

THE LAW OF THE REPUBLIC OF AZERBAIJAN ON COPYRIGHT AND RELATED RIGHTS

SECTION I. GENERAL PROVISIONS

Article 1. The subject of the law

This law governs the relations arising in the territory of the Republic of Azerbaijan from the creation and exploitation of scientific, literary and artistic works (copyright) and of performances, phonograms, programs of broadcasting or cable distribution (relaying) organizations (related rights).

Article 2. Legislation on Copyright and Related Rights

The legislation on Copyright and Related rights consists of this Law, Civil Code of the Republic of Azerbaijan, and other legislative acts of the Republic of Azerbaijan adopted in accordance with this law.

Where an International treaty to which Azerbaijan is a party contains the rules different from those specified in this law, the provisions of the international treaty shall be applied.

Article 3. Scope of the Law

The provisions of this law are hereof applied to:

1. scientific, literary and artistic works, performances and phonograms, belonging to a copyright or related rights holder who is the citizen of the Republic of Azerbaijan, or resides permanently in the territory of the Republic of Azerbaijan, or legal person, as such in accordance with the legislation of the Republic of Azerbaijan;

2. scientific, literary and artistic works, published (released) for the first time in the territory of the Republic of Azerbaijan. Works or phonograms are also considered published (released) for the first time provided that they are published (released) in the period of 30 days in the territory of Republic of Azerbaijan after first being published (released) outside of Republic of Azerbaijan;

3. performances which were first performed in the territory of Republic of Azerbaijan, or recorded on phonogram, protected in accordance with paragraph 2 of this Article, or which had not been recorded on phonogram, but included in broadcast program, protected in accordance with paragraph 4 of this Article;

4. broadcast entities incorporated under the laws of Republic of Azerbaijan, which provide broadcasting via transmitters located in the territory of Republic of Azerbaijan;

5. architectural works located in the territory of Republic of Azerbaijan;

6. other scientific, literary and artistic works, performances, phonograms, broadcast programs, protected in accordance with the treaties joined by the Republic of Azerbaijan.

Article 4. Basic Concepts

For the purposes of this Law, the terms given below shall have the following meanings:

- **author** – physical person creating the work;
- **audiovisual work** - a work consisting of a series of interconnected images (with or without sound accompaniment) which is intended to be made visible and (where the images are accompanied by sound) audible with the aid of appropriate technical equipment; audiovisual works include cinematographic works and all works expressed by means comparable to cinematography (television films, video films, fixed projections, slide shows and the like), regardless of the manner in which they are initially or subsequently fixed;
- **database** - an aggregate of data (articles, calculations, facts and other materials), which is according to its selection and arrangement, a result of creative work and which is systematized so as the data could be found and processed by the computer;
- **reproduction** – production of one or more copies of the work or phonogram in any substantive form, including the audio or video recordings. Reproduction is also recording of the work or phonogram for temporary or permanent storing in electronic (including digital), optical or other machine-readable form;
- **recording** – fixing, with an aid of technical means, of sounds and/or images or both in any substantive form enabling them to be repeatedly perceived, reproduced or communicated;

- **producer of an audiovisual work** - a physical or legal person undertaking the initiative of and responsibility for the production of the work. In the absence of proof to the contrary, the physical or legal person named in the customary manner on an audiovisual work shall be considered the producer of that work;

- **phonogram producer** – a physical or legal person undertaking the initiative of and responsibility for the first audio recording of a performance or of other sounds. In the absence of proof to the contrary, the physical or legal person named in the customary manner on the phonogram and/or on the casing shall be considered the producer of the phonogram;

- **performer** - the actor, singer, musician, dancer or any other person who performs, recites, sings, plays a musical instrument or in any other way presents a literary or artistic work (including variety, circus acts or puppet shows), and also the producer or director of a show and the orchestra conductor;

- **computer** – electronic or a similar facility capable of processing information;

- **computer program** - the aggregate of directives, in the form of words, codes, schemes, etc. in a machine-readable form, puts computer in action to attain a specific result or purpose. Computer program also includes preparatory materials produced while developing the computer program and the audiovisual displays generated by the program itself;

- **collective work** – a work that is made by two or more physical persons on the initiative and under guidance of physical or legal person, provided the work is released under the latter's name;

- **derivative work** – intellectual product based on other work (translation, adaptation, staging, and recasting, etc.)

- **disclosure of a work** - the act performed with the author's consent which first makes the work accessible to general public through releasing, public presentation, public performance, broadcasting or other means

- **publication (release)** - putting copies of a work or phonogram into circulation with the consent of the author of the work or phonogram producer and in sufficient quantity to meet the reasonable needs of the public. An access to work, phonogram via electronic information systems is also considered a publication (release);

- **broadcasting by a broadcasting organization** - broadcast created by the broadcasting or cable distribution entity

itself, or, on its instructions and with its funding, by another organization;

- **work of applied art** - a work of art made manually or in an industrial process intended for practical use, or transferred on objects designed for practical use;

- **photographic work** – fixing by light or other radiation method enabling to produce image regardless of fixing technology (chemical, electronic or other). The separately taken picture out of audiovisual continuity is not considered a “photographic work”;

- **public presentation** – presentation of works, phonograms, performances, other productions or broadcasts of broadcasting organizations by means of recitation, playing, singing or other method both by direct live performance and by technical means and processes (except by broadcasting or cable distribution) so that they could be perceived by large number of persons as not belonging to the usual family circle or close friends of a family;

- **public performance** – demonstration of an original or a copy of a work, performance, arrangement of direct broadcasts, either on the screen by means of a film, slide, shot or through the other technical means or processes (except by broadcasting or cable distribution) so that they could be perceived by number of persons not belonging to the usual family circle or close friends of family. Inconsequential demonstration of separated images of audiovisual works shall also be considered as public performance;

