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EB-2014-0116

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act 1998*,
Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Toronto Hydro-
System Electric Limited for an Order or Orders approving or fixing
just and reasonable rates and other service charges for the
distribution of electricity as of May 1, 2015.

AND IN THE MATTER OF Rule 27 of the Board's *Rules of
Practice and Procedure*.

**BRIEF OF STATUTES
RE MOTION AND CROSS MOTION
OF THE CANADIAN ELECTRICITY ASSOCIATION
(Re: School Energy Coalition's Notice of Motion dated December 19, 2014)**

January 30, 2015

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Canada Federal Statutes
Copyright Act
Interpretation

R.S.C. 1985, c. C-42, s. 2

§ 2. Definitions

Currency

2. Definitions

In this Act,

"**architectural work**" means any building or structure or any model of a building or structure;

"**architectural work of art**" [Repealed 1993, c. 44, s. 53(1).]

"**artistic work**" includes paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship, architectural works, and compilations of artistic works;

"**Berne Convention country**" means a country that is a party to the Convention for the Protection of Literary and Artistic Works concluded at Berne on September 9, 1886, or any one of its revisions, including the *Paris Act* of 1971;

"**Board**" means the Copyright Board established by subsection 66(1);

"**book**" means a volume or a part or division of a volume, in printed form, but does not include

- (a) a pamphlet,
- (b) a newspaper, review, magazine or other periodical,
- (c) a map, chart, plan or sheet music where the map, chart, plan or sheet music is separately published, and
- (d) an instruction or repair manual that accompanies a product or that is supplied as an accessory to a service;

"**broadcaster**" means a body that, in the course of operating a broadcasting undertaking, broadcasts a communication signal in accordance with the law of the country in which the broadcasting undertaking is carried on, but excludes a body whose primary activity in relation to communication signals is their retransmission;

"**choreographic work**" includes any work of choreography, whether or not it has any story line;

"**cinematograph**" [Repealed 1997, c. 24, s. 1(2).]

"**cinematographic work**" includes any work expressed by any process analogous to cinematography, whether or not accompanied by a soundtrack;

"**collective society**" means a society, association or corporation that carries on the business of collective administration of copyright or of the remuneration right conferred by section 19 or 81 for the benefit of those who, by assignment, grant of licence, appointment of it as their agent or otherwise, authorize it to act on their behalf in relation to that collective administration, and

- (a) operates a licensing scheme, applicable in relation to a repertoire of works, performer's performances, sound recordings or communication signals of more than one author, performer, sound recording maker or broadcaster, pursuant to which

(c) any compilation of dramatic works;

"educational institution" means

(a) a non-profit institution licensed or recognized by or under an Act of Parliament or the legislature of a province to provide pre-school, elementary, secondary or post-secondary education,

(b) a non-profit institution that is directed or controlled by a board of education regulated by or under an Act of the legislature of a province and that provides continuing, professional or vocational education or training,

(c) a department or agency of any order of government, or any non-profit body, that controls or supervises education or training referred to in paragraph (a) or (b), or

(d) any other non-profit institution prescribed by regulation;

"engravings" includes etchings, lithographs, woodcuts, prints and other similar works, not being photographs;

"every original literary, dramatic, musical and artistic work" includes every original production in the literary, scientific or artistic domain, whatever may be the mode or form of its expression, such as compilations, books, pamphlets and other writings, lectures, dramatic or dramatico-musical works, musical works, translations, illustrations, sketches and plastic works relative to geography, topography, architecture or science;

"exclusive distributor" means, in relation to a book, a person who

(a) has, before or after the coming into force of this definition, been appointed in writing, by the owner or exclusive licensee of the copyright in the book in Canada, as

(i) the only distributor of the book in Canada or any part of Canada, or

(ii) the only distributor of the book in Canada or any part of Canada in respect of a particular sector of the market, and

(b) meets the criteria established by regulations made under section 2.6,

and, for greater certainty, if there are no regulations made under section 2.6, then no person qualifies under this definition as an **"exclusive distributor"**;

"Her Majesty's Realms and Territories" [Repealed 1997, c. 24, s. 1(1).]

