REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Copyright and Related Rights Consolidation Edition 2025 Order No. 125 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Copyright and Related Rights Consolidation Edition 2025

The English Text of the Copyright and Related Rights Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Copyright and Related Rights Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 07 **day of** July **, 2025.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et des Services du Commonauté REPUBLIQUE DE VANUATU

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 8 February 2011

COPYRIGHT AND RELATED RIGHTS ACT NO. 42 OF 2000

Act 31 of 2021
Act 17 of 2017
Act 10 of 2021

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COPYRIGHT AND RELATED RIGHTS ACT NO. 42 OF 2000

An Act to provide for copyright and related rights.

PART 1 – PRELIMINARY MATTERS

1. Interpretation

(1) In this Act, unless the contrary intention appears:

"artistic work" means:

(a) a painting, sculpture, drawing, engraving, lithography, tapestry, photograph and other works of fine art whether of artistic quality or not; or

(b) a building or a model of a building, whether the building or model is of artistic quality or not; or

(c) an illustration, map, plan, sketch and a three-dimensional work relating to geography, topography, architecture or science; or

(d) a work of applied art;

"audiovisual work" means a work that consists of a series of related visual images which impart the impression of motion, with or without accompanying sounds, susceptible to being made visible, and includes the aggregate of the sounds embodied in a sound-track associated with such visual images;

"author" of a work is the individual who has created the work;

"broadcast" or "broadcasting" is a communication of a work, a performance or a phonogram to the public by wire or wireless transmission, including transmission by satellite or a submarine cable;

"collective work" is a work created by 2 or more individuals at the initiative and under the direction of another person on the understanding that:

(a) the work will be disclosed by that other person under that person's own name; and

(b) the identity of the contributing individuals will not be indicated;

"communication to the public" means the transmission of work by a wire or wireless transmission, a performance, a phonogram or a broadcast, in such a way that it can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates from;

"computer" is an electronic device having digital information-processing capabilities;

"computer program" means a set of statements or instructions to be used directly or indirectly by a computer in order to bring about a certain result;

"copyright" in a work comprises the economic rights set out in section 8 and the moral rights set out in section 9 in relation to the work;

"dramatic work" includes:

(a) a dramatic work, dramatic-musical work, pantomime, choreographic work and other works created for stage productions; and

(b) a scenario or script for an audiovisual work;

"economic right" means a right mentioned in section 8, 23, 27 or 30;

"expression of indigenous culture" means any way in which indigenous knowledge may appear or be manifested, and includes:

(a) all material objects; and

(b) names, stories, histories and songs in oral narratives; and

(c) dances, ceremonies and ritual performances or practices; and

(d) the delineated forms, parts and details of designs and visual compositions; and

(e) specialised and technical knowledge and the skills required to implement that knowledge, including knowledge and skills about biological resources, biological resource use and systems of classification;

"fixation" means the embodiment of:

(a) sounds or visual images; or

(b) the representations of sounds or visual images;

in such a manner that they can at a later time be perceived, reproduced or communicated with or without the aid of a device (for example, a recording of a live musical performance);

"indigenous knowledge" means any knowledge:

(a) that is created, acquired or inspired for traditional economic, spiritual, ritual, narrative, decorative or recreational purposes; and

(b) whose nature or use of which has been transmitted from generation to generation; and

(c) that is regarded as pertaining to a particular indigenous person or people in Vanuatu;

"infringement" is any act that infringes copyright or any other right protected under this Act, and includes any act done in relation to an expression of indigenous culture that is taken to be an infringement under section 42;

"infringing copy" means:

(a) in relation to a work or sound recording - a reproduction of the work or sound recording; and

(b) in relation to a broadcast or performance– a reproduction of a fixation of the broadcast or performance;

being a thing the making or importing of which is an infringement of a right protected under this Act;

"literary work" includes:

(a) a book, pamphlet, article, computer program and other writings; and

(b) a speech, lecture, address, sermon and other oral works;

"moral right" means a right mentioned in section 9 or 24;

"musical works" include musical works with or without accompanying words;

"National Cultural Council" means the Vanuatu National Cultural Council established by the Vanuatu National Cultural Council Act [CAP 186];

"owner" of a right protected under this Act has the meaning given by subsections (3) to (5);

"performers" mean singers, musicians, and other persons who sing, deliver, play in or otherwise perform:

(a) dramatic works (including an improvisation) or part of such a work; or

(b) musical works or part of such a work; or

(c) literary works or part of such a work; or

(d) expressions of indigenous culture;

"person" means an individual, a statutory body, a company or any other body corporate or unincorporate;

"photograph" means a product of photography or of a process similar to photography, but does not include a still picture extracted from an audiovisual work;

"producer" of an audiovisual work or a sound recording is the person that undertakes the initiative and responsibility for the making of the audiovisual work or sound recording;

"public lending" means the lending by a public institution, such as a public library or archive, of the original or a copy of a work or a sound recording for a limited period of time for non-profit making purposes;

"published" means making available to the public in a reasonable quantity for sale, rental or public lending with the consent of the author or the owner;

"Registrar" has the same meaning as in the Trademarks Act No. 1 of 2003;

"related rights" means the protected rights of performers, producers of phonograms and broadcasting organisations under Part 5.

