

UNESCO
WORLD ANTI PIRACY OBSERVATORY

SRI LANKA

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I. Legislation

1. Copyright laws

Copyright legislation in Sri Lanka includes:

- the [Intellectual Property Act 36 of 2003](#)
- the regulations made under this law published in Government Gazette n°: 1415/18 of October 19, 2005, 1445/10 of May 17, 2006 and 1527/18 of December 13, 2007.

2. Other laws

The other laws pertaining to anti-piracy measures and copyright enforcement are:

- The Civil Procedure Ordinance (Chapter 101) (as amended)
- The Code of Criminal Procedure Act no 15 of 1979 (as amended)
- The Judicature Act No 02 of 1978 (as amended)
- The High Court of the Provinces (Special Provisions) Act No.10 of 1996 (as amended)
- The Customs Ordinance (Chapter 235) (as amended)

3. Latest developments and perspectives

There are no planned amendments.

4. Summary of legislation

The copyright law protects original literary, artistic and scientific works. They are protected by the sole fact of creation, irrespective of their mode of expression, content, quality or purpose. Derivative works, such as translations and databases, are also protected. Protection does not extend to ideas, concepts and principles, official texts concerning legislation, administration and judicial proceedings or news. Both economic and moral rights are protected (sections 5 -10 of the intellectual Property Act).

- *Exclusive rights of the authors and of the owners of neighboring rights*

Exclusive Rights of the authors

a) Economic Rights

Economic rights cover the following exclusive rights:

- (a) reproduction of the work;
- (b) translation of the work;
- (c) adaptation, arrangement or other transformation of the work;
- (d) the public distribution of the original and each copy of the work by sale, rental, export or otherwise;
- (e) rental of the original or a copy of an audiovisual work, a work embodied in a sound recording, a computer program, a data base or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
- (f) importation of copies of the work, (even where the imported copies were made with the authorization of the owner of the copyright);
- (g) public display of the original or a copy of the work;
- (h) public performance of the work;
- (i) broadcasting of the work; and

- (j) other communication of the public of the work.

The economic rights generally belong to the author. However, there are certain exceptions, such as works created by employees or commissioned works, which usually belong to the employer or the person who commissioned the work (section 14).

Economic rights can be assigned, transferred and licensed by the owner (section 10).

b) Moral rights

Moral rights cannot be transferred, assigned or licensed (section 16).

Exclusive right of the owners of neighboring rights

The Intellectual Property Act also protects related rights (neighboring rights) - rights of performers, producers of sound recordings and broadcasting organizations (sections 17-21).

Performers have the following rights:

- (a) the broadcasting or other communication to the public of his performance or a substantial part thereof, except where the broadcasting, or the other communication –
 - (i) is made from a fixation of the performance, other than a fixation made in terms of section 21, or
 - (ii) is a re-broadcasting, made or authorized by the organization initially broadcasting the performance or substantial part thereof;
- (b) the fixation of his unfixed performance or substantial part thereof;
- (c) the reproduction of a fixation of his performance or substantial part thereof.

Producers of sound recordings have the following rights:

- (a) the direct or indirect reproduction of the sound recording or substantial part thereof;
- (b) the importation of copies of the sound recording or a substantial part thereof, even where such imported copies were made with the authorization of the producer;
- (c) the adaptation or other transformation of the sound recording or a substantial part thereof;
- (d) the rental of a copy of the sound recording or a substantial part thereof, irrespective of the ownership of the copy rented;
- (e) the sale or offering for sale to the public of the original or copies of the sound recording or substantial part thereof;

Broadcasting organizations have the following rights:

- (a) the re-broadcasting of its broadcast or a substantial part thereof;
- (b) the communication to the public of its broadcast or a substantial part thereof;
- (c) the fixation of its broadcast or a substantial part thereof;
- (d) the reproduction of a fixation of its broadcast or a substantial part thereof.

c) Other

The intellectual Property Act also carries provisions for the protection of expressions of **folklore** (section 24).

