

INDONESIA

Act No. 6 of 1982 on Copyright

(of April 12, 1982)

CHAPTER I — GENERAL PROVISIONS

*Part One**Meaning of Some Terms**Article 1.* Meant in this Act by:

- (a) author, is somebody or are several persons jointly whose inspiration has called into being a creation based on intellectual capability, imagination, dexterity, proficiency or skillfulness, laid down in an exclusive and personal form;
- (b) work, is any result of an author's work in an exclusive form, whatever it may be, in the field of science, arts and literature;
- (c) publicity, is the act of reading, voicing, broadcasting or distributing any creation by whatever means and in such a way that it may be read, heard or viewed by others;
- (d) reproduction, is the act of increasing the number of any creation of the same or almost the same make as or resembling the creation in question by using the same or different the act of reshaping it;
- (e) portrait, is any picture, taken by whatever way or means of the face of somebody, portrayed whether or not along with the other parts of the body.

*Part Two**Function and Nature of Copyright*

Article 2. Copyright is an exclusive right of the author concerned or his assignee to publicize or reproduce his creation or to give permission for

without prejudice to the restrictions based on the existing law provisions.

Article 3. (1) A copyright is considered as a movable property.

(2) Any copyright may be transferred in whole or in part, because of:

- (a) legacy;
- (b) benefaction;
- (c) testamentary will;
- (d) having been made state property;
- (e) agreement executed by deed on the understanding that such agreement only affects the authority stated in such deed.

Article 4. Any copyright belonging to an author, likewise any copyright which has never been publicized and, upon the demise of the author concerned, has become the property of his heir or legatee, cannot be confiscated.

*Part Three**Author*

Article 5. (1) Except if it is proved otherwise, the person considered to be the author is he whose name is registered as the author of the work in question based on the provision in Article 29, or, if the work in question is not registered, he who is referred to in or on the work in question as the author, or he who has been announced as the author in the publicity of the work in question.

(2) In the event that in a lecture given not in writing, there is no announcement on the author of it, then the person giving said lecture is considered the author of it, except if it is proved otherwise.

Article 6. In the event that a work consists of several separate parts, created (or authored) by two or more persons, then the person considered to be the author is he who has directed and supervised

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the completion in whole of said work, or if there is no such person, he who has compiled it, without prejudice, however, to their respective copyrights, if any, to their individual share in said work.

Article 7. In the event that a work is materialized according to the design of somebody and worked out by someone else under the direction and supervision of the former, then he who has designed it, is the author of it.

Article 8. (1) In the event that a work is produced in the frame of an official relation with another party within the same work sphere, then the party for whom and under whose jurisdiction said work is produced, shall be the holder of its copyright, except if there is another arrangement made by both parties, without prejudice, however, to the producer as the author of it, should it be that the use of said work is extended beyond said official relation.

(2) In the event that a work is produced in the frame of a work relation with another party within the work sphere itself, then the party producing said work as the author of it, shall be the holder of its copyright, except if otherwise agreed upon by both parties.

Article 9. In the event that a corporate body announces that it is the origin of a given work without referring to somebody as the author of it, then said corporate body is considered to be the author of it, except if it is proved otherwise.

Part Four

Holder of Copyright to National Cultural Objects

Article 10. (1) The State shall hold the copyright to historical, prehistorical, paleoanthropological works and other national cultural objects.

(2) (a) Popular cultural products, representing communal property, such as folklores, narratives, fairy tales, legends, annals, folk songs, handicraft, choreography, folk dances, calligraphy and other artistic works, are preserved and protected by the State;

(b) The State shall hold the copyright to the works as referred to in paragraph (2)(a) in respect of the outside world.

(3) The copyright to a given work may be, in the national interest and with the consent of the holder concerned, converted into State property by Presidential Decree at the recommendation of the Copyright Board.

(4) A commendatory compensation, fixed by the President, shall be conferred on the holders of the copyrights as meant in paragraph (3).

(5) Further provisions on copyrights held by the State as meant in this article shall be laid down by Government Regulation.