- **public rental** – transfer of a proprietary right for an original or a copy of a work for a definite time period to the libraries, archives, other entities and organizations providing free public services;

- **public announcement** (announcement intended for public use) – broadcast, by cable and other means of images and (or) sounds of works, performances, phonograms, broadcasts by broadcasting entities so as they are perceived by persons not belonging to the usual family circle or close family friends at the remote distances where without such communication of image or voices they could not be perceived;

- **reprographic reproduction** - means the facsimile reproduction in any size (increased or decreased) of the original or a copy of the work (written and other graphic work) by photocopying or with the aid of other technical means other than publishing;

- **rental** – transfer of a proprietary right for an original or a copy of a work or a phonogram for a definite time with the purpose of making direct or indirect profit;

- **joint work** – a work created by two or more authors, except for collective works, as stipulated in this article;

- **broadcasting** - communicating the works, phonograms, performances or programs by broadcasting or cable distribution entities for general public by means of transmission by radio or television (except cable television), including via satellites. While communicating the works, phonograms, performances, broadcasting entities' programs via satellite, the broadcasting means making the works, phonograms, performances or programs by broadcasting entities available for general public through signals received from the ground station regardless of actual reception by the said public;

- **communication by cable** – communicating the works, phonograms, performances, programs by broadcasting entities to the general public via cable, wire, fibre optic or other similar means;

- **phonogram** - any exclusive sound recording of performances or other sounds;

- **copy of a work** - means any copy of the work, made in any substantive form;

- **copy of a phonogram** - the duplicate of a phonogram on any material object made directly or indirectly from the phonogram and incorporating all or some of the sounds recorded thereon;

- **relaying (retransmission)** – simultaneous broadcasting (by cable) by broadcasting entity of programs of another entity.

SECTION II COPYRIGHT

Chapter I Subject of Copyright

Article 5. Scope of Copyright

1. Copyright extends to scientific, literary and artistic works that are the product of creative work, disclosed or undisclosed but being in any objective form, regardless of the purpose, the merit and the manner of expression thereof.

The origin and exercise of copyright shall not require either registration of the work or the performance of any other act of formality.

2. Copyright covers disclosed works and also undisclosed works that exist in an objective form, namely:

- written form (manuscript, typewritten text, musical score, etc.);
- oral form (public recitation, public performance, etc.);
- sound or visual recording (mechanical, magnetic, digital, optical, etc.);
- figurative form (drawing, sketch, painting, plan, industrial design, still picture from a cinematographic or television or video film, photograph, etc.);
- three-dimensional form (sculpture, model, mock-up, structure, etc.);
- any other form.

3. Ideas, methods, processes, systems, means, concepts, principles, discoveries and facts may not be protected by copyright.

4. The copyright in a work is independent of the ownership of the material object in which the work is expressed.

The transfer of the ownership of the material object or of the right of possession of the material object shall not in itself constitute transfer of any copyright in the work embodied in that object, except cases specially provided for in legislation.

Article 6. Works, which are Subjects of Copyright.

1. The following are subjects of copyright:

- literary works (books, articles, including computer programs and other);
- drama or dramatic-musical works and other works with a scenario;
- choreographic and mimed works;
- musical works with or without accompanying text;
- audiovisual works (cinematographic, television and video films, static projections, slide shows and other cinematographic and television productions);
- works of painting and sculpture, graphic and design works, cartoon strips and other works of figurative art;

- works of applied art and stage design;
- works of architecture, urban planning and park and garden design;
- photographic works and works obtained by processes similar to photography;
- maps, plans, sketches, illustrations plastic works relating to geography, topography and other sciences;
- derived works (translations, adaptations, annotations, essays, summaries, reviews, stage adaptations, arrangements and other remaking of scientific, literary and artistic works);
- collections (encyclopaedias, anthologies, databases) and other composite works which, by reason of the selection or arrangement of their contents, constitute the result of creative effort;

Derived works and collections shall be protected by copyright whether or not the works on which they are based, or which they themselves include are the subjects of copyright.

- the other works.

2. The protection of computer programs shall extend to all types of computer program, including operating systems, regardless of the language and form in which they are expressed, including the source code and the object code.

Article 7. Works, which are not, Objects of Copyright

The following are not subjects of copyright:

- official documents (laws, court decisions, other texts of legislative, administrative or judicial character) and their official translations;
- State emblems and official signs (flags, armorial bearings, decorations, monetary signs and other State symbols and official signs);
- works of folklore;
- communications concerning events and facts that have informational character.

Article 8. Origin of Copyright. Presumption of Authorship

1. An author of the work is a person, who created it. In the absence of proof to the contrary, the person named as the author on the original of the work shall be deemed the author thereof.

2. In order to have his rights recognized, the owner may use a copyright sign which should be placed on every copy of the work and should consist of the following three elements:

- a circled capital letter C - ©;
- the name of the owner (physical or legal) of the exclusive rights;
- the year of first publication of the work.

3. In case a work is anonymous or published under a pseudonym (unless the author's pseudonym leaves his identity in no doubt), the publisher named on the work shall be presumed, in the absence of proof to the contrary, to represent the author in accordance with this Law and, in that capacity, shall be empowered to defend and exercise the author's rights. This provision shall remain in force until such time as the author of the work reveals his identity and claims authorship of the work;

4. An exclusive rights holder for disclosed or undisclosed works shall register the work in appropriate authorized body of the Republic of Azerbaijan which provides activity in field of copyright, during validity of copyright;

5. The person who registers his work is granted certificate. This certificate could not be considered as presumption of authorship. In disputable situations, in case of absence of the proofs, the registration of work is recognized by court as presumption of authorship.

