dimensional object from a two-dimensional artistic work, such as a technical drawing, for the purposes of industrial application of any purely functional part of a useful device;

(vi) in clause (y) for the words "dramatic or", the words "dramatic, artistic or" shall the substituted;

(vii) after clause (za) and the Explanation thereunder, the following shall be inserted, namely:-

"(zb) the adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format, by-

(i) any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research; or

(ii) any organisation working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons:

Provided that the copies of the works in such accessible format are made available to the persons with disabilities on a non-profit basis but to recover only the cost of production:

Provided further that the organisation shall ensure that the copies of works in such accessible format are used only by persons with disabilities and takes reasonable steps to prevent its entry into ordinary-channels of business.

Explanation.-For the purposes of this sub-clause, "any organisation" includes and organisation registered under section 12A of the Income-tax Act, 1961 (43 of 1961.) and working for the benefit of persons with disability or recognised under Chapter X of the Persons with Disabilities (Equal Opportunities, Protection or Rights and full Participation) Act, 1995 (1 of 1996.) or receiving grants from the government for facilitating access to persons with disabilities or an educational institution or library or archives recognised by the Government."

(zc) the importation of copies of any literary or artistic work, such as labels, company logos or promotional or explanatory material, that is purely incidental to other goods or products being imported lawfully."