

**Unofficial translation**

Registered in the National Register of Legal Acts  
of the Republic of Belarus on May 20, 2011 No. 2/1813

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**LAW OF THE REPUBLIC OF BELARUS No. 262-3 of May 17, 2011**

**ON COPYRIGHT AND RELATED RIGHTS**

Adopted by the House of Representatives on April 27, 2011  
Approved by the Council of the Republic on April 28, 2011

**CHAPTER 1  
GENERAL PROVISIONS**

*Article 1  
Subject of the Law*

This Law stipulates the relations arising from the creation and exploitation of scientific, literary and artistic works (copyright), and of performances, phonograms and the programs of broadcasting or cable distribution organizations (related rights).

*Article 2  
Legislation of the Republic of Belarus on Copyright and Related Rights*

The legislation of the Republic of Belarus on copyright and related rights is based on the provisions of the Constitution of the Republic of Belarus and comprises provisions of the Civil Code of the Republic of Belarus, of this Law, Decrees of the President of the Republic of Belarus, other legal regulations of the Republic of Belarus.

*Article 3  
International Treaties*

Where an international treaty to which the Republic of Belarus is party contains rules different from those specified in this Law, the provisions of the international treaty shall be applicable.

*Article 4  
Main Terms and Their Definitions*

For the purposes of this Law, the following terms shall have the meaning specified:

“author” means an individual whose creative effort has brought about the creation of a work;

“audiovisual work” means a work consisting of fixed series of interconnected images (with or without sound accompaniment) creating the perception of movement and intended for visual and aural (in case of soundtrack availability) perception with the help of respective technical devices. Audiovisual works include cinema and other works (TV movies, video movies and similar works) expressed by aids similar to cinematographic regardless of the method of their initial or following fixation;

“database” means a compilation of data or other information expressed in any objective form and representing creative work by selection or ordering of such data or other information;

“reproduction” means manufacturing including replication of one or more copies of an object of copyright or related rights in any objective form (also different from the form of the original object) including temporary or permanent storage in digital or other objective form on electronic or any other material medium;

“record” means fixation of sounds and/or visual images or their representations allowing their perception, reproduction or communication with the help of respective technical devices;

“publisher” is a person publishing literature or other works upon consent of an author or other holder of rights in accordance with the legislation of the Republic of Belarus;

“information on management of rights” means any information identifying an object of copyright or related rights, an author or other rightholder, or information on conditions of use of such an object contained on a material medium, that attached to it or appearing in relation to it upon public communication of the object of copyright or related rights. Such information can be expressed in the form of text or any other digits or codes;

“performer” means an actor, singer, musician, dancer or other person performing a work of literature, art including folk art by acting, singing, reading, declaiming, playing a music instrument, dancing or in any other way (hereinafter – performer), and producer of the play and the orchestra conductor;

“collective management of property rights” means the activity to the benefit of many authors or other rightholders intended to collect, distribute and pay royalty to authors or other rightholders for the use of objects of copyright or related rights by individuals and legal entities in accordance with this Law in cases when the implementation of proprietary rights individually is difficult to fulfill, and which is aimed at protection (including protection at courts) of proprietary rights of authors and other rightholders in case of their infringement;

“computer program” means an objectively presented ordering sequence of commands and data intended to be used on a computer and on other systems and devices in order to process, transfer and store information, make calculations, get audiovisual images and other results. The document describing in details the functioning of a computer program including interaction with an user and external components are considered to be a part of the computer program;

“disclosure of a work” means an action carried out upon consent of an author which makes the work accessible to public for the first time by publication, public performance, broadcasting or in any other way;

“publication” means offering copies of an object of copyright or related rights to public upon consent of an author or another rightholder, in the amount satisfying reasonable demand of public, by sale, rent or other kind of transfer of the right of property or ownership or holding of the object of copyright or related rights;

“broadcasting” means wireless transmission of sounds and/or images to public including satellite transmission. The transmission of coded signals without wires and cables is broadcasting if means of decoding are provided to public by a broadcasting organization or upon its consent;

“transmission process of broadcasting or cablecasting” means wireless or cable transmission of sounds and/or images for perception by public carried out by broadcasting or cablecasting organizations or due to their order and expense by another organization;

Cable broadcasting means transmission of sounds and/or images by cable, radio-frequency or optical cable for perception by public including broadcasting of TV programs in cable networks and broadcasting of sound programs by cable lines;

Rightholder means an individual and/or a legal entity possessing the exclusive right to the object of copyright or related rights due to the fact of its creation, legal succession, by means of contracts or otherwise as stipulated by this Law;

Work of folk art which author is unknown means a work including characteristic components of traditional art heritage (folk fairy tales, poetry, songs, instrumental music, dances

and plays, rituals embodied in artistic performances, etc.) in relation to which the authorship cannot be determined;

Producer of an audiovisual work means an individual or legal entity undertaking the initiative and responsibility for creation and financing of creation of the audiovisual work. Unless proved otherwise, the producer of the audiovisual work shall be deemed an individual or entity whose name is indicated on such a work;

Producer of a sound record means an individual or legal entity organizing the first sound record of any performance or other sounds or representation of sounds;

Derivative work means conversion or any other reprocessing of the work being the result of creative work including variation, review, retelling, annotation, summary, abstract, staging, musical arrangement;

Rent means provision of the original or copies of the object of copyright or related rights into temporary use on a commercial basis;

Public performance means presentation of the work or object of related rights by acting, singing, reading, declamation, playing a musical instrument, dancing or otherwise including with the aid of technical devices (in relation to the audiovisual work – demonstration of frame succession) at the places where there can be present people not belonging to family or close relatives of the person organizing or holding such presentation;

Public show means demonstration of the original or copy of the work directly or showing as photo, slide, movie or TV frame on a screen or with any other technical devices or otherwise (in relation to the audiovisual work – showing of separate frames out of succession) at the places where there can be present people not belonging to family or close relatives of the person organizing or holding such show;

Producer of the play means the person in charge of work of theatrical, circus, vaudeville, puppet or other play (show, concert);

Replication means the process of printing reproduction in any sizes and forms of one or more originals or copies of written or other graphical works by photocopying or in any other way except for publishing. Replication does not include storage or representation of such copies in the electronic (including digital), optical or other machine-readable formats;

Director of the performance band means the creative director or other person in charge of representation of interests of the band including disposal of the exclusive right for performance;

Performance by duty means performance by order of the employer or in accordance with the duties stipulated by labour contracts;

Work by duty means the work of scientific research, literature, art (or its separate part) created by the author by order of the employer or in accordance with the duties stipulated by labour contracts;

Public transmission means transmission by wireless or by cable, radio-frequency or optical cable of sounds and/or images or their representations for perception by public including on broadcasting and cablecasting. Public transmission is also a disclosure of the object of copyright or related rights to public so that the public can access it from any place and at any time upon their willingness;

Compiled work means a collection (including encyclopedia, anthology, and database), newspaper, magazine or any other work being the product of creative work of selection or ordering of materials;

Technical means of protection of copyright or related rights mean any technology, technical device or their components controlling access to the object of copyright or related rights preventing or limiting actions, which are not allowed by the author or any rightholder in relation to the object of copyright or related rights;

Sound record means any sound record of performance or other sounds or representation of sounds. Record of sounds included into the audiovisual work is not deemed a sound record;

Copy of the work means the original or copy of the work manufactured in any material form;

Copy of the sound record means the original or copy of the sound record on any material media manufactured directly or indirectly from the sound record and including sounds or representation of sounds fixed in the sound record.

## **CHAPTER 2 COPYRIGHT**

### **Article 5. Scope of Copyright**

1. Copyright shall cover works of science, literature and art existing in any objective form: on the territory of the Republic of Belarus regardless of citizenship of authors and their legal successors;

beyond the borders of the Republic of Belarus and is acknowledged as belonging to authors who are citizens of the Republic of Belarus and their legal successors;

beyond the borders of the Republic of Belarus and is acknowledged as belonging to authors who are citizens of other countries and their legal successors in accordance with international treaties to which the Republic of Belarus is party.

2. Where protection is afforded to a work on the territory of the Republic of Belarus in accordance with international treaties, the author of the work shall be determined in accordance with the legislation of the State on which the legal event or the circumstances giving rise to ownership of copyright that have been occurred.

3. Protection of works on the territory of the Republic of Belarus in accordance with international treaties is carried out in relation to works that are not still considered as public domain due to expiration of validity of copyright to such works in the country of origin and not considered as public domain in the Republic of Belarus due to expiration of validity of copyright to such works as stipulated by Article 20 of this Law.

### **Article 6. Objects of Copyright**

1. Copyright shall cover works of science, literature and art being the results of creative activity whatever their purpose, content, merit and manner or form of representation.

2. Copyright shall protect both disclosed works and undisclosed works existing in any objective form, namely:

written form (manuscript, typewritten text, music score, etc.);

oral (public recitation, public performance, etc.);

sound or video record (mechanical, magnetic, digital, optical, etc.);

image (drawing, sketch, painting, map, plan, design, still from a cinematographic or television or video film, photograph etc.);

three-dimensional form (sculpture, model, mockup, structure etc.);

electronic form including digital and other forms;

3. Any part of a work, including its title, that meets the conditions of paragraph 1 and 2 of this Article and that can be used independently shall afford copyright object.

