**Proposed wording – Copyright**

**Clause 1**

**‘visual artistic work’** means an artistic work as contemplated in paragraph *(a)* of the definition of **‘artistic work’**;’’.

**Clause 5**

‘‘**Share in royalties regarding literary or musical works**

**6A.** (1) For thepurposes of this section, **‘royalty’** means the profit made on the exploitation of a literary work or musical work by a copyright owner or a person who has been authorised by the author to do any of the acts contemplated in section 6.

(2) Notwithstanding—

*(a)* the assignment of the copyright in a literary or musical work; or

*(b)* the authorisation by the author of a literary or musical work of the right to do any of the acts contemplated in section 6,

the author shall have the right to ~~a percentage of~~ share in any royalty received ~~by the copyright owner, subject to the provisions of this Act,~~ for the execution, ~~or authorisation~~ of any of the acts contemplated in section 6.

(3) *(a)* The author’s share of the royalty ~~percentage~~ contemplated in subsection (2) shall be determined by a written agreement in the prescribed manner and form, between the author and the ~~person to whom the author is assigning~~ copyright owner, or the person contemplated in subsection (2)*(b)*, or between their representative collecting societies.

*(b)* Any ~~subsequent~~ assignment of the copyright in that work, by the copyright owner, or subsequent copyright owners, is subject to the agreement between the author and the ~~assignee~~ copyright owner, contemplated in paragraph *(a)*, or the order contemplated in subsection (4), as the case may be.

(4) Where the author and ~~assignee~~ copyright owner, or the person contemplated in subsection (2)*(b),* ~~contemplated in subsection (3)~~*~~(a)~~* cannot agree on the author’s share of the royalty ~~percentage~~, ~~the author, or assignee~~ any party may refer the matter to the Tribunal for an order determining the ~~percentage~~ author’s share of the royalty.

(5) The agreement contemplated in subsection (3)*(a)* must include the following:

*(a)* The rights and obligations of the author and the ~~assignee~~ copyright owner or the person contemplated in subsection (2)*(b)*;

*(b)* the author’s share of the royalty ~~percentage~~ agreed on, or ordered by the Tribunal, as the case may be;

*(c)* the method and period within which the amount must be paid by the ~~assignee~~ copyright owner, or the person contemplated in subsection (2)*(b)*, to the author; and

*(d)* ~~a cooling off period; and~~

*~~(e)~~*a dispute resolution mechanism.

(6) This section does not apply to—

*(a)* a copyright owner who commissioned, or who is the author of, the ~~copyrighted~~ literary or musical work in question; ~~or~~

*(b)* a work created in the course of employment contemplated in section 21(1)*(b)* and *(d);* or

*(c)* a work where copyright is conferred by section 5 in the state, local or international organisations.

(6) *(a)* A person who obtained the copyright in a literary or musical work prior to the commencement of the Copyright Amendment Act, 2019, must within 48 months after said commencement negotiate of royalty as contemplated in subsection (2) with the author of the copyrighted literary or musical work in question.

*(b)* Subsections (2), (3), and (4) apply to the negotiation contemplated in paragraph *(a)*.

*(c)* Section 22A, with the necessary changes, applies where the author cannot be found.

*(d)* This subsection does not apply—

(ii) where the term of copyright in the copyrighted literary or musical work has ended; or

(iii) to any royalties earned by the assignee or licensee, as the case may be, that were received by that assignee or licensee, as the case may be, prior to the commencement of the Copyright Amendment Act, 2019.’’.

**Clause 7**

‘‘**Share in royalties regarding visual artistic works**

**7A.** (1)For thepurposes of this section, **‘royalty’** means the profit made on the exploitation of a visual artistic work by a copyright owner or a person who has been authorised by the author to do any of the acts contemplated in section 7, but does not include profit made on the commercial resale of a visual artistic work contemplated in section 7B.

