

# **CHAPTER 3**

**COPYRIGHT: Foundations, Statutory  
Framework, Rules and Practice**

## Introduction

Copyright is a special kind of right under intellectual property law often called “property” but it is very different from normal property like land, house or goods. To understand copyright properly we must see why creative work is protected by law and how this protection works. Copyright law is based on the idea that creative work has value. When someone writes a book, makes music or creates art or develops software it is not just an idea It is a result of their hard work, skill and thinking. Copyright law recognises this effort and gives protection so that people feel encouraged to create more works. But copyright is not the same as physical property. Physical property can be used by only one person at a time. If one person uses it, others cannot. Creative works are different Many people can read the same book or listen to the same song at the same time without reducing its value Because of this difference, copyright law gives limited and balanced rights, not absolute ownership.

The idea behind copyright is the labour theory which says that a person should get the benefit of what they create through their labour. In creative works, this means the author should have control over how their work is used. Copyright law follows this idea by giving authors certain exclusive rights. At the same time, copyright law also focuses on public interest. The main aim is not only to reward authors but also to promote education, culture and sharing of knowledge. Authors get rights so that they create and publish works and finally society benefits from them. Because of this copyright is not permanent It is given only for a limited time. Copyright ends after a fixed period after that the work becomes part of the public domain and anyone can use it freely.

Copyright protection in India is governed by the Copyright Act, 1957 Section 16 of the Act provides that no person shall be entitled to copyright or any similar right except under and in accordance with the provisions of the Act. Another important rule in copyright law is the idea expression rule.



Ideas are free for everyone. Copyright does not protect ideas. It protects only the expression of ideas like the written text, music or artwork. This rule ensures that knowledge is not controlled by one person and new creativity can grow. Copyright gives control only over specific acts like copying, selling or sharing the work. It does not stop others from creating similar works independently or using the work in ways allowed by law. This makes copyright weaker than patents, which give stronger control. Copyright law also includes limitations and exceptions. Rules like fair dealing, compulsory licensing and statutory licensing ensure that copyright does not block education, research or free speech. These are important parts of the law, not just small exceptions.

Constitutional values also influence copyright law. It tries to balance the rights of creators with the needs of society such as education and cultural development. It does not treat copyright as absolute ownership so; copyright should not be seen like owning land or goods. It is better understood as a legal system that gives limited control over creative works for a limited time. What is protected, what rights are given, what limits exist and how long protection lasts it all depend on the idea that copyright exists to promote creativity and access, not just ownership.

## **Recognition and Existence of Copyright**

### **Copyright as a Legal Right**

Copyright is a legal right given to a person for their creative work. This right starts automatically when the work is created and as long as it meets the conditions given under the Copyright Act. There is no need for any special permission or approval. Copyright does not depend on registration, money value, popularity of the author or how much effort was put into the work. The law also does not judge whether the work is very artistic or very creative. It only checks whether the work is original and has come from the author. Because of this



the copyright law protects all kinds of daily creative work for example a student's project, a lawyer's draft, a song tune or a photograph can all get copyright protection if they meet the basic legal requirements.

Under the Copyright Act, 1957, registration is not compulsory. The moment an original work is created and written, recorded or stored in some form the copyright comes into existence. The law itself makes it clear. The rules about copyright existence are separate from the rules about registration. This shows that registration does not create copyright but it only records it. Even if a work is not registered, not published or not sold, the author still has copyright. Indian courts have also supported this view. They accept copyright claims if the author can show that they created the work and it is original. Although copyright starts automatically, it does not protect ideas alone. The idea must be expressed in some physical form this is called fixation. For example, just thinking of a story or tune is not enough but once the story is written or the tune is recorded or the design is drawn, copyright can apply. The form does not have to be permanent or complex. It only needs to be clear enough to identify the work and the creator. This rule is important because it allows people to freely share ideas while protecting the way those ideas are expressed. Copyright does not give control over ideas, themes or methods but only over their expression. Originality in copyright law does not mean that the work must be completely new to the world. It only means that the work should come from the author and should not be copied from someone else. If two people independently create similar works, both can get copyright. The law does not punish similarity instead it punishes copying. Courts have said that a work should involve at least some skill, judgment or mental effort. Simple copying or mechanical work may not qualify and the required level is kept low so that normal creative work is not discouraged.

It is important to understand that having copyright and enforcing copyright are two different things. Copyright can exist even without any formal record but to enforce it in court



proof is required. This is why registration becomes useful. Registration is not mandatory, but it helps as evidence of ownership. It makes it easier to prove copyright during legal disputes. So, while a right may exist automatically, enforcing it depends on how well it can be proved. The law allows flexibility but still follows proper legal procedure.

Foreign works are also protected by Indian copyright law under certain conditions. Protection is given if the foreign country is part of international copyright agreements or the country is officially recognised by the Indian government. Once these conditions are met, foreign works get the same protection as Indian works. This plays important role in international licensing, online content and cross-border disputes.

## **Subject Matter of Copyright Protection** (Section 13)

Copyright does not protect every type of intellectual work. The Copyright Act protects only certain types of works. This selective method has two main reasons. First, it clearly tells us what is protected and what is not. Second, it stops copyright from spreading too much which could block people from freely using ideas and information.

**Section 13** of the Act explains the subject matter of copyright. Under this section, copyright protection is available all over India for original literary, dramatic, musical and artistic works and also for cinematograph films and sound recordings. Copyright does not protect just hard work or effort. It protects original expression. Originality does not mean something completely new or inventive it only means that the work should be created by the author and not copied from someone else. The level of originality required is low so many works can get protection.



## **I. Literary Works**

The meaning of “literary work” is not limited to books, novels or poems. It also includes tables, compilations and computer programs and databases as long as they are original. Computer programs are treated as literary works because copyright protects the code written by the programmer not the idea or logic behind it. This helps protect digital work while keeping ideas free for others to use. Copyright does not protect facts, data or information by themselves. If data is arranged or selected in an original way than that arrangement can be protected. The data itself remains free for public use.

## **II. Dramatic Works**

Dramatic works include plays, scripts, dances and other works meant for performance. The main feature of a dramatic work is that it can be performed before an audience. A dramatic work gets copyright protection even if it is never performed. Once it is written down or recorded, copyright automatically exists. This protects the creator even before the work is staged or shown.

## **III. Musical Works**

Musical works are protected separately under the Act. A musical work means the music itself, such as melody and tune. It does not include lyrics or the actual performance. Lyrics are treated as literary works and recordings and performances are protected under different rules. This is important because one song can have many copyrights like music, lyrics, recording and performer’s rights and these rights can belong to different people.



#### **IV. Artistic Works**

Artistic works include paintings, drawings, sculptures, photographs, engravings and buildings. The law clearly says that artistic quality does not matter. Even a simple drawing can be protected if it is original. This rule helps both professional artists and ordinary people. The law does not judge whether a work is beautiful or valuable but it only checks if it is original. For buildings, copyright protects the design and artistic features not the functional parts.

#### **V. Cinematograph Films**

Cinematograph films include visual images with sound, no matter what technology is used. Films usually include many other works, such as scripts, music and artwork. Copyright in a film does not cancel the copyright in these individual works. All these rights can exist together. This system ensures that producers, writers, musicians and others keep their rights unless they give them away by agreement.

#### **VI. Sound Recordings**

A sound recording means any recorded sound that can be played back later. Copyright in a sound recording is different from copyright in music or lyrics. This is very important in the music industry, where many people are involved in making and distributing songs.

#### **VII. Works Not Protected by Copyright**

Copyright does not protect ideas, methods, systems, procedures or concepts. Things like mathematical formulas, scientific rules and theories are not protected. This rule keeps a balance between protection and public access. Ideas stay free for



everyone, so creativity can grow instead of being restricted.