Part Five

Copyright to Creative Works Under Protection

Article 11. (1) Under this Act, works under protection are those in the field of science, literature and arts, covering such as:

1. books, pamphlets and all other products of writing;
2. discourses, lectures, speeches, etc.;
3. works on display, such as pieces of music, folk songs, dramas, folk dances, puppet shows (wayang), pantomimes and works for broadcasting, such as for radio, television, movies and recording;
4. works on dance and music (choreography), with or without text;
5. all forms of plastic arts, such as painting and sculpture;
6. architectural works;
7. works on mapping;
8. cinematographic works;
9. photographic works;
10. translations, interpretations, epitomes and kaleidoscopic compositions.

(2) Translations, interpretations, epitomes, films, recordings, musical compositions, combinations of some works and other forms of reproduction by modifying the original creation, shall be protected as separate works, without prejudice to the copyright to the original creations, respectively.

(3) Also included in the protection meant in paragraph (1) and paragraph (2), are all works not or not yet publicized but which have already taken the shape of a concrete entity, allowing the act of reproducing them.

Article 12. There shall be no copyright to:

- (a) the outcome of any open-door meeting of Supreme State Institutions and Higher

State Institutions as well as other constitutional institutions;

- (b) law provisions (legislative provisions);
- (c) court decrees and judicial rulings;
- (d) State addresses and speeches of Government officials;
- (e) awards of arbitration boards.

Part Six

Restrictions on Copyright

Article 13. There shall be no offense against copyright for:

- (a) any publicity and reproduction of the coat of arms of the State and national anthem according to the original form;
- (b) any publicity and reproduction of something publicized by or on behalf of the Government, except if the copyright in question is declared to be under protection whether by law provision or notice on the work itself or at the time of its publicity;
- (c) any act of quoting news items in whole or in part from news agencies, radio or television broadcasting agencies and newspapers upon the elapse of 1 X 24 (one times twenty-four) hours as from the moment of the first publicity and by mentioning the source completely.

Article 14. Provided that the source is mentioned completely, the following acts shall not be considered to be an offense against copyright, i.e.:

- (a) quoting any work of someone else up to as much as 10% (ten percent) of the aggregate entity of it, as material to elucidate a point brought forward;
- (b) quoting any work of someone else in whole or in part for the purpose of defense in or out of court;
- (c) quoting any work of someone else in whole or in part for the purpose of:
 1. lecturing, meant for education and science, exclusively;
 2. exhibiting or displaying on free-of-charge basis.
- (d) reproducing any work in braille in the field of science, arts or literature for the purpose of the blind, except if such act of reproducing has a commercial nature;
- (e) reproducing in a limited number any work in photostatic copies or by a similar process, conducted by a public library, scien-

tific or educational institution or documentation center on non-commercial basis in the exclusive furtherance of their activities, respectively;

- (f) modifying any architectural work, such as a work on construction, i.e. based on technical considerations.

Article 15. (1) In the national interest, any translation of a work in a foreign language, made into the Indonesian language or a regional dialect, shall not be considered an offense against copyright on the following conditions:

- (a) the work in question, originating from another country, has never been translated into the Indonesian language or a regional dialect in at least 3 (three) years since its publicity;
- (b) the translator concerned has applied for permission to translate from the copyright holder, but has failed to obtain it in 1 (one) year's time as from the submission of such application.

(2) For the act of translating as meant in paragraph (1), letter (b), a permit from the Minister of Justice is required.

(3) The Minister of Justice shall fix the compensation for the copyright holder concerned and in granting such translation permit he, the Minister of Justice, consults with the Copyright Board meant in Article 39.

Article 16. (1) With due observance of the provision contained in Article 48, item (b), any work belonging to a non-Indonesian citizen or foreign body, may be, in the national interest, reproduced for use within the territory of the Republic of Indonesia, i.e. on the following conditions:

- (a) the work in question, belonging to a non-Indonesian citizen or foreign body, has not been sufficiently reproduced within the territory of the Republic of Indonesia in 2 (two) years' time as from its publicity;
- (b) the necessary permission for reproducing the work in question has been applied for but not obtained in 1 (one) year's time as from the submission of such application.