(2) Notwithstanding—

*(a)* the assignment of the copyright in a visual artistic work; or

*(b)* the authorisation by the author of a visual artistic work of the right to do any of the acts contemplated in section 7,

the author shall have the right to ~~a percentage of~~ share in any royalty received ~~by the copyright owner, subject to the provisions of this Act,~~ for the execution~~, or authorisation,~~ of any of the acts contemplated in section 7.

(3) *(a)* The author’s share of the royalty ~~percentage~~ contemplated in subsection (2) shall be determined by a written agreement in the prescribed manner and form, between the author and the ~~person to whom the author is assigning~~ copyright owner, or the person contemplated in subsection (2)*(b)*, or between their representative collecting societies.

*(b)* Any ~~subsequent~~ assignment of the copyright in that work, by the copyright owner, or subsequent copyright owners, is subject to the agreement between the author and the ~~assignee~~ copyright owner, contemplated in paragraph *(a)*, or the order contemplated in subsection (4), as the case may be.

(4) Where the author and ~~assignee~~ copyright owner, or the person contemplated in subsection (2)*(b),* ~~contemplated in subsection (3)~~*~~(a)~~* cannot agree on the author’s share of the royalty ~~percentage~~, ~~the author, or assignee~~ any party may refer the matter to the Tribunal for an order determining the ~~percentage~~ author’s share of the royalty.

(5) The agreement contemplated in subsection (3)*(a)* must include the following:

*(a)* The rights and obligations of the author and the ~~assignee~~ copyright owner or the person contemplated in subsection (2)*(b)*;

*(b)* the author’s share of the royalty ~~percentage~~ agreed on, or ordered by the Tribunal, as the case may be;

*(c)* the method and period within which the amount must be paid by the ~~assignee~~ copyright owner, or the person contemplated in subsection (2)*(b)*, to the author; and

*(d)* ~~a cooling off period; and~~

*~~(e)~~*a dispute resolution mechanism.

(6) This section does not apply to—

*(a)* a copyright owner who commissioned, or who is the author of, the ~~copyrighted~~ visual artistic work in question; ~~or~~

*(b)* a work created in the course of employment contemplated in section 21(1)*(b)* and *(d);* or

*(c)* a work where copyright is conferred by section 5 in the state, local or international organisations.

(6) *(a)* A person who obtained the copyright in an artistic work prior to the commencement of the Copyright Amendment Act, 2019, must within 48 months after said commencement negotiate a percentage of royalty as contemplated in subsection (2) with the author of the copyrighted artistic work in question.

*(b)*  Subsections (2), (3), and (4) apply to the negotiation contemplated in paragraph *(a).*

*(c)* Section 22A, with the necessary changes, applies where the author cannot be found.

*(d)* This subsection does not apply—

(i) to a copyright owner who commissioned, or who is the author of, the copyrighted artistic work in question; or

(ii) where the term of copyright in the copyrighted artistic work has ended

(iii) to any royalties earned by the assignee or licensee, as the case may be, that were received by that assignee or licensee, as the case may be, prior to the commencement of the Copyright Amendment Act, 2019.

**Clause 7**

**Resale royalty right regarding visual artistic works**

**7B.** (1) The author of a visual artistic work in which copyright subsists or his or her heirs as may be applicable, must be paid royalties on the commercial resale within the art market of ~~his or her~~ that work.

(2) *(a)* Royalties in respect of visual artistic works shall be payable at the rate prescribed by the Minister after consultation with the Minister responsible for arts and culture.

*(b)* The Minister must, before prescribing the rate referred to in paragraph *(a)*, publish the rate proposed in the *Gazette* and call for written comments by any interested party to be provided within 30 days after publication.

*(c)* The Minister may from time to time in the manner contemplated in paragraph *(b)*, ~~increase~~ amend the prescribed rate contemplated in paragraph *(a)*.

(3) The royalties contemplated in subsection (1) are payable by every seller: Provided the duty to pay the royalty to the author or his or her heirs as may be applicable, shall rest on the art market professional concerned.

