

6. In the case of derivative works such as:

- i. Works that have been arranged or translated, (local or foreign), the applicant must have prior authorization, signed by the copyright owner being the composer, author or publisher.
- ii. In the case of folklore described by the Copyright and Neighbouring Rights Act Cap 68:02 section 2: folklore means 'a group-oriented and tradition-based creation of groups or persons reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means including:
  - Folktales, folk poetry, and folk riddles;
  - Folk songs and instrumental folk music;
  - Folk dances and folk plays;
  - Productions of folk arts in particular, drawings, paintings, carvings, sculptures, pottery, terracotta, mosaic, wood-work, metal-ware, jewellery, handicrafts, costumes, and indigenous textiles'.

If the work is presumed to have been created by an identified author(s) and passed on from generation to generation as an element of traditional cultural heritage of Botswana, then prior written authorization shall be obtained from the Author or his/her beneficiary/ies.

7. Membership shall be on individual basis. However, should a choir, group or band apply for membership then they shall be required to meet the set rules and have to submit an agreement signed by all members of the choir, group or the band.

8. All applicants shall be eligible for membership as provisional members; however membership shall be subject to approval by the Board of COSBOTS.

## EXCLUSIONS

The following works shall NOT be eligible for registration with COSBOTS, as the Copyright and Neighboring Rights Act CAP 68:02, Section 6 (2), does not extend any protection on them:

- (a) An idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work;
- (b) Any official text of a legislative, administrative or legal nature, as well as any official translation thereof;
- (c) A broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast or in a cable program; or
- (d) A sound recording or film which is, or to the extent that it is, a copy of a previous sound recording or film.

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Copyright Society of Botswana

Membership

Membership requirements,  
Process, Benefits and  
Documentation Principles

## MEMBERSHIP REGISTRATION REQUIREMENTS: PROCESS AND DOCUMENTATION PRINCIPLES

The Copyright Society of Botswana (COSBOTS) is the Collective Management Organization in Botswana; incorporated in 2008 as a private company Limited by guarantee. COSBOTS is mandated by the Copyright and Neighbouring Rights Act CAP 68:02 to among others, license and collect royalties from users of copyright works to distribute to copyright owners.

### REGISTRATION REQUIREMENTS

COSBOTS requires:

- a) A copy of the work being notified.
- b) In case of publishers and producers, a certified copy of certificate of incorporation or business name is required.
- c) Three (3) recent passport (within 3 months) size photographs and a copy of identity card/passport/birth certificate.
- d) Copy of National Identity card/passport/birth certificate for next of kin; (if less than 16 years), he/she should be accompanied by a parent/guardian who has a National Identity card.
- e) Copies of agreements, if any, given joint copyright ownership/groups.
- f) Names of group members and a nominated representative if it is a group/band or choir.
- g) Death Certificate from Civil and National Registration if applying on behalf of a deceased person.
- h) Any other document that can assist to prove or support your claim to Copyright ownership in the work.
- i) Bank Account details of the applicant/s as well as those for the beneficiary/ies.

### REGISTRATION PROCESS

The potential member shall be provided with the membership rules so as to make him/her aware of his/her obligations upon becoming a member.

The potential member shall complete a membership application form.

The potential member shall then be issued with Provisional Membership and shall remain a provisional member for a period not exceeding 6 months.

After the authentication of works and on the basis of the results of Board approval, full membership shall then be determined.

The member who is awarded full membership shall then be awarded a Membership Certificate.

### BENEFITS FOR MEMBERSHIP OF COSBOTS

Membership is free

Members receive royalties from local users of copyright works.

COSBOTS receives international royalties and distributes them to members

Members are guaranteed authorised usage for, and protection for exploitation of their works.

COSBOTS sets rates for royalties on behalf of members in accordance with acceptable international standards.

COSBOTS monitors usage of members' protected works for national broadcast.

Members are eligible to vote and participate in policy making for the industry.

Members' beneficiaries are entitled to benefit from royalties, for a specified number of years after death of a member, or from date the work was made, or first published.

Members shall gain appreciation and understanding of copyright issues and knowledge on intellectual property matters.

Members will save time and money, therefore be empowered to focus on, and develop their careers.

Members will receive advice to make informed business decisions and favourable contractual agreements.

### DOCUMENTATION PRINCIPLES

Section 3 of the Copyright and Neighboring Rights Act CAP 68:02 of Botswana states that "a literary, musical or artistic work shall not be eligible for copyright protection unless:-

It is an original intellectual creation in literary and artistic domain.

This therefore implies that sufficient effort must have been expended on making the work to give it an original character".

### Membership Requirements

For admission as a member of COSBOTS:

1. The applicant must be:-
  - i. An individual who is a citizen of, or is domiciled or resident in Botswana.
  - ii. A legal entity which is incorporated under or in accordance with the laws of Botswana.
2. The work to be registered must have been recorded for economic purposes.
3. There must be evidence of the work reduced to material form notwithstanding section 6.1 of Copyright Act of 2000:-  
An applicant shall be required to produce evidence of their works in tangible form
  - i. Compact disc form & computer programs
  - ii. Cassette
  - iii. Written form containing the lyrics and notes
  - iv. Digital compact disc
  - v. All other evidence relating to literary and artistic works such as books (with drafts), films, photographs, paintings, drawings
4. In addition to evidence produced in material form in audiovisual works:
  - i. An author and publisher;
  - ii. A performer and producer must have a legally binding contract.
5. A publisher, a composer and author;  
Shall all have a legally binding contract signed by all parties and shall be deposited to COSBOTS.