

South Africa's copyright revolution: New protections for digital creators

Nearly five decades after its original enactment, South Africa's copyright regime is undergoing one of the most significant reforms in its history. The Copyright Amendment Bill [B13F-2017] introduces modern protections to secure the financial and digital interests of authors and performers, thereby strengthening their economic rights in an increasingly digital world.

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While parts of the Bill remain under constitutional review, a landmark 2025 court ruling has already enforce critical protections for users with disabilities. This article breaks down the primary measures intended to safeguard South African creativity.

The Bill introduces specific safeguards and oversight mechanisms to prevent exploitation. These measures focus on digital security, guaranteed financial returns, and structural oversight of the industry. Herewith, a summary of some of the mechanisms introduced by the Bill:

Digital shields

The Bill creates a legal shield for digital content through technological protection measures (TPMs) introduced to reduce incidents of copyright infringement. These are the digital "locks" used to prevent unauthorised access or piracy. Under the proposed section 28O, it is now illegal to bypass these locks or sell devices intended to circumvent them.

Additional protection comes from copyright management information (CMI) introduced in the Bill. The Bill proposes insertions expressly prohibiting conduct in respect of TPMs and of CMI in respect of protected works.



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New financial safety nets

In the proposed sections of the Bill, South African creators gain significant financial protection through three specific mechanisms. These are intended to ensure that authors benefit from the long-term success of their work.

- a. Visual artists or their successors in title will be entitled to a royalty fee every time an original artwork is resold through the market. This right is inalienable and lasts for 50 years after the artist passes away.
- b. Authors of literary, musical, and audiovisual works now have a right to a share of the profits of subsequent sales even after they have sold or assigned their copyright to a third party. This prevents "once-off" payments that exclude creators from future success or commercialisation of their works.
- c. Assignments of copyright in literary or musical works will now expire after a period of 25 years. At that point, the ownership rights revert to the original author, allowing the original author the opportunity to renegotiate or resell their work in a more mature market, strengthening the commercialisation of copyrighted works for an extended period.



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Active protections for disability access

In May 2025, the Constitutional Court ordered the immediate "reading-in" of section 19D into the Copyright Act 98 of 1978 in terms of a ruling in the *Blind SA v President of the Republic of South Africa and Others* 2025 case.

This provision allows individuals with disabilities or organisations that serve them to create accessible format copies of works without seeking the owner's permission. This was necessary to remove discriminatory barriers that previously prevented visually impaired South Africans from accessing books and educational materials.

The court reached this finding, stating that the requirement for permission from copyright owners to create accessible formats of their work, such as braille or audiobooks, acted as a discriminatory barrier for owners which unfairly prevented disabled individuals from accessing copyrighted materials, infringing on their constitutional right to equality, dignity, and education.

Structural oversight and fair treatment

The Bill also reforms the way royalties are collected and paid.

All collecting societies must now obtain accreditation from the Companies and Intellectual Property Commission and will be subject to strict transparency rules and reporting. They are required to distribute funds to creators within five years of collection and provide detailed reports on their activities, among other new reporting rules.



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Copyright tribunal

The Bill proposes a significant overhaul of the Copyright Tribunal to resolve the new categories of dispute created by the legislative changes. Under the proposed sections 29A to 29H, the Tribunal is transformed from a passive body into a proactive regulatory authority with expanded powers, including -

- a. the power to settle a wide variety of disputes, including those related to the payment of royalties, the terms of licensing schemes, and the calculation of equitable remuneration.
- b. new enforcement capabilities by presiding members of the Tribunal, now being empowered to summon individuals to appear before the Tribunal, question persons under oath, and order the production of documents or books necessary for a hearing; and
- c. the powers to issue diverse orders, such as interdicting infringing conduct, confirming consent agreements, or imposing administrative fines.

The Bill and proposed insertions to the existing legislative framework signal a broader attempt to recalibrate the relationship between creators, users, and the public interest in a rapidly evolving digital environment.

By introducing stronger royalty protections, clearer contractual safeguards for authors and performers, and long-overdue accessibility provisions for persons with disabilities, the Bill seeks to align the country's legal framework with contemporary realities of content creation and distribution.

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