"reproduction" is the making of one or more copies of a work, sound recording or fixation of a performance in any manner or form, including any permanent or temporary storage of the work, sound recording or fixation of a performance in electronic form;

"rights management information" has the meaning given by section 2;

"right protected under this Act" means:

(a) the copyright in a work; or

(b) any other related rights protected under section 23, 24, 27 or 30;

"sound recording" is any exclusively aural fixation of sounds or representation of sounds regardless of the method by which the sounds are fixed or the medium in which the sounds are embodied, but does not include a fixation of sounds and images, such as the sound track of an audiovisual work;

"work" has the meaning given by sections 5 and 6;

"work of applied art" means an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

"work of joint authorship" is a work created by 2 or more authors and in which the contribution of each author is not separate from the contribution of the other author or the contributions of the other authors, but does not include a collective work.

(2) A reference in this Act:

(a) to the doing of an act in relation to a work or other subject matter is to be read as including a reference to the doing of that act in relation to a substantial part of the work or other subject matter; and

(b) to a reproduction, adaptation or copy of a work is to be read as including a reference to a reproduction, adaptation or copy of a substantial part of the work, as the case may be.

(3) The owner of the copyright in a work is the author of the work or any other person who is the original owner of the economic rights in the work in accordance with section 20 (eg. an employer is usually the owner of the copyright in the work of an employee).

(4) However, if the economic rights in a work are owned by another person (eg the author or other original owner has assigned the economic rights to another person), that other person is the owner of the copyright in the work.

(5) The owner of any other right protected under this Act is the person specified in the relevant section as the owner of that right (eg. the performer is the owner of the rights protected under section 23).

2. Rights Management information

Information is rights management information if it is:

(a) information that identifies any of the following:

(i) the author of a work;

(ii) a work;

(iii) a performer;

(iv) the performance of a performer;

(v) the producer of a sound recording;

(vi) a sound recording;

(vii) a broadcaster;

(viii) a broadcast;

(ix) the owner of any right protected under this Act; or

(b) information about the terms and conditions of use of a work, a performance, a sound recording or a broadcast and any numbers or codes that represent such information;

and is information that:

(c) is attached to a copy of a work, a fixed performance, a sound recording or a fixed broadcast; or

(d) appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a sound recording or a broadcast.

3. Application

This Act applies to works, performances, sound recordings, broadcasts and expressions of indigenous culture that:

(a) are created on or after the commencement of this Act; or

(b) were in existence before that commencement.

4. Contractual rights not affected

This Act does not affect contracts or agreements made before the commencement of this Act relating to works, performances, sound recordings, broadcasts or expressions of indigenous culture.

5. Works protected

(1) A work is an original intellectual creation.

(2) Without limiting subsection (1), each of the following is a work:

(a) an artistic work;

(b) a literary work;

(c) a dramatic work;

(d) a musical work;

(e) an audiovisual work;

(f) an architecture work.

(3) Works are protected by the sole fact of their creation and irrespective of their mode or form of expression, content, quality or purpose.

6. Derivative works

The following are also to be protected as works:

(a) translations, adaptations, arrangements and other transformations or modifications of works;

(b) collections of works, collections of data sets (whether in machine readable or other form), and collections of expressions of indigenous culture if the collections are original by reason of the selection or arrangement of their contents.

7. Certain subject matter not protected

Despite sections 5 and 6, any idea, procedure, system, method of operation, concept, principle, discovery or mere data, (even if expressed, described, explained, illustrated or embodied in a work) is not a work and is not protected under this Act.

PART 2 – COPYRIGHT

8. Economic rights

(1) The owner of the copyright in a work has the exclusive right to carry out or to authorize the following acts in relation to the work:

(a) to reproduce the work in any manner or form;

(b) to publish the work;

(c) to perform or display the work in public;

(d) to broadcast the work;

(e) to make an adaptation, arrangement or other transformation of the work;

(f) to translate the work;

(g) to cause the work to be transmitted to subscribers to a communications service;

(h) to distribute the work to the public by sale, rental, public lending or otherwise;

(i) to enter into a commercial rental arrangement in respect of an audiovisual work, a work reproduced in a sound recording or a musical work in the form of a notation;

(j) in the case of a computer program - to enter into a commercial rental arrangement in respect of the program;

(k) in the case of an artistic work - to include the work in a television broadcast;

(l) to communicate the work in any other way to the public;

(m) to import copies of the work.

(2) The rental rights under paragraph (1)(j) do not apply unless the computer program is the essential object of the rental or lending.

9. Moral rights

(1) The author of a work has the moral rights set out in subsection (2) in relation to the work independently of his or her economic rights in the work, (including when the author is no longer the owner of the economic rights in the work).