4. Copyright to a work shall be independent in respect of ownership of the material object in which the work is expressed.

The transfer of ownership of a material object or right of possession and/or use of the material object shall in itself imply transfer of any copyright to the work expressed in such object unless otherwise stipulated by this Law.

5. Objects of copyright are:

literary works (books, brochures, articles, etc.);

dramatic or dramatico-musical works, works of choreography and pantomime and other scenario works;

musical works with or without text;

audiovisual works (cinematographic, television and video films, slide films, etc.);  
works of fine art (sculpture, painting, graphic arts, lithography, etc.);  
works of applied art and design;  
works of architecture, municipal engineering, and landscape development;  
works of photography including works created by ways similar to photography;  
maps, plans, sketches, illustrations, plastic works related to geography, mapping and other sciences;  
computer programs;  
works of science (monographs, articles, reports, lectures and scientific papers, construction documentation, etc.);  
other works.  
Objects of copyright also include:  
derivative works;  
compiled works.

### **Article 7. Works that are not Objects of Copyright**

1. The following are not deemed objects of copyright:  
official documents (legal acts, court decisions, other administrative and court documents, constituent documents of legal entities) and their official translations;  
State symbols of the Republic of Belarus (State Flag of the Republic of Belarus, State Emblem of the Republic of Belarus, State Anthem of the Republic of Belarus), symbols of state decorations of the Republic of Belarus (orders and medals), state signs (paper currency of the Republic of Belarus, post stamps and other signs), official heraldry symbols (flags, emblems of administration divisions of the Republic of Belarus, heraldry signs, colours, badges, emblems of state authorities etc.);  
works of folk art which authors are unknown.  
2. Copyright shall not cover ideas, methods, processes, systems, ways, conceptions, principles, discoveries, facts even if they are expressed, presented, explained or implemented in works.

### **Article 8. Origination of Copyright**

1. Copyright to a work originates upon creation of the work. No formal procedure is needed for origination and implementation of copyright.  
2. Unless proved otherwise, the author of a work is deemed a person indicated as the author on the original or copy of the work (authorship presumption).  
3. Where a published work is anonymous or pseudonymous (unless the author's pseudonym leaves no doubt as to his identity), 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.  
Provisions of part one of this paragraph are valid until the author of such a work discloses his/her true name and claims authorship of such a work.

### **Article 9. Co-Authorship**

1. Authorship of the work created through joint creative activity of two or more persons (co-authorship) belongs to co-authors jointly regardless of whether such a work is inseparable or consists of parts each of which has independent value.  
A part of a work shall be deemed to have a relevance of its own if it can be exploited independently of the other parts of the same work.

2. The right to use a work generally belongs to co-authors jointly unless otherwise stipulated by an agreement between them.

Each of the co-authors can use the part of the work created by him/her which has independent value upon their own discretion unless otherwise stipulated by an agreement between them.

Remunerations from joint use of the work are distributed by all co-authors in equal share unless otherwise stipulated by an agreement between them.

If the work of co-authors is inseparable then none of the co-authors can forbid the other co-authors to use the work unless there are sufficient reasons for it.

3. Co-authors are not deemed persons who contributed to creation of the work by technical, administrative or financial aid.

4. Each of the co-authors is allowed to take independent measures to enforce his/her own rights also in the case when the work created by the co-authors is inseparable.

### **Article 10. Copyright to Derivative Works**

1. Authors of derivative works possess copyright to translation or other processing of the work provided that the rights of the author of the work processed are not infringed.

2. Copyright of authors of derivative works does not prevent other persons from making their own translations or other processing of the same work provided that the rights of the author of the work processed are not infringed.

### **Article 11. Copyright to Compiled Works**

1. The author of the collection and other compiled works (compiler) possesses copyright to selection or placement of materials being the result of creative work (compilation).

The compiler uses copyright provided that copyright of each author of the work included into compilation is not infringed.

Authors of works included into compiled work are entitled to use their works regardless of the compiled work unless otherwise stipulated by an agreement with the compiler.

Copyright of the compiler does not prevent other persons from individual selection or placement of the same materials to create their own compiled works.

2. Publisher of encyclopedias, encyclopedic dictionaries, periodicals and continuous collections of scientific researches and as well as the legal entity charged with edition of mass media (newspaper, magazine or other printed mass media) possess the exclusive right to use such editions in general. The publisher and the legal entity charged with edition of mass media are entitled upon any use of such editions to indicate their name or require such indications.

Authors or other holders of exclusive rights to the works included into such editions secure exclusive rights to their works regardless of the exclusive right to such editions in general unless exclusive rights to the works are transferred to the publisher or the legal entity charged with edition of mass media by agreements or in accordance with paragraphs 2 and 3 of Article 17 of this Law.

### **Article 12. Copyright to Audiovisual Works**

1. Authors of audiovisual works are stage directors, authors of scenarios, authors of musical work with or without text specially created for audiovisual works, director of photography, production designer.

2. The conclusion of an agreement with the author of the audiovisual work for creation of such work leads to transfer of the exclusive right to the audiovisual work to the producer of such work for the whole duration of copyright unless the agreement stipulates otherwise.

Producers of the audiovisual work is entitled upon any use of such work to indicate their names or require such indications.

After liquidation of the legal entity being the producer of the audiovisual work and in case of death of the individual being the producer of the audiovisual work and having no successors, the exclusive right to the audiovisual work is automatically transferred to its authors and in case of death of authors is transferred to their successors in the order stipulated by the legislation of the Republic of Belarus.

3. The author of musical work with or without text including the work specially created for the audiovisual work is entitled to receive royalty for public performance, broadcasting or cablecasting of the audiovisual work including such musical work unless otherwise stipulated by an agreement between the author of the musical work and the producer of the audiovisual work.

4. The inclusion of earlier existing works into the audiovisual work or their processing for the purposes of use in the audiovisual work is allowed provided that the rights of authors of such works are not infringed.

The authors of earlier existing works included into the audiovisual work or processed for inclusion into the audiovisual work retain copyright to their works and can use them separately from the audiovisual work.

### **Article 13. Copyright to Computer Programs**

1. Protection of computer programs covers all types of computer programs (including operational system) in any language and form including source code and object code.

Design materials received in the course of development of the computer program but not included into the created computer program are not deemed part of the computer program and are protected as independent objects of copyright if they possess the signs listed in paragraphs 1 and 2 of Article 6 of this Law.

2. The author or any other holder of rights to the computer program possesses exclusive right to install or permit to install the computer program onto a computer or any other device, launch and work with it (use the functionality of the computer program) and perform other actions in accordance with Article 16 of this Law except for the cases stipulated in Chapter 4 of this Law.

3. The person duly holding a copy of the computer program is entitled to use it as directly including installation onto a computer or another device, launch and work with it (use the functionality of the computer program) on the terms stipulated by the author or any other holder of rights.

Alienation of the duly acquired copy of the computer program leads to termination of the right of its use unless otherwise stipulated by the author or any other holder of rights in the agreement.

### **Article 14. Copyright to Database**

1. Databases are protected as compiled works.

Protection of databases does not cover data or other information contained therein.

2. Provisions of paragraph 1 of Article 11 of this Law apply to the rights to databases.

### **Article 15. Moral Rights of Authors**

1. An author shall enjoy the following moral rights in relation to his/her work:

right of authorship, i.e. the right to be deemed author of the work;

right of name, i.e. the right to use or permit to use the work under the true name of the author, pseudonym or anonymously;

right of integrity of the work, i.e. the right denoting that without consent of the author it cannot be altered, shortened or supplemented unless otherwise stipulated by paragraph 6 of Article 17 of this Law. The author is entitled to object against any distortion of the work and any other infringement of the work leading to damage to honour and dignity of the author. If the work is used after death of the author, the person holding the exclusive right to the work can allow amendment, shortening and supplementing of the work provided that the author's idea is not distorted, the integrity of perception of the work is not infringed, and the will of the author expressed in the testament is not contradicted;

right of disclosure, i.e. the right to disclose the work in any form. The work that was not disclosed during life of the author can be disclosed after his/her death by successors unless disclosure contradicts the will of the author expressed in the testament;

right of revocation, i.e. the right to revoke earlier decision on disclosure. The right of revocation can be implemented only upon compensation of damages caused as such to the user including loss of profit. If the work was already disclosed, the author shall publicly announce its revocation. He/she shall also withdraw earlier produced copies of the work from civil circulation at own cost.

The right of disclosure and the right of revocation are not applied by the author in the case stipulated in paragraph 4 of Article 17 of this Law.

2. Moral rights belong to authors regardless of the property rights and are retained by him/her in case of transfer (assignment) of the exclusive right to the work to another person.

Moral rights of the author cannot be transferred or alienated. Any agreements aiming at refusal from moral rights of the author are void.

## **Article 16. Property Rights**

1. The author in relation to his/her work or other holder of rights possesses exclusive right to his/her work and other property rights in cases stipulated by this Law.