### **VIII. Originality and Fixation**

Two basic conditions apply to all copyrighted works: originality and fixation. The work must be created by the author, and it must be written, recorded or stored in some physical form. Mere thoughts or ideas that are not recorded do not get copyright protection. Fixation helps in proving ownership and enforcing rights.

## **International Copyright Framework**

Copyright law mainly works within a country but creativity today move across the world. Books, movies, music and digital content are shared through the internet, TV, publishing and online platforms. Without international rules creators would have to apply for copyright protection separately in every country which would create confusion and problems so to solve these issue international copyright rules were created. These rules set minimum standards of protection and make sure that works from one country are protected in other countries as well.

India's copyright law follows international agreements that India has signed. These rules decide how foreign works are protected in India, how Indian works are protected in other countries and how Indian courts understand and apply copyright law. One of the most important principles of international copyright law is national treatment. This means that a country must give the same copyright protection to foreign authors as it gives to its own citizens. Indian copyright law follows this principle through legal provisions and government notifications. If a foreign country has signed the same international copyright treaty as India, or if both countries have reciprocal arrangements, then works from that country get protection in India just like Indian works. This principle removes discrimination on the basis of nationality.



## **Berne Convention for the Protection of Literary and Artistic Works**

India is a member of Berne convention and Indian copyright law follows its main principles. The Berne Convention is based on three basic principles: Automatic protection, National treatment and Independence of protection. Automatic protection means that copyright exists as soon as a work is created. There is no need for registration. Indian copyright law also follows this rule. Independence of protection means that copyright protection in one country does not depend on protection in another country. Each country applies its own copyright law. The Berne Convention fixes minimum standards related to Types of works protected, Length of copyright protection, Moral rights of authors. Indian copyright law meets these standards and in some cases gives even stronger protection

## **Universal Copyright Convention**

The Universal Copyright Convention was created for countries that were not part of the Berne Convention earlier. Today, its importance is less but it is still useful for protecting works from countries that are not members of the Berne Convention. India is a member of the UCC. This helps in protecting older works and works from non-Berne countries. For legal professionals knowledge of the UCC is useful when dealing with such works.

## **TRIPS Agreement**

The TRIPS Agreement brought copyright into the international trade system. India's copyright law is influenced by the obligations under TRIPS especially in matters of protection and enforcement. TRIPS include important rules from the Berne Convention and also give protection to computer programs and databases. Indian copyright law treats computer programs as literary works which shows compliance with TRIPS. TRIPS also support equal treatment



and strengthen international copyright protection. TRIPS are very important for enforcement. It requires countries to provide effective civil, criminal and border measures. Indian copyright law includes remedies like injunctions, damages and criminal penalties.

## **WIPO Copyright Treaty and Digital Copyright**

The WIPO Copyright Treaty deals with copyright issues in the digital world. It supports the Berne Convention and explains rights related to online use and digital copying. India has amended its copyright law to deal with digital issues such as technological protection measures and rights management information. Rules related to digital piracy and circumvention follow WIPO standards. This is especially important for cases involving online platforms, streaming services and digital content.

Indian copyright law protects foreign works through legal provisions and government notifications. Once a foreign work qualifies for protection it is treated the same as an Indian work. Foreign copyright owners can file infringement cases in Indian courts, Apply for copyright registration in India, Enter into licensing agreements under Indian law however lawyers must check treaty membership and reciprocal arrangements before giving legal advice. The duration of copyright protection for foreign works is decided according to Indian law and international rules. Even though protection is independent, Indian law may limit protection based on time limits fixed by law. Understanding the duration of protection is important when dealing with old works, public domain issues and international licensing.

## **Authorship and Ownership of Copyright**

The Copyright Act draws a clear legal distinction between the two. Authorship relates to the act of creation while ownership determines who holds and exercises the economic rights in the work.



This distinction has significant legal and commercial consequences, particularly in industries where creative works are produced collaboratively or in institutional settings. Authorship refers to the person who creates the work. For literary and dramatic works, the author is the person who creates the expression. In the case of musical works, the composer is treated as the author. For artistic works, authorship vests in the artist who produces the work. In more complex works such as cinematograph films and sound recordings, the Act recognises that creation is the result of coordinated effort rather than individual authorship. Accordingly, the statute designates the producer as the author of a cinematograph film or sound recording. This legislative choice reflects the organizational and financial responsibility involved in bringing such works into existence. The statutory definition of authorship thus moves beyond creative contribution alone and takes into account the practical realities of production and dissemination.

### **First Ownership of Copyright** (*Section 17*)

While authorship identifies the creator of the work, ownership determines who holds the copyright. Section 17 of the Copyright Act establishes the general rule that the author of a work is the first owner of copyright. This principle recognises the personal and intellectual connection between the author and the work. However, this general rule is subject to several important statutory exceptions. These exceptions are designed to address situations where works are created under specific legal or contractual relationships.

### **Works Created in the Course of Employment**

One of the most significant exceptions to the general rule of authorship-based ownership relates to works created in the course of employment. Where a literary, dramatic or artistic work is made by an author in the course of employment under a contract of service, the employer is treated as the first owner of copyright, unless there is an agreement to the



contrary. This reflects the commercial reality that employers often commission creative output as part of organised business activity. Law allows parties to alter this default position through contractual arrangements, preserving freedom of contract. It is important to distinguish between a contract of service and a contract for service. Independent contractors and freelancers are generally treated as authors and owners of their works unless copyright is expressly assigned.

## **Commissioned Works and Special Categories**

The ownership for commercial works like a photograph, painting or cinematograph film is made for valuable consideration at the instance of another person the person who commissions the work may be treated as the first owner of copyright, subject to statutory conditions. Similarly, in the case of government works, public undertakings and works created under the direction or control of public authorities, ownership vests in the government or the relevant authority.

## **Joint Authorship and Collaborative Works**

Where a work is produced by the joint efforts of two or more authors and the contributions are not distinct, In joint authorship copyright is jointly owned and exploitation of the work generally requires consent of all co-owners, unless otherwise agreed. Joint authorship reflects the collaborative nature of many creative endeavors, particularly in music, theatre and audiovisual production. The law treats the work as a single integrated expression rather than dividing ownership based on individual contributions.

The separation between authorship and ownership has practical implications for licensing, assignment and enforcement. An author who is not the owner may retain moral rights where economic rights have been transferred and an owner who is not the author may exploit the work commercially but cannot claim creative authorship. This



distinction becomes especially important in disputes involving employment relationships, commissioned works and collaborative projects.

## **Moral Rights and the Author's Continuing Connection** (*Section 57*)

Section 57 recognises the author's right to claim authorship and to object to distortion, mutilation or modification of the work that would be prejudicial to the author's honour or reputation. Moral rights reinforce the idea that authorship is not merely an economic concept. They protect the personal bond between the author and the work, ensuring that creative integrity is respected even after commercial exploitation. The statutory rules governing authorship and ownership reflect a balance between individual creativity and commercial organisation. By establishing default rules while permitting contractual variation. Understanding these rules is essential for navigating copyright transactions and resolving disputes. Ownership determines who may license, assign or enforce copyright, while authorship preserves recognition and moral interests.

## **Rights Conferred By Copyright**

The core of copyright protection lies in the rights conferred by statute. Copyright is a legally enforceable set of exclusive rights that allows the copyright owner to control specific uses of a protected work. **Section 16** makes it clear that there is no inherent or residual copyright outside the statutory framework. As a result, the nature, scope and limits of copyright are entirely governed by legislation.