"infringing" means

(a) in relation to a work in which copyright subsists, any copy, including any colourable imitation, made or dealt with in contravention of this Act,

(b) in relation to a performer's performance in respect of which copyright subsists, any fixation or copy of a fixation of it made or dealt with in contravention of this Act,

(c) in relation to a sound recording in respect of which copyright subsists, any copy of it made or dealt with in contravention of this Act, or

(d) in relation to a communication signal in respect of which copyright subsists, any fixation or copy of a fixation of it made or dealt with in contravention of this Act.

The definition includes a copy that is imported in the circumstances set out in paragraph 27(2)(e) and section 27.1 but does not otherwise include a copy made with the consent of the owner of the copyright in the country where the copy was made;

Canada Federal Statutes
Copyright Act
Part I — Copyright and Moral Rights in Works (ss. 3-14.2)
Copyright

R.S.C. 1985, c. C-42, s. 3

s. 3.

Currency

3.

3(1) Copyright in works

For the purposes of this Act, "**copyright**", in relation to a work, means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform the work or any substantial part thereof in public or, if the work is unpublished, to publish the work or any substantial part thereof, and includes the sole right

- (a) to produce, reproduce, perform or publish any translation of the work,
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work,
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise,
- (d) in the case of a literary, dramatic or musical work, to make any sound recording, cinematograph film or other contrivance by means of which the work may be mechanically reproduced or performed,
- (e) in the case of any literary, dramatic, musical or artistic work, to reproduce, adapt and publicly present the work as a cinematographic work,
- (f) in the case of any literary, dramatic, musical or artistic work, to communicate the work to the public by telecommunication,
- (g) to present at a public exhibition, for a purpose other than sale or hire, an artistic work created after June 7, 1988, other than a map, chart or plan,
- (h) in the case of a computer program that can be reproduced in the ordinary course of its use, other than by a reproduction during its execution in conjunction with a machine, device or computer, to rent out the computer program,
- (i) in the case of a musical work, to rent out a sound recording in which the work is embodied, and
- (j) in the case of a work that is in the form of a tangible object, to sell or otherwise transfer ownership of the tangible object, as long as that ownership has never previously been transferred in or outside Canada with the authorization of the copyright owner,

and to authorize any such acts.

3(1.1) Simultaneous fixing

A work that is communicated in the manner described in paragraph (1)(f) is fixed even if it is fixed simultaneously with its communication.

3(1.2) [Repealed 1997, c. 24, s. 3(4).]

3(1.3) [Repealed 1997, c. 24, s. 3(4).]

3(1.4) [Repealed 1997, c. 24, s. 3(4).]

3(1.5) [Repealed 1997, c. 24, s. 3(4).]

3(2) [Repealed 1997, c. 24, s. 3(4).]

3(3) [Repealed 1997, c. 24, s. 3(4).]

3(4) [Repealed 1997, c. 24, s. 3(4).]

Amendment History

R.S.C. 1985, c. 10 (4th Supp.), s. 2; 1988, c. 65, s. 62; 1993, c. 23, s. 2; 1993, c. 44, s. 55; 1997, c. 24, s. 3; 2012, c. 20, s. 4

Currency

Federal English Statutes reflect amendments current to December 17, 2014

Federal English Regulations are current to Gazette Vol. 148:26 (December 17, 2014)

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Canada Federal Statutes
Copyright Act
Part I — Copyright and Moral Rights in Works (ss. 3-14.2)
Works in Which Copyright May Subsist

R.S.C. 1985, c. C-42, s. 5

s 5.

Currency

5.