2. The exclusive right to the work means the right of the author or other holder of rights to use the work at own discretion in any form and in any way. The author or other holder of rights possesses the right to allow or forbid other persons to use the work.

Use of the work means:

reproduction of the work;

distribution of the original or copies of the work by sale or other transfer of ownership. If the original or copies of the duly published work are put into civil circulation in the territory of the Republic of Belarus by sale or other transfer of ownership upon consent of the author or other holder of rights, they can be further distributed in the territory of the Republic of Belarus without consent of the author or other holder of rights and without payment of royalty to them except for the cases stipulated by Article 18 of this Law;

rent of the original or copies of the work except for the original or copies of the computer program unless the computer program is the main object of rent;

import of copies of the work including copies produced upon consent of the author or other holder of rights;

public demonstration of the original or copies of the work;

public performance of the work;

public broadcasting;

public cablecasting;

other public transmission of the work;

translation of the work into another language;

processing of the work for production of a derivative work;

other possible ways of use of the work.

3. The author (successors of the author) is entitled to receive royalty for each way of use of the work except for the cases stipulated by Chapter 4 of this Law and/or the agreement. The



amount of royalty to be paid to the author (successors of the author) for use of the work cannot be less than the amount established by the Council of Ministers of the Republic of Belarus.

4. In order to notify about possession of exclusive right to the work, the author or other holder of rights can use the sign of protection of copyright which is placed on each copy of the work and consists of three components:

- latin letter C in a circle;
- name of the holder of rights;
- year of first publication of the work.

The use of the sign of copyright protection is not the ground for origin, amendment or termination of any copyright to the work in relation to which such sign is used.

### **Article 17. Copyright to Employee's Work**

1. The copyright to the employee's work belongs to the author with regard to peculiarities stipulated by this Article.

2. The exclusive right to the employee's work from the moment of creation transfers to the employer unless otherwise stipulated by an agreement between employer and the author.

In cases stipulated by the agreement between the employer and the author, if the exclusive right to the employee's work belongs to the employer, the author (successors of the author) is entitled to receive royalty for use of such work.

If within five years from the day when the employer gets the exclusive right to the employee's work according to part 1 of this paragraph, the employer does not start to use such work or does not assign the exclusive right to such work to another person then the exclusive right to such work transfers to the author unless otherwise stipulated by the agreement between the employer and the author.

3. After liquidation of the legal entity and after death of the individual employer and in case of absence of successors, the exclusive right to the employee's work automatically transfers to the author, and in case of death of the author it transfers to the author's successors in the order stipulated by the legislation of the Republic of Belarus.

4. The author of the employee's work cannot object to its disclosure by the employer or use the right of revocation belonging to the employer.

5. The employer having the exclusive right to the employee's work can indicate its name or require such indication upon use of the employee's work.

6. The employer having the exclusive right to the employee's work is entitled to make amendments, shortening and supplements to it caused by the necessity to adapt the work to specific conditions of its use, without consent of the author of the employee's work unless otherwise stipulated by the agreement between the employer and the author. In such case the employer shall make an indication in the work about adaptation undertaken.

### **Article 18. Right of Resale**

1. In each case of public resale of originals of works of fine arts, originals of manuscripts of writers, composers and scientists (via auctions, art galleries, stores, etc.), the author and his/her successors are entitled to receive royalty from the seller at the rate of 5 percent of the resale price (right of resale).

2. The procedure of payment of such royalty is determined by the Council of Ministers of the Republic of Belarus.

3. The right of resale is inalienable and transfers to successors of the author for the term of validity of exclusive right.

### **Article 19. Right to Participation in Architectural Project**

1. The author of the duly approved architectural project is entitled to participate in the development of the construction project and supervision over construction of the object.

2. The right to participation in implementation of the architectural project for construction of the object is not succeeded and cannot be assigned under an agreement.

### **Article 20. Term of Validity of Copyright**

1. Moral rights to works of science, literature and art are protected without limitation of time.

2. The exclusive right to the work is valid during the author's life and within fifty years after his/her death unless otherwise stipulated by this Article.

3. The exclusive right to the anonymous work or work used under a pseudonym is valid within fifty years from the moment of the first rightful disclosure of such work or fifty years from the moment of creation unless it was duly disclosed upon the author's consent within fifty years from its creation.

Upon determination of the term of validity of the exclusive right to the anonymous work or work used under a pseudonym in relation to which within the term stipulated by part one of this paragraph the author disclosed his/her true name or authorship was clearly disclosed, paragraph 2 of this Article shall apply.

4. The exclusive right to the work created in co-authorship is valid during the life and within fifty years after death of the author who outlived the other co-authors.

5. Counting of periods stipulated by this Article starts from 1<sup>st</sup> January of the year following the year of occurrence of the legal fact being the ground for start of counting of the respective period.

### **Article 21. Transfer of Works to Public Domain**

1. Termination of the period of validity of exclusive right to the work means transfer of such work to public domain.

Works has been never protected on the territory of the Republic of Belarus are deemed as transferred to public domain.

2. Works transferred to public domain can be freely used by any individual or legal entity without payment of royalty. Meanwhile moral rights of the authors must be observed.

## **CHAPTER 3 RELATED RIGHTS**

### **Article 22. Objects of Related Rights**

1. Related rights cover performances, sound records, programs of broadcasting or cablecasting organizations.

Performances include performances by artists and conductors, stagings by producers of plays.

2. No formal procedures are required for occurrence and implementation of related rights.

### **Article 23. Scope of Related Rights**

1. Rights of the performer are acknowledged if:  
the performer is a citizen of the Republic of Belarus;  
the first performance took place in the territory of the Republic of Belarus;

the performance is sound recorded in accordance with paragraph 2 of this Article;  
the performance (that is not sound recorded) is included into the program of broadcasting or cablecasting organization in accordance with paragraph 3 of this Article;  
in other cases stipulated by international treaties of the Republic of Belarus.

2. The rights of the sound record producer are acknowledged if:  
the sound record producer is a citizen or legal entity of the Republic of Belarus;  
the sound record is firstly published in the territory of the Republic of Belarus;  
in other cases stipulated by international treaties of the Republic of Belarus.

3. The rights of broadcasting or cablecasting organization are acknowledged if the organization is officially residing in the Republic of Belarus and transferring signals from transmitters located in the territory of the Republic of Belarus, and in other cases stipulated by international treaties of the Republic of Belarus.

#### **Article 24. Subjects of Related Rights**

1. Subjects of related rights are performers, sound record producers, broadcasting and cablecasting organizations.

2. The performer exercises his/her rights provided that the rights of the author of performed work are not infringed.  
The sound record producer, broadcasting or cablecasting organization exercise their rights within the rights under agreements with the performer and the author of recorded or broadcasted and cablecasted work.

3. Unless proved otherwise, the performer or sound record producer is considered to be a person or entity indicated as the performer or sound record producer on each copy of the sound record.

4. The performer and sound record producer and any other holder of rights for performance or sound record, upon his/her own discretion, can use the sign of protection of related rights that is placed on each copy of the sound record and consists of the following three mandatory components:  
encircled Latin letter P;  
name of the holder of rights;  
year of the first publishing of the sound record.

#### **Article 25. Rights for Performance**

1. The performer has the following moral rights in relation to his/her performance:  
the right of authorship in relation to the performance, i.e. the right to be deemed the performer;  
the right of name, i.e. the right to use or allow to use the performance under the true name of the performer, pseudonym or anonymously;  
the right of integrity of the performance, i.e. the right denoting that without consent of the performer, the performance cannot be amended, shortened or supplemented unless otherwise stipulated by this Law. The performer can object against any distortion or other amendments of his/her performance that may cause damage to his/her reputation.  
Moral rights belong to the performer regardless of exclusive rights for performance and are secured even in case of transfer of exclusive rights to another person.  
Moral rights of the performer cannot be alienated or transferred. Any agreements aimed at refusal from moral rights of the performer are void.

2. The performer or other holder of rights possesses exclusive rights to performance.  
Exclusive rights to performance means the right of the performer or other holder of rights to use the performance at his/her own discretion in any form and any way. Also such performer or other holder of rights is entitled to allow or forbid other persons to use the performance.

3. Use of the performance is deemed:
  - record of the performance;
  - representation of record of the performance;
  - distribution of record of the performance by sale or other transfer of ownership. If the record was made upon consent of the performer, or copies of the record were duly put into civil circulation in the territory of the Republic of Belarus by their sale or other transfer of ownership, they can be further distributed in the territory of the Republic of Belarus without consent of the performer or other holder of rights without payment of royalty to them;
  - rent of the original or copies of the performance;
  - public representation of record of the performance and public representation of staging of the producer of the play or its record;
  - broadcasting of the performance or its record;
  - cablecasting of the performance or its record;
  - other public transmission of the performance;
  - other possible ways of use of the performance.
4. Exclusive rights to performance do not cover representation, broadcasting or cablecasting, and public representation of record of the performance if such record was made upon consent of the performer and its representation, broadcasting or cablecasting or public representation are carried out for the purposes for which the consent of the performer upon record of the performance was obtained.
5. The conclusion of the agreement on performance as part of the audiovisual work between the performer and the producer of the audiovisual work leads to provision of exclusive rights by the performer to the producer of the audiovisual work to use the performance as part of the audiovisual work unless otherwise stipulated by the agreement.

