6In the Name of Allah, the Gracious, the Merciful

The Copy Right and Neighbouring Rights (Protection) and Literal and Artistic works Act 2013

Be it hereby passed by the National Assembly and singed by the president of the Republic in accordance with the provisions of the Interim Constitution of the Republic of the Sudan 2005 the following Act :-

Part I

Chapter I

Preliminary Provisions

Title and Commencement

1. This Act may be cited as the, " Copy Right and Neighbouring rights (Protection) and Act, 2013", and shall come into force, as from the date of signature .

Repeal and saving

2.(1) The following two Acts shall be repealed :-

(a) The Copy Right and Neighbouring Rights (Protection) Act 1996.

(b) the Literal and Artistic works 2001;

(2) Notwithstanding the Provisions of subsection (1) all regulations and rules made thereunder shall remain in force until amended or repealed in accordance with the provisions of this Act .

Interpretation

3. In this Act unless the context requires otherwise :-

" Public performance " means any act enables the disclosure of the work to the public, in a way which directly communicates the work with the public, by way of performance, sound recording or visual or audio-recording, the performance deems public where it

	occurs directly in a public place or any place where the numbers of the existing persons exceed the number of one family and their close friends ; like plays, addressing, singing or music playing ;
" Broad casting "	means transmission of sounds or audio-visual work, performances, sound recording, programme, or transmission through industrial satlites to the public by wireless method ;
" Copying "	means making one or more duplicate copies of the work, performance sound recording, broadcasting programme or part of it by any form or method and that includes printing, photographing recording on tapes, disks, combact disk, or computer memory, including direct or indirect copying ;
" Secretary General "	means the Secretary General of the Council, appointed under Section 58(1);
"Computer Programmes"	mean a set of instructions expressed in any language, code, or notation, with or without related information, intended to cause the device having an information processing capacity to indicate, perform or achieve a particular function, task or result ;
" Sound recording "	means any aural fixation of sounds of performance artist or other sounds and that does not include sound recording accompanying the audio-visual work ;
" Folklore expressions"	mean any expression represents in distinguished elements reflects the artistic traditional heritage, arises and

continues in Sudan, and particularly include, the following expressions :-

(a) verbal expressions like, stories, tales, riddles and popular poets ;

(b) musical expressions like popular songs accompanied by music ;

(c) dynamic expressions like popular dances and plays or any artistic shapes or any other ceremonies whether materialized in material shape or not ;

(d) tangible expressions, include :-

(i) products of popular art, particularly drawings in lines and colours, excavation, sculpture, potter, clay, and all products made of woods, or mosaic, metal jewelries, hand made bags, needle works, textiles, carpets and clothes;

(ii) popular music instruments ;

(iii) architecture shapes .

" Copy right " means all or any of the rights specified according to section 7 and 8 ;

" Neighbouring rights " mean rights of performing artist, producer of Sound recordings and broadcasting organizations, provided for in this Act;

" Publishing contract " means any contract under which the author or his successor can transfer the right to make enough quantities of copies of his work to the publisher under

	specific conditions, provided that the publisher shall release and publish them;
"Artistic work",	means singing, playing, photographing or theatrical performance in an open place attended by the public or broad-casted through the different mass media or transmitted by mobile or sent by internet;
" Performance artist "	means any singer or musician, actor, dancer or whoever performs literary artistic work, plays or show whether it is protected or not protected and it includes folklore expressions ;
"Cinematic Film",	means any moving picture on transparent cellulose tape effected by lights for the purpose of showing the same on screen;
" Council "	means the council of copy right (protection) and Literary and Artistic works established under section 51 ;
"Service Centre",	means any establishment working for production of printed materials except news papers;
" work "	means any creative work in literal and artistic fields or science by any method or way;
" Collective work "	means any creative work initiated by a person who entrusted with publishing on his name and under his management and many authors prescribe in preparation thereof where as the role of every one of them shall be within the scope of the general purpose intended

	by that person like encyclopedia, dictionary or the like ;
" Audio-visual work "	means any work consists of group of connected pictures which give the impression of movements, whether accompanied by sound or not ;
" Joint work "	means any work done by more than one person their roles are specified or not ;
" derived work "	means the work derived its origin from previous existing work ;
"Printer",	means any body that manages or operates a printing press;
"Printing press",	means all tools, machineries, equipments, letter, used in printing packaging and wrapping , and include printing press not for news paper;
"Printed materials",	means all things containing writing drawing, photographing , sculpture, painting and other things of knowledge except news papers or periodicals issued by scientific or social corporations or specialized governmental units.
" Public domain "	means the domain where all works excluded from protection from the start, or works that their term of protection expired in accordance with the provisions of this Act devolve therein ;
" producer "	means :- (a) as for the sound recording, the person who takes the initiative and incur responsibility of achieving the first fixer of voices that the sound recording composed of ;

(b) as for the audio-visual work, means the person who takes the initiative and achieves the audio-visual work and incur the responsibility of its production ;

"distributor", means the person who distributed the works;

" Author " means the natural person who creates the work ;

" Publishing " means to make copies of the work available to the public with the consent of the author or the owner of the rights, by any act transferring ownership or possession, provided that the published copies shall be sufficient for the proper needs of the public, considering the nature of the work, and that includes saving the work in the computer memory and put the same under the public disposal by any way that makes it possible to retrieval ;

