



**Law No. 27 of October 11, 1995,
on the Incorporation in Spanish Law of
Council Directive (EEC) No. 93/98 of October 29, 1993,
Harmonizing the Term of Protection of Copyright and Certain Related
Rights***

TABLE OF CONTENTS**

	<i>Article</i>
Purpose of this Law	1
Term of Exploitation Rights Accruing to the Author of the Work.....	2
Term of Exploitation Rights in Cinematographic or Audiovisual Works	3
Duration of Related Rights	4
Duration of Exploitation Rights in Unpublished Works that are in the Public Domain.....	5
Duration of Exploitation Rights in Photographs.....	6
Duration of Exploitation Rights in Works from Third Countries.....	7
First Additional Provision	
Second Additional Provision	
Sole Repeal Provision	
First Final Provision	
Second Final Provision	

(Purpose of this Law)

Art. 1.

The purpose of this Law is to set the duration of exploitation rights in the field of intellectual property.

The duration of moral rights shall not fall within the scope of this Law.

(Term of Exploitation Rights Accruing to the Author of the Work)

Art. 2.

(1) The exploitation rights accruing to the author of the work shall last for the author's lifetime and for 70 years following his natural or declared death.

(2) In the case of a work of joint authorship, the term of protection of the exploitation rights referred to in paragraph (1) shall be calculated from the natural or declared death of the last surviving author.

(3) In the case of pseudonymous or anonymous works, the term of the exploitation rights shall be 70 years following the lawful disclosure of the said works, except where the author becomes known before the term expires, in which case the provisions of paragraph 1 shall apply.

(4) The term of the authors' exploitation rights in a collective work or in a work in relation to which a legal entity has been declared the rightholder shall be 70 years calculated from the lawful disclosure

* *Spanish title:* Ley 27/1995, de 11 de octubre, de incorporación al Derecho español de la Directiva 93/98/CEE del Consejo, de 29 de octubre de 1993, relativa a la armonización del plazo de protección del derecho de autor y de determinados derechos afines.

Entry into force: October 14, 1995.

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Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.

thereof, except where the natural persons who created the work are identified as the authors thereof on the versions of the work that are made available to the public.

The provisions of the foregoing paragraph shall be without prejudice to the rights of identified authors whose identifiable contributions are included in such works, to which contributions the provisions of paragraphs (1) and (2) of this Article shall apply.

(5) Where works are published in parts, volumes, installments or issues that are not independent, and the term of protection thereof starts on the lawful disclosure of the work, the said term shall run separately for each such element.

(6) The term of the exploitation rights in works that have not been lawfully disclosed shall be 70 years from the creation thereof where the said term is not calculated from the natural or declared death of the author or authors.

(7) The terms provided for in this Article shall be calculated from the first of January of the year following that of the natural or declared death of the author, or that of the lawful disclosure of the work, as the case may be.

(Term of Exploitation Rights in Cinematographic or Audiovisual Works)

Art. 3.

(1) For the purposes of this Law, the following are the co-authors of a cinematographic or audiovisual work:

- (a) the director or maker;
- (b) the authors of the plot or adaptation, and those of the screenplay or dialogue;
- (c) the authors of the musical compositions, with or without words, specially created for the work.

(2) The term of protection of a cinematographic or audiovisual work shall expire 70 years after the death of the last survivor of the co-authors specified in the foregoing paragraph.

(Duration of Related Rights)

Art. 4.

(1) The term of the exploitation rights accorded to performers shall be 50 years calculated from the first of January of the year following that of the performance.

If, however, a recording of the performance is lawfully published or lawfully communicated to the public, during that period, the said rights shall expire 50 years after the first such publication or the first such communication to the public, whichever occurs first, calculated from the first of January of the year following the date on which the event occurred.

(2) The term of the exploitation rights accorded to producers of phonograms shall be 50 years calculated from the first of January of the year following that of the recording thereof.

If, however, the phonogram is lawfully published or lawfully communicated to the public during that period, the said rights shall expire 50 years from the first such publication or the first such communication to the public, whichever occurs first, calculated from the first of January of the year following that of the date on which the event occurred.

(3) The term of the exploitation rights accorded to the producers of the first fixation of an audiovisual recording shall be 50 years, calculated from the first of January of the year following that of the making thereof.

If, however, the recording is lawfully published or lawfully communicated to the public during that period, the said rights shall expire 50 years after the first publication or the first communication to the public, whichever occurs first, calculated from the first of January of the year following the date on which the event occurred.