5(1) Conditions for subsistence of copyright

Subject to this Act, copyright shall subsist in Canada, for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work if any one of the following conditions is met:

- (a) in the case of any work, whether published or unpublished, including a cinematographic work, the author was, at the date of the making of the work, a citizen or subject of, or a person ordinarily resident in, a treaty country;
- (b) in the case of a cinematographic work, whether published or unpublished, the maker, at the date of the making of the cinematographic work,
 - (i) if a corporation, had its headquarters in a treaty country, or
 - (ii) if a natural person, was a citizen or subject of, or a person ordinarily resident in, a treaty country; or
- (c) in the case of a published work, including a cinematographic work,
 - (i) in relation to subparagraph 2.2(1)(a)(i), the first publication in such a quantity as to satisfy the reasonable demands of the public, having regard to the nature of the work, occurred in a treaty country, or
 - (ii) in relation to subparagraph 2.2(1)(a)(ii) or (iii), the first publication occurred in a treaty country.

5(1.01) Protection for older works

For the purposes of subsection (1), a country that becomes a Berne Convention country, a WCT country or a WTO Member after the date of the making or publication of a work is deemed to have been a Berne Convention country, a WCT country or a WTO Member, as the case may be, at that date, subject to subsection (1.02) and sections 33 to 33.2.

5(1.02) Limitation

Subsection (1.01) does not confer copyright protection in Canada on a work whose term of copyright protection in the country referred to in that subsection had expired before that country became a Berne Convention country, a WCT country or a WTO Member, as the case may be.

5(1.03) Application of subsections (1.01) and (1.02)

Subsections (1.01) and (1.02) apply, and are deemed to have applied, regardless of whether the country in question became a Berne Convention country, a WCT country or a WTO Member before or after the coming into force of those subsections.

5(1.1) First publication

The first publication described in subparagraph (1)(c)(i) or (ii) is deemed to have occurred in a treaty country notwithstanding that it in fact occurred previously elsewhere, if the interval between these two publications did not exceed thirty days.

5(1.2)Idem

Copyright shall not subsist in Canada otherwise than as provided by subsection (1), except in so far as the protection conferred by this Act is extended as hereinafter provided to foreign countries to which this Act does not extend.

5(2)Minister may extend copyright to other countries

Where the Minister certifies by notice, published in the *Canada Gazette*, that any country that is not a treaty country grants or has undertaken to grant, either by treaty, convention, agreement or law, to citizens of Canada, the benefit of copyright on substantially the same basis as to its own citizens or copyright protection substantially equal to that conferred by this Act, the country shall, for the purpose of the rights conferred by this Act, be treated as if it were a country to which this Act extends, and the Minister may give a certificate, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, under the law of such country, differ from those in this Act.

5(2.1) [Repealed 1994, c. 47, s. 57.]

5(3) [Repealed 1997, c. 24, s. 5(3).]

5(4) [Repealed 1997, c. 24, s. 5(3).]

5(5) [Repealed 1997, c. 24, s. 5(3).]

5(6) [Repealed 1997, c. 24, s. 5(3).]

5(7)Reciprocity protection preserved

For greater certainty, the protection to which a work is entitled by virtue of a notice published under subsection (2), or under that subsection as it read at any time before the coming into force of this subsection, is not affected by reason only of the country in question becoming a treaty country.

Amendment History

1993, c. 15, s. 2; 1993, c. 44, s. 57; 1994, c. 47, s. 57; 1997, c. 24, s. 5; 2001, c. 34, s. 34; 2012, c. 20, s. 5

Currency

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Federal English Regulations are current to Gazette Vol. 148:26 (December 17, 2014)

Canada Federal Statutes
Copyright Act
Part I — Copyright and Moral Rights in Works (ss. 3-14.2)
Ownership of Copyright

R.S.C. 1985, c. C-42, s. 13

S 13.

Currency

13.

13(1) Ownership of copyright

Subject to this Act, the author of a work shall be the first owner of the copyright therein.