The provision of such right by the performer is limited to use of the audiovisual work and, unless otherwise stipulated by the agreement, does not include rights to separate use of sounds or images fixed in the audiovisual work.
6. The performer (successors of the performer) is entitled to receive royalty for each way of use of the performance by third parties unless otherwise stipulated by Chapter 4 of this Law and/or agreement. The amount of royalty paid to the performer (successors of the performer) for the use of the performance cannot be less than the amount established by the Council of Ministers of the Republic of Belarus.

## **Article 26. Related Rights to Co-Performance**

1. Related rights to co-performance belong jointly to the members of the group of performers participating in its creation including the producer of the play, conductor, actors regardless of whether such performance is integral or consists of parts having separate value.
2. Related rights to co-performance are exercised by the director of the group of performers, and in case of absence of the director – jointly by the members of the group of performers unless otherwise stipulated by an agreement between them.

If the co-performance is integral then none of the members of the group of performers can forbid other members of the group of performers to use such performance, unless there are good reasons to do so.
3. A component of the co-performance which can be used independently from other components, i.e. the component having separate value can be used by the performer who created it at his/her own discretion unless otherwise stipulated by an agreement between the members of the group of performers.
4. Each member of the group of performers can undertake individual measures to protect his/her related rights to the co-performance including the cases when such co-performance is integral.

## **Article 27. Right to Employees' Performance**

Employee's performances including co-performances are subjects to the same provisions as stipulated in Article 17 of this Law.

## **Article 28. Exclusive Right to Sound Record**

1. The producer of the sound record or other holder of rights possesses exclusive rights to the sound record.

Exclusive rights to the sound record means the right of the producer of the sound record or other holder of rights to use the sound record at his/her own discretion in any form and in any way. The producer of the sound record or other holder of rights possesses the right to allow or forbid other persons to use the sound record.

2. Use of the sound record means:

representation of the sound record;

distribution of the original or copies of the sound record by sale or other transfer of ownership. If the copies of duly published sound record were put into civil circulation in the territory of the Republic of Belarus upon consent of the producer of the sound record by their sale or other transfer of ownership, they can be further distributed in the territory of the Republic of Belarus without consent of the producer of the sound record or other holder of rights without payment of royalty to them;

import of copies of the sound record including copies made upon consent of the producer of the sound record or other holder of rights;

rent of the original or copies of the sound record;

public representation of the sound record;

broadcasting of the sound record;

cablecasting of the sound record;

public transmission of the sound record;

processing of the sound record;

other possible ways of use of the sound record.

3. The producer of the sound record or other holder of rights is entitled to receive royalty for each way of use of the sound record by third parties unless otherwise stipulated by Chapter 4 of this Law and/or an agreement. The amount of royalty to be paid to the producer of the sound record or other holder of rights for the use of the sound record cannot be less than the amount established by the Council of Ministers of the Republic of Belarus.

## **Article 29. Exclusive Right to the Program of Broadcasting or Cablecasting Organization**

1. Broadcasting or cablecasting organizations or other holder of rights possess exclusive rights to the program.

Exclusive rights to the program means the right of broadcasting or cablecasting organization or other holder of rights to use the program at its own discretion and in any way. Broadcasting or cablecasting organizations or other holder of rights are also entitled to allow or forbid other persons to use the program.

2. Use of the program means:

record of the program;

representation of record of the program;

distribution of record of the program or copies of record of the program by sale or other transfer of ownership. If the copies of duly published record of the program were put into civil circulation in the territory of the Republic of Belarus upon consent of broadcasting or cablecasting organizations or other holder of rights by their sale or other transfer of ownership,

they can be further distributed in the territory of the Republic of Belarus without consent of the broadcasting or cablecasting organizations or other holder of rights without payment of royalty to them;

rent of the original or copies of the program;

public representation of the program at places with paid admission;

broadcasting or cablecasting of the program by another broadcasting or cablecasting organization;

public transmission of the program;

other possible ways of use of the program.

3. Exclusive rights to the program of broadcasting or cablecasting organizations are not applied if:

record of the program was made upon consent of broadcasting or cablecasting organizations;

representation of record of the program is carried out for the purposes for which its record was made, in accordance with limitations established by this Law.

4. Broadcasting or cablecasting organizations or other holder of rights are entitled to receive royalty for each way of use of the program by third parties unless otherwise stipulated by Chapter 4 of this Law and/or an agreement. The amount of royalty to be paid to broadcasting or cablecasting organizations or other holder of rights for the use of the program cannot be less than the amount established by the Council of Ministers of the Republic of Belarus.

### **Article 30. Term of Validity of Related Rights**

1. Moral rights of the performer are protected without limit of time.

Exclusive rights to performance is valid within fifty years from the moment of performance or the first record of the performance or the first broadcasting or cablecasting of the performance or other public transmission.

2. Exclusive rights to the sound record are valid within fifty years from the first publishing of the sound record or within fifty years after its first record if the sound record was not published within this term.

3. Exclusive rights to the program of broadcasting or cablecasting organizations are valid within fifty years from the moment of broadcasting or cablecasting, respectively.

4. Counting of periods stipulated by this Article starts from 1<sup>st</sup> January of the year following the year of occurrence of the legal fact being the ground for the start of counting of the respective period.

### **Article 31. Transfer of Objects of Related Rights to Public Domain**

1. Expiry of exclusive rights to objects of related rights means transfer of such objects to public domain.

2. Objects of related rights that have been never protected in the territory of the Republic of Belarus are deemed transferred to public domain.

3. Objects of related rights transferred to public domain can be freely used by any individual or legal entity without payment of royalty. Moral rights of performers must be observed.

## **CHAPTER 4**

### **CASES OF FREE USE OF OBJECTS OF COPYRIGHT AND RELATED RIGHTS**

#### **Article 32. Free Use of Objects of Copyright and Related Rights**

1. In cases stipulated by this Chapter, it is allowed to use objects of copyright and related rights without consent of authors or other holders of rights and, unless otherwise stipulated by this Chapter, without payment of royalty for such use (free use).

Unless otherwise stipulated by this Chapter, cases of free use intended for works also cover performances, sound records, programs of broadcasting or cablecasting organizations.

In all cases of free use of works and performances, unless otherwise stipulated by this Chapter, moral rights of authors and performers of the used works and performances must not be infringed.

2. It is allowed to use extracts from duly disclosed works (quotation) in the original and translation for research, educational, polemic, critical or information purposes in the volume justified by quotation purpose.

3. Originals of works of fine arts, original manuscripts of works of writers, composers and scientists can be publicly shown by the person duly possessing the original work and published in catalogues of exhibitions and editions dedicated to collections of such works, also in cases when exclusive rights to the work did not transfer to the person duly possessing the original work.

4. Representation of duly disclosed work is allowed for purposes of civil, economic, constitutional, criminal, arbitration and administrative court proceedings.

5. Musical work can be publicly performed during a religious ceremony or funeral in the scope justified by the nature of such ceremony. Indication of the author or source is not mandatory.

6. Public performance of works is allowed by non-professional performers and non-professional (amateur) art groups including students, scholars, teachers and other employees of educational establishments unless such use is aimed at receiving profit.

7. Works of photography, architecture, fine arts can be visualized, broadcasted or cablecasted, and publicly transmitted in any other way if such works continuously remain at the place with free admission. Representation of such works shall not be the main object of visualization, broadcasting or by cablecasting or other public transmission and shall not be used for commercial purposes.

#### **Article 33. Free Use of Works in Mass Media**

1. Articles on relevant economic, political, social and religious issues duly published in newspapers and magazines, and similar works duly broadcasted or cablecasted or duly placed for public use in the Internet can be used in printed mass media, broadcasted or cablecasted by electronic mass media and transmitted to public in any other way if such actions were not specifically prohibited by the author or other holder of rights to respective works.

2. Public political speeches, addresses, reports and similar works can be used in printed mass media, broadcasted or cablecasted by electronic mass media and transmitted to public in any other way in the scope justified by information purposes.

3. Works or their parts seen or heard during current events can be used in printed mass media, broadcasted or cablecasted by electronic mass media and transmitted to public in any other way within reviews of such events.

### **Article 34. Representation of Works for Visually Disabled People**

1. Duly disclosed works can be represented by Braille or other special means providing access to the works for visually disabled people. Such opportunity does not relate to works specially created for the respective means of representation and works in the form of sound records and objects of related rights.

2. In representation of works in accordance with this Article, each copy of the work shall contain direct indication that this copy is intended for visually disabled people. Distribution of such copies of works shall be carried out in the ways preventing wide access of people to whom they are not intended.

### **Article 35. Representation of Works and Objects of Related Rights for Personal Purposes**

1. It is allowed to represent duly published works and objects of related rights in single copies by an individual exclusively for personal purposes (for personal use, without pursuing of commercial aims directly or indirectly). Such representation is allowed without payment of royalty unless otherwise stipulated in paragraph 3 of this Article.