(2) The moral rights are:

(a) to have the author's name indicated prominently on copies of the work and in connection with any public use of the work, as far as practicable; and

(b) to not have the author's name indicated on copies of the work and in connection with any public use of the work; and

(c) to use a pseudonym; and

(d) to object to:

(i) any distortion, mutilation or other modification of the work; or

(ii) any other action in relation to the work;

if it would be prejudicial to the author's honour or reputation.

(3) Moral rights are not transmissible during the life of the author. However, after an author dies the right to exercise moral rights is transmissible by testamentary disposition or by operation of law.

(4) An author may waive all or any of his or her moral rights.

(5) A waiver must:

(a) be in writing; and

(b) specify the right or rights waived; and

(c) specify the circumstances in which the waiver applies, including the nature and extent of the modification or other action in respect of which the right is waived.

(6) Following the death of the author, the person upon whom the author's moral rights have devolved has the right to waive those rights.

PART 2A – REGISTRATION OF WORK

9A. Application for registration of work

(1) A person may apply to the Registrar for the registration of a work.

(2) The application must:

(a) be made in the prescribed form; and

(b) be accompanied by the prescribed application fee; and

(c) include a copy of the work; and

(d) include a brief description of the work.

(3) The Registrar may, in writing, require the applicant to provide, within a specified time, additional information or documents in connection with the determination of the application, if the Registrar so requires.

(4) The Registrar may make any other enquiries relating to the application as he or she considers necessary.

9B. Registrar may register a work

(1) The Registrar may register or refuse to register a work.

(2) The Registrar may issue a certificate to the applicant, if the Registrar is satisfied that the applicant has met all the requirements for registration set out under section 9C.

9C. Requirement for registration of a work

The Registrar must not register a work unless the Registrar is satisfied that:

(a) the applicant has completed his or her application as required under section 9A; and

(b) the applicant's work is an original work; and

(c) the applicant's work is a work of authorship; and

(d) the applicant's work is fixated or expressed in a physical form.

9D. Register of works

(1) The Registrar must establish and maintain a register of the works in such form as the Registrar determines.

(2) The Registrar must keep up to date and accurate information relating to all registered owners of works particularly in relation to the following matters:

(a) names, addresses and contacts; and

(b) all registered works; and

(c) certificates issued to the owners.

PART 3 – ACTS NOT CONSTITUTING INFRINGEMENT OF COPYRIGHT IN WORKS

10. Private reproduction for personal purposes

(1) Subject to subsection (2), an individual may reproduce a published work in a single copy exclusively for his or her own personal purposes and the reproduction is not an infringement of the copyright in the work.

(2) An individual must not reproduce the following:

(a) a work of architecture in the form of a building or other construction;

(b) the whole or a substantial part of a book or musical work in the form of notation;

(c) the whole or a substantial part of a database in digital form;

(d) a computer program, except as provided for in section 16;

(e) any work if the reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of the copyright.

11. Temporary reproduction

A temporary reproduction of a work is not an infringement of the copyright in the work if:

(a) the reproduction is made in the process of a digital transmission of the work or is an act of making a digitally stored work perceptible; and

(b) the person is lawfully entitled to make the transmission or the making perceptible of the work.

12. Quotation

(1) The reproduction of a short part of a published work in the form of a quotation is not an infringement of the copyright in the work if the reproduction:

(a) is compatible with fair practice; and

(b) does not exceed the extent justified by the purpose.

(2) The quotation must be accompanied by:

(a) an indication of its source; and

(b) the name of the author if his or her name appears in the work from which the quotation is taken.

13. Reproduction for educational or legal purposes

(1) The reproduction of a short part of a published work for teaching purposes by way of illustration, in writing or sound or visual recordings, is not an infringement of the copyright in the work if:

(a) the reproduction is compatible with fair practice; and

(b) the reproduction does not exceed the extent justified by the purpose; and

(c) a collective licence to reproduce the work is not available to the educational institution concerned.

(2) The source of the work reproduced and the name of the author must be indicated as far as practicable on all copies made under subsection (1).

(3) A fair dealing with a work for the purpose of research or study does not constitute an infringement of the copyright in the work.

(4) The copyright in a work is not infringed by anything done for the purposes of a judicial proceeding or of a report of a judicial proceeding.

(5) A fair dealing with a work does not constitute an infringement of the copyright in the work if it is for the purpose of the giving of professional advice by a legal practitioner or patent attorney.

14. Reproduction by libraries and archives

(1) This section applies to a library or archive that does not operate for commercial gain.

(2) The reproduction of a work in a single copy by the library or archive is not an infringement of the copyright in the work if:

(a) the work reproduced is a published article or a short extract of a work; and

(b) the purpose of the reproduction is to satisfy the request of an individual; and

(c) the library or archive is satisfied that the copy will be used solely for the purposes of study, scholarship or private research; and

(d) a collective licence to reproduce the work is not available to the library or archive.