13(2) [Repealed 2012, c. 20, s. 7.]

13(3) Work made in the course of employment

Where the author of a work was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine or similar periodical.

13(4) Assignment and licences

The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations relating to territory, medium or sector of the market or other limitations relating to the scope of the assignment, and either for the whole term of the copyright or for any other part thereof, and may grant any interest in the right by licence, but no assignment or grant is valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by the owner's duly authorized agent.

13(5) Ownership in case of partial assignment

Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, with respect to the rights so assigned, and the assignor, with respect to the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and this Act has effect accordingly.

13(6) Assignment of right of action

For greater certainty, it is deemed always to have been the law that a right of action for infringement of copyright may be assigned in association with the assignment of the copyright or the grant of an interest in the copyright by licence.

13(7) Exclusive licence

For greater certainty, it is deemed always to have been the law that a grant of an exclusive licence in a copyright constitutes the grant of an interest in the copyright by licence.

Amendment History

1997, c. 24, s. 10; 2012, c. 20, s. 7

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Canada Federal Statutes

Copyright Act

Part III — Infringement of Copyright and Moral Rights and Exceptions to Infringement (ss. 27-33.2)

[Heading added 1997, c. 24, s. 15.]

Infringement of Copyright

General

R.S.C. 1985, c. C-42, s. 27

s 27.

Currency

27.

27(1) Infringement generally

It is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that by this Act only the owner of the copyright has the right to do.

27(2) Secondary infringement

It is an infringement of copyright for any person to

- (a) sell or rent out,
- (b) distribute to such an extent as to affect prejudicially the owner of the copyright,
- (c) by way of trade distribute, expose or offer for sale or rental, or exhibit in public,
- (d) possess for the purpose of doing anything referred to in paragraphs (a) to (c), or
- (e) import into Canada for the purpose of doing anything referred to in paragraphs (a) to (c),

a copy of a work, sound recording or fixation of a performer's performance or of a communication signal that the person knows or should have known infringes copyright or would infringe copyright if it had been made in Canada by the person who made it.

27(2.1) Clarification

For greater certainty, a copy made outside Canada does not infringe copyright under subsection (2) if, had it been made in Canada, it would have been made under a limitation or exception under this Act.

27(2.11) Secondary infringement — exportation

It is an infringement of copyright for any person, for the purpose of doing anything referred to in paragraphs (2)(a) to (c), to export or attempt to export a copy — of a work, sound recording or fixation of a performer's performance or of a communication signal — that the person knows or should have known was made without the consent of the owner of the copyright in the country where the copy was made.

27(2.12) Exception

Subsection (2.11) does not apply with respect to a copy that was made under a limitation or exception under this Act or, if it was made outside Canada, that would have been made under such a limitation or exception had it been made in Canada.

27(2.2) Secondary infringement related to lesson

It is an infringement of copyright for any person to do any of the following acts with respect to anything that the person knows or should have known is a lesson, as defined in subsection 30.01(1), or a fixation of one:

- (a) to sell it or to rent it out;
- (b) to distribute it to an extent that the owner of the copyright in the work or other subject-matter that is included in the lesson is prejudicially affected;
- (c) by way of trade, to distribute it, expose or offer it for sale or rental or exhibit it in public;
- (d) to possess it for the purpose of doing anything referred to in any of paragraphs (a) to (c);
- (e) to communicate it by telecommunication to any person other than a person referred to in paragraph 30.01(3)(a); or
- (f) to circumvent or contravene any measure taken in conformity with paragraph 30.01(6)(b), (c) or (d).

27(2.3)Infringement — provision of services

It is an infringement of copyright for a person, by means of the Internet or another digital network, to provide a service primarily for the purpose of enabling acts of copyright infringement if an actual infringement of copyright occurs by means of the Internet or another digital network as a result of the use of that service.