" Transfer to public " means publishing the work to be accessible to the public by wire or wireless transfer in sounds or images or both including the transfer that enables the public to have access to the work at any time and place ;

" Broadcasting unit " means any person who takes the initiative to do the broadcasting or television work, organizes and finances the same ;

" Official documents " mean the official documents issued by the State or its institutions, corporations or subsidiary units, including laws,

Presidential and administrative orders, international agreements and Judicial Judgments, arbitration awards and resolutions of the administrative committees of Judicial Jurisdiction ;

"Inspection Unit", means the Control, and field inspection unit belonging to the Council;

"Collective management", means the technical entity concerned, authorized by the owner of the financial and artistic rights, over their works , to manage, speak on behalf defend, grant exploitation contracts exclusively, receive and distribute the financial return of such works and has the right to litigation on their behalf;

" Ministry " means the Ministry of Culture ;

"Competent Minister" means the minister who shall be specified by the President of the Republic .

Scope of Application of the provisions of this Act

4. (1) The provisions of this Act shall apply to :-

(a) any work published or non-published of a Sudanese or non-Sudanese whose habitual resident in the Sudan ;

(b) the audio-visual work whether the published or non-published , where the head-quarters of the producers is in the Sudan or habitually resident in the Sudan ;

(c) any work published for the first time in the Sudan, or published within 30 days of its publication in another country ;

(d) the architectural work held in the Sudan, or any other artistic works compact in a building or structure inside the Sudan;

(e) performance of a sudanese artist ;

(f) performance of a performance artist held in the Sudan ;

(g) performance of an artist compact in a sound recording protected under the provisions of this Act ;

(h) live performance of a performance artist transmitted by a broadcasting programme protected under the provisions of this Act ;

(i) the sound-recording which is done as follows :-

(i) the producer is Sudanese ;

(ii) the first fixture is in the Sudan ;

(iii) the first publishing is in the Sudan .

(j) broadcasting transmission, that broadcasted by the broadcasting organization where its head-quarters is in the Sudan or the same transmitted by a transmitter existed in the Sudan .

(2) The provisions of this Act shall apply to any work, performance or sound recording enjoys the protection upon any convention, international, regional, biolateral agreement where Sudan is a party .

Chapter II

Protection of works

Works covered by protection

5. (1) The protection prescribed under the provisions of this Act shall apply, without restriction by any formalities, to any creative work in the field of literature, science and arts, no matter the way of expression therein, or whatever its value, object or its kind whether the work is fixed in material form or not, and that includes the following :-

(a) written works, such as book, magazine, periodical publication, article and works of like nature ;

(b) oral work like lectures and serom ;

(c) talks or silent musical work whether accompanied by words or not ;

(d) plays and musical plays or any other drama work ;

(e) work performed by movements, steps, or the pantomime show ;

(f) the audio-visual work such as cinema, or audio-visual television whether accompanied with sound or silent ;

(g) works of fine arts, whether they are sculpture, drawing, painting, decoration or works of applied arts and works of artistic craftsmanship;

(h) photographic work or woks of like nature ;

(i) works of architecture ;

(j) computer programme ;

(k) maps of all kinds, portraits, sketches and relief map relating to geography or topography or science ;

(m) the title of work if it is creative .

(2) without affecting the protection of the original works, the protection shall extend to include the following subsidiary works :-

(a) translation, adaptation, summaries, modification, illustration works or else ;

(b) groups of protected or unprotected work, on condition that the work shall be creative as to its selection or arrangement of contents thereof ;

(c) printing of all kinds of literal, artistic or scientific works ;

(d) data base read from computer, on condition that the work shall be creative as to its selection or arrangement of contents thereof.

Works not included by protection

6. The protection prescribed under the provisions of this Act shall not include :-

(a) works which are vested into public domain ;

(b) official document ;

(c) daily news paper and different events which described as a journalist information ;

(d) ideas, procedures and methods of work, mathematics base, principles, and mere facts , and methods of creation of work.

Part I

Copy rights

Moral rights

7. (1) The author of the work shall have the following moral rights to :-

(a) attribute the work to himself in his real or pseudonym name, and he has the right to claim not to attribute the work in his name ;

(b) object to any distortion or mutation or alteration to his work ;

(c) object to any use of the work that may prejudice his honour or reputation ;

(d) disclose the work to the public for the first time and specify the way and conditions of this disclosure ;

(e) withdraw the work from circulation for good reasons on condition that he pays the aggrieved party a fair compensation specified judicially or consentually .

(2) Subject to the provisions of section 16, the moral rights mentioned in paragraph (1) shall not be subject to assignment or abandonment .

Economic rights

8. (1) The author of the work shall enjoy the exclusive economic rights in the following situations :-

(a) copying of the work ;

(b) translation of the work, adaptation, musical distribution or making any other modification on the work ;

(c) distributing copies of the work to the public by way of sale or expose for sale or any other act which transfers the ownership ;

(d) hiring computer programmes, and this right does not apply unless they are the main object of the hiring ;

(e) public performance ;

(f) transferring the work to the public .

(2) The author of the work may authorize any person to exercise the rights mentioned in paragraph (1) provided that the authorization shall be written and authorized by a competent legal body .