2. Provisions of paragraph 1 of this Article do not cover representation of:  
works of architecture in the form of buildings and other structures;  
databases or their essential parts unless otherwise stipulated by Article 39 of this Law;  
computer programs unless otherwise stipulated by Article 39 of this Law;  
musical scores and books (fully) by replication;

audiovisual work, drama or musical and drama work, work of choreography, pantomime or other scenario work by video record during public performance at the place with free admission or the place where presented people are not members of family or close relatives of the person making the video record.

3. Authors or other holders of rights, performers and producers of sound records (their successors) are entitled to receive royalty for representation of audiovisual works and works in the form of sound records in accordance with paragraph 1 of this Article.

Royalties are paid by manufacturers of equipment (audio and video players and other equipment) and material media (films, cassettes, laser discs, compact discs and other material media) commonly used for representation of works for personal purposes except for exported equipment and material media and importers of such equipment and material media except for the case when import is carried out by individuals for personal purposes.

Collection, distribution and payment of royalties are carried out by the organization managing property rights of authors or other holders of rights on the collective basis (hereinafter – the organization for collective management of property rights) in accordance with the legislation of the Republic of Belarus.

The minimum amount of royalties, terms of payment and proportion of distribution between authors or other holders of rights and performers and producers of sound records (their successors) are determined by the Council of Ministers of the Republic of Belarus.

### **Article 36. Free Use of Works in Educational and Research Purposes**

1. Duly disclosed works can be used with mandatory indication to the author of the work and source, as illustrations in printed editions, radio and TV programs, sound and video records in the scope justified by educational purposes.

2. Articles and other small works duly published in collections and newspapers, magazines and other printed mass media, extracts from duly published literary and other works can be represented by replication and other representation in educational and research purposes.



### **Article 37. Free Use of Works by Libraries and Archives**

1. It is allowed, without consent of the author or other holder of rights and without payment of royalty but with mandatory indication of the author of the work, to provide originals or copies of duly published works into temporary free use. Electronic copies of works provided by libraries into temporary free use including reciprocal use of library resources can be provided only at the premises of libraries including use of local computer networks and remote access on condition of use of technical means of enforcement of copyright and related rights preventing the users from creation of full copies of such works in hard or electronic copy.

2. Libraries and archives can reproduce or otherwise represent duly published works without earning profit, for supplementing library and archive funds, replacement of lost, damaged or unusable originals or copies of works.

3. Articles and other small works duly published in collections and newspapers, magazines and other mass media, extracts from duly published literary and other works can be represented by replication or other representation without earning profit by libraries or archives upon requests of legal entities and individuals for educational and research purposes.

### **Article 38. Record of Works Made by Broadcasting and Cablecasting Organizations**

1. Broadcasting and cablecasting organization can make a record of the work in relation to which such organization received the right for broadcasting or cablecasting, for short-term use, without consent of the author or other holder of rights and without payment of royalty to them provided that such record is made by broadcasting and cablecasting organization with its own equipment and for use in its own programs.

2. Broadcasting and cablecasting organization must erase such record of the work within six month after its production unless longer period was agreed upon with the author or other holder of rights to such work. Such record can be maintained by broadcasting and cablecasting organization without consent of the author or other holder of rights to the work for archive purposes if it is of documentary nature only.

### **Article 39. Free Use of Computer Programs and Databases**

1. The person duly possessing a copy of the computer program or database is entitled to make a copy of the computer program or database provide that such copy is intended only for archive purposes or replacement of duly acquired copy in cases when the original of such computer program or database is lost, destroyed or made unusable. Meanwhile such copy of the computer program or database cannot be used for other purposes and must be destroyed in case when possession of such computer program or database ceases to be legal.

2. The person duly possessing a copy of the computer program is entitled to adapt the computer program, i.e. to customize the computer program without change of its source code exclusively for the purpose of its functioning on technical devices of the user and compatibility with other computer programs, or modify the computer program if it was supplied with the open source code and/or such person received the right for modification, and to take actions necessary for functioning of such program in accordance with its purpose including record and storage in computer memory (one computer or one user of the computer network) unless otherwise stipulated by an agreement with the author or other holder of rights provided that the information received during such actions will not be used for creation of other computer programs similar to the adapted program or for any other action infringing the copyright.

#### **Article 40. Free Representation of Objects of Copyright or Related Rights in the Course of Technological Processes of Data Transmission**

No consent of the author or other holder of rights or payment of royalty is required upon representation of objects of copyright or related rights when such representation is temporary and is an integral part of the technological process of data transmission with the sole purpose of justified use of objects of copyright or related rights including justified disclosure to public.

#### **Article 41. Use of the Sound Record Published for Commercial Purposes without Consent of the Producer of the Sound Record and the Performer**

1. The following is allowed without consent of the producer of the sound record published for commercial purposes and of the performer whose performance is recorded in such sound record, however, with payment of royalty to them:

- public representation of the sound record;
- broadcasting or cablecasting of the sound record;
- other public disclosure of the sound record.

For the purposes of this Law, sound records that become accessible for public by wire or wireless communication so that people can access them from any place and at any time at their own discretion are deemed as if they are published for commercial purposes.

2. Royalty stipulated by part one of paragraph 1 of this Article shall be paid by persons using the sound record as described above.

Collection, distribution and payment of such royalty are carried out by the organization for collective management of property rights.

3. Royalty stipulated by part 1 of paragraph 1 of this Article is distributed between holders of rights in the following proportion: 50% - performers, and 50% - producers of - sound records.

### **CHAPTER 5 TRANSFER AND ASSIGNMENT OF RIGHTS**

Article 42. Transfer of the exclusive right via succession line or other legal continuity. Protection of personal moral rights of authors and performers after death.

1. The exclusive right to the object of copyright or related rights can be transferred via succession or other legal continuity line unless otherwise stipulated by this Law.

2. Protection of personal moral rights of authors and performers after their death is carried out without time limitation by their successors or executors, and in their absence, by the authorized republican public management organization implementing the public policy and performing the function of public regulation in the sphere of protection of rights to objects of intellectual property (hereinafter – the authorized public organization).

#### **Article 43. Agreement of Assignment of the Exclusive Right**

1. Under the agreement of assignment of the exclusive right, one party (holder of rights) alienates the exclusive right to the object of copyright or related rights in full to the other party for the whole period of validity of copyright (related rights).

Unless otherwise stipulated by the agreement of assignment of the exclusive right, the exclusive right to the object of copyright or related rights is transferred from the holder of rights to the other party (new holder of rights) from the moment of execution of the agreement.

2. The agreement of assignment of the exclusive right shall contain the provision on the amount of royalty or the order of its determination or direct indication to gratuitous nature.

3. The agreement of assignment of the exclusive right is executed in written form.

#### **Article 44. License Agreement**

1. Under the license agreement, the holder of rights (licensor) provides to the user (licensee) the permission to use the respective object of copyright or related rights.

The licensee can use the object of copyright or related rights in the way directly stipulated by the license agreement.

2. Under the exclusive license agreement, the licensor provides to the licensee the right to use the object of copyright or related rights in the way and the scope stipulated by the agreement.

The licensor cannot use or permit other persons to use the object of copyright or related rights in the part provided to the licensee but can retain the right to use or permit other persons to use the object of copyright or related rights in the part that not provided to the licensee.

3. Under the agreement of common (non-exclusive license), the licensor provides to the licensee the right to use the object of copyright or related rights while the licensor retains the right to use the object of copyright or related rights and the right to issue license to other persons.

4. The license agreement is intended to be fulfilled against royalty unless otherwise provided by such agreement. The royalty is stipulated in the license agreement as percentage of proceeds for the respective way of use of the object of copyright or related rights or as a determined amount or otherwise.

5. The license agreement shall contain provisions on its validity and territory where it is allowed to use the object of copyright or related rights.

6. The licensee is entitled to provide other persons (sublicensees) the right to use the object of copyright or related rights only if it is clearly stipulated by the license agreement and in the scope of authority provided to the licensee by such agreement.

7. The license agreement shall be concluded in written form unless otherwise stipulated by part two of this paragraph and paragraph 6 of Article 45 of this Law.

Conclusion of the license agreement on provision of right to use the computer program or database is allowed by conclusion of the respective agreement of accession by each licensee with the respective licensor, which terms are stipulated on the acquired copy of the computer program or database or package of each copy or attached to each copy. The use of such computer programs or databases by the licenses means consent to conclude the agreement.

#### **Article 45. Author's Agreement**

1. The author's agreement is the license agreement where the licensor is the author of the work.

The rules on the license agreement stipulated by article 44 of this Law are applicable to the author's agreement with regard to peculiarities stipulated by this Article.

2. The author's agreement shall stipulate specific ways of use of the work. If the author's agreement stipulates royalty, it shall stipulate the amount of royalty or the order of determination of royalty for each way of use of the work, and the procedure and term of its payment.

3. The author's agreement may omit provisions on its validity and the territory where the work can be used.

If the author's agreement does not stipulate the term of validity, it can be terminated by that author upon expiry of three years from the date of execution when the licensee is notified in writing at least three months before termination.

If the author's agreement does not stipulate the territory where the work can be used, it shall be limited by the territory of the Republic of Belarus.