## **Copyright as a Bundle of Rights**

Section 14 of the Act defines copyright as the exclusive right to do or authorize the doing of certain acts in respect of a work or any substantial part thereof. This definition is significant for two reasons. First, copyright is not a single



right. It is a collection of distinct rights, each relating to a specific mode of exploitation. Second, the rights differ depending on the category of the work. The law does not confer identical rights for all forms of creative expression. This structure allows the law to tailor protection according to the nature of the work and the manner in which it is commercially and culturally used.

## **Rights in Literary, Dramatic and Musical Works** *(Section 14(a))*

In the case of original literary, dramatic and musical works, Section 14(a) confers a wide range of exclusive rights on the copyright owner. These include the right to reproduce the work in any material form, including storage in electronic means and the right to issue copies of the work to the public. The statute also recognises the right to perform the work in public and to communicate it to the public. These rights are particularly important in the context of theatre, music, broadcasting and digital dissemination. In addition, the copyright owner has the exclusive right to make any cinematograph film or sound recording in respect of the work, as well as the right to make translations and adaptations. These rights ensure that the author retains control over derivative exploitation of the original expression. Together, these rights form the economic foundation of copyright protection for literary, dramatic and musical works.

## **Special Position of Computer Programmes** *(Section 14(b))*

Computer programmes are treated as a distinct sub-category of literary works. While they enjoy all the rights applicable to literary works, Section 14(b) confers an additional right on the copyright owner, namely the right to sell or give on commercial rental any copy of the computer programme. This provision reflects the commercial realities of the software industry, where unauthorized rentals and copying can undermine legitimate markets. At the same time, the statute



clarifies that this right does not apply where the programme itself is not the essential object of the rental. This limitation prevents overreach and preserves legitimate business practices.

### **Rights in Artistic Works** (*Section 14(c)*)

Copyright in artistic works includes the right to reproduce the work in any material form, the right to communicate it to the public and the right to issue copies that are not already in circulation. The statute also recognises the right to include the artistic work in a cinematograph film and the right to make adaptations. An important feature of copyright in artistic works is that protection is independent of artistic merit. The law does not evaluate aesthetic quality. Originality and fixation are sufficient to attract protection. These rights are particularly relevant in contexts such as design, visual arts and architecture and advertising, where artistic expression often intersects with commercial use.

### **Rights in Cinematograph Films** (*Section 14(d)*)

Cinematograph films are protected as independent subject matter under the Act. The copyright owner has the exclusive right to make copies of the film, to sell or give on hire copies of the film and to communicate the film to the public. The law recognises that a film is the result of complex coordination involving financial investment, technical effort and creative inputs. Accordingly, copyright protection focuses on control over reproduction and distribution rather than authorship in the traditional sense. Copyright in a cinematograph film does not extinguish copyright in the underlying works such as scripts, music or literary content. These underlying rights continue to exist independently unless assigned or licensed.

### **Rights in Sound Recordings** (*Section 14(e)*)

Sound recordings enjoy similar protection to cinematograph films. The copyright owner has the exclusive right to make



copies of the sound recording, to sell or give on hire such copies and to communicate the recording to the public. As with films, copyright in sound recordings exists independently of copyright in the underlying musical and literary works. This layered protection reflects the collaborative nature of music production and ensures that multiple stakeholders retain enforceable rights.

## **Limitations and Exceptions to Copyright**

Copyright law does not grant an unrestricted monopoly over creative works. While exclusive rights are important to incentivise authorship and creative labour but unchecked exclusivity would hinder education, research, access to information and freedom of expression. The Copyright Act therefore incorporates a system of limitations and exceptions that qualify the rights conferred under Section 14. These limitations are central to the functioning of copyright law. By defining what does not constitute infringement the Act ensures that copyright protection remains compatible with social and constitutional values. The most significant of these limitations is the doctrine of fair dealing under **Section 52** of the Act.

Section 52 does not provide an open ended standard of fairness. Instead it specifies particular purposes for which the use of a copyrighted work does not amount to infringement. By identifying recognised categories of permitted use the Act provides guidance to authors, users, educational institutions and courts. Fair dealing must therefore satisfy two conditions: one that the use must fall within one of the purposes specified in Section 52 and second the use must be fair in the circumstances and both elements are essential.

### **Fair Dealing for Private or Personal use, including Research** (*Section 52(1) (a) (i)*)

This exception recognises that meaningful engagement with knowledge requires access to existing works. Research, in this



context, is not limited to scientific experimentation or laboratory work. It includes academic inquiry, legal analysis, literary criticism and intellectual exploration across disciplines. The law acknowledges that such engagement often requires reference to and limited reproduction of copyrighted material. Fair dealing for research does not authorize wholesale copying or commercial exploitation. The assessment of fairness depends on factors such as: The purpose of use, the extent of reproduction, the nature of the work, the effect on the potential market for the work. This exception ensures that copyright does not become a barrier to learning or intellectual progress.

### **Fair Dealing for Criticism or Review and Commentary** (*Section 52(1) (a) (ii)*)

Section 52(1) (a) (ii) expressly permits fair dealing for the purpose of criticism or review. This provision protects the ability of individuals to analyze, evaluate and comment upon creative works. Criticism and review are integral to cultural and intellectual discourse. They necessarily involve engagement with the original work, including quotation or reference. Copyright law therefore recognises that limited reproduction for these purposes is legitimate and socially valuable. This exception also extends to criticism or review of another work, where reference to a copyrighted work is incidental or necessary. The focus remains on fairness and proportionality.

### **Reporting of Current Events and Public Communication**

Fair dealing is also permitted for reporting current events, including reporting of public speeches and proceedings. This exception reflects the importance of timely information in a democratic society. Copyright protection must not interfere with journalism, public debate or dissemination of news. At the same time, the use must be confined to what is reasonably necessary for reporting purposes. Excessive or exploitative



reproduction may fall outside the scope of protection. The statutory recognition of this exception ensures that copyright law supports, rather than restricts, public communication.

## **Educational Use and Instructional Exceptions**

Education occupies a special position within the copyright framework. Section 52 recognises multiple exceptions that permit use of copyrighted works in the course of instruction, examination and academic activities. These provisions acknowledge the realities of classroom teaching, learning materials and assessment methods. Without such exceptions, educational institutions would face significant practical and financial obstacles. The educational exceptions are carefully framed to prevent abuse. They permit limited reproduction for instructional purposes while preserving the commercial interests of authors and publishers.

## **Libraries, Archives and Preservation of Works**

Libraries and archives serve a crucial role in preserving cultural and intellectual heritage. Section 52 permits limited reproduction by libraries and archives for purposes such as preservation, replacement of damaged copies and supply of copies for research under statutory conditions. These exceptions recognise that copyright law must facilitate long-term access to knowledge. Preservation activities do not compete with commercial exploitation and are therefore treated differently from general reproduction.

## **Transient and Incidental Storage in the Digital Environment**

The digital environment has transformed the way creative works are accessed and transmitted. Many acts of reproduction occur automatically as part of technological processes, such as buffering, caching or temporary storage during transmission. Section 52 recognises that transient or incidental storage of a work, when integral to a technological



process, does not constitute infringement. This provision prevents copyright law from interfering with ordinary digital communication and technological infrastructure. The inclusion of this exception reflects legislative awareness of technological realities and the need to adapt copyright law accordingly.

Fair dealing is not an exception carved out reluctantly from copyright protection. It is an essential structural component of the system. By qualifying exclusive rights, fair dealing ensures that copyright remains aligned with its broader objectives of promoting knowledge, culture and innovation. Copyright law thus operates not as an absolute proprietary regime, but as a regulated framework that balances private rights with public interest. Fair dealing preserves this balance and prevents copyright from becoming a tool of exclusion.