(4) The author of a visual artistic work or his or her heirs as may be applicable, shall be entitled to receive a resale royalty if—

*(a)* at the time when the resale is concluded—

(i) the author is a South African citizen or is legally domiciled or resident in the Republic or is a citizen of a ~~designated~~ country specified by the Minister in accordance with section 37; and

(ii) the term of validity of the resale royalty right has not expired;

*(b)* in the case of a deceased author, the deceased was at the time of death a South African citizen or was legally domiciled or resident in the Republic or was a citizen of a country specified by the Minister in accordance with section 37;

*(c)* the resale or any part of the transaction takes place in the Republic or in any country ~~contemplated in Article 1 of the Berne Convention for the Protection of Literary and Artistic Works~~ specified by the Minister in accordance with section 37; and

*(d)* the resale of the work is recognisable after the commencement of section 9 of the Copyright Amendment Act, 2019.

(5) A resale royalty right applies whether or not the author was the first owner of any copyright in the work.

~~(5)~~ *~~(a)~~* ~~The Minister may designate any country for the purposes of subsection (3)~~*~~(a)~~*~~(i) by notice in the~~ *~~Gazette~~*~~.~~

*~~(b)~~* ~~The Minister may by notice withdraw any designation contemplated in paragraph~~ *~~(a)~~*~~.~~

~~(6) Sections 7B, 7C, 7D and 7E apply to a visual artistic work that was made before the commencement date of the Copyright Amendment Act, 2019, if that visual artistic work falls within the application of this Act.~~

**Plus – add a definition for “art market professional”**

‘‘ **‘art market professional’** includes—

*(a)* an auctioneer or auction house;

*(b)* the owner or operator of an art gallery;

*(c)* the owner or operator of a museum;

*(d)* an art dealer; or

*(e)* a person otherwise involved in the business of dealing in artworks;’’;

**Plus – add a separate section for retrospectivity**

‘‘**Application of resale royalty right**

**7F.** (1) Sections 7B, 7C, 7D and 7E apply to a visual artistic work that was made before the commencement date of the Copyright Amendment Act, 2019, if that visual artistic work falls within the application of this Act.

(2) The resale royalty right only applies to a commercial resale made after the commencement date of the Copyright Amendment Act, 2019.’’

**Plus – do consequential amendments to 7C, 7D, and 7E iro “or his or her heirs as may be applicable,”**

**Clause 9**

‘‘**Share in royalties regarding audiovisual works**

**8A.** (1) ~~Notwithstanding the assignment of the copyright in an audiovisual work the author~~ A performer shall, subject to the Performers Protection Act, 1967 (Act No. 11 1967) have the right to ~~a percentage of~~ share in any royalty received by the copyright owner~~, subject to the provisions of this Act,~~ for ~~the execution, or authorisation, of~~ any of the acts contemplated in section 8.

(2) *(a)* The performer’s share of the royalty ~~percentage~~ contemplated in subsection (1) shall be determined by a written agreement in the prescribed manner and form, between the ~~author~~ performer~~, and the person to whom the author is assigning~~ copyright owner~~,~~ or between their representative collecting societies.

*(b)* Any ~~subsequent~~ assignment of the copyright in that work by the copyright owner, or subsequent copyright owners, is subject to the agreement between the ~~author and the assignee~~ performer and the copyright owner, contemplated in paragraph *(a)*, or the order contemplated in subsection (4), as the case may be.

(3) Where the ~~author~~ performer and ~~assignee~~ copyright owner contemplated in subsection (2)*(a)* cannot agree on the performer’s share of the royalty ~~percentage~~, the ~~author~~ performer or ~~assignee~~ copyright owner may refer the matter to the Tribunal for an order determining the ~~percentage~~ performer’s share of the royalty.