Article 9. Works of Joint Authorship (co-authorship)

The copyright in a work that is the product of the joint creative work of two or more persons (work of joint authorship) shall belong jointly to the co-authors, regardless of whether it constitutes an indivisible whole or is composed of parts, each with a relevance of its own.

The right to exploit the whole work shall belong jointly to the co-authors.

None of co-authors shall be entitled to prohibit the exploitation of the work without valid reason.

A part of a work shall be deemed to have a relevance of its own if it can be exploited independently with the other parts of the same work.

Unless otherwise agreed between them, each of the co-authors may exploit as he sees fit that part of the work with a relevance of its own that he has created.

The relations between the co-authors may be the subjects of an agreement between them.

Article 10. Copyright on Compile (compilation) Works and Collection Works

1. The author of a collection or any other composite work (compiler) shall enjoy copyright in the selection or arrangement of subject matter that he has made insofar as that selection or arrangement is the result of a creative effort of compilation.

The compiler shall enjoy copyright subject to respect for the rights of the authors of each work included in the composite work. Each of the authors of the works included in the composite work shall have the right to exploit his work at his own discretion unless the author's contract provides otherwise.

Notwithstanding the copyright of the compiler, any third party may make an independent selection or arrangement of the same subject matter for the purposes of the creation of a composite work of his own.

2. The exclusive right to exploit encyclopaedias, encyclopaedic dictionaries, collections of scientific works published either in one or several instalments, newspapers, reviews and other periodical publications shall belong to the editor thereof.

The editor shall have the right to mention his name (name of organisation) or to demand such mention whenever the said publications are exploited.

The authors of the works included in the said publications shall retain the exclusive rights to exploit their works independently of the

publication of the whole work, unless provided otherwise by the authors' contract.

Article 11. Copyright on Derived Works

Translators and other authors of derived works shall enjoy copyright in translations, adaptations, arrangements or any other transformations made by them.

The translator or the author of other derived work shall enjoy copyright in the work created by him, subject to the rights of the author of the work that he has translated, adapted, arranged or otherwise transformed.

Notwithstanding the copyright of the translator or other author of a derived work, third parties may make their own translations or transformations of the same work.

Article 12. Copyright in Audiovisual Works

1. The following shall be recognized as authors (co-authors) of an audiovisual work:

- The director;
- The scriptwriter;
- Art director;
- Cameraman;
- The author of the musical work (with or without words) that has been specially created for that audiovisual work (composer).

Author of the work created before, arranged or included as part to the audiovisual work is also considered as a co-author of audiovisual work.

2. The conclusion of a contract for the making of an audiovisual work shall constitute assignment, by the authors of the work to the producer thereof, of the exclusive rights of reproduction, public performance, communication to the public by cable, broadcasting, or any other public communication of the work, and also the exclusive subtitling and dubbing rights, unless otherwise provided in the contract. The said rights shall operate throughout the period of validity of the copyright in the audiovisual work.

The producer of the audiovisual work shall have the right to mention his name or to demand such mention whenever the work is exploited.

3. The authors of the works constituting the audiovisual work (with or without words) shall retain the right to remuneration of his musical work from each public performance, informing and also rent of copies.

Article 13. Copyright on works created in the course of duty obligations or in the performance of an assignment expressly given by the employer

1. The copyright in a work created in the course of duty obligations or in the performance of an assignment expressly given by the employer (service-related work) shall belong to the author of the said work.

2. The exclusive right to exploit the service-related work shall belong to the person to whom the author is bound by employment relations (employer), unless otherwise provided in the contract concluded by the said person with the author.

The amount of the remuneration of the author for each form of use of the service-related work, and the manner of the payment thereof, shall be specified in the contract concluded by the author and employer.

3. The employer shall have the right to mention his name or demand such mention in connection with any exploitation of the service-related work.

4. The provisions of this Article shall not apply to the making, in the course of duty obligations or the performance of an assignment expressly given by the employer.(Article 10 of this Law).

Chapter II Author's Rights

Article 14. Personal (non-property) Rights

1. The author shall enjoy the following personal rights in relation to his work:

- the right to have his authorship of the work recognized (right of authorship);
- the right to exploit the work or to authorize the exploitation thereof, either with the mention of his true name or his pseudonym or without any name being given, that is to say anonymously (right to be named);
- the right to the protection of the work, including the title thereof, against any distortion or other derogatory act liable to prejudice his honour or dignity (right to the protection of the author's reputation);
- the right to disclose the work or to authorize the disclosure thereof in any form (right of disclosure), including the right to disavow or withdraw.

2. Personal rights are indivisible, inalienable and shall belong to the author independently of his property rights, and the author shall retain them even where the exclusive right to exploit the work is assigned.

3. The author shall have the right to renounce a decision taken earlier to disclose the work (right to disavow or withdraw), provided that the user is indemnified for any damages, including lost earnings, attributable to the said decision. If the work has already been disclosed, the author shall be bound to make the said withdrawal known to the public. He shall then have the right to withdraw from circulation, at his own expense, those copies of the work that have already been made.

The provisions of this paragraph shall not apply to service-related works.

Article 15. Property (economic) Rights

1. The author or other legal holder shall enjoy the exclusive right to exploit this works in any form and by any means, except cases according to the law.

2. The author's exclusive right to exploit the work shall be construed to mean the right to perform, authorize or prohibit the following acts:

- reproduction of the work (right of reproduction);

- distribution of copies of the work by any means, including sale, rental and other means (right of distribution);
- importation of copies of the work for the purposes of distribution, including that of copies made with the permission of the owner of exclusive rights (right of importation);
- presentation of the work in public (right of public presentation);
- performance of the work in public (right of public performance);
- public performance with the purpose of communication of the work to the public including public performance by broadcasting or cable relaying (right of public communication)
- communication of the work to the public including first broadcast or subsequent broadcast (right of broadcasting);
- communication of the work to the public, including first broadcast or subsequent broadcast by cable, wire or other similar means (right of communication to the public by cable);
- translation of the work (right of translation);
- adaptation, arrangement or other transformation of the work (right of adaptation).