27(2.4)Factors

In determining whether a person has infringed copyright under subsection (2.3), the court may consider

- (a) whether the person expressly or implicitly marketed or promoted the service as one that could be used to enable acts of copyright infringement;
- (b) whether the person had knowledge that the service was used to enable a significant number of acts of copyright infringement;
- (c) whether the service has significant uses other than to enable acts of copyright infringement;
- (d) the person's ability, as part of providing the service, to limit acts of copyright infringement, and any action taken by the person to do so;
- (e) any benefits the person received as a result of enabling the acts of copyright infringement; and
- (f) the economic viability of the provision of the service if it were not used to enable acts of copyright infringement.

27(3)Knowledge of importer

In determining whether there is an infringement under subsection (2) in the case of an activity referred to in any of paragraphs (2)(a) to (d) in relation to a copy that was imported in the circumstances referred to in paragraph (2)(e), it is irrelevant whether the importer knew or should have known that the importation of the copy infringed copyright.

27(4)Plates

It is an infringement of copyright for any person to make or possess a plate that has been specifically designed or adapted for the purpose of making infringing copies of a work or other subject-matter.

27(5)Public performance for profit

It is an infringement of copyright for any person, for profit, to permit a theatre or other place of entertainment to be used for the performance in public of a work or other subject-matter without the consent of the owner of the copyright unless that person was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

Amendment History

R.S.C. 1985, c. 1 (3rd Supp.), s. 13; 1985, c. 10 (4th Supp.), s. 5; 1993, c. 44, s. 64; 1997, c. 24, s. 15; 2012, c. 20, s. 18; 2014, c. 32, s. 3

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Canada Federal Statutes

Copyright Act

Part III — Infringement of Copyright and Moral Rights and Exceptions to Infringement (ss. 27-33.2)

[Heading added 1997, c. 24, s. 15.]

Exceptions

Educational Institutions

R.S.C. 1985, c. C-42, s. 29.4

s 29.4

Currency

29.4

29.4(1) Reproduction for instruction

It is not an infringement of copyright for an educational institution or a person acting under its authority for the purposes of education or training on its premises to reproduce a work, or do any other necessary act, in order to display it.

29.4(2) Reproduction for examinations, etc.

It is not an infringement of copyright for an educational institution or a person acting under its authority to

(a) reproduce, translate or perform in public on the premises of the educational institution, or

(b) communicate by telecommunication to the public situated on the premises of the educational institution

a work or other subject-matter as required for a test or examination.

29.4(3) If work commercially available

Except in the case of manual reproduction, the exemption from copyright infringement provided by subsections (1) and (2) does not apply if the work or other subject-matter is commercially available, within the meaning of paragraph (a) of the definition "commercially available" in section 2, in a medium that is appropriate for the purposes referred to in those subsections.

Amendment History

1997, c. 24, s. 18(1); 2012, c. 20, s. 23

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Canada Federal Statutes

Copyright Act

Part III — Infringement of Copyright and Moral Rights and Exceptions to Infringement (ss. 27-33.2)

[Heading added 1997, c. 24, s. 15.]

Exceptions

Educational Institutions

R.S.C. 1985, c. C-42, s. 29.7

s 29.7

Currency

29.7

29.7(1) Reproduction of broadcast

Subject to subsection (2) and section 29.9, it is not an infringement of copyright for an educational institution or a person acting under its authority to

(a) make a single copy of a work or other subject-matter at the time that it is communicated to the public by telecommunication; and

(b) keep the copy for up to thirty days to decide whether to perform the copy for educational or training purposes.

29.7(2) Royalties for reproduction

An educational institution that has not destroyed the copy by the expiration of the thirty days infringes copyright in the work or other subject-matter unless it pays any royalties, and complies with any terms and conditions, fixed under this Act for the making of the copy.

29.7(3) Royalties for performance

It is not an infringement of copyright for the educational institution or a person acting under its authority to perform the copy in public for educational or training purposes on the premises of the educational institution before an audience consisting primarily of students of the educational institution if the educational institution pays the royalties and complies with any terms and conditions fixed under this Act for the performance in public.