(3) The reproduction of a work in a single copy by a library or archive is not an infringement of the copyright in the work if:

(a) the copy is made in order:

(i) to preserve a copy of the work; or

(ii) to replace a copy of the work which has been lost, destroyed or rendered unusable in the permanent collection of another similar library or archive; and

(b) it is impossible to obtain such a copy under reasonable conditions.

15. Reproduction, broadcasting and other communication to the public for information purposes

(1) If:

(a) a person:

(i) reproduces a work or broadcast referred to in subsection (3), (4) or (5) in a newspaper or periodical publication; or

(ii) broadcasts or communicates in any other way to the public such a work or broadcast; and

(b) the person indicates the source of the subject matter and the name of the author as far as practicable;

(c) the reproduction, broadcast or other communication of the work or broadcast is not an infringement of copyright.

(2) Subsection (1) does not apply if the right to authorise the reproduction, broadcasting or other communication to the pubic of the work is expressly reserved by the owner of the copyright in the work:

(a) on the copies of the work; or

(b) in connection with broadcasting or other communication to the public of the work.

(3) A person may reproduce:

(a) an article published in a newspaper or periodical publication on a topic of current interest; or

(b) a broadcast on a topic of current interest.

(4) A person may reproduce:

(a) a political speech, a lecture, address, sermon or a work of a similar nature delivered in public; or

(b) a speech delivered during legal proceedings;

to the extent justified by the purpose of providing current information.

(5) A person may reproduce for the purpose of reporting current events short excerpts of a work seen or heard in the course of such events to the extent justified by the purpose.

(6) A fair dealing with a work does not constitute an infringement of the copyright in the work if:

(a) it is for the purpose of criticism or review, whether of that work or of another work; and

(b) an acknowledgment of the work and the author as far as practicable is made.

16. Reproduction and adaptation of computer programs

(1) The lawful owner of a copy of a computer program may reproduce a single copy of the computer program, or make an adaptation of the computer program, if the copy or adaptation is necessary for:

(a) the use of the computer program with a computer for the purpose and extent for which the computer program has been obtained; or

(b) archival purposes; or

(c) replacement of the lawfully owned copy of the computer program if that copy is lost, destroyed or rendered unusable.

(2) The reproduction or adaptation of a computer program in accordance with subsection (1) is not an infringement of the copyright in the computer program.

(3) A copy or adaptation of a computer program must not be used for any purpose other than a purpose mentioned in subsection (1).

(4) A copy or adaptation of a computer program must be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful.

17. Importation for personal purposes

An individual may import a copy of a work for his or her own personal purposes and the importation is not an infringement of the copyright in the work.

18. Display of works

(1) A person may display in public the original or copies of a work if:

(a) the display is made other than by means of an audiovisual work, slide, television image or otherwise on screen; and

(b) either:

(i) the work has been published; or

(ii) the original or the copy of the work displayed has been sold, given away or otherwise transferred to another person by the author or his or her successor in title.

(2) The display of the work in accordance with subsection (1) is not an infringement of the copyright in the work.

(3) The display in public of the original or copies of a work by means of an audiovisual work, slide, television image or otherwise on screen is not an infringement of copyright in the work if its inclusion in such is only incidental to the principal matters being represented.

PART 4 – DURATION, NATURE AND ASSIGNMENT OF COPYRIGHT IN WORKS

19. Duration of copyright protection

(1) The copyright in a work is protected for the period set out in the Table.

COPYRIGHT PROTECTION PERIOD TABLE		
Item	**Kind of work**	**Period of protection of economic and moral rights**
1.	Work of joint authorship	During the life of the last surviving author and for 50 years after his or her death
2.	Collective work (other than an work of applied art) and an audiovisual work	For 50 years on and after the date on which the work: (a) was made; or (b) first made available to the public; (c) first published; whichever date is the latest
3.	Work published anonymously or under a pseudonym	For 50 years on and after the date on which the work: (a) was made; or (b) first made available to the public; (c) first published; whichever date is the latest See also subsection (2)
4.	Work of applied art	25 years on and after the making of the work
5.	Any other work	During the lifetime of the author and for 50 years after his or her death.

(2) If the author's identity is revealed or is no longer in doubt before the expiration of the 50 year period, item 1 or 5 of the Table applies, as the case requires.

(3) A period provided for in the Table runs to the end of the calendar year in which it would otherwise expire.

20. Original ownership of economic rights

(1) Subject to this section, the author of a work is the original owner of the economic rights in the work.

(2) The co-authors of a work of joint authorship are the original owners of the economic rights. However if:

(a) a work of joint authorship consists of parts that can be used separately; and

(b) the author of each part can be identified;

the author of each part is the original owner of the economic rights in the part that he or she has created.

(3) The person who initiated and directed the creation of a collective work is the original owner of the economic rights.

(4) If a person creates a work in the course of his or her employment, the employer of that person is the original owner of the economic rights unless provided otherwise in a contract.

