ATC211119: Interim report of the Portfolio Committee on Trade and Industry on the Copyright Amendment Bill [B 13B-2017] (National Assembly – sec 76), dated 19 November 2021

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**Interim report of the Portfolio Committee on Trade and Industry on the Copyright Amendment Bill [B 13B-2017] (National Assembly – sec 76),** **dated 19 November 2021**

The Portfolio Committee on Trade and Industry, having reconsidered the **Copyright Amendment Bill** [B 13B-2017] (retagged in the National Assembly as a sec 76 Bill) (Announcements, Tablings and Committee Reports, 18 June 2021) and the President’s reservations on the constitutionality thereof (Announcements, Tablings and Committee Reports, 24 June 2020, pp 3-13), reports as follows:

The Bill seeks to amend the Copyright Act, 1978, (Act No. 98 of 1978) so as to define certain words and expressions; to allow for further limitations and exceptions regarding the reproduction of copyright works; to provide for the sharing of royalties in copyright works; to provide for the payment of royalties in respect of literary, musical, artistic and audiovisual works; to provide for resale royalty rights; to provide for recordal and reporting of certain acts; to provide for the accreditation of collecting societies; to provide for a mechanism for settlement of disputes; to provide for access to copyright works by persons with disabilities; to provide for the licensing of orphan works; to strengthen the powers and functions of the Copyright Tribunal; to provide for prohibited conduct in respect of technological protection measures; to provide for prohibited conduct in respect of copyright management information; to provide for protection of digital rights; to provide for certain new offences; and to provide for matters connected therewith.

The President’s reservations referred, among others, to the following:

1. The “fair use” provisions as amended had not been put out for further public comment.
2. The copyright exceptions might constitute reasonable grounds for constitutional challenges.
3. The Bill might not comply with international treaty obligations specifically in relation to the World Intellectual Property Organisation (WIPO) Copyright Treaty, the WIPO Performance and Phonograms Treaty, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

In a report dated 14 May 2021, adopted by the Committee for the National Assembly’s consideration and adoption, the Committee outlined how it intended to correct any procedural defects, by calling for further public comments in relation to 1, 2 and 3 above.

On 1 June 2021, the National Assembly adopted the Committee’s report in which, the Committee outlined how it intended to correct any procedural defect. (Minutes of Proceedings, National Assembly, dated 1 June 2021)

Consequently, the Committee re-advertised the relevant clauses and called for further submissions with respect to points 1, 2 and 3 above. The Committee received 91 submissions for its consideration in this regard.

Based on the inputs received, the Committee intends going beyond amending the sections in the Act, as envisaged in the **Copyright Amendment Bill** [B 13B-2017].

The additional provisions to be considered are as follows:

* New definitions related to personal copies, to exceptions for persons with disability, and to broadcasting; and
* Making the new exclusive rights of ‘communication to the public’, ‘making available’ and ‘distribution’ applicable to published editions and computer programmes.

National Assembly Rule 286(4)(c) provides that a committee may, if it is considering a Bill that amends provisions of the legislation, seek the permission of the Assembly to inquire into amending other provisions of that legislation.

**RECOMMENDATION**

The Committee recommends that the National Assembly grants permission in terms of Assembly Rule 286(4)(c) for it to amend other provisions of the **Copyright Act, 1978**(Act No. 98 of 1978).

Report to be considered.