Amendment History

1997, c. 24, s. 18(1)

Currency

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Canada Federal Statutes

Copyright Act

Part III — Infringement of Copyright and Moral Rights and Exceptions to Infringement (ss. 27-33.2)

[Heading added 1997, c. 24, s. 15.]

Exceptions

Machines Installed in Educational Institutions, Libraries, Archives and Museums

R.S.C. 1985, c. C-42, s. 30.3

s 30.3

Currency

30.3

30.3(1) No infringement by educational institution, etc.

An educational institution or a library, archive or museum does not infringe copyright where

- (a) a copy of a work is made using a machine for the making, by reprographic reproduction, of copies of works in printed form;
- (b) the machine is installed by or with the approval of the educational institution, library, archive or museum on its premises for use by students, instructors or staff at the educational institution or by persons using the library, archive or museum; and
- (c) there is affixed in the prescribed manner and location a notice warning of infringement of copyright.

30.3(2) Application

Subsection (1) only applies if, in respect of a reprographic reproduction,

- (a) the educational institution, library, archive or museum has entered into an agreement with a collective society that is authorized by copyright owners to grant licences on their behalf;
- (b) the Board has, in accordance with section 70.2, fixed the royalties and related terms and conditions in respect of a licence;
- (c) a tariff has been approved in accordance with section 70.15; or
- (d) a collective society has filed a proposed tariff in accordance with section 70.13.

30.3(3) Order

Where a collective society offers to negotiate or has begun to negotiate an agreement referred to in paragraph (2)(a), the Board may, at the request of either party, order that the educational institution, library, archive or museum be treated as an institution to which subsection (1) applies, during the period specified in the order.

30.3(4) Agreement with copyright owner

Where an educational institution, library, archive or museum has entered into an agreement with a copyright owner other than a collective society respecting reprographic reproduction, subsection (1) applies only in respect of the works of the copyright owner that are covered by the agreement.

30.3(5) Regulations

The Governor in Council may, for the purposes of paragraph 1(c), prescribe by regulation the manner of affixing and location of notices and the dimensions, form and contents of notices.

Amendment History

1997, c. 24, s. 18(1)

Currency

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Canada Federal Statutes

Copyright Act

Part III — Infringement of Copyright and Moral Rights and Exceptions to Infringement (ss. 27-33.2)

[Heading added 1997, c. 24, s. 15.]

Exceptions

Statutory Obligations

R.S.C. 1985, c. C-42, s. 32.1

s 32.1

Currency

32.1

32.1(1) No infringement

It is not an infringement of copyright for any person

- (a) to disclose, pursuant to the *Access to Information Act*, a record within the meaning of that Act, or to disclose, pursuant to any like Act of the legislature of a province, like material;
- (b) to disclose, pursuant to the *Privacy Act*, personal information within the meaning of that Act, or to disclose, pursuant to any like Act of the legislature of a province, like information;
- (c) to make a copy of an object referred to in section 14 of the *Cultural Property Export and Import Act*, for deposit in an institution pursuant to a direction under that section; and
- (d) to make a fixation or copy of a work or other subject-matter in order to comply with the *Broadcasting Act* or any rule, regulation or other instrument made under it.

32.1(2) Limitation

Nothing in paragraph (1)(a) or (b) authorizes a person to whom a record or information is disclosed to do anything that, by this Act, only the owner of the copyright in the record, personal information or like information, as the case may be, has a right to do.

32.1(3) Destruction of fixation or copy

Unless the *Broadcasting Act* otherwise provides, a person who makes a fixation or copy under (1)(d) shall destroy it immediately on the expiration of the period for which it must be kept pursuant to that Act, rule, regulation or other instrument.