The right of follow-up

9. (1) Where upon transfer of ownership of an original work of fine art and a literal or musical scripture, the authors of the work or the successors shall enjoy the right to participate in the profits come as a result of every subsequent sale to the work or scripture thereof .

(2) The regulations shall specify the provisions which organize the rights mentioned in paragraph (1) .

Duration of protection

10. (1) Subject to the provisions of section 7(2) the protection of the moral and economic rights shall continue as follows :-

(a) the protection of the moral rights shall continue for ever ;

(b) the economic rights of the author shall last during the author's life and for fifty years after his death ;

(c) the economic rights of an audio-visual works shall last for fifty years after the audio-visual works put at the disposal of the public with the consent of the author, where upon the expiry of the fifty years and the work was not put at the disposal of the public the protection shall come to an end ;

(d) the economic rights of works that do not carry the name of the author or carry a pseudonym name shall last for fifty years after putting the work at the disposal of the public in a legitimate way, where the pseudonym name which is used by the author leave no room to doubt in specifying his character, the duration of the protection shall be as provided for in paragraph (b) and the same applies where the author reveals his real name before the expiry of the time of protection;

(e) the economic rights of the photographic and applied arts works shall last for 25 years after the achievement of the work .

(2) In relation to joint work the period shall start to run from the date of the death of the last surviving author .

(3) In paragraph (1) of this section the period shall start to rum from the first of January of the year subsequent to the date of death or the date of placing the work at the disposal of the public or to achieve the work, as the case may be .

Chapter II

Ownership of Copy right and transfer of rights

Ownership of copyright

11. (1) Subject to the provisions of section 12(6) the rights prescribed under the provisions of this Act shall be vested, in the first instance to the author .

(2) Whoever his name appears on the work in a proper way he shall be deemed the author of the work unless otherwise proved .

(3) In such works as may not bear the name of any author or bear a pseudonym name the publisher whose name appears on the work, shall exercise the rights of the author provided for in this Act as an agent until the appearance of the real author and he reveals his identity .

Joint and collective works

12. (1) Where several persons participate in the creation of a work they all deemed to be joint owners of the copy right .

(2) Where several persons participate in the creation of a joint work no one of such persons may exercise copy rights provided for in this Act unless there is a written agreement to the contrary .

(3) Where several persons participate in the creation of a joint work, so that the contribution of each of them in the whole work is distinguishable, each of such persons shall have the right to exploit the part created by him, provided that the exploitation of such part, shall not prejudice the exploitation of the same joint work .

(4) Notwithstanding the provisions of sub-section (1) and (2) , where one of the co-authors refuses to complete his part in the joint work, this shall not preclude others co-authors from exploiting the part made by him, without prejudice to the rights accruing to the co-author consequent to his participation in the creation of such work .

(5) Where any infringement occurs to the joint work, each one of the participants may raise a suit about that infringement .

(6) The economic rights of the collective works shall vest into the natural or corporate person who takes the initiative and the financial responsibility for the creation of the collective work .

Audio-visual works

13. (1) Every person participates in the creation of an audio-visual work shall be deemed to be the author, particularly the scripture, the author of the scenario, the author of dialogue, the director, the composer, and the author of the musical work especially created for such work .

(2) The producer of the Audio-visual work shall be obliged to conclude written contracts with authors, to organize the transfer of rights thereto and to specify the time and place of exploitation, the period of exploitation thereof and the financial return .

(3) The authors of the audio-visual work may make provisions in the contract in order to keep their economic rights which comes as a result of any other use of their participations used apart from the audio-visual work .

(4) The producer of audio-visual work within the period of the exploitation of the audio-visual work is deemed to be representing the authors of the work with regard to the exploitation thereof, save with a contrary written agreement .

Waiver of rights

14. (1) The author may waive to any person any of his economic rights, such waiver shall not be valid unless it is written and signed by him or his legal agent, provided that such wavier shall contain expressly and in details any individual right and the period and place and the way of exploitation and the financial return thereof .

(2) The waiver of the financial right of the author on the future intellectual production of the author shall be null and void .

(3) The authority to dispose the ownership of the material copy of the work does not mean abandoning any of the copy right of the author thereon .

Permission for exploitation

15. (1) The author of the work may give permission to exploit and exercise the economic rights of his work to any person, the permission can be exclusive or non-exclusive .

(2) The non exclusive permission to the permitted person, may allow that person to exercise the actions which are the object of the permission, simultaneously with the owner of the copy right and the other persons given a non-exclusive permission.

(3) The exclusive permission gives only the permitted person the right to exercise the business which are the object of the permission and gives the others non-exclusive permission to exploit the work .

(4) The permission shall not deemed to be exclusive unless that was expressly provided for in the contract concluded between the two parties .

(5) The owner of the copyright upon giving permission thereon, shall conclude a written contract with the permitted person specifies the business he is permitted to exploit, the period, place, the manner of exploitation and the financial return .

Publishing contract

16. (1) The publishing contract shall be :-

(a) written and specifies the form and manner of executing the publishing and any other conditions including the condition of revocation of the contract ;

(b) clarifying the publisher commitment to give the author all the documents that prove his accounts with regard to the specified work ;

(2) The contract between the publisher and the author or his successor shall not be deemed a publishing contract if the author or his successor pays the publisher in order to make copies of the work according to the amount, form, and the way of expression specified by the contract .