(4) The agreement contemplated in subsection (2)*(a)* must include the following:

*(a)* The rights and obligations of the ~~author~~ performer and the ~~assignee~~ copyright owner;

*(b)* the performer’s share of the royalty ~~percentage~~ agreed on, or ordered by the Tribunal, as the case may be;

*(c)* the method and period within which the amount must be paid by the ~~assignee~~ copyright owner to the ~~author~~ performer; and

*(d)* ~~a cooling off period; and~~

*(e)* a dispute resolution mechanism.

(6) *(a)* A person who obtained the copyright in an audiovisual work prior to the commencement of the Copyright Amendment Act, 2019, must within 48 months after said commencement negotiate a percentage of royalty as contemplated in subsection (2) with the author of the audiovisual work in question.

*(b)* Subsections (2), (3), and (4) apply to the negotiation contemplated in paragraph *(a)*.

*(c)* Section 22A, with the necessary changes, applies where the author cannot be found.

*(d)* This subsection does not apply—

(i) to a copyright owner who commissioned, or who is author the copyrighted audiovisual work in question; or

(ii) where the term of copyright in the copyrighted audiovisual work has ended; or

(iii) to any royalties earned by the assignee or licensee, as the case may be, that were received by that assignee or licensee, as the case may be, prior to the commencement of the Copyright Amendment Act, 2019.’’.

**Clause 11**

‘‘**Royalties regarding Sound Recording**

**9A.** (1) *(a)* In the absence of an agreement to the contrary or unless otherwise authorised by law, no person may, without payment of a royalty to the owner of the relevant copyright—

(i) broadcast**[,]** a sound recording as contemplated in section 9*(c)*;

(ii) cause the transmission of a sound recording as contemplated in section 9*(d)*; **[or** **play]**

(iii) communicate a sound recording to the public as contemplated in **[section 9*(c)*, *(d)* or *(e)* without payment of a royalty to the owner of the relevant copyright]** section 9*(e)*; or

(iv) make the sound recording available to the public as contemplated in section 9*(f)*.

*(aA)* Any person who ~~performs~~ executes an act contemplated in section 9*(c)*, *(d)*, ~~or~~ *(e)* or *(f)* for commercial purposes must—

(i) register that act in the prescribed manner and form; and

(ii) submit a complete, true and accurate report to the performer, copyright owner or collecting society, as the case may be, in the prescribed ~~period and~~ manner, for the purpose of calculating the royalties due and payable by that person.

*(b)* The amount of any royalty contemplated in paragraph *(a)* shall be determined by an agreement between the user of the sound recording, the performer and the owner of the copyright, the indigenous community, or between their **[representative]** collecting societies.

*(c)* In the absence of an agreement contemplated in paragraph *(b)*, the user, performer or owner may in the prescribed manner refer the matter to the **[Copyright]** Tribunal **[referred to in section 29(1)]** or they may agree to refer the matter for arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

(2) *(a)* The owner of the copyright, collecting society or indigenous community who receives payment of a royalty in terms of this section shall ensure that **[share]** such royalty is equally shared between the copyright owner and **[with]** any performer whose performance is featured on the sound recording in question and who would have been entitled to receive a royalty in that regard as contemplated in section 5 of the Performers’ Protection Act, 1967 (Act No.11 of 1967).

**[*(b)* The performer’s share of the royalty shall represent fair and equitable remuneration determined by an agreement between the performer and the owner of copyright, or between their representative collecting societies.**

***(c)* In the absence of an agreement contemplated in paragraph *(b)*, the performer or owner may refer the matter to the Copyright Tribunal referred to in section 29(1), or they may agree to refer the matter for arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).]**

*(d)* Any payment made by the user of the sound recording in terms of this subsection shall be deemed to have discharged any obligation which that user might have to make any payment in respect of his or her use of a corresponding fixation in terms of section 5 of the Performers’ Protection Act, 1967 (Act No.11 of 1967).

(3) In the event of any right to a royalty being assigned to any successor in title, either by contractual arrangement, operation of law, testamentary disposition or otherwise, any successor in title shall be entitled to enforce such right to a royalty against the person who in terms of this section is obliged to pay or against his or her successor in title.