(2) Any act of reproducing as meant in the above-stated paragraph (1), letter (b), is not considered an offense

(3) For the act of reproducing the creative work meant in paragraph (1), a permit from the Minister of Justice is required.

(4) The Minister of Justice shall fix the compensation for the copyright holder concerned and in granting such reproduction permit he, the Minister of Justice, consults with the Copyright Board meant in Article 39.

Article 17. (1) Any publicity of a work by way of radio or television broadcast conducted by the Government, may be, in the national interest, made without requiring the prior consent of the copyright holder concerned, on the condition, however, that the copyright holder concerned is given a reasonable indemnity.

(2) Any radio or television broadcasting agency, authorized to publicize the creative work meant in paragraph (1), shall have the authority as well to preserve the work in question by its own means and exclusively for the purpose of its own radio or television broadcast, on the condition, however, that for the purpose of continued broadcasting the broadcasting agency concerned shall give a reasonable compensation to the copyright holder concerned.

Article 18. (1) Any holder of copyright to a portrait of somebody shall, for the purpose of reproducing or publicizing the work in question, require the prior consent of the person portrayed or his or her heirs in 10 (ten) years' time after his or her death.

(2) In the event that a portrait contains the picture of 2 (two) persons or more, then, for the purpose of reproducing or publicizing the picture of those portrayed, so the more if such publicity or reproduction also contains the picture of others, the copyright holder concerned shall require the prior consent of those contained in said portrait or their respective heirs, i.e. in 10 (ten) years' time after the demise of the person concerned.

- (3) This article only applies to pictures taken:
- (a) at the request of the person portrayed;
 - (b) at the request made on behalf of the person portrayed;
 - (c) in the interest of the person portrayed.

Article 19. In the event that a picture is taken:

- (a) without the consent of the person portrayed;
- (b) without the consent of somebody acting on behalf of the person portrayed;
- (c) not in the interest of the person portrayed;

then the holder of copyright to such portrait shall not be allowed to publicize it, should such publicity be in conflict with the decent interest of the person portrayed, or, if the person in question is already dead, the decent interest of one of his or her heirs.

Article 20. Not considered an offense against copyright is the act of portraying one or more actors during a public show for the purpose of publicity, even though such show has a commercial character, except if otherwise expressed by the persons concerned.

Article 21. In the interest of public order and/or for the purpose of criminal court proceedings, anybody's portrait in whatever condition may be reproduced and publicized by the competent authorities.

Article 22. Except if otherwise agreed upon by and between the copyright holder and owner of a given work in the shape of photograph, painting, picture, architectural work, sculpture or other artifact, the owner is rightful, without the consent of the copyright holder, to display the work in question in an exhibition for the public, or to reproduce it in a catalogue without prejudice, however, to the provisions in Article 18 and Article 19, so far as the artifact in question is in the shape of portrait.

Article 23. Except if otherwise agreed upon by and between the author and copyright holder, the author of any work on sculpturing or painting shall retain the right to produce a duplicate of it, notwithstanding the fact that the author concerned has handed over the copyright to it to somebody else.

Article 24. (1) Any author or his heir shall be entitled to demand from the copyright holder concerned, that the author's name be ever attached to his work.

- (2) (a) It is prohibited to make changes in any work, except with the consent of the author concerned or his heir.
- (b) In the event that the author concerned has handed over his copyright to somebody else, then, so long as he is still alive, his consent is required to make such changes and if he is already dead, the consent of his heir.

(3) The provision meant in paragraph (2), shall also be applicable to any change in the title or subtitle of any creative work, insertion or change of name or pseudonym of the author concerned.

(4) Any author shall remain to be entitled to make changes in his work in accordance with the public decency.

Article 25. (1) The copyright to any work shall remain in the hands of the author concerned so long as the aggregate copyright has not been handed over to its buyer.

(2) Any copyright sold in whole or in part, shall not be sold for the second time by the same seller.