(3) Upon the death of a co-author in joint works without leaving heirs, his share shall vest into the State unless there is a written contract to the contrary .

Termination of contract by the author

17. With regards to the terms of the contract, the author may, where the contracting party did not exploit the work during the period of enforceability of the contract may undertake the followings :-

(a) where it is provided in the contract for a specific period for exploitation of work, and where such period is expired the author may terminate such contract ;

(b) where no provision of specific period for exploitation of the work in the contract, the author may terminate the contract after the expiry of half the period specified for the contract.

Transfer of ownership of copyright after the author death

18. (1) On the death of the author his rights shall vest into his lawful heirs .

(2) On the death of the author where he left no heirs, his rights mentioned therein shall vest into the State .

Chapter III

Neighbouring rights

The moral rights of the performance actor

19.(1) Notwithstanding the transfer of any of the economic rights of the performance artist, he can enjoy the following moral rights on his live performance or the performance fixed in a sound recording and the rights are :-

(a) attributing of his performance to himself unless the way of performance or the means that used prevent that ;

(b) the right of preventing any distortion or mutilation to the performance thereof or prejudice this reputation.

(2) Upon the death of the performance actor, his moral rights shall be exercised by his lawful heirs, and where he left no heirs the State shall exercise such rights, in accordance with the rules of inheritance which the performance actor subjected thereto .

The economic rights of the performance artist

20. (1) The performance artist shall enjoy the following exclusive economic rights :-

(a) broadcasting of his live performance or transfer the same to the public ;

(b) fixing his live performance on a sound recording ;

(c) making copies of his live performance fixed on a sound recording ;

(d) distributing his original performance or a copy fixed on a sound recording to the public by way of sale or any other transaction that transfers the ownership ;

(e) approve his performance fixed on a sound recording;

(f) giving the public access to the performance fixed on a sound recording by wire or wireless methods which

enables any person to look into it at any time and place .

(2) The rights mentioned in sub-section (1) of the hereto may be transferred to others, and that transfer shall not be valid unless it is written and signed by the owner of the right .

The rights of the producer of the audio-visual recordings

21. The producer of the sound recordings shall enjoy the following rights :-

(a) copying the sound-recordings he produced ;

(b) distributes to the public the original sound recording or the copies thereof by way of sale or any other transaction that transfers the ownership;

(c) imports copies of his sound-recording ;

(d) hires the sound recording to the public ;

(e) give the public access to his sound-recording by wire or wireless methods at any time and place they choose .

Fair remunerations for exploitation of sound recording

22. (1) Where on exploiting a sound recording published for commercial purpose by way of broadcasting, transfer to the public, or public performance, the permitted exploiter shall pay fair remuneration to the performance artist and the producer of sound recording and the remuneration thereof must be divided equally between the producer and the performance artist provided that the remuneration value must be agreed on amicably by the concerned parties, and that with due consideration for copyrights provided for in this Act .

(2) Subject to the provisions of sub-section (1) the non-Sudanese performance artist and the producers of sound recording shall have right to remuneration upon the principle of reciprocity .

The rights of broadcasting corporation

23. The broadcasting corporation shall enjoy the following exclusive rights :-

(a) fixing the programmes transmitted thereby ;

(b) copying the fixed programmes ;

(c) re-transmission of the programmes by wireless methods ;

(d) transfer the television programmes by any other method .

Duration of protection of neighbouring rights

24. (1) The protection of performance artist rights shall last fifty years from the date of the beginning of the Gorgorian year subsequent to the date of the sound fixture of the performance or the date of non-fixed performance .

(2) The protection of the producer of sound recording shall last fifty years from the date of the beginning of the Gorgorian year subsequent to the date of the publishing of the recording. In case of non-publishing the registration within fifty years the period of protection shall start to run from the date of the first Gorgorian year subsequent to the date of the registration fixture .

(3) The protection of the transmission unit rights , continues for twenty years as from the first of the Gorgonian year subsequent to the year of the transmission .

Chapter IV

Exclusion and restriction on copyrights and neighbouring rights

Exclusion of author's consent

25. (1) Without prejudice to the moral rights provided for in section 7 of this Act, all acts provided for in sections 26-36 shall be deemed lawful acts even without the consent of the author or the owner of the right to the acts thereof.

(2) The provisions of sub-section (1) shall apply to the neighbouring rights .

Usage for educational purposes

26. Short pieces of works may be used or copied whether such works are published or contained in a broadcasting programmes, audio recording, visual recordings or audio-visual recordings for education purposes under the following conditions :-

(a) to mention the source and author's name every time the work is used ;

(b) the work shall not be used for commercial or profitable purposes ;

(c) the use of the work shall not contradict the usual exploitation of the work and shall unjustifiably prejudice lawful benefits of the author .

Quotations

27. Brief quotations of a published work may be lawfully taken and inserted in another works for the purpose of clarification, illustration, or criticism in a normal way of things and to the extent justified by this purpose, subject to the good usage of the same, provided that the source and the name of author shall be mentioned .

Transfer or copying from news paper

28. The transfer to the public or copying the articles published in news papers and periodicals , about discussions held about current economic, political, religious or broadcasted works of like nature through newspaper, broadcast, wire transfer to the public in cases where there are no rights of transfer or copying expressly reserved, and the source shall be clearly mentioned .