4. If the royalty in respect of the author's agreement on representation of the work is determined as fixed amount then the agreement shall stipulate the maximum number of copies of the work to be represented.

5. If the author's agreement stipulates the right of the licensee to conclude the sublicense agreement then the author's agreement shall stipulate the percentage of the royalty received by the licensee from the sublicensee which the licensee shall pay to the author. The royalty received by the author for the use of the work by the sublicensee shall not be less than the royalty to be paid by the licensee for the respective way of use of the work in accordance with the author's agreement unless otherwise clearly stipulate by the author's agreement.

6. The author's agreement on the use of the work in periodicals can be concluded orally.

#### **Article 46. Agreement on Creation and Use of Objects of Copyright and Related Rights**

1. The author (performer) can assume the obligation under the agreement to create a work (performance) in future and provide to the customer being non-employer the right to use such work (performance).

The agreement shall stipulate the nature of the work (performance) to be created and the purpose or ways of its use.

2. The work (performance) to be created under the agreement shall be provided to the customer within the term stipulated by the agreement.

If the author (performer) fails to provide the work (performance) to the customer within the term stipulated by the agreement, he/she shall compensate real damage caused to the customer unless he/she proves that violation of the term occurred not through his/her fault.

The material object in which the work (performance) is implemented is transferred into possession of the customer unless otherwise stipulated by the agreement.

3. The agreement shall contain the provision on the amount of royalty for creation of the work (performance) or the order of its determination and the provision on the procedure of its payment.

The agreement can stipulated the obligation of the customer to pay the author (performer) an advance payment from the amount of royalty stipulated under the agreement for creation of the work (performance).

The agreement can contain the provision on the amount of royalty for the use of the work (performance) or the order of its determination or free use of the work (performance).

4. Provisions of the agreement limiting the right of the author (performer) to create works (performances) of a certain kind or certain sphere in future are deemed void.

5. The agreement binding the author (performer) to provide the customer exclusive rights to works (performances) that he/she may create in future is deemed void.

6. The agreement on creation and use of the object of copyright or related rights shall be executed in written form.

### **CHAPTER 6 COLLECTIVE MANAGEMENT OF PROPERTY RIGHTS**

#### **Article 47. Organizations for Collective Management of Property Rights**

1. In order to protect property rights of authors or other holders of rights in cases when their individual practical implementation is difficult and in cases when this Law stipulates payment of royalty for use of works or objects of related rights executed without consent of authors or other holders of rights, organizations for collective management of property rights may be created.

2. Organizations for collective management of property rights may act in the form of: non-commercial organizations based on membership of authors or other holders of rights; entities which property belongs to the state.

The activity on management of property rights of authors or other holders of rights on the collective basis is not deemed as commercial.

3. Organizations stated in part one of paragraph 2 of this Article are entitled to act in the sphere of collective management of property rights after state accreditation.

#### **Article 48. State Accreditation of Organizations for Collective Management of Property Rights**

1. State accreditation of the organization for collective management of property rights (hereinafter – state accreditation) is the procedure confirming compliance of the legal entity to requirements for organizations for collective management of property rights and determining the ability of the legal entity to act in certain spheres of collective management of property rights of authors or other holders of rights.

2. The organization for collective management of property rights can receive state accreditation for activity in the following spheres of collective management:

management of exclusive rights for drama and musical drama works, other scenario works in case of public performance;

management of exclusive rights to musical works with or without text in case of public performance;

management of exclusive rights to works in case of broadcasting or cablecasting;

management of exclusive rights to works in case of public disclosure except for broadcasting and cablecasting ;

management of exclusive rights to performances and sound records in case of public performance;

management of exclusive rights to performances and sound records in case of broadcasting and cablecasting;

management of exclusive rights to performances and sound records in case of public disclosure except for broadcasting and cablecasting;

management of the right of succession in relation to originals of works of fine arts, original manuscripts of writers, composers, and scientists;

collection of royalty for representation of audiovisual works in the form of sound records for personal purposes, to the benefit of the authors or other holders of rights to such works, and performers and producers of sound records;

collection of royalty for public performance, broadcasting and cablecasting, other public disclosure of sound records published for commercial purposes, to the benefit of performers and producers of sound records;

management of exclusive rights to literary and scientific works upon their use including by libraries unless otherwise stipulated by Article 37 of this Law;

management of exclusive rights to works and objects of related rights in other cases when execution of rights on the individual basis is difficult.

3. Main conditions of state accreditation are:

stipulation of categories of authors or other holders of rights and areas where the organization supposes to carry out collective management of property rights, in the Statute of the organization for collective management of property rights;

membership in the organization for collective management of property rights of at least 50 authors or other holders of rights whose works and/or objects of related rights refer to the area of activity of such organization. This condition is not applicable to organizations for collective management of property rights created in the form of organizations which property belongs to the state;

the developed system of collection, distribution and payment of royalty;

official web-site in the Internet national domain (hereinafter – web-site) for provision of information to all interested parties on rights transferred for management to the organization for

collective management of property rights including names of works and/or objects of related rights, name of the author or other holder of rights.

4. State accreditation is initiated upon application of the interested party submitted to the authorized governmental body. The decision on state accreditation (denial of state accreditation) applied by the organization for collective management of property rights is taken by the authorized governmental body within one month from receipt of the application.

The application of the interested party is submitted by the authorized governmental body to the commission for state accreditation of organizations for collective management of property rights (hereinafter – accreditation commission) for consideration and preparation of the decision.

The accreditation commission is a collective advisory board and consists of officials from interested republican state management authorities and representatives of public associations (creative unions).

The regulation on the accreditation commission and its members are approved by the Council of Ministers of the Republic of Belarus.

5. The decision on the possibility of state accreditation of the applying organization for collective management of property rights (or possibility of denial of state accreditation with indication of reasons for denial) is adopted at the session of the accreditation commission following the principle of open procedure.

The decision of the accreditation commission is the basis for adoption of decision by the authorized governmental body on state accreditation (denial of state accreditation).

State accreditation is provided to the organization for collective management of property rights for five years with the extension option for another five years upon application of such organization in the order stated by this Article.

The procedure of state accreditation is determined by the Council of Ministers of the Republic of Belarus.

6. The reason for denial of state accreditation is incompliance of the organization for collective management of property rights stipulated by paragraph 3 of this Article.

Denial of state accreditation shall be motivated.

Denial of state accreditation can be appealed at court.

7. The state accreditation can be early terminated.

The reasons for early termination of state accreditation are:

submission of incorrect data by the organization for collective management of property rights which became the ground for taking the decision on state accreditation;

voluntary refusal of the organization for collective management of property rights from state accreditation;

failure of the organization for collective management of property rights within the term stipulated by the authorized governmental body to eliminate the faults in the area of collective management of property rights in relation to which such governmental body forwarded a written notice on elimination;

failure to timely provide the annual report on the activity of the organization for collective management of property rights to the authorized governmental body;

provision of the annual report on the activity of the organization for collective management of property rights containing intentionally incorrect data, to the authorized governmental body;

systematic violation of the legislation of the Republic of Belarus on copyright and related rights.

The proposal of early termination of state accreditation is made by the authorized governmental body for one or several reasons stipulated by part two of this paragraph, to the accreditation commission for consideration and preparation of decision. In case of voluntary refusal of the organization for collective management of property rights from state accreditation, the proposal on early termination of state accreditation is made by the authorized governmental body based on the application of such organization submitted to the authorized governmental body.

The decision on reasons for early termination of state accreditation with the grounds for early termination of state accreditation or possibility of denial of early termination of state accreditation is made at the session of the accreditation commission based on the principle of open procedure.

The decision of the accreditation commission is the ground for adoption of the decision by the authorized governmental body on the issue related to early termination of state accreditation.

The decision on the issue related to early termination of state accreditation is adopted by the authorized governmental body within one month from the date of receipt of proposals of early termination of state accreditation by the accreditation commission, and in case of voluntary refusal of the organization for collective management of property rights from state accreditation such decision is taken within one month from the date of receipt of the application on early termination of state accreditation by the authorized governmental body.

#### **Article 49. Functions of the Organization for Collective Management of Property Rights**

1. The organization for collective management of property rights performs the following functions:

concludes agreements on certain use of works and/or objects of related rights with users of works and/or objects of related rights based on authority provided under the agreement by authors or other holders of rights or other organizations for collective management of property rights including foreign individuals and entities, in its own name and to the benefit of authors or other holders of rights;

collects royalty in accordance with agreements concluded with users and in accordance with paragraph 3 of Article 35 of this Law;

distributes and regularly pays collected royalty to authors or other holders of rights in relation to which collective management of property rights is carried out;

presents interest of authors or other holders of rights which rights it manages, at courts in accordance with the legislation of the Republic of Belarus and undertakes other legal action necessary for enforcement of rights of authors or other holders of rights;

undertakes other actions in accordance with the authority obtained from authors or other holders of rights.

2. The organization for collective management of property rights is not entitled to use works and/or objects of related rights to which the rights were transferred to this organization for management on the collective basis.

3. Royalty stipulated in Articles 35 and 41 of this Law can be collected only by one organization for collective management of property rights accredited for activity in the respective sphere of collective management of property rights.