The exclusive rights of the author in relation to the project for a design work, an architectural work, a work of urban planning or a work of park or garden design shall extend also to the practical realization of the project. Unless otherwise provided by contract, the author of an accepted architectural project shall have the right to demand that the party who commissioned the work allow him to take part in the realization of his project at the stage of the production of the documentary material relating to the construction or at the stage of the actual construction of the building or other structure.

3. Where copies of a lawfully published work have been put into circulation by means of sale, their subsequent distribution shall not require authorization by the author and shall not give rise to the payment of remuneration to the author.

The right to distribute copies of the work by means of rental shall belong to the author without regard to the ownership of the said copies.

4. The amount and the manner of payment of remuneration to the author for each form of exploitation of the work shall be determined by the author's contract and by the contracts that organizations for the collective administration of economic rights conclude with users.

5. The rights of authors specified in paragraph 2 of this Article shall be subject to the limitations specified in Article 17 to Article 25 of this Law, which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author.

Article 16. Right of Access to Works of Fine Art. Resale Royalty

1. The author of a work of fine art shall have the right to demand of the owner of the work that he allow him to exercise the right of reproduction of his work (right of access), provided that the owner of the work may not be bound to deliver the work to the author to that end.

2. The transfer of ownership of a work of fine art (whether for consideration or free of charge) from the author to a third party shall constitute the first sale of that work.

For each public resale of a work of fine art (sale by auction or at an art gallery or exhibition, in a shop, etc.), effected at a price at least 20% in excess of that of the previous sale, the seller shall pay the author remuneration representing 5% of the resale price (resale royalty).

That right is inalienable and transferable only to the author's legal heirs throughout the duration of the copyright.

Article 17. Use of Works and Phonograms for Personal Purposes

1. The reproduction of a lawfully disclosed work by physical person for exclusively personal purposes shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided in 3rd paragraph of this article.

2. The provisions of paragraph 1 of this Article shall not apply:

- to the reproduction of works of architecture in the form of comparable buildings and structures;

- to the reproduction of databases or substantial parts of databases;
- to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law;
- to the reprographic production(reproduction) of books (in their entirety), musical scores and originals of art works.

3. Author or legal holder for audiovisual works, produced from phonograms by physical persons, has rights for receiving royalty. Author's royalties shall be paid by manufacturers and importers of equipment (sound recording equipment, videocassette recorders, etc.) and recording material (tape and cassettes for sound or video recording, optical discs, compact discs, etc.) used for this reproduction.

4. The collection and distribution of the remuneration, indicated in paragraph 3 of this article, shall be effected by one of the organizations for collective administration of the economic rights of authors, phonogram producers and performers under an agreement concluded with the said organization (Article 42 of this Law). Except where otherwise provided in the agreement, the remuneration shall be distributed as follows: 40% to the authors, 30% to the performers and 30% to the phonogram producers.

The amount of the remuneration and the manner of its payment shall be determined by agreement between the aforementioned manufacturers and importers on the one hand and the organizations for collective administration of the economic rights of authors, phonogram producers and performers on the other hand, and, if the parties fail to agree, by the relevant copyright agency of the Republic of Azerbaijan empowered to do so.

The remuneration for reproduction in personal purpose indicated in 1st paragraph of this article are distributed between authors or other legal holders, performers and phonogram producers as usual.

5. No remuneration shall be paid for the recording equipment and material referred to in the 3rd paragraph of this Article that are exported or constitute professional equipment and material not intended to be used for home recording.

Physical persons in private purpose also shall pay no remuneration in import of named equipment and materials.

Article 18. Reprographic Reproduction by Libraries, Archives and Educational Institutions.

1. It shall be permissible, without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned, to make a reprographic reproduction in one copy and without gainful intent:

a) of a lawfully published work insofar as the reproduction is the work of a library or archive service and its purpose is to restore or replace lost or damaged copies, or to place copies at the disposal of other libraries that for any reason have lost works from their own collections, if publication of such copy is impossible by same way;

b) of isolated articles or succinct works lawfully published in periodical publications, or of short extracts from lawfully published written works(excepting computer programs), if the reproduction is the work of a library or archive service and it is done to meet the requirements of natural persons who will make use of the copies so obtained for study or research purposes;

c) of isolated articles or succinct works in periodical publications, or of short extracts from lawfully published written works (excepting computer programs), if the reproduction is the work of an educational establishment and the copy obtained is intended for classroom use.

2. Reprographic reproduction indicated in subparagraphs **a** and **b** of paragraph 1 of this article admitted in case of absence of licence for reprographic reproduction, issued by organisation which collectively manages property rights of authors.

Article 19. Use of a Work for informational, scientific, educational and other purposes

The following shall be authorized without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned:

1. the quotation, in the original language or in translation, for scientific or for research, polemic, critical or informational purposes and to the extent justified by the intended purpose, of extracts from lawfully disclosed works, including the reproduction of extracts from newspaper and magazine articles in press reviews;

2. the use of lawfully disclosed extracts from works in publications, radio or television broadcasts or sound or visual

recordings of educational character to the extent justified by the intended purpose;

3. the reproduction in newspapers, the broadcasting or communication to the public by cable of articles published in newspapers or magazines on economic, political, social or religious topics, or of broadcast works of the same nature, insofar as the author has not expressly prohibited such reproduction, broadcast or cable communication;

4. the reproduction or communication to the public, in connection with the reporting of current events by means of photography, broadcasting or public cable communication, of works that are seen or heard in the course of such events, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish such works in collections;

5. the reproduction in newspapers, the broadcasting or communication to the public by cable of political speeches, addresses, lectures and other works of the same nature given in public, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish those works in collections;

6. the reproduction in Braille or by other special means for the benefit of the blind, done without gainful intent, of lawfully disclosed works, with the exception of works created especially for such means of reproduction.