(5) Subject to subsections (6) and (7), the producer of an audiovisual work is the original owner of the economic rights unless provided otherwise in a contract.

(6) However, the co-authors (if any) of the audiovisual work and the authors of the pre-existing works (if any) included in or adapted for the making of the audiovisual work maintain their economic rights in their contributions or pre-existing works.

(7) Such rights are maintained to the extent that those contributions or pre-existing works can be the subject of acts covered by economic rights separately from the audiovisual work.

21. Presumption of authorship and of representation of the author

(1) An individual whose name is indicated as the author on a work in the usual manner is presumed to be the author of the work in the absence of proof to the contrary.

(2) Subsection (1) applies even if the name is a pseudonym and the pseudonym leaves no doubt as to the identity of the author.

(3) In the case of an anonymous or pseudonymous work, the publisher whose name appears on the work:

(a) is presumed to represent the author in the absence of proof to the contrary; and

(b) in this capacity, is entitled to exercise and enforce the moral and economic rights of the author.

(4) The presumption in subsection (3) ceases to apply when the author reveals his or her identity.

22. Assignment and license of authors economic rights

(1) Economic rights are assignable in whole or in part, and may also be subject to a licence.

(2) An assignment of any economic right:

(c) must be in writing signed by the assignor and the assignee; and

(d) does not include the assignment of any rights not explicitly referred to in the assignment.

(3) A licence to do an act in relation to a work subject to authorisation by the owner of the copyright in the work:

(a) must be in writing signed by the licensor and the licensee; and

(b) does not include any other act not explicitly referred to in the licence.

PART 5 – PROTECTION OF PERFORMERS, PRODUCERS OF SOUND RECORDINGS AND BROADCASTING ORGANIZATIONS

Division 1 – Performers

23. Acts requiring authorization of performers

(1) A performer has the exclusive right to carry out or to authorize any of the following acts:

(a) to broadcast or communicate in any way to the public:

(i) his or her public performance; or

(ii) a fixation of his or her performance if the fixation has been made under section 32 or has been made without the authorisation of the performer;

(b) to fixate his or her unfixed performance;

(c) to reproduce directly or indirectly a fixation of his or her performance in any manner or form;

(d) to make available to the public for the first time a fixation of his or her performance, or copies of it, through sale or other transfer of ownership;

(e) to rent to the public a fixation of his or her performance, or copies of it, irrespective of the ownership of the copy rented;

(f) to make available to the public his or her fixed performance, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them.

and is the owner of the rights protected under this section.

(2) A performer does not have the exclusive right referred to in paragraph (1)(a) if the broadcasting or other communication is a rebroadcasting made or authorised by the organisation initially broadcasting the performance.

24. Performers rights in relation to their public performances

(1) The rights provided for under this section apply independently of the performer's rights provided for under section 23 even after the transfer of those rights to another person.

(2) The performer has in respect of his or her public performances and performances fixed in phonograms the right:

(a) to claim to be identified as the performer of his or her performances, unless the manner of the use of the performance makes it impossible; and

(b) to object to any distortion, mutilation or other modification of his or her performances that would be prejudicial to his or her reputation.

(3) The rights referred to in this section are not transmissible during the life of the performer. However, after a performer's death the right to exercise such rights is transmissible by testamentary disposition or by operation of law.

(4) The performer may waive all or any such rights.

(5) A waiver must:

(a) be in writing; and

(b) specify the right or rights waived; and

(c) specify the circumstances in which the waiver applies.

Following the death of the performer, the person upon whom or which the performer's rights under this section have devolved has the right to waive the rights.

(6) For the purposes of this section, "public performances" means:

(a) in the case of a work other than an audiovisual work - the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process; or

(b) in the case of an audiovisual work - the showing of images in sequence and the making of accompanying sounds audible; or

(c) in the case of a phonogram - making the recorded sounds audible,

at a place or at places, where persons outside the normal circle of family and its closest acquaintances are or can be present.

25. Period of protection of performers' rights

The rights under section 23 and 24 are protected until the end of the fiftieth calendar year following:

(a) the year in which the performance was fixed in a phonogram; or

(b) if this did not happen - the end of the year in which the performance took place.

26. Agreement for better terms and conditions

A performer has the right to enter into agreements relating to his or her performances on terms and conditions that are more favourable than those provided for in this Division.

Division 2 – Sound recordings

27. Act requiring authorization of producers of sound recording

A producer of a sound recording has the exclusive right to carry out or to authorize any of the following acts:

(a) to reproduce a sound recording in any manner or form;

(b) to import copies of the sound recording;

(c) to make available to the public by sale or other transfer of ownership, the original or copies of the sound recording, being a sound recording that has not already been subject to a distribution authorized by the producer;

(d) to rent to the public a copy of the sound recording, irrespective of the ownership of the copy rented;

(e) the making available to the public the sound recording, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them;

and is the owner of the rights protected under this section.

