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SRI LANKA**

**Part II of August 24, 2018**

**SUPPLEMENT**

*(Issued on 27.08.2018)*



**INTELLECTUAL PROPERTY (AMENDMENT)**

**A**

**BILL**

**to amend the Intellectual Property Act, No. 36 of 2003**

*Ordered to be published by the Minister of Industry and Commerce*

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*STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause amends section 5 of the Intellectual Property Act, No. 36 of 2003 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to insert certain new definitions as consequential to the new section 12A inserted in the principal enactment.

*Clause 3* : This clause inserts new section 12A to the principal enactment in order to enable any beneficiary person to access copies of certain works.

*Intellectual Property (Amendment)*

L.D.—O. 11/2016

AN ACT TO AMEND THE INTELLECTUAL PROPERTY  
ACT, No.36 OF 2003

BE it enacted by the Parliament of the Democratic Socialist  
Republic of Sri Lanka as follows:—

1. This Act may be cited as the Intellectual Property Short title.  
(Amendment) Act, No. of 2018.

5 2. Section 5 of the Intellectual Property Act, No. 36 of Amendment  
2003 (hereinafter referred to as the “principal enactment”) is of section 5  
hereby amended as follows:— of Act,  
No. 36 of  
2003.

(1) by the insertion immediately before the definition  
of the expression “audiovisual work”, of the  
10 following definition:—

““accessible format” means a copy of a work in an  
alternative form or manner which gives a  
beneficiary person access to such work,  
including to permit such person to have access  
15 as feasibly and comfortably as a person  
without any disability which a beneficiary  
person has. The accessible format copy shall  
be used exclusively by beneficiary persons  
and shall respect the intergrity of the original  
20 work, taking into consideration of the changes  
needed to make the work accessible in the  
alternative format and of the accessibility  
needs of the beneficiary person;”.

2                    *Intellectual Property (Amendment)*

(2) by the insertion immediately after the definition of the expression “author” of the following definition:–

“ “beneficiary person” means any person who–

5                    (a) is blind;

                         (b) has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to a person who has no such impairment or disability and is unable to read printed works to substantially the same degree as a person without any such impairment or disability; or

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15                    (c) is otherwise unable, through physical disability to hold or manipulate a book or to focus or move eyes to the extent that is acceptable for reading,

regardless of any other disability;”.

20                    3. The following new section is hereby inserted immediately after section 12 of the principal enactment and shall have effect as section 12A of that enactment:–

Insertion of new section 12A in the principal enactment.

                         “Fair use of a work by any authorized entity to facilitate a beneficiary person.                    12A.(1) (a) Notwithstanding anything contained in this Part, any authorized entity may adapt, reproduce and issue of copies of any work in an accessible format for the benefit of a beneficiary person in order to facilitate such beneficiary person to access such work including the sharing with any other beneficiary person of such work where the

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5 reproduction is made exclusively for the own use of the beneficiary person, his educational purpose or research and where the original format of such work prevents the enjoyment thereof by such person. Such adaptation, reproduction and issue of copies of any work by the authorized entity shall not be an infringement of copyright.

10 (b) The provisions of paragraph (a) shall apply for any work only where such work is not commercially available in such accessible format under reasonable terms. In such event, the Minister shall deposit a notification with the Director-General of the World Intellectual  
15 Property Organization declaring the limitations or exceptions, as the case may be, to such work.

(2) An authorized entity shall—

20 (a) be such persons or organizations as shall be prescribed by the Minister in consultation with the Director-General of Intellectual Property;

25 (b) make available to any beneficiary person copies of any work in accessible format on non-profit basis recovering only the cost of the production of such work in an accessible format;

30 (c) ensure that copies of any work in accessible format are used only by a beneficiary person and take reasonable steps to prevent its entry into ordinary channels of business;

4 *Intellectual Property (Amendment)*

- 5 (d) limit the supply of copies of any work in accessible format only to adapt, reproduce and issue of copies of such work to the beneficiary persons or any other persons acting on behalf of the beneficiary person;
- 10 (e) discourage the reproduction, distribution and making available of unauthorized copies of any work in accessible format; and
- 15 (f) maintain due care in, and records of its handling of copies of any work in accessible format while respecting the privacy of a beneficiary person.”.

4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