Article 20. Use of Works Permanently Located in a Public Place

The reproduction, broadcasting or communication to the public by cable of architectural works, photographic works and works of fine art permanently located in a public place shall be permissible without the author's consent and without payment of remuneration, except where the presentation of the work constitutes the main feature of the said reproduction, broadcast or communication to the public by cable, if it is used for commercial purposes.

Article 21. Public Performance in Official and other Ceremonies

The public performance of musical works in the course of official or religious ceremonies and at funerals shall be permissible

without the author's consent and without payment of remuneration, to the extent justified by the nature of the said ceremonies.

Article 22. Reproduction for Judicial Purposes

The reproduction of works for the purposes of judicial proceedings, to the extent justified by the said purposes, shall be permissible without the author's consent and without payment of remuneration.

Article 23. Ephemeral Short-Term Recording by a Broadcasting Entity

A broadcasting entity may, without the author's consent and without payment of any additional remuneration, make an ephemeral recording of the work for which it has obtained the right of broadcasting, on condition:

a) that the entity makes the recording with its own equipment and facilities and for the purposes of its own broadcasts;

b) of obligation to destroy the recording within six months after it was made, except where a longer period has been agreed upon with the author of the work recorded; the recording may be preserved in official archives without the author's consent if it is of purely documentary character.

Article 24. Reproduction of Computer Programs and Data Bases. Decompiling of Computer Programs

1. Any person lawfully in possession of a copy of a computer program or database may, without permission from the author or any other owner of the exclusive right to exploit the work and without paying any additional remuneration,

- make alterations to the computer program or database, where the purpose thereof is solely to ensure their operation on the user's material, and perform any act in relation to the operation of the computer program or database according to its intended purpose, including any inputting or storing in a memory (that of an individual computer or that of one of the computers in a network), and also correct obvious errors, except where otherwise provided in the contract concluded with the author;

- make a copy of the computer program or database, provided that the copy is intended solely for archiving and for the replacement of a lawfully acquired copy in the event of the latter having been lost, destroyed or rendered useless.

2. The copy of the computer program or database may not be used for purposes other than those specified in subparagraph (1) of this paragraph, and that it must be destroyed should the possession of the copy of the computer program or database cease to be lawful.

3. Any person lawfully in possession of a copy of a computer program may, without permission from the author or any other owner of exclusive rights, and without paying any additional remuneration, reproduce or convert the object code making it into a source code (decompile the program) or have such acts performed by third parties, if they are essential to ensure the interactive capabilities of a computer program independently created by that person with other programs compatible with the program so decompiled, in which case the following conditions have to be fulfilled or observed:

a) the person concerned must not previously have had access to other sources capable of providing him with the information necessary to ensure the interactive capability;

b) the acts mentioned must only be performed in relation to the parts of the computer program the decompiling of which is essential to the achievement of the interactive capability;

c) the information obtained by decompiling may only be used for the achievement of the interactive capability of the independently created computer program with other programs; the information may not be passed on to third parties, except where necessary to ensure the interactive capability of the independently created computer program with other programs and it may not be used for the development of a computer program of a type essentially comparable to the decompiled computer program, or for the performance of any other act prejudicial to copyright.

Chapter III Term of Copyright

Article 25. Term of Copyright

Copyright arises from creation of work and shall have effect throughout the lifetime of the author and for 50 years after his death, except as provided in Article 26 of this Law.

The author's private rights (right to claim authorship of his work, his right to be named as such and his right to protection for his reputation) shall be protected without limitation in time. Protection of a copyright after author's death is provided in accordance with the article 29 of this Law.

1. Any period under paragraph 1 of this Article and Article 26 of this Law shall be calculated as from the beginning of the year following that in which the legal act occurred that marks the starting point of the period.

Article 26. Special Terms of Copyright

1. The copyright in an anonymous or pseudonymous work shall have effect for 50 years following the date of the lawful disclosure thereof.

If, in the course of that period, the author of the anonymous or pseudonymous work reveals his identity, or if that identity is no longer in doubt, the provisions of the first subparagraph of paragraph 1 of Article 25 of this Law shall be applicable.

2. The copyright in a work of joint authorship shall have effect until the death of the last surviving co-author and for 50 years thereafter.

3. Copyright in a posthumous work, published at first time during 30 years, shall have effect for 50 years following the first publication of the work.

4. The copyright in a work of collective authorship, in accordance with the Article 10 of this Law, shall have effect for 50 years from the date of publishing, in case it is unpublished from the date of creation.

Article 27. Public Domain

1. On the expiration of the term of the copyright in a work, the work shall fall into the public domain.

Works that have never enjoyed protection on the territory of the Republic of Azerbaijan shall likewise be deemed fallen into the public domain.

Works that have fallen into the public domain may be freely used by any person without payment of remuneration. However, the author's right to claim authorship, his right to be named as such and his right to protection for his reputation as author shall be respected (Article 14 of this Law).

2. The works of Azerbaijani creators, deemed fallen into the public domain, could be recognized public domain by authorized body and for its utilization could be established special payments. That royalty shall be transferred into Azerbaijan's state budget

Chapter IV Transferring of Copyright. Copyright Contract.

Article 28. Transfer and Assignment of Copyright

The copyright is transferable by succession and assignable by author's contract.

Article 29. Transfer of Copyright by Succession

1. Copyright is transferable by succession and by inheritance under the Law.

The rights for works indicated in article 14 of this Law shall not be transferable by succession.

The heirs of the author may ensure the defence of those rights without limitation in time.