Amendment History

1997, c. 24, s. 19

Currency

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Canada Federal Statutes

Copyright Act

Part IV — Remedies (ss. 34-45) [Heading added 1997, c. 24, s. 19.]

Civil Remedies

General Provisions [Heading added 2012, c. 20, s. 47.]

R.S.C. 1985, c. C-42, s. 41.24

s 41.24 Concurrent jurisdiction of Federal Court

Currency

41.24 Concurrent jurisdiction of Federal Court

The Federal Court has concurrent jurisdiction with provincial courts to hear and determine all proceedings, other than the prosecution of offences under sections 42 and 43, for the enforcement of a provision of this Act or of the civil remedies provided by this Act.

Amendment History

2012, c. 20, s. 47

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Canada Federal Statutes
Copyright Act
Part IV — Remedies (ss. 34-45) [Heading added 1997, c. 24, s. 19.]
Criminal Remedies

R.S.C. 1985, c. C-42, s. 42

s 42.

Currency

42.

42(1) Offences

Every person commits an offence who knowingly

- (a) makes for sale or rental an infringing copy of a work or other subject-matter in which copyright subsists,
- (b) sells or rents out, or by way of trade exposes or offers for sale or rental, an infringing copy of a work or other subject-matter in which copyright subsists,
- (c) distributes infringing copies of a work or other subject-matter in which copyright subsists, either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright,
- (d) by way of trade exhibits in public an infringing copy of a work or other subject-matter in which copyright subsists,
- (e) possesses, for sale, rental, distribution for the purpose of trade or exhibition in public by way of trade, an infringing copy of a work or other subject-matter in which copyright subsists;
- (f) imports, for sale or rental, into Canada any infringing copy of a work or other subject-matter in which copyright subsists;
or
- (g) exports or attempts to export, for sale or rental, an infringing copy of a work or other subject-matter in which copyright subsists.

42(2) Possession and performance offences

Every person commits an offence who knowingly

- (a) makes or possesses any plate that is specifically designed or adapted for the purpose of making infringing copies of any work or other subject-matter in which copyright subsists, or
- (b) for private profit causes to be performed in public, without the consent of the owner of the copyright, any work or other subject-matter in which copyright subsists,

42(2.1) Punishment

Every person who commits an offence under subsection (1) or (2) is liable

- (a) on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than five years or to both; or
- (b) on summary conviction, to a fine of not more than \$25,000 or to imprisonment for a term of not more than six months or to both.

42(3) Power of court to deal with copies or plates

The court before which any proceedings under this section are taken may, on conviction, order that all copies of the work or other subject-matter that appear to it to be infringing copies, or all plates in the possession of the offender predominantly used for making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit.

42(3.01) Notice

Before making an order under subsection (3), the court shall require that notice be given to the owner of the copies or plates and to any other person who, in the court's opinion, appears to have a right or interest in them, unless the court is of the opinion that the interests of justice do not require that the notice be given.

42(3.1) Circumvention of technological protection measure

Every person, except a person who is acting on behalf of a library, archive or museum or an educational institution, is guilty of an offence who knowingly and for commercial purposes contravenes section 41.1 and is liable

(a) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years or to both; or

(b) on summary conviction, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding six months or to both.

42(4) Limitation period

Proceedings by summary conviction in respect of an offence under this section may be instituted at any time within, but not later than, two years after the time when the offence was committed.

42(5) Parallel importation

For the purposes of this section, a copy of a work or other subject-matter is not infringing if the copy was made with the consent of the owner of the copyright in the country where the copy was made.

Amendment History

R.S.C. 1985, c. 10 (4th Supp.), s. 10; 1997, c. 24, s. 24; 2012, c. 20, s. 48; 2014, c. 32, s. 4

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Canada Federal Statutes

Copyright Act

Part IV — Remedies (ss. 34-45) [Heading added 1997, c. 24, s. 19.]

Importation and Exportation [Heading amended 1997, c. 24, s. 26; 2014, c. 32, s. 5.]