(4) The term of the exploitation rights accorded to broadcasting organizations shall be 50 years calculated from the first of January of the year following that of the first making of a broadcast or transmission.

(Duration of Exploitation Rights in Unpublished Works that are in the Public Domain)

Art. 5.

Any person who for the first time lawfully publishes or lawfully communicates to the public an unpublished work that is in the public domain shall have the same exploitation rights in that work as would have accrued to the author thereof.

The term of the exploitation rights accorded in the foregoing paragraph shall be 25 years calculated from the first of January of the year following that of the first publication or first communication to the public of the work, whichever occurs first.

(Duration of Exploitation Rights in Photographs)

Art. 6.

(1) The term of the exploitation rights in photographic works and works expressed by a process analogous to photography that constitute original artistic or scientific creations by the author himself shall be that provided for in Article 2 of this Law.

(2) The term of the exploitation rights in photographs or other reproductions obtained by a process analogous to photography shall, where neither the former nor the latter have the character of works protected under the foregoing paragraph, be 25 years calculated from the first of January of the year following the date of the making thereof.

(Duration of Exploitation Rights in Works from Third Countries)

Art. 7.

(1) The term of the exploitation rights in works whose country of origin, within the meaning of the Berne Convention, is a third country, and whose author is not a national of the European Union, shall be the same in Spain as that granted in the country of origin of the work, provided that it shall in no case exceed that provided for in Article 2 of this Law.

(2) The terms provided for in Article 4 of this Law shall likewise be applicable to the owners of related rights who are not nationals of the European Union, in so far as their protection in Spain is guaranteed by an international convention. However, without prejudice to whatever international obligations may be applicable, the term of protection shall expire on the date provided for in the country of which the owner is a national, provided that it shall in no case exceed that laid down in Article 4 of this Law.

First Additional Provision

(Exclusion from the Scope of the Law)

The provisions of this Law shall not affect the application of the provisions of Article 14bis(2)(b), (c) and (d), or paragraph (3) of the same Article of the Berne Convention, all of which relate to the authors of contributions to cinematographic works.

Second Additional Provision

(Provision for Special Situations)

(1) Where, under the provisions of paragraph (2) of the First Transitional Provision of Law No. 22 of November 11, 1987, on Intellectual Property, the term of protection provided for therein is still running, the provisions of this Law shall not have the effect of restricting it.

(2) The terms of protection provided for in this Law shall apply to all works and performances that are protected in Spain, or at least in a Member State of the European Union, on July 1, 1995, by virtue of the corresponding national provisions on copyright or related rights, or those that fulfill the criteria for the grant of protection under Law No. 43 of December 30, 1994, on the Incorporation in Spanish Law of Council



Directive (EEC) No. 92/100 of November 19, 1992, on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property.

(3) This Law shall not affect any act of exploitation engaged in prior to July 1, 1995. Copyright and related rights that come into being under this Law shall not give rise to payment on the part of persons who in good faith have undertaken the exploitation of the works concerned while those works were in the public domain.

Sole Repeal Provision

(Repeal of Existing Provisions)

All equal—ranking or lower—ranking provisions contrary to the provisions of this Law are repealed, and in particular the following:

Articles 26, 27(2), first paragraph, 28(1), 28(2), 28(3), 29(1) and 30 of Chapter 1 of Part One, Authors' Rights, of Law No. 22 of November 11, 1987, on Intellectual Property.

Articles 106, 111, 115, 117, 118, 119 and 120 of Part II, Other Intellectual Property Rights, of Law No. 22 of November 11, 1987, on Intellectual Property.

With respect to the duration of the term of protection, Article 7 of Law No. 16 of December 23, 1993, on the Incorporation in Spanish Law of Directive (EEC) No. 91/250 of May 14, 1991, on the Legal Protection of Computer Programs.

The First Transitional Provision of Law No. 43 of December 30, 1994, on the Incorporation in Spanish Law of Council Directive (EEC) No. 92/100 of November 19, 1992, on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property.

First Final Provision

(Entry into Force of This Law)

This Law shall enter into force on the day following that of its publication in the Official Bulletin of the State.

Second Final Provision

(Legislative Authorization of the Government)

The Government is authorized to approve before June 30, 1996, a text that recasts the legal provisions on intellectual property in force on the entry into force of this Law in a manner that imparts order, clarity and consistency to those that require such recasting.