2. Author has rights for indicating the person whom he transfers the rights for protection, in way of assigning the heir executor. Such person (heir) provides authorities for life.

Where there is no such an indicator by the author, the defence of the rights in question after his death shall be ensured by his heirs or the relevant executive agency of the Republic of Azerbaijan on copyright in case there are no heirs or upon the cessation of copyright.

Article 30. Assignment of Rights by Authors' Contracts

1. The assignment or licensing of property rights referred to in Article 15 of this Law shall be effected by authors and other legal holders by author's contract.

Property rights may be the subject of an author's contract for the assignment of exclusive rights or an author's contract for the licensing of non-exclusive rights.

2. The author's contract for the assignment of exclusive rights (exclusive license) shall allow only that person to whom the rights have been assigned to exploit the work by a specified means and within the limits set by the contract, and shall confer on that person the right to prohibit any comparable exploitation of the work by third parties.

3. The author's contract for the licensing of non-exclusive(non-exclusive licence) rights shall allow the licensee to exploit the work under the same conditions as the owner of the exclusive rights who has granted those rights to him, or as other persons who have obtained permission to exploit the work by the same means.

4. The rights to which an author's contract relates shall be deemed non-exclusive where the contract contains no express provisions to the contrary.

Article 31. Conditions Governing the Author's Contract

1. The author's contract shall specify:

- the modes of exploitation of the work (the specific rights assigned or licensed under the contract),
- the period and the territory for which the rights are assigned or licensed,
- the amount of the remuneration payable for each of the modes of exploitation of the work, or the methods for the calculation of the amount of that remuneration,
- the procedures and the periods for the payment of the remuneration and such other conditions as the parties may consider essential for the contract concerned.

If the author's contract does not specify the modes of exploitation of the work (the specific rights assigned or licensed by the contract), contract shall consider signed for modes of exploration, which are necessary for achievement the purpose of sides, available for the time of conclusion.

If the author's contract does not specify the period for which the rights are assigned or licensed, the author may terminate it on the expiration of a period of five years, following its conclusion, subject to advance notice of six months.

If the author's contract does not specify the territory for which the rights are assigned or licensed, the rights concerned by the contract shall have effect only on the territory of the Republic of Azerbaijan.

2. The author's contract shall specify remuneration in the form of a percentage of the revenue derived from exploitation of the work by the intended means or, where that is not possible in view of the nature of the work or the particular circumstances of the exploitation thereof, in the form of a lump sum or in any other manner.

3. Any clause in an author's contract that imposes limits on the author regarding the future creation of works on a particular subject or in a particular field shall be deemed invalid.

4. The author's contract shall be in written form.

SECTION III RELATED RIGHTS

Article 32. Subjects of Related Rights

1. The subjects of related rights are performers, producers of phonograms and broadcasting entities. Related rights shall provide without damaging on copyright, indicated in 2nd section of this Law.

2. The producer of a phonogram and the broadcasting entities shall exercise their rights as specified in this Section within the limits of the rights that the performer and the author of the work recorded on the phonogram, broadcast, or transmitted by cable have granted them by contract.

3. The performer shall exercise the rights specified in this Section without infringing the rights of the author of the work performed.

4. The origin and exercise of related rights shall not be subject to compliance with any formality. The producer of a phonogram and the performer may, in order to publicize their rights, make use of a reserved rights notice which should be placed on every copy or on

every sleeve or inlay card of the phonogram and should consist of the following three elements:

- a circled capital letter R: (R);
- the name of the owner of the related rights;
- the year of first publication of the phonogram.

Article 33. Rights of the Performer

1. The performer shall be granted the following personal (non-property) and property (economic) rights in relation to his performance:

- the right to be named;
- the right to the protection of the performance against any distortion or other derogatory act liable to prejudice his honour or dignity;
- except as provided in this Law, the exclusive right to exploit the performance in any form, including the right to be paid remuneration for every such form of use.

2. The exclusive right to exploit the performance means the right to perform or authorize the following acts:

- recording of a hitherto unrecorded performance;
- reproduction of the recording of a performance, except the cases of reproduction made with consent of the performer for the same purposes for which the consent of performer for this record was received;
- broadcasting or cable communication of the performance or public communication of performance except cases of using records of performances made earlier under agreement with the performer, or performance had been broadcasted previously;
- rental of a published phonogram including participation of the performer.

3. The authorizations referred to in paragraph 2 of this article are provided by performer, in case of collective performance – by administrator of the collective by means of written contract with user.

4. The conclusion of the contract between performer and organization for broadcasting or cable distribution shall constitute

transferring of rights for recording and its reproduction by performer (subparagraphs 1 and 2, of 2nd paragraph of this article), if it is stipulated by contract between performer and organisation. The amount of the remuneration payable to the performer for such use shall likewise be specified in the contract.

5. The conclusion of the contract for the making of an audiovisual work by the performer and the broadcast organization shall constitute licensing by the performer of the rights referred to in paragraph 2 of this Article; in this case performer has a right for remuneration from rental of copies of audiovisual works. Licensing such rights is limited by using of audiovisual work and, if a contract does not specify otherwise, it does not include the right for the separate use of voices and images, fixed in audiovisual work;

6. The contract for the recording of performance on phonogram between performer and phonogram producer shall constitute transferring the rights for rent by performer (paragraph 2(4) of this Article); in this case performer has rights for remuneration of rental of copies of the phonogram.

7. Vis-à-vis the performances, created by performer in the course of duty obligations or of an assignment expressly given by the employer, the performer has right to be named and right for protection of reputation. Employer, who has labour relations to employee, has an exclusive right to exploit such performance, if contract does not specify otherwise;

8. Exclusive rights of a performer specified in paragraph 2 of this Article are transferable to the third parties by contract.