Court-ordered Detention [Heading added 2014, c. 32, s. 5.]

R.S.C. 1985, c. C 42, s. 45

s 45.

Currency

45.

45(1) Exceptions

Notwithstanding anything in this Act, it is lawful for a person

(a) to import for their own use not more than two copies of a work or other subject-matter made with the consent of the owner of the copyright in the country where it was made;

(b) to import for use by a department of the Government of Canada or a province copies of a work or other subject-matter made with the consent of the owner of the copyright in the country where it was made;

(c) at any time before copies of a work or other subject-matter are made in Canada, to import any copies, except copies of a book, made with the consent of the owner of the copyright in the country where the copies were made, that are required for the use of a library, archive, museum or educational institution;

(d) to import, for the use of a library, archive, museum or educational institution, not more than one copy of a book that is made with the consent of the owner of the copyright in the country where the book was made; and

(e) to import copies, made with the consent of the owner of the copyright in the country where they were made, of any used books, except textbooks of a scientific, technical or scholarly nature for use within an educational institution in a course of instruction.

45(2) Satisfactory evidence

An officer of customs may, in the officer's discretion, require a person seeking to import a copy of a work or other subject-matter under this section to produce satisfactory evidence of the facts necessary to establish the person's right to import the copy.

R.S.C. 1985, c. 41 (3rd Supp.), s. 117; 1993, c. 44, s. 67; 1994, c. 47, s. 67; 1997, c. 24, s. 28

Transitional Provision

1997, c. 24 provides:

62.

(3) Notwithstanding paragraph (1)(d), paragraph 45(1)(e) of the *Copyright Act*, as enacted by section 28 of this Act, shall be read as follows for the period beginning on June 30, 1996 and ending on the day that is sixty days after the day on which this Act is assented to:

(e) to import copies, made with the consent of the owner of the copyright in the country where they were made, of any used books.

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Canada Federal Statutes

Copyright Act

Part IX — General Provisions (ss. 89-92) [Heading added 1997, c. 24, s. 50.]

R.S.C. 1985, c. C-42, s. 89

s 89. No copyright, etc., except by statute

Currency

89.No copyright, etc., except by statute

No person is entitled to copyright otherwise than under and in accordance with this Act or any other Act of Parliament, but nothing in this section shall be construed as abrogating any right or jurisdiction in respect of a breach of trust or confidence.

Amendment History

1997, c. 24, s. 50

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Canada Federal Statutes
Constitution Act, 1867
VI. — Distribution of Legislative Powers
Powers of the Parliament

R.S.C. 1985, App. II, No. 5, s. 91

s 91. Legislative Authority of Parliament of Canada

Currency

91. Legislative Authority of Parliament of Canada

It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1. Repealed.
- 1A. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
 - 2A. Unemployment insurance.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.

16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Currency

Federal English Statutes reflect amendments current to December 17, 2014

Federal English Regulations are current to Gazette Vol. 148:26 (December 17, 2014)

Crankshaw Legislative Histories:

Crankshaw's Criminal Code of Canada, Legislative History for CRANKSHAW-HIST CA 91

Canada Federal Statutes
Constitution Act, 1867
VII. — Judicature

R.S.C. 1985, App. II, No. 5, s. 96

s 96. Appointment of Judges

Currency

96.Appointment of Judges

The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

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ONTARIO ENERGY BOARD

EB-2014-0116

IN THE MATTER OF the *Ontario Energy Board Act 1998*, Schedule B
to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Toronto Hydro-System
Electric Limited for an Order or Orders approving just and reasonable
rates and other charges for electricity distribution to be effective May 1,
2015.

ONTARIO ENERGY BOARD

**BOOK OF AUTHORITIES
RE MOTION AND CROSS MOTION
OF THE CANADIAN ELECTRICITY ASSOCIATION
(Re: School Energy Coalition's Notice of Motion dated
December 19, 2014)**

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