## **Term of Copyright and the Public Domain**

Copyright does not last forever. It exists only for a fixed time given under the law. After this time ends, the work becomes free for everyone to use. This time limit is an important feature of copyright law. The reason behind this is simple. The law gives creators exclusive rights for a limited period so that they can earn from their work. After that period, the work becomes available to the public. The Copyright Act fixes different time periods depending on the type of work and who created it. This system keeps a balance between the rights of creators and the interest of the public.

## **Why Copyright Has a Limited Duration**

The limited term of copyright serves two main purposes: one is that it allows authors and owners to earn money from their work and encourages creativity and another It prevents permanent control over ideas and expressions, so that knowledge and culture can be shared freely after some time. The idea of the public domain is very important in copyright law. Once copyright ends the work enters the public domain



and can be freely used by everyone. This helps education, research and further creativity.

## **Term of Copyright in Literary, Dramatic, Musical and Artistic Works** *(Section 22)*

For original literary, dramatic, musical and artistic works, copyright lasts for the lifetime of the author and 60 years after the author's death. The 60 years are counted from the beginning of the calendar year after the author dies. This method avoids confusion about dates. This rule shows the personal connection between the author and the work and also allows the author's family to benefit after death.

## **Joint Authors** *(Section 23)*

If a work is created by two or more authors together, copyright lasts until 60 years after the death of the last surviving author the law treats the work as one single creation. This rule prevents the work from entering the public domain too early just because one author has died.

## **Anonymous and Pseudonymous Works** *(Section 23(2) and 23(3))*

If a work is published without revealing the author's identity or under a fake name, copyright lasts for 60 years from the beginning of the year after first publication if the author's identity is revealed before this period ends, then the normal rule based on the author's life will apply. This system is practical because the author's life cannot be used when the identity is unknown.

## **Posthumous Works** *(Section 24)*

Posthumous works are works published after the author's death. In such cases, copyright lasts for 60 years from the beginning of the year after first publication this ensures that



works are protected even if they were not published during the author's lifetime and encourages their publication.

## **Cinematograph Films and Sound Recordings** *(Section 26 and Section 27)*

For films and sound recordings, copyright lasts for 60 years from the beginning of the year after first publication here, the term is not linked to the life of any author. This is because films and sound recordings are usually created by many people and owned by producers or companies.

## **Government Works and Works of Public Undertakings** *(Sections 28 and 28A)*

For government works, copyright lasts for 60 years from the beginning of the year after first publication the same rule applies to works created by public undertakings. These rules recognise that government-created works also need protection, but only for a limited time.

## **Broadcast Reproduction Rights and Performer's Rights** *(Sections 37 and 38)*

Apart from copyright, the Act also gives some related rights Broadcast reproduction rights last for 25 years from the year after the broadcast Performer's rights last for 50 years from the year after the performance these rights have shorter durations because they relate to fast-changing media and performances.

## **Expiry of Copyright and Public Domain**

Once the copyright term ends, the work enters the public domain. After that: anyone can use the work no permission is needed no royalty has to be paid. Public domain works are very important for education, research, creativity and cultural growth. New creators can freely use these works to create new content. The public domain is not empty or useless. It is a



legally recognised space where works become part of our shared culture. Copyright law ensures that no work stays under private control forever. Understanding the term of copyright is important not only for owners, but also for students, teachers, researchers and creators who depend on free access to existing works.

## **Assignment and Licensing of Copyright**

Chapter IV of Copyright Act, 1956 deals with Ownership of Copyright and Rights of Owner. Copyright is not only meant to protect creative works but also to help authors earn money from them. The Copyright Act recognises copyright as an economic right which can be commercially used. Authors or copyright owners may allow others to use their works or may transfer their rights to someone else. This is done mainly through assignment and licensing of copyright. Assignment and licensing are different in nature. In assignment, ownership of copyright or some part of it is transferred to another person. In licensing, ownership remains with the original owner and only permission to use the work is given. The Act regulates both these methods to protect authors and to ensure fairness in copyright dealings.

### **Assignment of Copyright** (*Section 18*)

Assignment of copyright is governed by **Section 18** of the Copyright Act. Under this provision, the owner of copyright can assign the copyright either fully or partially. The assignment may relate to the entire work or only to specific rights such as reproduction, publication or adaptation. The assignment may be for the full term of copyright or for a limited period. The law also allows assignment of future works. However, such assignment becomes effective only when the work is actually created. This provision is very important in industries like films, music and publishing, where works are often created under contracts.



## **Formal Requirements of Assignment** (*Section 19*)

**Section 19** lays down compulsory conditions for a valid assignment. An assignment must be in writing and must be signed by the assignor or an authorised person. The agreement must clearly mention the work assigned, the rights transferred, the duration of the assignment, the territorial area and the royalty or payment to be made. If the duration is not mentioned, the assignment will be valid only for five years. If the territorial area is not mentioned, it will be limited to India. These rules are meant to protect authors from unfair contracts and unclear agreements.

## **Safeguards and Reversion of Rights** (*Section 19A*)

**Section 19A** provides protection to authors where the assignee does not use the rights assigned to him. If the assignee fails to use the copyright within a reasonable time, the Copyright Board has the power to cancel the assignment fully or partially after hearing both sides. This provision prevents creative works from remaining unused and ensures that copyright serves its real purpose of dissemination and use.

## **Licensing of Copyright** (*Section 30*)

Licensing of copyright is governed by **Section 30** of the Act. In licensing, the owner of copyright allows another person to use the work, but ownership remains with the licensor. A licence may be exclusive or non-exclusive. An exclusive licence gives the licensee the sole right to use the work, even excluding the owner, subject to the terms of the licence. A non-exclusive licence allows multiple people to use the work at the same time. Licensing is the most common method of copyright exploitation in areas such as broadcasting, publishing, software and digital platforms.



## Compulsory and Statutory Licensing

Apart from voluntary licenses, the Act also provides for compulsory and statutory licensing in certain situations where public interest is involved. Compulsory licenses may be granted when the copyright owner refuses to publish or communicate the work to the public. Statutory licenses apply in cases like broadcasting and cover versions, where use is allowed after payment of royalty at fixed rates. These provisions ensure that copyright does not block access to education, culture and information.

Assignments and licenses may be limited by time and territory. This allows copyright owners to plan commercial use in different regions and periods. If the agreement does not specify these limits, the law applies default rules. This highlights the importance of clear drafting of copyright contracts. With the growth of digital platforms, licensing has become more important than assignment. Online streaming services, software platforms and digital media mainly work on licence-based models. While the law allows flexibility, digital agreements raise issues related to control, duration and scope, which need careful legal understanding.

### Compulsory Licensing

Compulsory licensing under Indian copyright law is governed by **Sections 31, 31A and 31B** of the Copyright Act to be read with the relevant provisions of the Copyright Rules, 2013.

Compulsory licensing is an important exception from the exclusivity normally associated with copyright protection. While copyright law recognises the author's right to control the use and exploitation of their work, it simultaneously acknowledges that absolute exclusivity may, in certain circumstances, operate against public interest. Compulsory licensing is the statutory mechanism through which this tension is resolved. The rationale underlying compulsory licensing is grounded in the idea that copyright exists not



merely as a private proprietary right but as a regulated monopoly. Where the exercise of copyright results in unreasonable restriction on access to works, especially where such works hold cultural, educational or social significance, the law intervenes to ensure availability under controlled conditions. In the Indian copyright framework, compulsory licensing is not a general power but a carefully structured statutory exception. It is invoked only in specified circumstances, subject to procedural safeguards and administered through designated authorities. The law does not extinguish copyright under compulsory licensing; it merely permits regulated use in return for equitable remuneration.