Article 34. Rights of the Phonogram Producer

1. Except as provided in this Law, the phonogram producer shall enjoy the exclusive right to exploit his phonogram in any form, including the right to remuneration for every such form of use.

2. The exclusive right to exploit the phonogram shall mean the right to perform or authorize the following acts:

- reproduction of the phonogram;
- distribution of copies of the phonogram, for instance by sale or rental;

- importation of copies of the phonogram for the purposes of distribution, including copies made with the authorization of the producer of the phonogram in question;

- adaptation or any other transformation of the phonogram.

3. Where copies of a lawfully published phonogram have been placed on the market by sale, their subsequent distribution may take place without the consent of the producer of the phonogram and without payment of remuneration. The right to distribute copies of the phonogram by rental shall belong to the phonogram producer independently of the ownership of the said copies.

4. The phonogram producer may assign or license the exclusive rights under paragraph 2 of this Article to third parties by contract.

Article 35. Rights of the Broadcasting Entity

Except as provided in this Law, the broadcasting entity shall enjoy the exclusive right in relation to its program, to exploit it in any form and to grant authorization to use it, including the right to remuneration for such grant.

The exclusive right to authorize use of its program shall mean the right of the broadcasting entity to authorize:

- the recording of the program;

- the reproduction of the recording of the program, except in cases in which the program has been recorded with the consent of the broadcasting entity and the program is reproduced for the same purposes as those for which it was recorded.

- the simultaneous broadcasting of the program by another broadcasting organization;

- the communication of the program to the public by cable;

- the communication of the program to the public in places where a charge is made for admission.

Article 36. Limits of the Rights of the Performer, the Phonogram Producer and the Broadcasting Entity

1. The limitations of rights provided by Article 33 throughout Article 35 of this Law, shall be stipulated by Article 36 throughout Article 38 of this Law in case these limitations do not discriminate normal using of performance, phonogram, broadcasting programs

and its records, and also include scientific, literary, art works and do not prejudice legal interests of performer, phonogram producer, broadcasting entities and authors of indicated works.

2. The following shall be authorized without consent from the performer, the phonogram producer and the broadcasting organization, and without payment of remuneration, to make use of the performance, phonograms and the broadcast program or the recording thereof:

- as a means of quoting, in the form of short extracts, from the performance, the phonogram or the broadcast program, on condition that the quotation is for information purposes and in value, determined by an object in view;
- for the sole purposes of teaching or scientific research;
- for the inclusion in a report on current events of short extracts from the performance, the phonogram or the broadcast or cabled program;
- in other cases provided for in Section II of this Law for the limitation of the economic rights of the authors of literary, scientific and artistic works.

Article 37. Use of Phonogram Published for Commercial Purposes

1. The following shall be authorized without consent from the producer of a phonogram published for commercial purposes and from the performer whose performance is recorded on the phonogram, but against payment of remuneration:

- public performance of the phonogram;
- broadcasting of the phonogram;
- communication of the phonogram to the public by cable.

2. The collection, distribution and payment of the remuneration provided for in paragraph 1 of this Article shall be effected by one of the organizations for the collective administration of the rights of producers of phonograms and performers (Article 40 of this Law) under an agreement concluded between those organizations. Except where otherwise provided in the said agreement, the remuneration shall be distributed equally between the phonogram producer and the performer.

3. The amount of the remuneration and the manner of its payment shall be determined by agreement between the user of the

phonogram or the unions (associations) of users on the one hand and the organizations that manage the rights of phonogram producers on the other, or, where the parties fail to agree, by the relevant executive power agency on copyright of the Republic of Azerbaijan.

The amount of remuneration shall be set for each form of use of the phonogram.

Article 38. Short Term Recording of Performances and Programs by Broadcasting Organizations

The broadcasting entity is in a position to make a recording for short term use of a performance or broadcast without consent of the phonogram producer and the broadcasting entity and reproduce such records provided that:

- the broadcasting organization has obtained prior authorization to broadcast the performance or the program of which a short term recording is made or performed;
- the short term recording or the reproduction is made by a broadcasting entity using its own equipment and facilities and for the purposes of its own broadcasts;
- the short term recording is destroyed within the period laid down for short term recordings of literary, scientific and artistic works made by broadcasting entities under the provisions of Article 23 of this Law;

Article 39. Term of Related Rights

1. The rights of the performer under Article 33 of this Law shall have effect for 50 years following the first performance. The performer's private rights laid down in Article 29 of this Law, shall be protected without limitation in time. The rights of the phonogram producer under Article 34 of this Law shall have effect for 50 years following the first publication of the phonogram, or for 50 years following the first recording thereof if it has not been published in the course of that period.

The rights of the broadcasting(cable distribution) organization laid down in Article 35 of this Law shall have effect for 50 years following the date of the first broadcast(cable transmission) effected by the organization.

2. Any period of this Article shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period.

The right to authorize shall pass to the heirs (in the case of a legal entity, to the successors in title) of the performer, phonogram producer or broadcasting or cable distribution organization for the duration of the non-elapsed portion of the terms specified in this Article.

SECTION IV THE STATE POLICY AND ADMINISTRATION IN COPYRIGHT AND RELATED RIGHTS AREA

Article 40. The State Policy and Administration in Copyright and Related Rights Area.

The state policy directions in copyright and related rights are the following:

1. Creation of scientific, literary and artistic works, promotion of activities on enhancing moral values,
2. Creation of legislative basis in copyright in accordance with international experience,
3. Creation of governmental administration in copyright and related rights,
4. Copyright on the territory of other states based on developing international cooperation

The relevant state executive body determines minimum amount of author's royalty.