(3) In the event that a dispute arises between several buyers of one and the same copyright to a given work, then protection shall be given to the buyer having first obtained the copyright in question.

CHAPTER II — DURATION OF COPYRIGHT

Article 26. (1) Any copyright shall be valid for the lifetime of the author concerned and 25 (twenty-five) years after his demise.

(2) In the event that a copyright is owned by 2 (two) or more persons, then the copyright in question shall be valid for the lifetime of the author longest alive and for another 25 (twenty-five) years after his demise.

(3) In the event that a work does not refer at all to the author's name or it is referred to in such a way that the real name of the author remains obscure, then the copyright in question shall be valid for a period of 25 (twenty-five) years following the first publicity of the work in question.

(4) The duration as meant in paragraph (3) shall also be applicable to any work of which the copyright is owned by a corporate body.

Article 27. Any copyright to a work in photography or cinematography or produced by a similar method of processing shall be valid for a period of 15 (fifteen) years effective as from the date of its publicity without prejudice, however, to the provision contained in Article 11, paragraph (3).

Article 28. (1) The duration of the copyright to a creative work publicized part after part, shall be effective as from the date of the publicity of the last part.

(2) In determining the duration of the copyright to a creative work comprising 2 (two) volumes or more, likewise summaries or news items publicized in print and not concurrently, then each

volume or summary or news item shall be considered to be a separate work.

CHAPTER III — REGISTRATION OF WORKS

Article 29. (1) The Department of Justice conducts the act of registering works by entering them in a public register for works and publicizing such registration officially.

(2) Said public register for works shall be made available for inspection by anybody free of charge at the office of the Department of Justice.

(3) Anyone may obtain for his or her own use an abstract of said public register for works upon having paid the charges fixed by the Minister of Justice.

Article 30. The act of entering a work in the public register for works shall not imply the meaning of legalizing its contents, concept or shape.

Article 31. (1) Any act of entering a creative work in the public register for creative works, shall be conducted on request submitted by the author or copyright holder concerned.

(2) Any request for registration of a work shall be submitted in writing in duplicate to the Minister of Justice, written in the Indonesian language and accompanied with:

- (a) the registration charges as fixed by the Minister of Justice;
- (b) a sample copy or duplicate of the work in question.

(3) Further provisions on said request shall be laid down by the Minister of Justice.

Article 32. Any request for registration of a creative work made on behalf of more than one person and/or corporate body, shall be allowed provided that said persons or corporate bodies collectively are entitled or have stated their consensus in writing that they are collectively entitled to the work in question whereas a certified copy of such deed or written statement, evidencing said event, has to be submitted to the Department of Justice, being in charge of such registration.

Article 33. Said public register for creative works shall contain such as:

- (a) date of receipt of request;
- (b) date, marking that the conditions accord-

ing to the provision in Article 31, have been met duly;

(c) register number of the work in question.

Article 34. (1) Any act of registering a work shall be considered to have been accomplished at the moment of the receipt of the request for registration at the Department of Justice, complete according to the provision contained in Article 31, or at the moment of the receipt of the request for registration complete according to the provision in Article 31 and Article 32, i.e. if the request for registration in question is submitted by more than one person or body as meant in Article 32.

(2) The registration as meant in paragraph (1) shall be promulgated in the Supplementary State Gazette by the Department of Justice.

(3) In the event that a request for registration has been submitted complete as meant in paragraph (1) i.e. in 1 (one) year following the first publicity of the creative work in question, then said request for registration shall be considered to have been submitted at the time of the first publicity of the work in question.

Article 35. (1) Any transfer of right to a creative work registered according to Article 33 under one number, shall only be permitted if the work in question is transferred in whole to the transferee concerned.

(2) Said transfer of right shall be entered in the public register for works at the written request of both parties or the transferee concerned.

(3) The Minister of Justice shall fix the cost of registration of such transfer of right.

(4) Such registration of right transfer shall be promulgated by the Department of Justice in the Supplementary State Gazette of the Republic of Indonesia.