(4) *(a)* Any person who intentionally fails to register an act as contemplated in subsection (1)*(aA)*(i), or who intentionally fails to submit a report as contemplated in subsection 9A(1)*(aA)*(ii), shall be guilty of an offence.

*(b)* A person convicted of an offence under paragraph *(a)* shall be liable to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment, or if the convicted person is not a natural person, to a fine of a minimum of ten per cent of its annual turnover.

*(c)* For the purpose of paragraph *(b)*, the annual turnover of a convicted person that is not a natural person at the time the fine is assessed, is the total income of that person during the financial year during which the offence or the majority of offences, as the case may be, were committed and if that financial year has not yet been completed, the financial year immediately preceding the offence or the majority of offences, as the case may be, ~~calculation~~, under all transactions to which this Act applies.’’.

*Note: Iro expanding log-sheets to all works. This will be done after due research of practicalities etc., but iro audiovisual works, it is proposed to add it to the Performers Protection Amendment Bill when that is being considered.*

**Clause 12**

*Note: Including the word “work” in the section could cause confusion as the copyright in the signal is limited to the signal. Including the word “work” may result on owners of the copyright in the signal claiming copyright in the work as well.*

*Propose that this clause be removed from the Bill so that section 11 is retained as it currently reads in the principal Act*

**Clause 15**

*Not proposing any amendments to the clause as it reads now.*

**New clause 20**

# Reinserting section 19B

# Substitution of section 19B of Act 98 of 1978, as inserted by section 18 of Act 125 of 1992

**19.** The following section is hereby substituted for section 19B of the principal Act:

‘‘**General exceptions regarding protection of computer programs**

**19B.** (1) A person having a right to use a copy of a computer program may, without the authorisation of the copyright owner, observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if that person does so while performing any of the acts of loading, displaying, executing, transmitting or storing the program which he or she is entitled to perform.

(2) The authorisation of the copyright owner shall not be required where reproduction of the code and translation of its form are indispensable in order to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, if the following conditions are met:

*(a)* The acts referred to in subsection (1) are performed by the licensee or another person having a right to use a copy of the program, or on their behalf by a person authorised to do so;

*(b)* the information necessary to achieve interoperability has not previously been readily available to the persons referred to in paragraph *(a)*; and

*(c)* those acts are confined to the parts of the original program which are necessary in order to achieve interoperability.

(3) The information obtained through the application of the provisions of subsection (2) may not be—

*(a)* used for goals other than those to achieve the interoperability of the independently created computer program;

*(b)* given to others except when necessary for the interoperability of the independently created computer program;

*(c)* used for the development, production or marketing of a computer program substantially similar in its expression to the program contemplated in subsection (1); or

*(d)* used for any other act which infringes copyright.

(4) For the purposes of this section, ‘interoperability’ means the ability to exchange information and to use the information which has been exchanged.’’.

**Clause 22**

*(c)* by the addition after subsection (2) of the following subsection:

‘‘(3) *(a)* The agreement contemplated in subsection (1)*(c)* may limit the ownership of copyright in the relevant work so that the exclusive right to do or to authorise any of the acts contemplated in sections 7, 8 or 9, as may be applicable, is limited to one or more of such acts, necessary for the purpose of that commission.

*(b)* Where the agreement contemplated in subsection (1)*(c)* does not specify who the copyright owner is, limited ownership of the copyright shall vest in the person commissioning the work, so that the exclusive right to do or to authorise any of the acts contemplated in sections 7, 8 or 9, as may be applicable, is limited to such rights as may be necessary for the purpose of the commission.

*(c)* The author of a work contemplated in subsection (1)*(c)* may approach the Tribunal for an order—

(i) where the work is not used by the ~~copyright owner~~ person who commissioned the work for the purpose commissioned, licencing the author to use that work for such purpose, subject to a ~~tariff~~ fee determined by the Tribunal payable to the ~~copyright owner~~ person who commissioned the work; or

(ii) where the work is used for a purpose other than that for which it was commissioned, ordering the ~~copyright owner~~ person who commissioned the work to make payment of royalties to the author for such other use.