- *Exceptions and limitations to copyright*

The economic rights are subject to certain limitations such as acts of fair use (sections 11 and 12).

These rights are also subject to the following limitations:

- the use by a physical person exclusively for his own personal purposes;
- using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- use solely for the purpose of face-to-face teaching activities or for scientific research;
- cases where, under copyright, a work can be used without the authorization of the owner of copyright.

- *Protection of foreign works*

The law in Sri Lanka applies to foreign works as follows:

(a) Copyright

- works of authors who are nationals of, or have their habitual residence in Sri Lanka;
- works first published in Sri Lanka, works published in another country and published in Sri Lanka within 30 days from such publication irrespective of the nationality or the residence of the author; or
- works that are protected in Sri Lanka under any international convention to which Sri Lanka is a party.

(b) Related rights

- **Performers** who are nationals of Sri Lanka;
- performers who are not nationals of Sri Lanka but whose performances-
 - (i) Take place in Sri Lanka; or
 - (ii) Are incorporated in sound recordings that are protected under the Act; or
 - (iii) Have not been fixed in a sound recording but are included in protected broadcasts.
- **Producers of sound recordings** are nationals of Sri Lanka;
- sound recordings first fixed in Sri Lanka; or
- sound recordings first published in Sri Lanka.
- **Broadcasts** of broadcasting organizations where the registered offices of such organizations are situated in Sri Lanka; or
- broadcasts transmitted from transmitters situated in Sri Lanka

- *Period of copyright protection*

The period of copyright protection is the lifetime of the author and 70 years after the death of the author. Related rights are protected for a period of 50 years.

- *Registration*

Works are protected without registration.

5. International Conventions and Treaties

Sri Lanka is a member of the following International Conventions and Treaties on Copyright and Related Rights:

- [Berne Convention for the Protection of Literary and Artistic Works](#)
- [Universal Copyright Convention](#) (UCT)
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#)

II. Measures and Remedies

1. Copyright infringement

Section 5 of the Intellectual Property Act defines 'infringement of copyright' as an act that violates any of the protected rights. The law does not specifically refer to Internet piracy, but, its provisions, in general, apply to instances of Internet piracy.

2. Remedies to protect copyright holders

The law recognizes both civil remedies and criminal sanctions concerning infringement of copyright and related rights. The civil remedies include injunctions, both temporary and permanent, damages (actual or statutory) and any other relief as the Court may deem just and equitable. Remedies also include search warrants, seizure, forfeiture and destruction of pirated copyright materials. (Part XI of the Act). Right owners can also seek the intervention of the intellectual Property Office for dispute settlement (section 22(3) of the Act).

3. Provisional measures

The provisional measures may be allowed ex-parte. These measures shall be ordered when the plaintiff proves that an irreparable damage will be caused unless such order is granted. The Court is also competent to order the infringer to disclose the identity of the persons involved in the production and distribution of the infringing goods and channels of distribution. The Court can also grant ex-parte orders to prevent the infringer from destroying evidence and to tender evidence in possession of the opposing party (section 171 of the Act).

- Civil remedies

Injunctions (temporary and permanent), damages (actual and statutory) and any other remedies as the court deem appropriate (section 173 of the Act).

- Criminal Sanctions

Six months imprisonment or Rs. 500,000 fine or both. Sanctions can be doubled for subsequent convictions. (Chapter XXXVIII of the Act)

- Provisional measures

As mentioned above, the Court can order search warrants, seizure, forfeiture and destruction of pirated copyright materials and equipment used in manufacturing the infringing copies.

4. Requirements for foreign persons

There are no such special requirements.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

(i) Civil Litigation

The Commercial High Court has initial jurisdiction. Appeals from the Commercial High Court are made to Supreme Court, which is the Highest Appellate Court of the country.

