

# Law Relating to Copyright

## QUESTION 1:

**Explain the broadcast reproduction rights under the provisions of the Copyright Act, 1957.  
(DEC 2023) (5 MARKS)**

**Ans:**

1. Every broadcasting organisation have an exclusive Broadcast reproduction right which shall subsist until 25 years from the year next following the year in which broadcast was made.
2. Following are the rights covered in Broadcast Reproduction rights:
  - (a) Re-broadcasts the broadcast.
  - (b) Causes the broadcast to be heard or seen by the public on payment of any charges.
  - (c) Makes any sound recording or visual recording of the broadcast.
  - (d) Makes any reproduction of such sound recording or visual recording.
  - (e) Sells or gives on commercial rental or offer for sale or for such rental, any such sound recording or visual recording.

**QUESTION 2:**

**Do the following acts constitute infringement of copyright under the Copyright Act, 1957:**

- (i) Prof. Ajay recited in public an extract from a poem by Rabindranath Tagore.**
- (ii) ABC Publisher published a compilation of speeches of Atal Bihari Vajpayee, former Prime Minister, delivered in public without permission.**
- (iii) A newspaper publishes a copy of masterpiece painting of Ganesh while carrying a story on his death.**
- (iv) A book is not available in India. A librarian makes 10 copies of the book for the use of the Public library.**
- (v) A magazine reproduces an article on a political topic by Kuldeep Nayar. (DEC 2023)  
(5 MARKS)**

**Ans:**

- (i) Prof. Ajay recited in public an extract from a poem by Rabindranath Tagore.:**  
Reciting a poem for educational purposes without profit is allowed under the Copyright Act, 1957 and doesn't amount to infringement.
- (ii) ABC Publisher published a compilation of speeches of Atal Bihari Vajpayee, former Prime Minister, delivered in public without permission.:**  
Reporting speeches of a former Prime Minister in news is permitted. However, compiling and publishing them without permission amounts to infringement.
- (iii) A newspaper publishes a copy of masterpiece painting of Ganesh while carrying a story on his death:**  
Publishing a painting along with a death report is allowed if it's incidental to reporting current events or related to current affairs .
- (iv) A book is not available in India. A librarian makes 10 copies of the book for the use of the Public library. :**  
A public library making up to 10 copies of a book not sold in India is copyright infringement as only up to 3 copies are allowed for use if the copy is not available in India.
- (v) A magazine reproduces an article on a political topic by Kuldeep Nayar:**  
Reproducing articles in a newspaper, magazine on current economic, political, social or religious topics is allowed unless the author has explicitly reserved reproduction rights.

**QUESTION 3:**

**Manish assigned the copyright of his book to his niece Sujata in 2020. In 2022, due to some misunderstanding between them, Manish wants to revoke the assignment. Sujata contends that she has not made any fault and that she had helped a lot and there is no ground for revocation of assignment. Discuss. (DEC 2023) (5 MARKS)**

**Ans:**

1. Copyright Act, 1987 provides that the disputes with respect to assignment of copyright includes: -
  - (a) If the assignee fails to make sufficient exercise of the rights assigned, and such failure is not because of the mistake of assignor, then the commercial court may, upon a complaint, revoke the assignment.
  - (b) However, prior to passing any such order, the commercial court is required to inquire into the matter, provide an opportunity of hearing to both parties and be satisfied that the terms of the assignment are harsh or prejudicial to the assignor.
  - (c) Further, such complaints are to be disposed of within a period of six months, and in case of any delay, the court shall record reasons for the same.
2. In this case, Manish assigned the copyright of his book to his niece Sujata in 2020. Later, in 2022, due to a misunderstanding, he wishes to revoke the assignment. However, Sujata argues that she has lawfully exercised her rights without any fault .
3. In the instant matter, there is no claim by Manish or proof that Sujata failed to exercise the rights granted to her under the assignment. Instead Sujata claims to have extended her full support.
4. Therefore, the mere reason of a misunderstanding between the assignor and the assignee does not amount to as a sufficient ground for revocation. In the absence of any failure on part of the assignee, the assignment shall remain valid and binding. The revocation sought by Manish would not be maintainable.

**QUESTION 4:**

**“The Registrar of Copyrights shall have the powers of a civil court when trying a suit under the Code of Civil procedure, 1908”. Elaborate the statement in context with Copyright Act, 1957. (JUNE 2024) ( 5 MARKS)**

**Ans:**

The Registrar of Copyrights shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

1. Summoning individuals, ensuring their presence, and examining them under oath.
2. Demanding the discovery and submission of documents.
3. Accepting evidence in the form of affidavits.
4. Issuing commissions to examine witnesses or documents.
5. Requesting public records or their certified copies from any court or office.