## **Compulsory Licence in Case of Refusal to Republish or Communicate to the Public (*Section 31*)**

Section 31 of the Act applies where the copyright owner has either refused to republish a work or has refused to allow its communication to the public and such refusal is considered unreasonable. This reflects the principle that once a work has been made available to the public, the copyright owner cannot arbitrarily withhold access in a manner that prejudices public interest. The focus here is not on non-publication, but on refusal after publication or refusal to permit further communication.

### **1. Conditions for Grant of Licence**

A compulsory licence under Section 31 may be granted only where the work has already been published or communicated to the public and the copyright owner has refused to republish or permit communication and such refusal is unreasonable and the applicant demonstrates that access to the work is required in public interest. The assessment of “unreasonableness” is contextual and fact-specific which may arise from excessive pricing, arbitrary denial, discriminatory



licensing or prolonged withholding without justification.

## **2. Application Procedure and Notice Requirements**

The procedure for obtaining a compulsory licence under Section 31 is governed by the Copyright Rules, 2013. An application must be made in the prescribed form, accompanied by the prescribed fee and supported by material establishing the grounds for compulsory licensing. Upon receipt of the application, the competent authority issues notice to the copyright owner, inviting objections. This notice requirement is mandatory and forms an essential part of natural justice. The copyright owner is afforded an opportunity to respond and to justify the refusal. The applicant may also be required to demonstrate technical and financial capability to exploit the licence responsibly.

## **3. Hearing and Determination**

After considering the submissions of both parties, the authority conducts a hearing. The determination involves assessment of public interest evaluation of the copyright owner's justification fixation of royalty payable specification of the scope, duration and conditions of the licence the licence granted under Section 31 is non-exclusive and subject to ongoing compliance with the terms imposed.

## **4. Working of Licence and Cancellation**

The licensee is under a statutory obligation to work the licence in accordance with the terms granted. Failure to do so may lead to cancellation of licence. The Act and Rules permit review and modification of licence conditions where circumstances change.



## **Compulsory Licence for Unpublished Works** *(Section 31A)*

Section 31A addresses a different category of works - those which have not been published or communicated to the public at all. This provision applies particularly in cases where the author is deceased, unknown or untraceable. The objective of Section 31A is to prevent valuable works from remaining inaccessible due to absence or inaction of the copyright owner, especially where publication would serve public interest. This provision applies to:

1. Unpublished works
2. Works whose authors are dead or unknown
3. Works where the owner cannot be located despite reasonable efforts

The applicant must demonstrate that reasonable efforts have been made to locate the owner and that publication is desirable in the interest of the public. Unlike Section 31, Section 31A requires the applicant to deposit royalty with the competent authority. This ensures that if the rightful owner later comes forward, remuneration is secured. The licence granted under this provision is also non-exclusive and subject to conditions governing publication and distribution.

## **Compulsory Licence for the Benefit of Persons with Disabilities** *(Section 31B)*

Section 31B introduces a rights-based approach to compulsory licensing by recognizing the needs of persons with disabilities. This provision reflects India's commitment to inclusive access to knowledge and aligns with international norms on accessibility. Under this section, any person or organisation working for the benefit of persons with disabilities may apply for a compulsory licence to reproduce or distribute works in accessible formats. Accessible formats may include: Braille, Audio Formats, Large Print Editions, Digital Formats Compatible With Assistive Technologies The



licence is granted subject to conditions ensuring that the work is used exclusively for the benefit of persons with disabilities and not for commercial exploitation beyond the permitted scope. Applications under Section 31B are processed under the Rules, which require disclosure of the nature of the organisation, intended format and safeguards against misuse. Royalty may be waived or reduced depending on the circumstances.

## **Statutory Licensing**

Statutory licensing represents a distinct legislative technique within copyright law. Unlike voluntary licenses, which arise from contractual negotiation and compulsory licenses, which require adjudicatory intervention, statutory licenses operate by force of law. Once the conditions prescribed by statute are satisfied, the licence becomes available as of right, subject to compliance with statutory obligations. The rationale underlying statutory licensing is practical necessity. Certain uses of copyrighted works are so widespread and socially significant that requiring individual negotiation with every copyright owner would render lawful use impracticable. Broadcasting and musical performances are classic examples. Statutory licensing enables such uses while ensuring that copyright owners receive equitable remuneration. Statutory licenses therefore reflect a balance between administrative efficiency and protection of rights. They do not diminish copyright ownership. Instead, they regulate its exercise in specific contexts.

## **Statutory Licence for Making Cover Versions** *(Section 31C)*

Section 31C governs statutory licenses for making cover versions of sound recordings. A cover version refers to a new sound recording made of a literary or musical work that has already been recorded and published, without altering the essential character of the original work. This provision recognises the commercial and cultural reality that multiple



renditions of musical works are common and desirable. At the same time, it seeks to protect the interests of original authors and composers. The statutory licence under Section 31C is subject to strict conditions. A cover version may be made only after the expiry of a specified period from the first publication of the original sound recording. The cover version must not mislead the public or suggest an association with the original recording beyond what is permitted. The licensee must comply with conditions relating to - payment of royalties, prior notice, maintenance of records, restrictions on packaging and representation

The Copyright Rules 2013 prescribes the manner in which notice is to be given and royalties are to be paid. The licensee is required to furnish details of the proposed cover version and to comply with reporting obligations. Failure to adhere to these may render the use unauthorized, notwithstanding the statutory nature of the licence.

### **Statutory Licence for Broadcasting of Literary and Musical Works and Sound Recordings** *(Section 31D)*

Section 31D introduces a statutory licensing regime for broadcasting of literary and musical works and sound recordings. Broadcasting, in this context, includes communication to the public by radio, television and other means recognised by law. The statutory licence under Section 31D applies to broadcasting organisations that wish to communicate works to the public. The licence is subject to payment of royalties at rates fixed or determined in accordance with statutory mechanisms. Royalty under Section 31D is a central feature of the statutory licence.

## **COPYRIGHT SOCIETIES AND COLLECTIVE MANAGEMENT**

Copyright law recognises individual authorship, yet the practical exploitation of copyright often occurs on a scale that



makes individual licensing impractical. Musical works, sound recordings, literary works used in broadcasting, public performances and digital dissemination involve repeated and widespread use by multiple users. In such contexts, individual negotiation between each user and each copyright owner becomes inefficient and, in many cases, impossible. Collective management of copyright emerges as a solution to this problem. Through collective management, copyright owners authorize a representative organisation to administer certain rights on their behalf. These organisations license uses, collect royalties and distribute remuneration to right holders in accordance with established rules.

Indian copyright law formally recognises this mechanism through the statutory framework governing copyright societies.

### **Statutory Basis for Copyright Societies** (*Sections 33 to 36*)

Copyright societies in India are governed by **Sections 33 to 36** of the Copyright Act, read with the relevant provisions of the Copyright Rules, 2013. These provisions establish the legal foundation for collective management and regulate the formation, registration and functioning of such societies.

**Section 33** mandates that no person or association shall carry on the business of issuing or granting licenses in respect of copyrighted works unless it is registered as a copyright society or is otherwise exempt under the Act. This requirement ensures regulatory oversight and prevents unregulated licensing practices. The statutory framework thus treats collective management as a regulated activity rather than a purely private arrangement.



## **Registration and Recognition of Copyright Societies**

A copyright society must be registered under the Act in order to function lawfully. Registration is granted by the Central Government subject to satisfaction of prescribed conditions, including representativeness, competence and governance structure. The registration is not perpetual. It is granted for a specified period and is subject to renewal. This ensures periodic review of the society's functioning and compliance with statutory obligations. The registration process under the Rules requires disclosure of: the class of works administered, the rights sought to be managed, membership structure, internal governance mechanisms, tariff schemes.