28. Period of protection for producers of sound recordings

The rights under section 27 are protected from the publication of the sound recording until:

(a) the end of the fiftieth calendar year following the year of publication; or

(b) if the sound recording has not been published - from the fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

29. Equitable remuneration for use of sound recording

(1) If a sound recording published for commercial purposes, or a reproduction of such sound recording, is:

(a) used directly for broadcasting or other communication to the public; or

(b) is publicly performed;

the user of the sound recording must pay to the producer of the sound recording an amount for the performer or performers and the producer.

(2) The producer must pay half of the amount received under subsection (1) to the performer or performers unless otherwise agreed between the performers and the producer.

(3) The right to an equitable remuneration under this section subsists:

(a) from the date of publication of the sound recording until the end of the fiftieth calendar year following the year of publication; or

(b) if the sound recording has not been published - from the date of fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

Division 3 – Broadcasting organisations

30. Acts requiring authorization of broadcasting organisations

A broadcasting organisation has the exclusive right to carry out or to authorize the following acts:

(a) to rebroadcast its broadcast;

(b) to communicate to the public its broadcasts;

(c) to fixate its broadcast;

(d) to reproduce a fixation of its broadcasts;

and is the owner of the rights protected under this section.

31. Period of protection for broadcasting organisations

The rights under section 30 are protected from the moment when the broadcasting takes place until the end of the fiftieth calendar year following the year in which the broadcast takes place.

Division 4 – Other matters

32. Limitations on protection

(1) Sections 23, 24, 27 and 30 do not apply if the acts referred to in those sections are related to:

(a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information; or

(b) reproduction solely for scientific research; or

(c) reproduction solely for the purpose of teaching activities, except for performances and phonograms, which have been published as teaching or instructional materials; or

(d) all cases where, under Part 3, a work can be used without the authorization of the author or other owner of the copyright.

33. Assignment and licences of economic rights

(1) Economic rights under this Part are assignable in whole or in part, and may also be subject to a licence.

(2) An assignment of any economic right:

(a) must be in writing signed by the assignor and the assignee; and

(b) does not include the assignment of any rights not explicitly referred to in the assignment.

(3) A licence to do an act in relation to a work subject to authorisation by the owner of the copyright in the work:

(a) must be in writing signed by the licensor and the licensee; and

(b) does not include any other act not explicitly referred to in the licence.

PART 6 – ENFORCEMENT OF RIGHTS AND PROTECTION REQUIREMENTS

34. Civil remedies

(1) The Supreme Court has jurisdiction in respect of civil matters arising under this Act.

(2) The owner of the copyright in a work or the owner of any other right protected under this Act may bring an action for an infringement of the copyright or that other right and is entitled to payment by the infringer:

(a) of damages for the prejudice and loss suffered as a consequence of the infringement; and

(b) of expenses caused by the infringement, including reasonable legal costs.

(3) The Court is to determine the amount of damages and may take into account:

(a) the importance of the material and moral prejudice suffered by the owner of the right; and

(b) the amount of the infringer's profits attributable to the infringement.

(4) The Court also has the following powers:

(a) to grant injunctions to prohibit the infringement of copyright in any work or any other right protected under this Act;

(b) to order the impounding of any infringing copies and their packaging;

(c) to order the destruction or other reasonable disposition of any infringing copies and their packaging in such a manner as to avoid harm to the owner of the copyright or other right;

(d) to order the impounding of the implements that could be used for making infringing copies, and the documents, accounts or business papers referring to such copies;

(e) to order the destruction of such implements in such a manner as to minimize the risk of further infringements;

(f) to make such other orders as the Court considers necessary in the circumstances.

(5) The Court must not make an order under subsection (4) in relation to infringing copies and their packaging which were acquired by a person in good faith.

(6) An exclusive licensee of a right protected under this Act may bring proceedings under this section for an infringement of that right as if the exclusive licence were an assignment of that right by the owner and the exclusive licensee were the assignee.

(7) The author of a work or a performer may bring an action for damages under this section for infringement of his or her moral right rights in relation to his or her work or performance, as the case requires.

(8) The Director of Customs may in accordance with the relevant provisions of the Customs Act No. 15 or 1999 seize infringing copies and implements mentioned in paragraph (4)(d) and deal with them in accordance with that Act.

35. Offence

(1) The Supreme Court has jurisdiction in respect of criminal matters under this Act.

(2) A person who for profit making purposes infringes a right protected under this Act is guilty of an offence punishable on conviction by:

(a) if the person commits the act knowingly or intentionally - a fine not exceeding VT 25 million or imprisonment for not more than 15 years, or both; or

(b) if the person commits the act negligently - a fine not exceeding VT 15 million or imprisonment for not more than 5 years, or both.

(3) A person who for profit making purposes makes, imports into Vanuatu, exports from Vanuatu, sells, hires, offers for sale or hire, exhibits in public, distributes or possesses an infringing copy of a work is guilty of an offence punishable on conviction by:

(a) if the person commits the act knowingly or intentionally - a fine not exceeding VT 25 million or imprisonment for not more than 15 years, or both; or

(b) if the person commits the act negligently - a fine not exceeding VT 15 million or imprisonment for not more than 5 years, or both.