**QUESTION 5:**

**Francis is a famous lyricist in India & world-wide. Sona, another lyricist copied a very catching phrase is very short. Mention the commonly known acts which are termed as infringement of copyright. Also discuss the penalties for infringement. (JUNE 2024) (5MARKS)**

**Ans:**

1. A copyright infringement is any kind of unauthorised use of someone’s copyrighted work. In other words, when a person without being an owner or without having a licence or if having the licence contravenes the conditions of licence.
2. Following are considered as infringement:
  - (i) Making for sale or hire or by way of trade display any work which is protected by copyright law.
  - (ii) Distributes for the purpose of trade any such work which prejudicially affects owner of copyright.
  - (iii) By way of trade exhibits in public.
  - (iv) Imports into India any infringing copy.

3. Any person who knowingly infringes the copyright shall be liable to imprisonment for a term which shall not be less than 6 months but may extend to 3 years and with fine of minimum 50,000 which may extend up to 2 lakhs.
4. The court may impose a lesser punishment where the information has not been made in course of trade or business.

**QUESTION 6:**

Rohit has authored a book titled “A Concise History of Jaipur”, and the manuscript was given to Varun for printing. A dispute arose among the two as Rohan contended that Varun had no right to publish the book as there was no assignment of the copyright. On the other hand, Varun argued that there was an oral agreement in which Rohit assigned the copyright in exchange for the printing expenses that entitled him to publish it. In reality, Rohit did not give a written or oral copyright assignment in favour of Varun to publish the books.

Based on the above, answer the following questions with relevant provisions of the Copyright Act, 1957.

- (i) Do you think the requirements for the assignment of copyright were fulfilled?
- (ii) In case of assignment of copyright to Varun, when will it be deemed to have lapsed?
- (iii) What rights can Rohit claim if the work is utilised in any other form?
- (iv) When can the court revoke the assignment of copyright if granted to Varun?
- (v) What will the Court do if it receives a complaint regarding this assignment of copyright? **(DEC 2024)(2 MARKS EACH)**

**Ans:**

- (i)
  1. An assignment must be in writing signed by assignor or his duly authorised agent.
  2. In the present case Rohit had just given the book for printing to Varun and no rights of publishing the book were given to Varun. Varun claims that an oral agreement was made between them but in real there was no assignment made by Rohit. Therefore, the requirements for the assignment of copyright were not fulfilled.

(ii)

1. The owner of copyright can assign his rights completely or partially for a particular duration.
2. After the assignment of the copyright if the assignee does not exercise the rights within 1 year, such rights shall be deemed to have lapsed unless otherwise specified.

(iii)

1. If the work is used in any form without a valid copyright assignment, Rohit, as the original author and copyright holder, retains all exclusive rights under the Copyright Act, 1957.
2. These rights include right to reproduce the work in any material form including:
  - (i) The storing of it in any medium by electronic or other means, or
  - (ii) Converting 2 dimension work into 3 dimension work, or
  - (iii) Converting 3 dimension work into 2 dimension work.

(iv)

1. The court may revoke the assignment if the assignee fails to make sufficient exercise of the rights assigned, and such failure is not because of the mistake of assignor, then the commercial court may, upon a complaint, revoke the assignment.
2. Therefore in the present case the court may revoke the assignment if Varun Fails to exercise his rights wherein the insufficiency is not because of Rohit.

(v) The Court, if it receives a complaint regarding the assignment of copyright prior to passing an order of revocation, the commercial court is required to

- (a) inquire into the matter,
- (b) provide an opportunity of hearing to both parties and
- (c) be satisfied that the terms of the assignment are harsh or prejudicial to the assignor.

**QUESTION 7:**

**Explain the provisions of 'power of police to seize infringing copies' under Section 64 of the Copyright Act, 1957.**

**Ans:**

1. A police officer (not below the rank of sub-inspector) can seize, without a warrant, any copies of a work and plates used to produce infringing copies if he reasonably believes that copyright infringement has occurred, is occurring, or is likely to occur.
2. The seized copies and plates must be presented before a Magistrate as soon as practicable.
3. Any person claiming an interest in the seized items can apply to the Magistrate within fifteen days of the seizure for their return.
4. the Magistrate, after hearing both the applicant and the complainant and conducting any necessary inquiry, may pass an appropriate order on the application

**QUESTION 8:**

**When may a license be terminated, granted under the Copyright Act, 1957 ?**

**Ans:**

1. If after granting a Licence, the owner of the copyright or any other person authorised by him publishes a translation in the same language and at a same price, the licence so granted shall be terminated.
2. however the term shall take effect only after the expiry of 3 months from the date of service of notice to the licensee.