4. The organization for collective management of property rights maintains registers containing the information on the rights transferred to it for management including names of works and/or objects of related rights, name of the author or other holder of rights. The information contained in such registers is provided to any interested person in the order stipulated by the organization for collective management of property rights except for the data that are subject to nondisclosure without consent of the author or other holder of rights in accordance with the legislation of the Republic of Belarus.

The organization for collective management of property rights published information on its web-site about the rights transferred to it for management including names of works and/or objects of related rights, name of the author or other holder of rights.

5. The organization for collective management of property rights can, in accordance with the terms of agreements concluded with authors or other holders of rights and the agreements concluded with other organizations for collective management of property rights, allocate up to 10 percent of collected royalty to social support of authors and performers of the Republic of

Belarus. Such funds can be used also for support of young talented authors and performers of the Republic of Belarus (financial support in organization of exhibitions, participation in contests, publication of works, acquisition and installation of equipment for studios, training courses), prominent persons in science, literature and art who are pensioners and in need of material support.

The order of expenditure of such funds is determined by the Council of Ministers of the Republic of Belarus.

#### **Article 50. Relations of the Organization for Collective Management of Property Rights with Authors or Other Holders of Rights**

1. Authority for collective management of property rights is transferred to the organization for collective management of property rights directly by the author or other holder of rights based on the agreement concluded with it on management of property rights to the work and/or object of related rights and respective agreements with other organizations for collective management of property rights including foreign organizations.

The organization for collective management of property rights cannot refuse the author or other holder of rights to conclude the agreement on management of property rights to the work and/or object of related rights if management of such category of rights is attributed to the sphere of activity of such organization.

Upon conclusion of the agreement on management of property rights to the work and/or object of related rights, the organization for collective management of property rights shall act on equal terms in relation to authors or other holders of rights possessing exclusive rights to works and/or objects of related rights of the same kind (literary, musical, drama etc.) used in one sphere of collective management of property rights.

2. The agreement on management of property rights to the work and/or object of related rights shall contain:

list of works and/or objects of related rights, specific forms and ways of their use in relation to which management authority is assigned to the organization for collective management of property rights;

order of calculation and payment of royalty collected by the organization for collective management of property rights for use of works and/or objects of related rights.

3. The author or holder of rights can conclude the agreement on management of property rights in relation to the specific work and/or object of related rights in the respective sphere of collective management with only one organization for collective management of property rights.

4. Distribution and payment of royalty collected by the organization for collective management of property rights for use of works and/or objects of related rights shall be carried out regularly but not less than once per quarter, in proportion to actual use of the respective works and/or objects of related rights determined on the basis of information received from users and other data on usage of works and/or objects of related rights including statistical data.

Frequency of payment of the collected royalty to foreign authors or other holders or rights is stipulated in agreements on representation of interests concluded with foreign organizations for collective management of property rights.

Simultaneously with payment of royalty, the organization for collective management of property rights shall provide authors or other holders of rights data about volumes of usage of their works and/or objects of related rights and amounts of allocations for coverage of expenses on collective management of property rights.

5. Royalty unpaid within three months from the moment of distribution is entered in bank accounts of the organization for collective management of property rights where it is kept until called by the author or other holder of rights within five years from the moment of entering in such bank accounts, without the right of such organizations to use royalty. The information about the author or other holder of rights to whom royalty was not paid is published at the official web-



site of the organization for collective management of property rights from the moment of entering royalty in the respective bank accounts.

After expiry of five years, the royalty unpaid to the author or other holder of rights is transferred by the organization for collective management of property rights into the republican budget as income.

The rules of collection, distribution and payment of royalty to authors or other holders of rights and the order of transfer of unpaid royalty to the republican budget as income are determined by the Council of Ministers of the Republic of Belarus.

6. For payment of royalty for use of the sound record published for commercial purposes that was collected in accordance with Article 41 of this Law, the organization for collective management of property rights shall take reasonable and sufficient measures to find the performer and producer of the sound record including publication of respective information on official web-site.

If within three months from the moment of distribution of collected royalty the performer and/or producer of the sound record is not found, circulation of unpaid funds is carried out in accordance with paragraph 5 of this Article.

7. Distribution of royalty between holders of copyright and related rights collected in accordance with paragraph 3 of Article 35 of this Law is carried out by the organization for collective management of property rights having state accreditation for activity in the respective sphere of management of property rights in proportion to actual use of sound records and audiovisual works.

The amount of royalty is calculated based on the data on usage of sound records and audiovisual works upon their public performance and broadcasting or cablecasting provided by organizations for collective management of property rights accredited to carry out activity in respective spheres of collective management of property rights, and on the basis of agreements on information exchange, and provided by authors or other holders of rights executing their property rights independently or through an agent, including statistical data.

8. The organization for collective management of property rights is entitled to make allocations from royalty collected in order to cover expenses on collective management of property rights.

The amount of such allocations is stipulated in agreements on management of property rights to the work and/or object of related rights and cannot exceed 25 percent of the amount of collected royalty.

The organization for collective management of property rights collecting royalty in accordance with paragraph 3 of Article 35 and paragraph 2 of Article 41 of this Law makes allocations for coverage expense on collective management of property rights after payment of royalty to the author or other holder of rights, performer and producer of sound record or not earlier than transfer of unpaid royalty to the republican budget as income. The amount of such allocations cannot exceed 25 percent of the collected royalty.

9. The author or other holder of rights is entitled at any moment to notify the organization for collective management of property rights in writing about refusal (full or partial) from management of his/her proprietary rights.

The organization for collective management of property rights shall, within one month from receipt of such notification from the author or other holder of rights, exclude the works and/or objects of related rights indicated by the author or other holder of rights from management and publish the respective information on web-site. The organization for collective management of property rights shall pay the author or other holder of rights royalty collected before exclusion of such works and/or objects of related rights from management system.

10. In case of decision on early termination of state accreditation or its expiry, the organization for collective management of property rights shall pay to the author or other holder of rights royalty collected before adoption of the decision on early termination of state accreditation or its expiry.

## **Article 51. Relations of the Organization for Collective Management of Property Rights with Users**

1. Users of works and/or objects of related rights which are transferred to the organization for collective management of property rights shall use them basing on the agreement on usage of works and/or objects of related rights concluded with such organization.

In compliance with this Law in cases if it allows using works and/or objects of related rights without consent of authors or other holders of rights but with payment of royalty to them, users shall conclude the agreement on payment of royalty with the respective organization for collective management of property rights unless other procedure of royalty payment is stipulated by the legislation of the Republic of Belarus.

2. Upon conclusion of agreements on usage of works and/or objects of related rights, the organization for collective management of property rights shall act on equal terms in relation to users who use works and/or objects of related rights in the same form and/or way. Meanwhile, the organization for collective management of property rights cannot refuse on conclusion of the agreement on usage of works and/or objects of related rights with the user.

3. The agreement on usage of works and/or objects of related rights between the user and the organization for collective management of property rights shall be concluded on the terms of common (non-exclusive) license and stipulate:

list of works and/or objects of related rights that may be used by the user in accordance with the agreement, forms and ways of their use;

period within which the user can use works and/or objects of related rights;

order of calculation and payment of royalty for use of works and/or objects of related rights. The amount of royalty cannot be less than minimal rates established by the Council of Ministers of the Republic of Belarus;

procedure of provision of data on usage of works and/or objects of related rights.

If it is impossible to list in the agreement all works and/or objects of related rights under management of the organization for collective management of property rights, the subject of agreement may be determined with reference to the list of works and/or objects of related rights that shall be an integral part of such agreement. Such list shall be published by the organization for collective management of property rights on web-site.

4. Users shall hold exact accounting of usage of works and/or objects of related rights and provide the organization for collective management of property rights with data about their use and documents related to calculation and payment of royalty.

5. The organization for collective management of property rights shall provide users upon their request the information confirming its authority for management of rights in relation to the works and/or objects of related rights used by such users.

## **Article 52. Advisory Board of the Organization for Collective Management of Property Rights**

1. In order to support efficient protection of rights of authors and other holders of rights, the advisory board may be established by the organization for collective management of property rights.

2. The advisory board may include authors or other holders of rights, performers, and representatives of users, public authorities, social associations (creative unions), prominent persons in science, literature, art, and other experts.

The order of composition and authority of the advisory board shall be determined by the statute of the organization for collective management of property rights.

### **Article 53. Reporting Activity of the Organization for Collective Management of Property Rights**

1. The organization for collective management of property rights shall, within three months after the end of the calendar year, provide to the authorized governmental body and publish on web-site the annual report on results of activity of collective management of property rights that shall contain:

rules of collection, distribution and payment of royalty applied by the organization;  
information on agreements valid as of the end of the reported year, concluded with authors or other holders of rights, users, other organizations for collective management of property rights;

amount of collected royalty for usage of works and/or objects of related rights;  
amount of royalty paid to authors or other holders of rights;  
amount of allocations for coverage of expenses of the organization for collective management of property rights;

amount allocated to social support of authors and performers of the Republic of Belarus.