36. Actions in relation to rights management information

(1) If:

(a) a person without authority removes or alters any electronic rights management information from any work, performance, sound recording or broadcast; or

(b) the person:

(i) without authority distributes, imports for distribution, broadcasts, communicates to the public or makes available to the public any work, performance, sound recording or broadcast; and

(ii) knows that electronic rights management information has been removed or altered without authority in relation to the work, performance, sound recording or broadcast;

the person is guilty of an offence punishable on conviction by a fine not exceeding 1,000,000 Vatu or a term of imprisonment not exceeding one year, or both.

(2) Section 34 applies in relation to an act mentioned in subsection (1).

(3) For the purposes of section 34:

(a) an act mentioned in subsection (1) is taken to be an infringement of a right protected under this Act; and

(b) any work, performance, sound recording or broadcast from which rights management information has been removed, or in which such information has been altered, is taken to be an infringing copy.

37. Abuses of technical means of protection

(1) It is prohibited to:

(a) circumvent effective technical means of protection; or

(b) produce, import, distribute, sell, rent, advertise for sale or rental, or possess devices, products, components or services for commercial purposes that:

(i) are promoted, advertised or marketed for the purposes of circumventing effective technological protection measures; and

(ii) have only a limited commercially significant purpose or use other than to circumvent effective technical means of protection; and

(iii) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technical means of protection.

(2) Subject to section 32, a Court may order that the necessary means be made available to the beneficiary in order that the beneficiary may enjoy or apply the limitations to an extent that he or she requires, to benefit from it.

(3) For the purposes of this section:

(a) "circumvent effective technical means of protection" means to avoid, bypass, remove, deactivate, or impair these measures, including descrambling a scramble work or object of a related right or decrypting an encrypted work or object of related right;

(b) "technical means of protection" means any technology, device or a component that, in the normal course of operation is designed to prevent or restrict acts, in respect of works or objects of related rights, which are not authorized by the owner of the rights or permitted by this Act.

38. Affidavit evidence

(1) This section applies at the trial of a proceeding if the proceeding is:

(a) a civil action brought under this Act; or

(b) a prosecution for an offence under this Act.

(2) Evidence in the proceeding may be given by affidavit if the evidence is that:

(a) at a particular time, a right protected under this Act subsisted in the work or other subject-matter to which the proceeding relates; or

(b) at a particular time, that right in that work or subject-matter was owned by, or exclusively licensed to, a particular person; or

(c) at a particular time, that right in that work or subject-matter was not owned by, or exclusively licensed to, a particular person; or

(d) a particular act was done without the authority of the owner of that right, or of the exclusive licensee of that right, in that work or subject-matter.

(3) However, if a party to the proceeding wants in good faith to cross examine the person who made the affidavit with respect to the matters in the affidavit, the affidavit may not be used in the proceeding unless:

(a) the person appears as a witness for such cross-examination; or

(b) the Supreme Court, in its discretion, permits the affidavit to be used without the person appearing.

39. Protection requirements for works

(1) This Act applies to:

(a) works of authors who are citizens of, or have their habitual residence in, Vanuatu; and

(b) works first published in Vanuatu irrespective of the nationality or residence of their authors; and

(c) works first published in another country and also published in Vanuatu within 30 days, irrespective of the nationality or residence of their authors; and

(d) audiovisual works if the producer of such works has his or her headquarters or habitual residence in Vanuatu; and

(e) works of architecture erected in Vanuatu and other artistic works incorporated in a building or other structure located in Vanuatu.

(2) This Act also applies to works that are eligible for protection in Vanuatu by virtue of and in accordance with international conventions or other international agreements to which Vanuatu is a party.

40. Protection requirements for performers, sound recordings and broadcasters

(1) This Act applies to:

(a) performers who are citizens of Vanuatu; and

(b) performers who are not citizens of Vanuatu but whose performances:

(i) take place in Vanuatu; or

(ii) are incorporated in sound recordings that are protected under this Act; or

(iii) have not been fixed in a sound recording, but are included in broadcasts eligible for protection under this Act; and

(c) performers who are not citizens of Vanuatu but whose performances are fixed in audiovisual fixations in Vanuatu.

(2) This Act applies to:

(a) sound recordings if the producers of the recordings are citizens of Vanuatu; and

(b) sound recordings first fixed in Vanuatu; and

(c) sound recordings first published in Vanuatu.

(3) This Act applies to:

(a) broadcasts of broadcasting organizations if the headquarters of the organisation are situated in Vanuatu; and

(b) broadcasts transmitted from transmitters situated in Vanuatu.

(4) This Act also applies to performers, producers of sound recordings and broadcasting organizations that are eligible for protection by virtue of and in accordance with any international convention or other international agreement to which Vanuatu is a party.