Copying for legal proceedings

29. The copying or recording of a protected work allowed in order to be used in legal proceedings or arbitration or administrative disputes, willing the limits of the same, the source and author's name shall be mentioned .

News reports

30. There may be copied and transmitted any published work (heard or seen) during current events in the framework of making news reports about the events thereof, within the limits which justifies the required information purpose .

Photo copying in libraries

31. (1) Any library or archiving services may copy or photocopy two copies of the protected unpublished work in their possession in order to keep the original copy.

(2) Any library or archiving services may copy or photo copy two copies of the protected work, one copy shall be in their possession, according to the following conditions :-

(a) photo copying not to be for commercial or profitable purpose ;

(b) the copy in their possession might be lost or damaged or about to be damaged ;

(c) the edition of the copy in their possession might be out of stock or is impossible to get in a reasonable price .

Publishing by mass media

32. The different mass media may publish the protected work, provided that the source and the author's name shall be clearly mentioned, and to the extent that justifies the media purpose, provided that the author shall have the exclusive right in publishing such work in groups .

The temporary registrations of broadcasting corporations

33. The broadcasting corporation may, by its own means make temporary recordings of any protected work that the same are licensed to transmit provided that the recordings thereon shall be ruined before passing of 3 months of the date of its making, unless these recording are documentaries .

Copying of computer programme

34. Every person in possession of lawful computer programme, may make a single copy of that programme in case the original is lost or ruined .

Public performance of works

35. Works may be publicly performed in the following situations :-

(a) official celebrations, provided that it shall be within the limits the celebration required ;

(b) shall be within the educational activity and scientific research of the educational institutions .

Import for personal use

36. Any natural person may import limited copies of works for his personal use .

Compulsory licencing

37. (1) Any person shall apply to the Council subject to subsections (2) and (3) to grant him a license to copy or translate or both copy and translate any protected work subject to the provisions of this Act, without the author permission.

(2) The decision of issuing the compulsory licnence in sub-section (1) shall be for educational reasons, studies researches, the time and place limits and the fair financial return to the author or his heirs .

(3) The regulations shall specify the necessary conditions to issue the license mentioned in sub-section (1), and the situations and procedures of giving licence shall be in accordance with the provisions of the annex of Berne Convention for the developed countries .

Chapter V

Registration

38.(1) Applications of registration of works, presented to the Registrar shall be voluntary and that shall be conclusive evidence of the initiations of the works or authoring thereof where a dispute arises or legal proceedings held thereon.

(2) Registration of contracts of referring economic rights of the author to the user of the work shall be mandatory, such registration shall be conclusive evidence to prove the lawful exploitation of the work by the user, where a dispute arises legal proceedings held thereon.

Chapter VI

Folklore Expressions

Ownership of folklore expressions

39. The National folklore expressions shall be considered as State public ownership represented in the council entrusted by all methods and means for its protection .

Moral rights on folklore expression

40. (1) The council shall resume perpetually the moral rights on the folklore expressions which guarantee its protection from distortion or mutation this rights shall neither be waived or submitted to prescriptions.

(2) Those who exploit or use the folklore expressions shall clearly mention its resource .

Protection of folklore expressions

41. (1) No person shall copy or distribute folklore expression copies for the purpose of sale or by any other disposition as will transfer ownership or to make public performance or transfer it to public except after obtaining a written permission from the council .

(2) There shall be a reference to the geographical and human base of an exploited folklore expression whenever possible and in the appropriate manner .

(3) The financial return resulting from exploitation of folklore expression shall be allotted to the preservation, collection and support of the same .

(4) Any person may use folklore expressions in such a way as will not be intended for profit or will be made within the traditional or customary frame of folklore expressions or that the use is intended for adaptation or extraction which tends to create a new creative work .

(5) Exclusions and restrictions mention in chapter VI shall apply to folklore expressions after making the necessary changes .

Chapter VII

Collective Management

Establishment of collective management

42. (1) There shall be established an entity for the collective management shall solely hold the collective management of the copyright and the neighbouring rights .

(2) The general assembly of the collective management shall appoint the general manager of the collective management entity.

(3) The owners of copyrights and neighbouring rights may abandon their financial rights to the collective management unit to hold the collective management over the same rights in its own name and to its own account as it is deemed to be their private successor.

(4) The collective management unit shall have the following powers and functions :-

(a) represents the members who join the unit in the negotiations and concludes the agreements with exploiters within the frame of its jurisdiction ;

(b) grants license for the exploiters within the frame of its activities ;

(c) collects the financial return of exploitation from exploiters ;

(d) distributes the collected amounts to the owners of the rights after discounting the management expenditure ;

(e) defends the owners of the rights by all means and methods including representing them before the judiciary and the authorized organs ;

(5) The basic rule shall specify the manner and procedures which regulate the work of the collective management and how the members can joint the same .

Part III

Literal and Artistic Works

Chapter I

Works control

Prohibited Works

43.(1) No importation, exportation, production, entrance, publishing, typing or Circulation of any works or dealing in the same where :-

(a) in contravention of religious values or public morals;

(b) offending beliefs, customs or religions;

(c) offending colour, race or make preference to sex over the other;

(d) contradicting the State policy or its national security;

(e) joint production with enemy State or propaganda to enemy state .