2. The authorized governmental body may request additional information from the organization for collective management of property rights on the issues disclosed in accordance with paragraph 1 of this Article in the annual report.

### **Article 54. Authority of the Authorized Governmental Body in the Sphere of Collective Management of Property Rights**

The authorized governmental body in the sphere of collective management of property rights:

coordinates the activity of organizations for collective management of property rights;  
takes decisions on state accreditation (denial of state accreditation), extension of state accreditation, early termination of state accreditation;

provides methodological assistance to organizations for collective management of property rights, authors or other holders of rights and users on the issues related to protection of rights to works and objects of related rights;

analyses information on results of activity of organizations for collective management of property rights;

makes written notifications to organizations for collective management of property rights on elimination of drawback in the sphere of collective management of property rights;

organizes and supports the activity of the accreditation commission;

executes other authority in the sphere of collective management of property rights stipulated by the legislation of the Republic of Belarus.

## **CHAPTER 7 PROTECTION OF COPYRIGHT OR RELATED RIGHTS**

### **Article 55. Infringement of Copyright or Related Rights**

1. Actions committed against the provisions of this Law are deemed infringement of copyright or related rights.

2. The following actions are deemed infringement of copyright and related rights:

any actions (including production, import for purposes of distribution, or distribution (sale, rent) of devices or provision of services) that allow evading or contributing to evade any technical instruments for protection of copyright or related rights stipulated by this Law, without consent of the author or other holder of rights;

eliminations or amendments of electronic information on management of rights without consent of the author or other holder of rights;

distribution, import for the purposes of distribution, broadcasting, public disclosure of works, recorded performances, sound records, programs of broadcasting and cablecasting organizations without consent of the author or other holder of rights, in relation to which electronic information on management of rights is eliminated or amended without consent of the author or other holder of rights.

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3. Violation of copyright or related rights stipulated by this Law incurs liability stipulated by legislative regulations of the Republic of Belarus.

### **Article 56. Enforcement of Copyright or Related Rights**

1. Authors or other holders of rights shall address to court and other authorities in accordance with their scope of authority for enforcement of copyright or related rights in the determined order.

2. In case of infringement of the exclusive right to the object of copyright or related rights, along with usage of remedies to enforce exclusive rights as stipulated by Article 989 of Civil Code of the Republic of Belarus, the author or other holder of rights can claim from the violator payment of compensation in the amount from ten to fifty thousand basic units instead of compensation of damages, as determined by courts with regard to the nature of infringement.

Compensation is charged in case of proof of the fact of infringement of the exclusive right to the object of copyright or related rights. Authors or other holders of rights are not obliged to prove the amount of damages caused by such infringement.

3. In case of violations stipulated by paragraph 2 of Article 55 of this Law, the author or other holder of rights to whom damages were caused by such violations, can claim compensation of damages or payment of compensation in accordance with paragraph 2 of this Article.

4. The organization for collective management of property rights can raise claims on behalf of authors or other holders of rights or in its own name as stipulated in this Article, at court and commit other legal actions necessary for enforcement of rights which it manages basing on agreements concluded with authors or other holders of rights and/or agreements concluded with other organizations for collective management of property rights on mutual representation of interests.

### **Article 57. Counterfeit Copies**

1. Copies of works, recorded performances, sound records, broadcasting or cablecasting programs, are deemed counterfeit if their representation, distribution or other use incurs infringement of copyright or related rights as stipulated by this Law.

2. Copies of works, recorded performances, sound records, broadcasting or cablecasting programs protected in the Republic of Belarus in accordance with this Law are also deemed counterfeit if they are imported without consent of authors or other holders of rights.

3. Copies of works, recorded performances, sound records, broadcasting or cablecasting programs are also deemed counterfeit if the information on management of rights was deleted or amended without consent of the author or other holder of rights, or if they are produced avoiding technical means of enforcement of copyright or related rights.

4. Counterfeit copies of works, recorded performances, sound records, broadcasting or cablecasting programs are subject to mandatory confiscation based on decision of the court in the case of enforcement of copyright or related rights.

5. The court is entitled to make a decision on confiscation of any materials and any equipment including any devices used for illegal representation and/or public transmission of works, recorded performances, sound records, broadcasting or cablecasting programs.

6. Confiscated counterfeit copies of works, recorded performances, sound records, broadcasting or cablecasting programs in accordance with the court decision are subject to destruction at the expense of the infringing party.

## **CHAPTER 8 FINAL PROVISIONS**

### **Article 58. Amendments and Additions to the Civil Code of the Republic of Belarus**

The Civil Code of the Republic of Belarus dated December 7, 1998 (Bulletin of the National Assembly of the Republic of Belarus 1999, No. 7-9, p. 101) shall be amended and added as follows:

1. In part two of paragraph 1 of Article 982, the word “Manufacturers” shall be replaced by the word “Producers”.

2. Part two of paragraph 1 of Article 985 shall be supplied with the words “unless otherwise stipulated by the agreement”.

3. In sub paragraph 3 of paragraph 1 of Article 991 the words “(their successors – citizens of other countries)” shall be replaced by the words “citizens of other countries and their successors”.

4. Sub paragraph 4 of paragraph 2 of Article 992 shall be read as follows:

“4) images (picture, sketch, painting, map, plan, drawing, movie, TV, video, photo frame etc.);”.

5. In paragraph 1 of Article 993:

Subparagraph 6 shall be supplemented with the words “and design”;

In subparagraph 8, the word “and” shall be replaced by the words “including”;

In subparagraph 9, the word “topographies” shall be replaced by the word “cartographies”;

The paragraph shall be supplemented by subparagraph 10-1 as follows:

“10-1) monographs, articles, reports, lectures and speeches, dissertations, construction documentation and other works of science;”.

6. In part one of Article 994 the word “staging” shall be excluded.

7. In Article 995:

In paragraph 1:

In subparagraph 2 the words “staging took place for the first time” shall be amended as “the first time staging”;

In subparagraph 3 the words “staging were recorded” shall be replaced by the words “was recorded”;

In subparagraph 4 the words “staging not recorded as sound record, are included” shall be replaced by the words “not recorded as sound record is included”;

The paragraph shall be supplemented by subparagraph 5 as follows:

“5) in other cases stipulated by international treaties of the Republic of Belarus.”;

In paragraph 2:

In clause one and sub paragraph 1 the words “manufacturers” and “manufacture” shall be replaced by the words “producers” and “producer”, respectively;

The paragraph shall be supplemented by sub paragraph 3 as follows:

“3) in other cases stipulated by international treaties of the Republic of Belarus.”;

Paragraph 3 shall be supplemented by the words “and in other cases stipulated by international treaties of the Republic of Belarus”.

## **Article 59. Declaring Certain Laws of the Republic of Belarus and Their Individual Provisions as Invalid**

The following laws and provisions are deemed void:

The Law of the Republic of Belarus dated May 16, 1996 “On Copyright and Related Rights” (Bulletin of the Supreme Council of the Republic of Belarus, 1996, No. 20, p. 366);

The Law of the Republic of Belarus dated August 11, 1998 “On Amendments and Additions to the Law of the Republic of Belarus “On Copyright and Related Rights” (Bulletin of the National Assembly of the Republic of Belarus, 1998, No. 31-32, p. 472);

Article 8 of the Law of the Republic of Belarus dated January 4, 2003 “On Amendments to Certain Legal Acts of the Republic of Belarus” (National Register of Legal Acts of the Republic of Belarus, 2003, No. 8, 2/932);

Article 28 of the Law of the Republic of Belarus dated July 14, 2008 “On Geodetics and Cartography” (National Register of Legal Acts of the Republic of Belarus, 2008, No. 175, 2/1493).

## **Article 60. Law Application**

1. This Law shall apply to relations in the sphere of copyright and related rights that occurred after entering of this Law into force.

2. Until the legislation of the Republic of Belarus is brought to conformity with this Law, it shall apply in the scope not contradictory to this Law.

3. The rights for works of science, literature, and art, performances, sound records, programs of broadcasting and cablecasting organizations protected as of the date of entering of this Law into force shall continue to be protected in accordance with this Law.

4. Personal non-property rights including the right to integrity of works of science, literature, art and performances shall be attributed to authors and performers regardless of whether they were attributed to authors and performers at the moment of creation of works and performances.

5. The initial holder of the exclusive right is determined in accordance with the legal acts in force at the moment of creation of works of science, literature, art, performances, sound records, programs of broadcasting or cablecasting organizations.

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Article 61 came into force from the date of official publication (Article 62 of this document).

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## **Article 61. Bringing Legal Acts of the Republic of Belarus into Conformity with the Law.**

Within six months, the Council of Ministers of the Republic of Belarus shall:  
bring decisions of the Government of the Republic of Belarus into conformity with this Law;

provide the process of bringing of legal acts of governmental bodies subordinate to the Government of the Republic of Belarus in conformity with this Law;

take other measures to implement the provisions of this Law.

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Article 62 came into force from the date of official publication.

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## **Article 62. Entering of the Law into Force**

This Law shall come into force in six months after its official publication except for this Article and Article 61 that shall come into force from the date of official publication of this Law.

President of the Republic of Belarus

A. Lukashenko