PART 7 – EXPRESSIONS OF INDIGENOUS CULTURE

41. Offence in relation to expressions of indigenous culture

(1) If a person does an act of a kind mentioned in subsection 8(1) or 23(1) in relation to an expression of indigenous culture (for example, reproduces an indigenous carving) and the person:

(a) is not one of the custom owners of the expression; or

(b) has not been sanctioned or authorised by the custom owners to do the act in relation to the expression; or

(c) has not done the act in accordance with the rules of custom;

the person is guilty of an offence punishable on conviction by a fine not exceeding 1,000,000 Vatu or a term of imprisonment not exceeding one year, or both.

(2) It is a defence to a prosecution of an offence against subsection (1) if the act concerned:

(a) related to use exclusively for personal purposes; or

(b) related to using short excerpts for reporting current events to the extent justified by the purpose of providing current information; or

(c) related to use solely for the purpose of face to face teaching; or

(d) is an act that is not an infringement of copyright under Part 3 or of a right protected under Part 5 (see section 32); or

(e) is an act that has been authorised by the National Cultural Council or the National Council of Chiefs.

(3) To avoid doubt, this section applies:

(a) in relation to an act whether or not the person did the act for profit making purposes; and

(b) in relation to an expression of indigenous culture regardless of when that expression first came into existence.

42. Civil remedies in relation to expressions of indigenous culture

(1) Section 34 applies in relation to a person ("the infringer") if the person does an act of a kind mentioned in subsection 8(1) or 23(1) in relation to an expression of indigenous culture (for example, reproduces an indigenous carving) and the person:

(a) is not one of the custom owners of the expression; or

(b) has not been sanctioned or authorised by the custom owners to do the act in relation to the expression; or

(c) has not done the act in accordance with the rules of custom;

(2) The custom owners of the expression may institute proceedings under section 34 against the infringer for an infringement of copyright or a right protected under section 23, and for the purposes of those proceedings:

(a) the custom owners of the expression are taken to be the owners of the copyright in the expression (whether or not copyright exists in the expression) or the right protected under section 23; and

(b) the infringer's act is taken to be an infringement of copyright or that other right; and

(c) any copy of the expression is taken to be an infringing copy.

(3) The custom owners of the expression may request the National Cultural Council or the National Council of Chiefs to institute proceedings on their behalf.

(4) If it is not possible to identify the custom owners or there is a dispute about ownership, the National Cultural Council or the National Council of Chiefs may institute proceedings under section 34 as if it were the owner of the copyright or other right. Any damages awarded to the National Cultural Council or the National Council of Chiefs must be used for the purposes of indigenous cultural development.

(5) Proceedings cannot be instituted under section 34 by the custom owners, the National Cultural Council or the National Council of Chiefs if the act concerned:

(a) related to use exclusively for personal purposes; or

(b) related to using short excerpts for reporting current events to the extent justified by the purpose of providing current information; or

(c) related to use solely for the purpose of face to face teaching.

(6) To avoid doubt proceedings may be brought under section 34:

(a) in relation to an act whether or not the person did the act for profit making purposes; and

(b) in relation to an expression of indigenous culture regardless of when that expression first came into existence.

(7) The source of any identifiable expression of indigenous culture must be indicated in an appropriate manner and in conformity with fair practice:

(a) in all printed publications of the expression; and

(b) in connection with any communication to the public of the expression;

by mentioning the community or place from where the expression has been derived.

(8) Nothing in this section is to be taken to prevent a particular indigenous person of Vanuatu from relying on any other provision of this Act to enforce:

(a) the copyright in any of his or her works; or

(b) any other right protected under this Act.

(9) The National Cultural Council may issue written guidelines for the purposes of this section and section 41.

PART 8 – MISCELLANEOUS

43. Application of international treaties

(1) The provisions of any international treaties in respect of copyright and related rights protected under this Act to which Vanuatu is a party apply to matters dealt with in this Act, and such provisions prevail in the case of conflict with provisions of this Act.

(2) However, subsection (1) does not apply to sections 41 and 42.

44. Regulations

(1) The Minister may, by Order in writing, make regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), regulations may:

(a) prescribe fair dealings with works that do not constitute an infringement of the copyright in the work; and

(b) prescribe fair dealings in relation to performances, sound recordings or broadcasts that do not constitute an infringement of a right protected under Part 5.

Table of Amendments

1(1)	*Amended by Act 10 of 2021*	*24(2)*	*Amended by Act 10 of 2021*
5(2)(f)	*Substituted by Act 10 of 2021*	*24(6)*	*Inserted by Act 10 of 2021*
Part 2A	*Inserted by Act 10 of 2021*	*32(d)*	*Substituted by Act 10 of 2021*
23(1)(a)(i)	*Amended by Act 10 of 2021*	*35(2)*	*Substituted by Act 17 of 2017*
23(3)	*Repealed by Act 10 of 2021*	*37*	*Substituted by Act 10 of 2021*
24(heading)	*Substituted by Act 10 of 2021*	*40(1)(c)*	*Inserted by Act 10 of 2021*