*(d)* When considering a licence contemplated in paragraph *(c)*(i), the Tribunal must take all relevant factors into account, including the following:

(i) The nature of the work;

(ii) the reason why, and period for which, the ~~copyright owner~~ person who commissioned the work did not use the work; and

(iii) public interest.

*(e)* Where the work contemplated in subsection (1)*(c)* is of a personal nature to the ~~copyright owner~~ person who commissioned the work, the Tribunal may not licence the author to use that work.’’.

**Clause 25**

**Accreditation**

**22B.** (1) Any person who intends to act as a representative collecting society in terms of this Chapter must apply to the Commission in the prescribed manner and form for accreditation.

…

(4) The Commission shall not accredit or issue an accreditation certificate to any applicant unless the Commission is satisfied that the applicant—

*(a)* complies with the requirements for accreditation and such requirements as may be prescribed;

*(b)* is able to ensure adequate, efficient and effective administration relating to collection of royalties;

*(b)* is able to comply with any condition for accreditation and the relevant provisions of the Companies Act, the Broad-Based Black Economic Empowerment Act, 2013 (Act No. 46 of 2013), and any other applicable legislation; and

*(c)* has adopted a constitution meeting the prescribed requirements.

…

(8) *(a)* Any person who intentionally, gives itself out as a representative collecting society in terms of this Chapter without having been accredited, commits an offence.

*(b)* A person convicted of an offence in terms of paragraph *(a)*, is liable on conviction to a fine or imprisonment for a period not exceeding five years.

**Clause 25**

**Section 22C -** *Not proposing any amendments to the section as it reads now.*

**Clause 25**

**S22D**

# Control of collecting society by performers or copyright owners

**22D.** (1) A collecting society is subject to the control of the performers or copyright owners whose rights that collecting society administers, and the collecting society shall, in such manner as may be prescribed—

*(a)* collect and distribute royalties in accordance with the constitution of the collecting society contemplated in section 22B(4)*(c)* and subsection (2);

*(b)* utilise amounts collected as royalties in accordance with the constitution of the collecting society contemplated in section 22B(4)*(c)* onlyfor the purpose of distribution of the royalties to the performers or copyright owners; and

*(c)* provide to each performer or copyright owner regular, full and detailed information concerning all the activities of the collecting society in respect of the administration of the rights of that performer or copyright owner.

(2) Royalties distributed among the performers or copyright owners shall—

*(a)* as far as may be possible, be distributed in proportion to the actual use of their works; and

*(b)* be distributed to the performer or copyright owner as soon as possible after receipt thereof, but no later than three years from the date on which the royalties were collected.

(3) Where the collecting society, for whatever reason, is unable to distribute the royalties within ~~three~~ five years from the date on which the royalties were collected, that collecting society shall—

*(a)* invest the royalties in an interest-bearing account with a financial institution, the rate of which may not be less than the rate applicable to a savings account with that financial institution; and

*(b)* upon demand by the performer or copyright owner, or their authorised representatives, pay over the royalties together with the interest earned on the investment contemplated in paragraph *(a)*.

(3) Where the collecting society, for whatever reason, is unable to distribute the royalties within five years from the date on which the royalties were collected, that collecting society shall—

# Clause 25

# Suspension and cancellation of accreditation of collecting society

**22F.** (1) For purposes of this Act **‘compliance notice’** means a compliance notice contemplated in section 171 of the Companies Act, 2008 (Act No. 71 of 2008), read with the necessary changes.

(2) The Commission may issue a compliance notice or apply to the Tribunal for an order to institute an inquiry into the affairs of a collecting society, if the Commission is satisfied that the collecting society is being managed in a manner that contravenes the accreditation conditions of that collecting society or is managed in a manner detrimental to the interests of the performers or copyright owners concerned.

