

COPYRIGHT PROTECTIONS

ANALYSIS: COPYRIGHT (AMENDMENT) RULES, 2021 ENCOURAGING ACCOUNTABILITY & TRANSPARENCY



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Recently, the Government of India notified Copyright (Amendment) Rules, 2021, which were last amended in the year 2016. The main focus of the amended provisions is to encourage accountability and transparency. Further, the amendments are introduced to ensure smooth and flawless compliance in the light of the technological advancement in digital era by adopting electronic means as primary mode of communication and working in the Copyright Office.

[A copy of the amended Rules can be accessed here.](#)

Tabular Analysis of the Amendments:

S.N.	RULE	OLD PROVISION	NEW PROVISION	CHANGE	ANALYSIS
AMENDMENT INTRODUCING COPYRIGHT JOURNAL					
1.	Rule 2 Clause (da)		“Journal” means the Copyright Journal, made available at the official website of the Copyright Office;”	New Clause (da) introduced.	The modification is the result of the need to bring Copyright Office at par with other IP Offices in relation to the technological advancement happening in them. Further, keeping electronic mode as the primary mode of communication will ensure, transparency and flawlessness in the working of the copyright related work at the Copyright Office.
AMENDMENT RELATED TO REGISTRATION OF COPYRIGHT SOCIETIES					
2.	Rule 49 Sub-rule 1	When an application for registration is submitted to the Central Government through the Registrar of Copyrights, that Government may, within a period of sixty days from the date of its receipt by the Registrar of Copyrights either register the applicant as a copyright society	When an application for registration is submitted to the Central Government through the Registrar of Copyrights, that Government may, within a period of one hundred and eighty days from the date of its receipt by the Registrar of Copyrights either register the applicant as a copyright society	The words “sixty days”, have been substituted with the words “one hundred and eighty days”	Grant of the status as ‘Copyright Society’ under the Copyright regime of the country brings with it several powers and responsibilities. Few significant ones are: collection of royalties; managing the works of copyright authors and owners registered with them; granting licenses etc. Therefore, registration as a copyright society would entail evaluation on various parameters. This amendment will give the Copyright Office reasonable time to thoroughly assess the claim before making a decision.
AMENDMENT RELATED TO DISTRIBUTION OF ROYALTY BY COPYRIGHT SOCIETY					
3.	Rule 55 Sub-rule 3		The copyright society in relation to collection of royalty under sub-rule (1) and distribution of royalty under sub-rule (2) of this rule, shall create a system of payment through electronic modes and shall establish a system through which the payments so made are traceable.	New sub-rule 3 introduced	This addition to include an electronic payment methods to collect and distribute royalties & to also have a traceability system would again bring in simplicity. Additionally, this would create a digital trail of royalty distribution record thereby minimising the chance of any future disputes on the issue.
4.	Rule 58 Sub-rule 11		A copyright society must ensure that where the royalty cannot be distributed within the time specified in sub-rule (8) as the relevant author or other owner could not be identified or located; such royalties are kept separate in the accounts of the copyright society.	A new sub rule 11 is introduced	The intent behind this is to fairly deal with undistributed royalty amounts and ensure greater transparency in the process.
5.	Rule 58 Sub-rule 12		A copyright society must take all necessary measures to identify and locate the authors and other owners and must publish on its website, at the end of every quarter, the following information: (a) the title of the work; (b) the name of the author and other right owners of the work, as available; and (c) Any other relevant information available which could assist in identifying the right holder.	A new sub rule 12 is introduced	The intent behind this is to create a legal obligation on the Copyright Societies and ensure that all possible means to identify and locate the authors and other owners have been exhausted. Another amendment to bring it transparency in the process.
6.	Rule 58 Sub-rule 13		In case the royalty due to author and other owners remains undistributed at the end of the period of	A new sub rule 13 is introduced	The amendment simply intends to fairly deal with undistributed royalty amounts and ensure greater transparency in the process.

			fund of the copyright society.		
AMANDMENT INTRODUCING ANNUAL TRANSPARENCY REPORT FOR COPYRIGHT SOCIETIES					
7.	Rule 62 Sub-rule ix		The annual transparency report as provided under rule 65A.	A new sub rule 65A is introduced.	This new rule requires the Copyright Societies make public an Annual Transparency Report for each financial year within 6 months following the end of the financial year. This could be seen as the most noteworthy amendment. This would streamline the asymmetries in Copyright Societies functioning and ensure accountability and transparency for the authors/owners who have not received their due share of royalties. ¹
8.	Rule 65A		<p>Annual transparency report. —</p> <p>(1) The copyright society must draw up and make public a special report to be referred to as the annual transparency report for each financial year within six months following the end of that financial year. The copyright society shall publish on its website the annual transparency report and ensure that the annual transparency report remains available on its website for at least three years.</p> <p>(2) The annual transparency report must contain the following information, namely:—</p> <p>(a) report on the activities in the financial year;</p> <p>(b) number of refusals to grant a licence;</p> <p>(c) financial information on total royalties collected;</p> <p>(d) the total royalties paid to author and other owners;</p> <p>(e) the total royalties collected but not yet attributed to author and other owners;</p> <p>(f) the total administrative deductions made from royalty collected;</p> <p>(g) the details and use of the amounts deducted for the activities conducted under the welfare scheme as provided under rule 67; and</p> <p>(h) Information on amounts received from and paid to the foreign societies or organisation"</p>	A new Rule 65A is introduced.	
AMANDMENT RELATED TO SOFTWARE COPYRIGHT REGISTRATION					
9.	Rule 58 Sub-rule 12	Every application for registration of a computer programme shall be accompanied by the source and object code.	Every application for registration of a computer programme shall be accompanied by at least first 10 and last 10 pages of source code, or the entire source code if less than 20 pages, with no blocked out or redacted portions.	The words "the source and object code", have been substituted with the words "at least first 10 and last 10 pages of source code, or the entire source code if less than 20 pages, with no blocked out or redacted portions"	<p>This was a relief sought in the field of software registration. The intent behind this was to lessen down the compliance burden on the applicant who earlier, according to Rule 70 sub rule 4, was required to surrender the "source and object code" while going for listing of the software.</p> <p>Source Code is the foundation of the entire software, if source code is leaked it would be detrimental to the software developer. Hence, this amendment would safeguard the confidential information and the proprietary information present in the source code of a computer programme is not compromised merely for the purposes of obtaining copyright registration.</p>

Considering the country is already working towards becoming ‘Digital India’, this amendment has successfully brought the digital shift in the Copyright Office. Further, by amending the provisions related to copyright societies, modifications in the source code registration shadow the intent of the Copyright Office to bring in more accountability and transparency. It will now be interesting to see the implementation of the new Copyright Rules and how it unveils.

Footnotes:

1. "All you need to know about the Copyright (Amendment) Rules, 2021" <https://www.lexology.com/library/detail.aspx?l=e22de737-30d0-4af0-a428-d6f1e86733c1>