A copyright society may administer only those rights that are expressly authorised by its members. The scope of administration is therefore defined by contractual mandates and statutory recognition. Copyright societies administer rights relating to public performance, broadcasting and communication to the public, reproduction in certain contexts. The society does not become the owner of copyright. Ownership remains with the author or right holder. The society functions as an agent for collective administration.

### **Tariff Schemes and Licensing Functions** (*Sections 33A*)

One of the central functions of a copyright society is the formulation of tariff schemes. Tariffs determine the rates at which licenses are granted to users such as broadcasters, event organizers, digital platforms and commercial establishments. Tariff schemes must be transparent, non-discriminatory and publicly accessible. The Act and Rules require societies to follow fair practices in licensing and royalty collection. Users who dispute tariff rates may seek adjudication in accordance with statutory mechanisms. For practitioners representing users, tariff challenges are a significant area of practice.



## **Collection and Distribution of Royalties**

Royalty collection and distribution form the economic core of collective management. Copyright societies are required to collect royalties efficiently, maintain accurate records of usage and distribute royalties to members in accordance with usage data and prescribed rules. The Rules impose obligations relating to accounting, audits and disclosure. Societies must maintain transparency in their financial operations and provide members with access to relevant information.

## **Governance and Accountability of Copyright Societies**

The statutory framework places significant emphasis on governance and accountability. Copyright societies must function in a manner that protects the interests of authors and right holders. Key governance requirements include democratic participation of members, clear rules for admission and termination of membership, internal grievance redressal mechanisms, compliance with reporting and audit requirements. The Central Government retains supervisory powers and may suspend or cancel registration in cases of persistent non-compliance or misuse of authority.

## **Relationship between Copyright Societies and Statutory Licensing**

Copyright societies often play a practical role in the operation of statutory licensing regimes, particularly in broadcasting and public performance contexts. While statutory licenses arise by operation of law, societies frequently facilitate royalty collection and distribution. This relationship does not alter the statutory nature of the licence. However, it simplifies administration and ensures continuity in royalty flows. Practitioners must carefully distinguish between statutory entitlement and collective administration to avoid conceptual confusion.



## **Institutional Framework in Copyright Law**

The Copyright Act establishes a statutory framework of authorities entrusted with the administration and implementation of copyright law in India. Understanding this institutional framework is essential not only for academic clarity but also for practical engagement with copyright law.

### **Copyright Office**

The Copyright Office is the primary administrative body responsible for the execution of copyright related functions under the Act. Its establishment and functioning are governed by the provisions of the Copyright Act and the Copyright Rules, 2013. The Copyright Office acts as the central repository of records relating to copyright. Its function is the maintenance of the Register of Copyrights but its role extends beyond mere record-keeping. The Office serves as the first point of interaction between copyright owners and the statutory framework. The Copyright Office performs functions such as receiving applications for registration of copyright, examining applications for compliance with statutory and procedural requirements, issuing notices in case of objections, facilitating hearings and adjudicatory processes in registration related disputes, recording assignments and licenses where required. The Copyright Office operates under the administrative control of the Central Government and functions in accordance with the procedures prescribed under the Copyright Rules.

### **Registrar of Copyrights**

At the centre of the administrative framework is the Registrar of Copyrights. The Registrar is appointed by the Central Government and exercises powers conferred by the Act and the Rules. The role of the Registrar is both administrative and quasi judicial in nature. The Registrar's powers include: scrutiny and examination of applications for registration, deciding objections raised by third parties, entering



particulars in the Register of Copyrights, correcting errors or omissions in the Register, exercising powers delegated under licensing and procedural provisions The Registrar is not a mere clerical authority. In matters involving objections, disputes over ownership or questions of compliance, the Registrar is required to apply legal reasoning and adhere to principles of natural justice. Notices must be issued, hearings conducted and reasoned decisions recorded.

Proceedings before the Registrar of Copyrights are not completely judicial nor purely administrative either. They occupy an intermediate space where procedural fairness is essential. Where objections are raised against registration or where competing claims of ownership arise, the Registrar is required to give notice to affected parties, allow submission of written responses, provide an opportunity of hearing, record findings based on material placed on record. Decisions of the Registrar are though administrative but have legal consequences and may be subject to appeal or judicial review.

Copyright Act provided for the establishment of a Copyright Board. The Board was entrusted with functions such as granting compulsory licenses, fixing royalties and adjudicating certain disputes under the Act. The Copyright Board functioned as a specialized tribunal, combining legal expertise with subject-matter understanding. It played a role in the administration of compulsory and statutory licensing regimes. With time, the institutional structure underwent changes. The functions of the Copyright Board were affected by broader reforms in the tribunal system, including the establishment and subsequent restructuring of intellectual property appellate mechanisms.

## **Appellate and Adjudicatory Authorities**

With changes in the tribunal structure, the adjudicatory functions previously exercised by the Copyright Board have been redistributed. Certain matters are now dealt with by designated authorities or courts depending on the nature of



the dispute and the statutory provision involved. Appeals against decisions of the Registrar, as well as disputes relating to licensing may now lie before appropriate judicial forums, including commercial courts or constitutional courts, depending on jurisdiction and subject matter. This shift has practical implications. Practitioners must identify the correct forum before initiating proceedings, as procedural missteps at this stage can result in delay or dismissal.

The institutional framework under the Copyright Act reflects a layered approach to governance. Administrative authorities such as the Registrar handle registration and preliminary disputes. Courts intervene where enforcement, infringement or appellate review is required. This division of functions ensures efficiency while preserving judicial oversight. Administrative decisions are subject to scrutiny, ensuring that statutory powers are exercised within legal limits.

## **Registration of Copyright**

Copyright registration is governed by **Section 45** of the Act and detailed procedural rules prescribed under **Rules 70 to 78** of the Copyright Rules, 2013. Registration is not mandatory for the subsistence of copyright. However, it serves important evidentiary and procedural purposes.

**Section 45** provides that the owner of copyright or any other person interested in the copyright may apply for registration of the work. The application must be made in the prescribed form and manner, accompanied by the prescribed fee. Although copyright exists independently of registration, registration creates a public record of ownership and authorship. Entries in the Register of Copyrights serve as prima facie evidence of the particulars entered therein, unless proved otherwise.



## **Procedure for Registration under the Rules**

Sections 44-50 of the Copyright Act and Rules 69-74 of the Copyright Rules, 2013 lays down the procedure for registration of copyright. At present, copyright registration in India is primarily carried out through the online filing system provided by the Copyright Office. The online process has been introduced to simplify filing, reduce delays and ensure transparency. An applicant who wishes to register copyright must first create a user account on the official portal of the Copyright Office. Once registered, the applicant can log in using the allotted user ID and password. These login credentials should be carefully preserved, as they are required for tracking the application and future correspondence.

After logging in, the applicant must select the option for online copyright registration and proceed to file the prescribed application form.

### **Filing of Application- Form XIV**

Every application for registration of copyright must be made in Form XIV under Rule 70 of the Copyright Rule, 2013. One application relate to one work only. Separate applications are required for separate works. The form requires details such as:

- Title of the work
- Nature and category of the work
- Name, address and nationality of the author
- Name, address and nationality of the applicant
- Details of publication, if the work is published

Once the form is filled, the applicant must save the details before proceeding to the next stage.



## **Upload of Signature and Statement of Particulars**

The applicant is required to upload a scanned copy of their signature in the prescribed format and size. This step ensures authentication of the application. Thereafter, the applicant must fill the **Statement of Particulars** which contains detailed information relating to the work, authorship, ownership and publication status. After filling the statement, the applicant must again save the details before moving forward.

