

Copyright (Amendment) Rules, 2021

Introduction

The Ministry of Commerce and Industry notified the Copyright (Amendment) Rules, 2021 on 30 March 2021, effective immediately. The key changes brought about by the Copyright (Amendment) Rules, 2021 ('**© Rules Amendment**') are set out below.

Subsequently, on 4 April 2021 the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 ('**Ordinance**') was passed by the government which abolished the Intellectual Property Appellate Board ('**IPAB**'). Details on this are covered in a separate regulatory update.

Governing body

The © Rules Amendment empowered the erstwhile IPAB to grant compulsory and statutory licenses, determine royalty rates and do all such things that were previously the responsibility of the Copyright Board. Quick on the heels of the © Rules Amendment, the IPAB was abolished by the Ordinance. The Ordinance mandated that these powers would now vest with the appropriate Commercial Courts set up under the Commercial Courts Act, 2015. Detail on adjudication of copyright cases are in an independent regulatory update.

Reforms to the functioning of copyright societies

Digitization

- > Copyright societies are required to create electronic systems of collection and distribution of royalties, such that payments made through such modes are traceable.
- > Copyright societies must also provide a searchable database of works forming part of their repertoire.

Payment of royalties to authors

- > Where an author / owner of a work cannot be identified or located, royalties relating to such works must be kept in a separate account of the copyright society.
- > Copyright societies must take adequate measures to find such authors by publishing information relating to such works on their website.
- > If such authors are still not identifiable, the royalty so reserved, may be transferred to the welfare fund set up for the welfare scheme provided to members of such copyright societies.
- > Copyright societies must provide details of undistributed royalties in cases of works whose authors / owners could not be identified or located.

Annual Transparency Report

- > Copyright societies must publish an annual transparency report on their website in a timely manner, which must remain accessible for a period of three years.
- > This report must provide details of the activities undertaken by the copyright society in a given financial year, details of license refusals, royalties collected and paid to authors, the use of amounts deducted from royalties for administrative expenses and welfare schemes etc.

Source code registration

Prior to the © Rules Amendment, applicants for copyright in software had to submit the entire source code and object code in unredacted form as part of their application for registration of copyright. With the aim of strengthening proprietary information for owners of copyright in software, applicants are now only required to submit unredacted versions of the first 10 and last 10 pages of their source code. If, however, the source code is less than 20 pages, the entire code must be submitted.

Procedural changes

- > All notifications will now be published in the Copyright Journal and the official website of the Copyright Office, instead of the Official Gazette.
- > Communications may now be served on the owner of the relevant works through electronic means in addition to registered post.
- > Payments may be made through electronic means, in addition to demand drafts and banker's cheques.

Conclusion

The © Rules Amendment has critically recognized the necessity for digital access to resources.

By mandating compulsory annual transparency reports (though not granular as stipulated in the 2019 draft rules) the © Rules Amendment has taken a significant step towards bringing openness to the opaque way in which copyright societies work.

The issue of statutory licenses for internet broadcasting remain a grey area as the amendments proposed in the 2019 draft rules have not been carried out.

It remains to be seen how the courts deal with the additional load of taking

Contact

Should you have any feedback/queries reach us at contactus@pdslegal.com

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