The relevant state executive body on copyright of the Republic of Azerbaijan within its responsibilities:

- provides the state policy and administration in copyright and related rights,
- develops proposals on improvement of legislation in the field of copyright and related rights,
- provides for supervision over implementation of the legislation on copyright and related rights,
- represents Azerbaijan in international copyright and related rights organizations and provides for cooperation in this area,

- provides for the state registration of scientific, literary and artistic works,
- provides for registration of duly state registered organisations, managing property rights on collective basis, and supervises their activities,
- provides other functions in accordance with the law.

The relevant executive copyright body of the Republic of Azerbaijan is financed at the expense of resources allocated from the state budget.

Resources of the relevant executive copyright body received from the other sources that are not forbidden by law are entirely transferred to the state budget.

Article 41. Setting up Entities Administering Property Rights on the Collective Basis.

1. When the practical implementation of individual property copyright and related rights is impossible (public performance, including over the radio and television; copying by mechanic, magnetic and other means, reproduction and other cases) entities, managing property rights of the above persons on the collective basis, may be set up in accordance with the corresponding law. These entities are appropriately state registered and they may be granted privileges enjoyed by the cultural organizations.

2. Setting up separate organizations in conformity with various laws and different categories of holders of rights or organizations administering different laws in interests of one category of holders of rights or organizations administering one type of law in interests of various categories of holders of rights is allowed.

The organization administering the property rights on the collective basis is not entitled to be engaged in business activities, and use the obtained rights for administering on the collective basis.

The restrictions under the anti-monopoly legislation shall not apply to the activities of such an organization.

The mandate for the collective administration of the property rights shall be entrusted either directly, by the holders of copyright and related rights through written contracts or by means of membership in those organizations.

Article 42. Functions of Organizations Collectively Administering Property Rights

1. An organization, collectively administering property rights shall, based on the mandates entrusted to it, perform the following functions:

1) coordinate with the users the amount of remuneration and other conditions to which the grant of licenses is subject;

2) issue licenses to the users for the exploitation of rights administration of which forms part of its activities;

3) coordinate with the users remuneration amount in cases when the organization is entitled to collect such remuneration without granting a license;

4) collect the remuneration provided for in licenses and/or remuneration as referred to in subparagraph 3 of this Article;

5) allocate and pay the collected remuneration to the copyright and related rights holders;

6) perform other legal acts essential to the protection of the rights administered by the organization;

7) perform any other activity in conformity with the mandates received from the copyright and related rights holders.

2. An organization in charge of collective administering of property rights is entitled to demand presenting the programs and other properly certified documents about the used works and incomes, and also demand payment of compensation in given period.

Article 43. Responsibilities of Organizations Collectively Administering Property Rights

1. An organization collectively administering property rights shall discharge the following obligations:

○ allocate and disburse the collected remuneration to the copyright and related rights holders; however the organization has the right to deduct from the amount of the remuneration collected a sum intended to cover expenditure actually incurred by it in the collection, allocation and payment of the remuneration, and also a sum payable to a special fund established by it for the benefit of the

holders of copyright and related rights that it represents, and with their agreement;

- allocate the remuneration collected, after deduction of the sums referred to in subparagraph 1 of this paragraph, and ensure the regular payment thereof in proportion to the actual use of the works and subject matter of related rights concerned;
- at the same time as the remuneration is paid, it shall report to the copyright and related rights holders on the use of their rights;
- transfer annual payments to account of the state authorized body on copyright at a rate determined by this body.

2. Holders of copyright and related rights who have not mandated the organization to collect the remuneration provided for in Article 42(4) of this Law shall be entitled to demand that the organization pay them the remuneration accruing to them according to the allocation made, or alternatively that it exclude their works or subject matter of related rights from the licenses that it grants users.

3. An organization collectively administering its property rights shall discharge to the state authorized body in copyright and related rights the obligations in granting given data on:

- changes introduced in the charter, and about decisions concerning sizes of the fees and deductions;
- signed contracts, including contracts with foreign organisations which administrate similar rights;
- year balance, year reports and results of audit;
- persons, who authorized to represent this organisation;
- other documents, which are necessary for checking conformity of activities of such organisation with this Law, other legislation acts and with its charter.

SECTION V PROTECTION OF COPYRIGHT AND RELATED RIGHTS

Article 44. Protection of Copyright and Related Rights. Counterfeit Copies of Works and Phonograms.

1. Holders of copyright and related rights as well as the authorized collectively administered organisations shall be entitled to demand discontinuance of activity which infringe copyright and related rights or create threat for infringement of the rights.

2. Copies of a work or phonogram that are manufactured or distributed in violation of copyright and related rights shall be deemed counterfeit copies.

3. Copies of works or phonograms protected in the Republic of Azerbaijan under this Law that are imported into the Republic of Azerbaijan without the consent of the holder of the copyright and related rights from a State in which the said works or phonograms have never been protected or lost the terms of protection shall also constitute counterfeit copies.

Article 45. Sanctions for the Protection of Copyright and Related Rights

1. For the protection of his exclusive rights, the holder of copyright and related rights may bring action into a court.

2. Upon consideration of disputes connected with the copyright the court may in addition to general methods of civil-law protection, apply on demand of the claimant the following measures:

- the surrender, in place of the payment of damages, of income derived by the infringer from the infringement;
- payment, in place of damages or the surrender of income, of an indemnity in an amount from 100 to 50,000 times the conditional units

Article 46. Provision of Restoration of Infringed Copyright and Related Rights.

1. In case of bringing action to court for protection of copyright and related rights the authorized body on copyright of the Republic of Azerbaijan shall not pay state taxes;

2. With the purpose of provision of restoration of infringed copyright and related rights, the authorised bodies are obliged to take necessary measures in accordance with the legal acts of the Republic of Azerbaijan.

Article 47. The Responsibility for Defiance of the Law

For violations of copyright and related rights, which are stipulated by this Law responsibilities arising from civil, administrative and criminal codes onset in accordance with the legislation of the Republic of Azerbaijan.