## **Statement of Further Particulars**

For certain categories of works, namely literary, dramatic, musical, artistic works and software, the applicant is required to submit a **Statement of Further Particulars**. This statement provides additional information necessary for examination by the Registrar. Once completed, the details must be saved and the applicant may proceed to the payment stage.

## **Payment of Prescribed Fee and Diary Number**

After completing the forms, the applicant must pay the prescribed fee through the online payment gateway. The amount of fee is specified in the **Second Schedule of the Copyright Rules**. Upon successful payment and submission, a **Diary Number** is generated. This diary number is extremely important and must be carefully noted, as it is used for tracking the application and future reference.

## **Upload of Copies of the Work**

The applicant must upload copies of the work along with the application. The format depends on the nature of the work:

- I. Artistic works: PDF or JPG format
- II. Sound recordings: MP3 format



- III. Literary, dramatic, musical works and software: PDF format

These files must comply with the size restrictions prescribed by the Copyright Office.

### **Submission of Hard Copies**

After online submission, the applicant is required to take a printout of:

- The acknowledgement slip
- The completed copyright registration form

These documents must be sent to the Copyright Office at the prescribed address, as part of procedural compliance.

### **Essential Documents Required for Registration**

For smooth registration, certain documents must be kept ready. While requirements may vary depending on the nature of the work, the essential documents generally include:

- I. Copies of the work (published or unpublished)
- II. Power of attorney or vakalatnama, if filed through an agent
- III. No-objection certificate from the author, where the applicant is not the author
- IV. Details of publication, if the work is published
- V. Source code and object code in case of software
- VI. No-objection certificates where photographs, trademarks, or third-party rights are involved

### **Register of Copyrights** *(Section 44)*

Section 44 provides for the maintenance of a **Register of Copyrights** at the Copyright Office. The Register contains details of works that have been registered, including names of authors, owners, publishers and other prescribed particulars.



Registration under Section 44 does not make registration compulsory. Its purpose is evidentiary. An entry in the Register raises a presumption regarding authorship and ownership, unless proved otherwise.

### **Structure of the Register** *(Rule 69 of the Copyright Rule)*

Rule 69 provides that the Register shall be maintained in physical and electronic form in six parts as:

- I. Literary works (other than computer programs)
- II. Musical works
- III. Artistic works
- IV. Cinematograph films
- V. Sound recordings
- VI. Computer programs and databases

### **Entries in the Register** *(Section 45 and Rule 70)*

An application for entry in the Register is made under Section 45. Upon receipt of the application, the Registrar may conduct such inquiry as deemed fit. If satisfied the Registrar enters the particulars in the Register. When objections are received the Registrar conducts hearings and decides the matter in accordance with law.

### **Inspection of Register and Certified Copies** *(Sections 46-47 and Rules 72-74)*

The Register of Copyrights and its indexes are open for inspection during reasonable hours. Any person may obtain certified copies or extracts from the Register on payment of the prescribed fee. Certified copies issued by the Registrar carry evidentiary value and are admissible in court.

### **Evidentiary Value of the Register** *(Section 48)*

Section 48 provides that the Register of Copyrights shall be **prima facie evidence** of the particulars entered therein.



Certified copies bearing the seal of the Copyright Office are admissible without further proof. This provision significantly strengthens enforcement proceedings.

### **Correction and Rectification of Entries** *(Sections 49-50 and Rule 71)*

Errors or accidental omissions in the Register may be corrected by the Registrar under Section 49. Rectification may be carried out either on the Registrar's own motion or on application by an interested person. Before making any correction, the Registrar must give an opportunity of hearing wherever feasible. Rectification orders may also be passed pursuant to directions issued by the competent authority.

### **Important Forms under the Copyright Rules, 2013**

The Copyright Rules prescribe specific forms for various purposes, each linked to statutory provisions. Proper use of forms is essential for compliance and effective filing.

- **Form XIV** – Application for registration of copyright
- **Form XV** – Objections to registration
- **Form XVI / XVII** – Licensing related applications
- **Forms for compulsory licensing** – Applications under Sections 31–31D
- **Forms for assignment and recording of licenses**

Each form corresponds to specific Rules and must be accompanied by prescribed fees and supporting documents. Errors in form selection, incomplete information or incorrect fee payment are common reasons for delay or rejection.

### **Infringement of Copyright and Remedies**

Copyright protection would remain incomplete without effective enforcement mechanisms. The Copyright Act therefore defines what constitutes infringement and provides



a combination of civil and criminal remedies to protect the rights of copyright owners. At the same time, the Act ensures that enforcement does not override statutory limitations such as fair dealing or permitted uses. Infringement marks the point at which copyright moves from a conceptual and statutory entitlement to a legally enforceable right. Understanding infringement requires close attention to the statutory definition, the nature of exclusive rights and the balance between protection and access.

### **Meaning of Copyright Infringement (Section 51)**

Section 51 of the Act lays down the statutory definition of copyright infringement. Copyright is deemed to be infringed when any person, without a licence from the copyright owner or without authority under the Act, does any act that is exclusively reserved to the copyright owner under Section 14. Infringement may also occur when a person permits a place to be used for communication of a copyrighted work to the public, knowing or having reasonable grounds to believe that such communication would infringe copyright. This provision recognises that infringement may occur not only through direct acts, but also through facilitation or enabling conduct. The statutory language makes it clear that infringement is assessed with reference to the rights conferred by law. If an act does not fall within the scope of exclusive rights or if it is covered by a statutory exception, no infringement arises.

### **Direct and Indirect Infringement**

Copyright infringement may take both direct and indirect forms. Direct infringement involves unauthorized reproduction, distribution, communication to the public or adaptation of a copyrighted work. Indirect infringement arises where a person knowingly deals with infringing copies or facilitates infringement by others. This includes activities such as selling, hiring or distributing infringing copies for commercial purposes. By addressing both direct and indirect infringement, the Act ensures that enforcement extends



beyond the immediate infringer to those who profit from or enable infringing activities.

## **Infringement and the Role of Knowledge**

In certain contexts, particularly in relation to indirect infringement and criminal liability, the presence of knowledge or reasonable belief plays a significant role. The law distinguishes between innocent and willful infringement, especially when determining remedies and penalties. This distinction reflects the principle that enforcement should be proportionate and directed primarily against deliberate or commercial infringement rather than inadvertent or technical violations.

## **Relationship between Infringement and Fair Dealing**

Section 51 must be read in conjunction with Section 52. Acts that fall within the scope of fair dealing or other statutory exceptions do not constitute infringement, even if they involve unauthorized use of a copyrighted work. Courts have consistently emphasised that infringement and fair dealing are complementary components of the same statutory framework. The scope of infringement is therefore defined not only by exclusive rights, but also by permitted uses recognised in the public interest.

## **Civil Remedies for Copyright Infringement** *(Section 55)*

Section 55 provides civil remedies for infringement of copyright. These remedies include injunctions, damages and accounts of profits. Injunctions are the most frequently sought remedy and may be interim or permanent. Courts consider factors such as the existence of a prima facie case, balance of convenience and irreparable harm while granting injunctive relief. Damages are awarded to compensate the copyright owner for loss suffered as a result of infringement. In



appropriate cases, courts may also order an account of profits, requiring the infringer to surrender profits earned through infringing activities. These remedies serve both compensatory and deterrent functions.

### **Delivery Up and Destruction of Infringing Copies** *(Sections 58 and 59)*

Sections 58 and 59 empower courts to order the delivery up or destruction of infringing copies and the plates or equipment used to make such copies. These provisions prevent further circulation of infringing material and protect the integrity of the copyright system. The focus of these remedies is preventive rather than punitive, ensuring that infringement does not continue after adjudication.