Bases and Criteria of Control over Production and Film exhibition

44.(1) The Council shall lay down the bases and Criteria for the production and control of a cinematic film to guarantee the protection of public Morals and ethics and the interest of the State and regard shall be taken to the diversity in importing and exhibition of films, such as may be specified by regulations.

(2) The Council may delete any part or parts of a Cinematic film, or amend the film text or dialogue before exhibition,

(3) The Council may stop or prevent the exhibition of any approved Cinematic film where necessity requires the protection of the Cultural Security and refer it to the secretary general to

reconsider the mentioned film on the light of the new considerations.

Chapter II

Obtaining Licence and cancel, attachment and appeal

Obtaining Licence and cancel

45.(1) No person shall import, export, record, type or publish any vocal, visual or read materials whether C.D. or cassette or video of Cinematic film, book or make any support material for purpose of trade or exercising artistic work for any other purpose without obtaining a licence from the secretary general.

(2) Licence application shall be submitted to the secretary general in the prescribed from and payment of the fees specified by the regulations.

(3) The secretary general shall issue the necessary licence according to the procedure provided therefor .

(4) The secretary general may cancel the licence or stop the same whenever convinced that there was contravention to the conditions according to which the licence was given.

Assignment of the licence

46.(1) any person granted a licence under the Provisions of this Act may assign it to another person or dispose thereof in any other manner with the written consent of the secretary general;

(2) Without prejudice to any other penalty, whoever contravenes the provisions of sub-section (1) shall be subject to stop or cancellation of the licence forthwith.

Attachment

47. The secretary general shall order attachment and take the necessary legal Proceedings against any work which contravenes the Provisions of this Act.

Appeal

48.(1) any person aggrieved by the administrative decisions of the secretary general may submit an appeal within two weeks from the date of his knowledge of the decision.

(2) The Council shall make a decision within two weeks from the date of receiving the appeal.

(3) The decisions of the Council shall be appealed to the Minister Concerned where he can form a committee to Consider the appeal and submit recommendations thereto to take the decision, in a period not to exceed one month and such decision shall be final.

Production, Publishing and distribution of work

49. No person shall produce, publish, distribute or deal in any works for commercial purpose or assist in the same unless he prints conspicuously the name of the author producer or the company or distinguished trade mark of the work and the place of printing and its date.

Part IV

The Council

Chapter I

Establishment of the Council

50.(1) There shall be established a Council to be known as "The National Council for Copy right and Neighbouring rights and the Literal and Artistic works", and it shall be corporate body having common seal and shall have the right to litigate on its own name.

(2) The seat of the Council shall be in Khartoum State and it may establish branch offices for the Council secretariat in the states in Co-ordination with the states functions.

(3) The Council shall be under the supervision of the Minister.

Formation and duration of the Council

51.(1) The Council shall be formed by a resolution of the Council of Ministers upon the recommendation of the Competent Minister from chairperson and adequate number of members having competence and experience; provided that it shall be among them members representing relating bodies and the secretary-general shall be a member and rapporteur and the resolution shall specify remunerations of the chairperson and members.

(2) The duration of the Council shall be four years.

Vacancy of office

52. The office of the member shall fall vacant in the following cases :-

(a) resignation;

(b) disability;

(c) absence from three consecutive meetings without permission or execuse acceptable to the Council and that shall be subject to the resolution of the Council;

(d) breaching the provisions of section 56 according to the resolution of the Council ;

(e) death.

Objects of the Council

53. The Council shall have the following objects :-

(a) prepare good environment for creation, initiation, writing and publishing's in the field of artistic literal and cultural production;

(b) protect rights of authors and creative's;

(c) protect the national cultural security;

(d) co-operate with organizations of writers of literal and artistic works and strive to make awareness and guidance to protect and care for the interest of its members moral and economical;

(e) co-ordinate with the relating international and regional organizations.

(f) documentation of national cultural production to enable local, regional and international publication.

Functions and powers of the Council

54.(1) The Council shall be the State consultant in respect of literal and artistic works, copyright, neighbouring rights and folklore expressions.

(2) Subject to the provisions of sub-section (1), the Council shall have the following functions and powers :-

(a) lay down the general policies and necessary plans and programs to achieve its objects;

(b) lay down bases, criteria and necessary conditions for registration and approval according to the provisions of this Act ;

(c) find Chances of internal and external finance by guarantee, and easy condition for the bodies which it constituted and supervised by the Council in accordance with the applicable financial bases;

(d) co-ordinate work with the different levesl of governance;

(e) approve the administrative and organizational chart of the Council, and submit the same to the Minister to submit it to the competent bodies for approval;

(f) submit periodical reports to the Minister of the work of the Council, and provide him with data whenever he requested the same;

(g) propose the different legislations concerning copyright and literal and artistic works and submit the same to the Minister;

(h) supervise and control of all activities relating to the works;

(i) supervise the entities formed by the Council to work for the promotion of culture, creation, publishing industry and cultural industries in the field of the works in the Sudan;

(j) approve the annual budget and submit the same to the competent bodies for final approve ;

(k) own property and dispose therein to achieve its objects according to the laws and financial regulations organizing the same;

(l) recommend to the Minister, the accession to international and regional agreements, and follow-up its approval procedure;

(m) establishment of the inspection and field control unit;

(n) establish national record for the works exploited by the bodies exploiting the works;

(o) establish technical committees to assist it in its, business;

(q) impose registration and approval fees according to the provisions of this Act.