(ii) Criminal Sanctions

The Magistrate's Court has criminal jurisdiction with respect to the infringement of copyright and related rights. The owner of the rights may file a private complaint to enforce his rights or may make a complaint to the police.

(iii) Dispute Resolution

The Intellectual Property Office can help the parties of copyright disputes to settle their disputes amicably. An affected party can make a request to the IP Office and invoke jurisdiction. (Section 22(3) of the Act)

b) Enforcement bodies entitles to act ex-officio in copyright infringement cases

The Police are competent, where appropriate, to initiate on their own proceedings the prosecution of the copyright offenders.

c) Courts dealing with copyright cases

(i) Civil Remedies

A Special court known as the 'Commercial Court' has been established with initial jurisdiction relating to infringement of copyright. It is based in Colombo. However, the High Courts of the Provinces can also be vested with the same jurisdiction.

(ii) Criminal sanctions

The Magistrate's Court has jurisdiction with respect to criminal offences, including the infringement of copyright committed within its territorial jurisdiction.

2. Enforcement at the border

The Sri Lanka Customs has been empowered with the boarder control of importation and exportation of copyright material in violation of the protected rights. All the pirated copyright materials are designated as prohibited goods and exportation and importation of which are prohibited. Sri Lanka Customs can suspend the suspected pirated copyright material on its own or by application of the owner of the rights. In such cases, the applicant may be required to provide security to safeguard the interests of the defendant and to prevent any abuse. The applicant may also be liable to pay compensation to the defendant in case the complaint is wrongful.

The Sri Lanka Customs is also competent to destroy or dispose of any pirated copyright material.

The Sri Lanka Customs allows only the importation of one copy of a work by a physical person for his personal use without the authorization of the owner of the copyright (section 125 of the Customs Ordinance).

IV. Public Awareness

1. Awareness campaigns and actions

The Government of Sri Lanka extends its fullest cooperation to the owners of copyright to strengthen their Collective Societies.

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose

Information not available

4. Best practices

Information not available

V. Capacity-building

1. Training

The Government of Sri Lanka provides training on protected rights and their enforcement to the owners and managers of Collective Societies, as well as to the enforcement agencies like the Police, Customs, Judiciary and Public Prosecutors.

The Government of Sri Lanka carries out various types of Awareness Building Programs, such as newspaper advertisements, public lectures, TV programs and seminars.

2. Establishment of specialized units and intersectoral groups

The Criminal Investigation Department of Sri Lanka Police and Sri Lanka Customs have specialized Offices to conduct raids and investigations on copyright piracy.

The initiatives were taken to establish a National Steering Committee consisting of stakeholders to promote and protect IP rights, including the enforcement of Copyright.

3. Best practices

Sri Lanka, for example, implemented a WIPO pilot project on public outreach consisting of a series of TV programs and a subsequent essay competition for secondary students on Intellectual Property. This has contributed to the increased public awareness of Intellectual Property, including copyright.

There are several raids conducted by police, as well as successful prosecutions and civil litigations.

VI. Other

1. TPM/DRM

Section 23 of the IP Act recognizes measures, remedies and sanctions against the with respect to technical measures. For example, the manufacturing or importation or sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of copies is prohibited. The owner of the copyright is entitled to seek remedies from the Court.

2. Licensing Schemes

Information not available

3. Optical Discs

Information not available

4. Hotlines

Information not available

5. Contact Details

Sri Lanka Performing Rights Society Ltd
Address: No.675, Godage Book Shop, Maradana Road, Colombo 10.
Tel: 94 11 2851742
Fax: 94 11 2699249

Outstanding Song Creators' Association
Address: No. 73, Sir James Peris Mawatha, Colombo 02.
Tel/Fax: 94 11 2305070

Sri Lanka Police
Address: Police Headquarters, Colombo 01.
Tel: 94 11 2421111
Fax: 94 11 2446174

Sri Lanka Customs
Address: Times Building, Colombo 01
Tel: 94 11 2347881
Fax: 94 11 22446364