### **OFFENCES, PENALTIES AND CRIMINAL ENFORCEMENT**

Copyright law in India provides both civil and criminal remedies. While civil remedies aim at compensation and prevention of further infringement, criminal provisions serve a deterrent function. Criminal liability under the Copyright Act is intended to address deliberate, commercial and large-scale infringement rather than minor or technical violations. The inclusion of criminal sanctions reflects legislative recognition that copyright infringement, particularly piracy and unauthorized commercial exploitation, can cause serious economic harm to authors, industries and the public interest. At the same time, the law seeks to balance deterrence with proportionality, ensuring that criminal machinery is not invoked indiscriminately. Understanding the scope and limits of criminal enforcement is essential for practitioners, as misuse of criminal provisions can undermine credibility and invite judicial scrutiny.

Criminal offences under copyright law are primarily contained in **Sections 63 to 70** of the Act. These provisions define punishable conduct, prescribe penalties and confer



powers of search, seizure and prosecution. The offences generally relate to knowing infringement of copyright, abetment of infringement, possession or dealing in infringing copies, circumvention of technological protection measures, and falsification of copyright management information. The emphasis on knowledge and intent distinguishes criminal infringement from civil liability.

### **Offence of Knowing Infringement** *(Section 63)*

Section 63 is the principal penal provision under the Act. It provides punishment for any person who knowingly infringes or abets the infringement of copyright in a work. The essential elements of the offence are: existence of a valid copyright, infringement of that copyright, knowledge or reason to believe that the act constitutes infringement. The requirement of knowledge is significant. It ensures that criminal liability is not imposed for innocent or inadvertent acts. Courts have consistently required prosecution to establish mens rea, either directly or through circumstantial evidence. The punishment prescribed include imprisonment and fine, reflecting the seriousness of wilful infringement.

### **Enhanced Penalty for Repeat Offences** *(Section 63A)*

Section 63A provides for enhanced punishment where a person convicted under Section 63 commits a subsequent offence. This provision targets habitual infringers and reinforces deterrence. For practitioners, this provision highlights the importance of prior convictions in sentencing considerations. Repeat offenders face stricter penalties, which may include longer imprisonment and higher fines.

### **Offences Relating to Infringing Copies and Plates** *(Sections 63B and 64)*

The Act criminalizes not only direct infringement but also dealing in infringing copies. Possession, sale, hire or



distribution of infringing copies for commercial purposes attracts criminal liability where knowledge can be established. Section 64 empowers police officers to seize infringing copies and plates used for making such copies without warrant, subject to procedural safeguards. This provision is frequently invoked in anti-piracy actions.

## **Technological Protection Measures (*Sections 65A and 65B*)**

Section 65A penalizes circumvention of effective technological measures applied by copyright owners to protect their works. Section 65B addresses removal or alteration of rights management information. These provisions reflect India's alignment with international digital copyright standards and are particularly relevant in cases involving software piracy, online streaming and digital content platforms.

## **Cognizability, Bailability and Procedural Aspects**

Copyright offences are generally cognizable, allowing police to initiate action without prior court approval. However, courts have emphasised that procedural safeguards must be observed and arbitrary or mechanical registration of criminal cases is discouraged. The question of bailability depends on the nature of the offence and applicable criminal procedure law. Practitioners must assess each case on its facts and statutory classification.

## **Appeals and Judicial Review**

Copyright law vests significant powers in administrative authorities, licensing bodies and courts. Decisions relating to registration, licensing, royalty fixation and enforcement have substantial legal and commercial consequences. The availability of appellate and supervisory remedies ensures that such powers are exercised within statutory limits and in accordance with principles of fairness. Appeals and judicial review perform a corrective function. They provide a



mechanism for scrutiny of administrative action, safeguard against arbitrariness and maintain consistency in interpretation of copyright law. For practitioners, knowledge of appellate pathways is as important as substantive entitlement.

## **Appeals against Decisions of the Registrar of Copyrights**

The Registrar of Copyrights exercises quasi-judicial powers in matters such as registration, objections, correction of entries and related procedural determinations. Decisions of the Registrar are not final and are subject to challenge before appropriate forums. Where an applicant or objector is aggrieved by an order of the Registrar, an appeal may lie in accordance with the statutory framework and applicable procedural law. The nature of the remedy depends upon the subject matter of the dispute and the forum designated by law at the relevant time.

Copyright Act provided for appeals and adjudication through the Copyright Board. The Board functioned as a specialized tribunal dealing with matters such as compulsory licensing, royalty fixation and certain disputes between copyright owners and users. With subsequent reforms in the tribunal system, the appellate structure underwent changes. The jurisdiction of specialized intellectual property tribunals was restructured and certain functions were transferred to courts.

In the present framework, copyright related appeals and challenges may lie before the civil courts of competent jurisdiction, commercial courts, where the dispute qualifies as a commercial dispute, High Courts in their appellate or writ jurisdiction. The forum depends on factors such as nature of the order challenged, statutory provision involved, territorial jurisdiction, valuation and commercial character of the dispute.



## **Appeals in Licensing and Royalty Determinations**

Decisions relating to compulsory and statutory licensing, including fixation of royalties and conditions of licence, are subject to challenge through appellate or supervisory remedies. Such challenges often involve mixed questions of law and fact, including assessment of public interest, reasonableness of refusal and adequacy of remuneration. Courts tend to show deference to specialized determinations, but will intervene where statutory parameters are exceeded or procedural fairness is compromised.

Appeals and judicial review serve different but complementary functions. Where a statutory appeal is available, courts generally expect parties to exhaust that remedy before invoking writ jurisdiction. However, in exceptional cases involving clear lack of jurisdiction or violation of fundamental procedural safeguards, writ remedies may be entertained directly. Understanding this relationship is essential for effective litigation strategy. Premature or misplaced invocation of writ jurisdiction may weaken an otherwise valid challenge.

Appellate proceedings are subject to limitation periods prescribed by law. Delay in filing appeals or petitions must be explained satisfactorily, failing which the remedy may be barred. Interim relief, such as stay of operation of the impugned order, plays a crucial role in copyright disputes. Courts consider factors such as prima facie case, balance of convenience and potential irreparable harm while granting interim protection.

## **Conclusion**

In this chapter, we have examined copyright as a form of intellectual property that protects creative expression rather than ideas or information themselves. Starting with the conceptual and philosophical foundations of copyright, we looked how the law recognises originality, authorship and



fixation as the basis for protection under the Copyright Act, 1957. We then analyzed the statutory framework governing the subject matter of copyright, the distinction between authorship and ownership and the bundle of exclusive rights conferred by Section 14. Through this discussion, it becomes clear that copyright is not a single or absolute right, but a carefully structured collection of entitlements designed to regulate specific acts of exploitation.

We also explored the limitations and exceptions that qualify copyright protection, particularly through the doctrine of fair dealing under Section 52. These provisions reflect the public interest orientation of copyright law and ensure that protection does not obstruct education, research, free expression or access to information. A fixed time period for copyright and the eventual movement of works into the public domain further reinforce this balance between private rights and societal benefit.

Commercial exploitation of copyright through assignment and licensing demonstrates the economic dimension of the right, while statutory safeguards preserve the interests of authors and prevent misuse. The discussion on infringement and remedies demonstrate how copyright operates as an enforceable legal right, supported by civil and criminal mechanisms, yet restrained by statutory limits and judicial oversight.

Copyright emerges not as an unrestricted proprietary claim, but as a regulated legal framework that encourages creativity, facilitates dissemination and serves broader cultural and educational objectives.