(3) The Council may delegate any of its powers to the chairperson or the secretary general or any committee or establishment formed by the Council , with the conditions and safeguards it deems appropriate.

Council Meetings

55.(1) The Council shall meet periodically once every three months, and may hold emergency meetings on an invitation of the Minister, Chairperson or one third of its members.

(2) The regulations shall determine the rules of the meetings and decisions taking.

Disclosure of Interest

56. Every member of the Council who has direct interest in any subject pending before the Council, shall disclose such interest to

the Council , and in this case he may not participate in deliberations or decision taking regarding such subject.

Chapter II

The General secretariat

Establishment of General Secretariat and its formation

57.(1) There shall be established a general secretariat to assist the Council in the performance of its executive and secretariat business, public relations and any other business entrusted by the Council.

(2) The general secretariat shall consist of :-

(a) the secretary general;

(b) adequate number of employees to be appointed by the Council upon the recommendation of the secretary general according to the approved posts chart.

Appointment of general secretary and his Functions and powers

58.(1) The Council of Ministers shall appoint the secretary general upon the recommendation of the Competent Minister, and the appointment decision shall determine his emoluments and privileges.

(2) The secretary general shall be responsible before the Council for the Performance of his work, and shall be the registrar by virtue of his office and without prejudice to the generality of the foregoing he shall have the following functions and powers :-

(a) run the executive routine work of the Council;

(b) perform all registration procedure of the works and performances and sound recordings Contracts of disposition exploitation and distribution ;

(c) supervise exploitation and distribution contracts all the departments of the Council;

(d) propose the annual budget, and submit the same to the Council ;

(e) prepare the annual report and submit the same to the Council;

(f) organize the meetings of the Council, follow-up implementation of decisions thereof, record minutes, and decisions, recommendations and keep the relating documents;

(g) supervise the committees formed by the Council;

(h) represent the Sudan in dealing with similar countries, institutions and organizations;

(I) appoint employees, lay down their terms of service according to laws and regulations organizing the same;

(j) conclude contracts according to laws and regulations;

(k) seek assistance of experts and specialized in the different fields of his work;

(l) grant licence to registration, typing or publishing of any works, except newspapers;

(l) approve the importation and exportation of works;

(m) attach any imported works by any person who does not hold licence or the importation contradict the conditions of the licence;

(n) stop any sale or deal of any works which in its registration or sale or deal, the procedure was not followed as specified in this Act, regulations, order or rules issued thereunder;

(o) receive works, tapes, video, C.D. or disc etc. of sound recording or visual recording entering the country or exported outside from customs Police or mails, to examine and revise the same in co-ordination with customs police and make sure it is not contracting the provisions of this Act or any other law;

(p) give approval to printing press, service centres to exercise its work according to conditions and safeguards determined by the regulations;

(q) give approval to printer to publish any printed material after it's adoption by the Council and grant it the legal deposit number;

(r) any registration certificate or any other official certificate issued by the registrar shall have cogency on the validity of its contents unless other wise proved.

(s) the regulations shall specify the functions and power of the registrar & the registration procedures .

Chapter V

Financial Provisions

Financial Resources of the Council

59. The financial resources of the Council shall consist of :-

(a) such appropriations allocated by the state;

(b) contribution, gifts, grants approved by the Minister of Finance and National Economy upon the recommendation of the Competent Minister;

(c) any other resources approved by the Minister of Finance and National Economy upon the recommendation of the Competent Minister.

Keep of accounts, brooks and records

60. The Council shall keep proper and satisfied accounts to all revenues and expenditure and the relating books and records according to the sound accountancy bases applicable in the State.

Audit

61. The national Audit Chamber or whoever delegated thereby and under his supervision shall audit the accounts of the Council at the end of each financial year.

Chapter VI

General Provisions

Contraventions

62. (1) There shall be deemed contravening the provisions of this Act every person who :-

(a) assumes without right any of the copy rights provided for in section 7 or 8 in relation to a whole or part of the work ;

(b) assumes without right any of the rights of a performance artist, producer of sound recording, or the unit of transmission, provided for in this Act;

(c) presents false information, statements or documents containing untrue statements in order to register in accordance with the provisions, of this Act ;

(d) cancel or change without permission, any information in an electronic form to be contained in the guarantee of the management of rights ;

(e) distributes, imports, for the purposes of distribution broadcast or transfer to the public, without permission, copies of works, fixed performances or sound recordings knowing that paragraph (d) applies thereto;

(f) deceives, revokes or delay any of the effective technological arrangements ;

(g) industrializes, imports, sells or exhibits for the purposes of sale, hiring or possess for any other commercial purposes, distribute, make any propaganda for sale, hiring any piece, set, service or any instrument has been designed, produced or used for the purposes of fraud, revocation, or delaying any of the effective technological arrangements ;

(h) contravenes the provisions of section 42 of this Act .

(2) For the purposes of sub-section (1) :-

(a) the term information that shall be contained in management of rights means any information given by the owners of the rights which is known as :-

(i) the work, the sound recording or performance ;

(ii) the author, performer or producer of sound recordings ;

(iii) the owner of right of the work, performance or sound recording ;

(iv) conditions that shall be available to make use or to get benefits out of the work, the performance or the sound recording ;

(v) any figures or code indicates the explanation of information thereof .