(3) The Commission may, if it is of the opinion that it will be in the interest of the performers or copyright owners concerned, apply to the Tribunal for an order suspending the accreditation of the collecting society contemplated in subsection (1), pending an inquiry for such period as may be specified in the order.

(4) The Commission may, after the inquiry contemplated in subsection (2) has been finalised and if it is of the opinion that it will be in the interest of the performers or copyright owners concerned, apply to the Tribunal for an order of cancellation of the accreditation of the collecting society in question.

(5) The Commission shall be responsible for the administration and discharge of the functions of the collecting society contemplated in subsection (3) during the period of suspension or cancellation of the accreditation of that collecting society following the order of the Tribunal: Provided that the Tribunal may, on application by the Commission, appoint any suitable person to assist the Commission in the administration and discharging of the functions of that collecting society.’’.

**Clause 27**

**27.** Section 27 of the principal Act is hereby amended—

…

*(c)* by the addition after subsection (8) of the following subsection:

‘‘(9) For the purpose of subsection 6, the annual turnover of a convicted person that is not a natural person at the time the fine is assessed, is the total income of that person during the financial year during which the offence or the majority of offences, as the case may be, were committed and if that financial year has not yet been completed, the financial year immediately preceding the offence or the majority of offences, as the case may be, ~~calculation~~, under all transactions to which this Act applies.’’.

**Clause 30**

‘‘**Establishment of Tribunal**

**29.** (1) The Copyright Tribunal is hereby established.

(2) The Chief Justice shall designate—

*(a)* five judges;

*(b)* five acting judges; and

*(c)* five retired judges,

as members of the Tribunal.

~~(2) The Minister must designate one of the persons contemplated in subsection (1) as chairperson and one as deputy chairperson.~~

(3) The members of the Tribunal contemplated in subsection (1) shall serve for a period not exceeding five years, which period shall be renewable for a further five years.

~~(4) The chairperson may, on one month written notice addressed to the Minister and the Chief Justice—~~

*~~(a)~~* ~~resign from the Tribunal; or~~

*~~(b)~~* ~~resign as chairperson, but remain as a member of the Tribunal.~~

(4) A member of the Tribunal ~~other than the chairperson~~ may resign by giving at least one month written notice to the Minister and the Chief Justice.

(6) In the event of the expiry of the term of office of a member of the Tribunal, the member has a matter pending for adjudication before the Tribunal, the member may continue to act as a member in respect of that matter only.’’.

**Clause 31**

‘‘**Qualifications for appointment**

**29B.** To be eligible for designation as a member of the Tribunal and to continue to hold that office, a person must, in addition to satisfying any other specific requirements set out in this Act—

*(a)* be a fit and proper person;

*(b)* have adequate knowledge in commercial law, intellectual property law or copyright law;

*(c)* have experience in dispute resolution; ~~and~~

*(d)* not have, or through a related person acquire, a personal financial interest that may conflict or interfere with the proper performance of the duties of a member of the Tribunal; and

*(e)* not have a criminal record.’’.

**Clause 32**

**Repeal of sections 30, 31, 32~~,~~ and 33 ~~and 36~~ of Act 98 of 1978**

**32.** Sections 30, 31, 32~~,~~ and 33 ~~and 36~~ of the principal Act are hereby repealed.

**Clause 32**

# Transitional provision

# 37. (1) Any reference in the Copyright Amendment Act, 2019, to the phrases “indigenous cultural expressions” or “indigenous community” shall only be effective upon the date on which the Intellectual Property Laws Amendment Act, 2013 (Act No. 28 of 2013) becomes operational.

# (2) Until the date of commencement of the Intellectual Property Laws Amendment Act, 2013 (Act No. 28 of 2013) ‘Commission’ means the Commission established in terms of section 185 of the Companies Act, 2008 (Act No. 71 of 2008).