(b) the term "effective technological arrangements" means technology, procedure or instrument following the coding or control the extracting of copies that one used to prevent or restrict doing business, not licenced by the owners of the rights .

Pre cautionary measures

45. (1) A court upon application made by the owner of the right or his heirs where there is infringement or emminent infringement to any right mentioned under this Act, may order any of the following measures :-

(a) full description of the work, performance, sound recording, broad casting programmes, which are the subject of infringement ;

(b) order an injunction of publication of the work, sound recording, broadcasting programmes subject of the infringement ;

(c) restrain the work, sound recording, broadcasting programme whether the same is original or a copy

the restrain shall include the materials used in re-publishing or in making copies ;

(d) to prove the event of infringement on the protected right ;

(e) to count the revenue comes out of the exploitation of the right and put the same under restriction .

(2) The application mentioned in sub-section (1) may be presented before /after/ while raising the suit .

(3) If the applicant mentioned in sub-section (1) proved that he is the owner of the right, and the same right have been infringed or about to, the court shall take any of the decisions provided for in sub-section (1) as pre cautionary measures to prevent infringement from taking place or to keep any evidence related to the event of infringement .

(4) The court may take any of the proceedings provided for in subsection (1) as pre cautionary measure without notifying the defendant and in his absence where the delay may prejudice the rights of the owner or the damage can not be avoided or where his rights are lost by the infringement thereof, nevertheless the parties who are prejudiced by these proceedings shall be notified immediately and in this case the defendant or the aggrieved party may apply for a hearing session and the court after the hearing session may order the retention , amend or repeal the pre cautionary measures .

(5) The applicant for pre cautionary measures according to sub-section (3) and (4) shall pay a bail as guarantee for any damage may be caused to the defendant where the plaintiff is not rightful in his claim .

(6) The applicant for the pre cautionary measures may raise a suit within ten days of the date of issuing the court order of pre cautionary measures, and not to repeal pre cautionary measures ordered by the court, and that is according to the application of the defendant .

(7) In case of repealing the pre cautionary measure subject to sub-section (6) where there is no act of infringement; the court may upon application by a defendant order an adequate compensation for the damage caused as a result of the proceedings .

(8) The person aggrieved by the pre cautionary measures may in accordance with this section, complain to the court issued the decision within fifteen days of the date of summons and the court may retend, repeal or amend the decision thereof .

The offence of infringement of copy-right and neighbouring rights

64. (1) There shall be committed the offence of the infringement of copyright or neighbouring rights or folklore expressions any person who commits knowingly any act that mentioned in section 62(1) .

(2) Every person who commites the offence of infringement of copyright or neighbouring rights shall be punished with imprisonment or with fine, and in case of repetition shall be punished with both .

(3) The person aggrieved by the infringement may claim financial compensation for the loss of gain or for the prejudice to reputation or rights .

(4) For the purpose of sub-section (1) the person is deemed to have knowledge where he knows that he is infringing, or has reason to believe that, or it is possible for him to know if he takes the necessary care and caution .

Sanctions in cases of contraventions and infringement

65. Where there are contraventions or infringements committed under the provisions of this Act, the court shall take the following :-

(a) confiscate the sale's revenue to the benefit of the aggrieved party ;

(b) decide that the aggressor shall pay the aggrieved party, financial compensation for the loss of profits or the prejudice to his reputation or rights ;

(c) order an injunction to stop the infringement ;

(d) order upon an application of the aggrieved party to annihilate or destroy the imitative copies of the work, or copies that the infringement of, the copyright or neighbouring rights committed thereon ;

(e) order confiscation of the copies subject to the contravention, and the sets, instruments and materials used in committing the contravention, and deliver the same to the aggrieved party ;

(f) the decision of the court shall be published in one or more of the daily newspaper at the expense of the defendant .

Penalties

66.(1) Subject to the Provisions of Section 63, and without prejudice to any sever punishment provided for in any other law, whoever contravenes the provisions of this Act, regulations, orders or rules made thereunder, shall be punished with imprisonment for a term not exceeding two years or with fine or with both.

(2) In all case in which contravention is committed the court may order confiscation of exhibits the subject matter of the contravention to the interest of the Council.

Capacity in suit

67. Every beneficiary whether the author, the owner of neighbouring rights or whoever the rights were transferred thereto , in accordance with the provisions of this Act, or the council where the infringement concerns the folklore expressions any person

represents other persons mentioned in this section, shall have the right to raise a suit before the competent court, civil or criminal .

Competent court

68. The court of magistrate of first grade shall have competence to consider suits arising under the provisions of this Act .

Fees

69. The Council may issue the fees necessary for rendering its services upon the approval of the Minister and the Minister of Finance and National Economy.

Court of arbitration

70 (1) There shall be established a court of arbitration and settlement of disputes from those possess of qualification to consider disputes occur by reason of the application of the provisions of this Act .

(2) Referring to arbitration shall be upon mutual consent of the parties .

(3) The Court of arbitration award shall be binding for both parties;

(4) The constitution of the court of appeal and the proceedings thereof shall be in accordance with the Arbitration Act 2005 .

Power to make regulations

71. The council may issue regulations, rules, or orders necessary for the implementation of the provisions of this Act .