Article 36. (1) In the event that a work registered according to Article 33, is not consistent with the provisions meant in Article 13, Article 14, items (a), (b), (c), (e) and (f), Article 15, Article 16, Article 19, Article 20, Article 21 and Article 23, then somebody else who, according to Article 2, is entitled to the copyright in question, may take a legal action before the Jakarta Pusat District Court by submitting a written claim signed by the petitioner himself or by his attorney demanding the abrogation of the registration of the work in question.

(2) Said claim must be instituted by the claimant concerned in 9 (nine) months following the publicity in the Supplementary State Gazette of the Republic of Indonesia as meant in Article 34.

(3) Upon expiry of the time limit as meant in paragraph (2), the claim for abrogation of the registration of the work in question, can still be put in if the claimant's right is evidenced by a final judgment of the court.

Article 37. (1) Any change of name or address of the person or corporate body, whose name is registered in the public register for creative works as the author or copyright holder, shall be entered in the public register for works at the written request of the author or copyright holder to whom the name or address in question belongs, i.e. by settling the charges fixed by the Minister of Justice.

(2) Said change of name or address shall be promulgated in the Supplementary State Gazette of the Republic of Indonesia by the Department of Justice.

Article 38. The legality of the registration of a creative work shall terminate due to:

- (a) abrogation at the request of the person or corporate body whose name is registered as the author or copyright holder of the work in question;
- (b) expiry of the period of time as meant in Article 26, with due observance of Article 27 and Article 28;
- (c) rescission so adjudicated by Court decree having already obtained permanent legality.

CHAPTER IV — COPYRIGHT BOARD

Article 39. (1) In an effort to assist the Government in providing information and guidance and in developing copyright, a Copyright Board is established.

(2) The members of the Copyright Board comprise representatives from the Departments and Government agencies concerned as well as representatives of organizations based on the respective lines of expertise or profession.

(3) The conditions for the author's organization to have its representatives on the Copyright Board, the number of representatives and requirements, shall be laid down by Government Regulation.

(4) The appointment of expert members or professional representatives in the field of copyright and the addition of members shall be brought about by the Government along with the member representing his or her organization.

Article 40. (1) The Chairman, Vice Chairman, Secretary, Deputy Secretary and other members of the Copyright Board, shall be appointed and discharged by the President on the proposal of the Minister of Justice.

(2) Further provisions on the duties, functions, composition, work system, financing and procedure for vacancy filling on the Copyright Board, shall be laid down by Government Regulation.

(3) The expenses made for the Copyright Board as meant in paragraph (2), shall be chargeable to the Expenditure Budget of the Department of Justice.

CHAPTER V — RIGHT AND POWER TO CLAIM

Article 41. Any transfer of copyright to a work in its entirety to another person or body shall not prejudice the right of the author concerned or his heirs to sue at law anyone having, without his or his heir's consent:

- (a) eliminated the author's name attached to the creative work in question;
- (b) attached the author's name to the work in question;
- (c) replaced or changed the title of the creative work in question;
- (d) modified the contents of the work in question.

Article 42. (1) Any copyright shall provide the right to seize the object publicized in conflict with the said copyright and admissible reproduction by way and with due observance of the provision governing the seizure of personal estates, whether for the purpose of claiming the delivery of said object so as to become his possession or for the purpose of claiming that said object be destroyed or mutilated so that it is no longer usable. Such copyright shall also provide a similar right to seize and claim the amount of admission fees collected for attending a lecture, display or exhibition in defiance of the copyright in question.

(2) In the event that the delivery of the object as meant in paragraph (1), is claimed, the judge

concerned may instruct that such delivery be effected only upon payment of indemnity by the claimant concerned in favor of the party acting in good faith.

(3) In the event that the work as meant in Article 11, constitutes an offense, then the copyright holder concerned shall be entitled to put in a claim before the district court in order that the district court, other than for the purpose of obtaining indemnity, also instructs the offender concerned to make the necessary changes so as to eliminate said copyright offense, on the condition, however, that the offender concerned shall be obliged to pay a given amount of indemnity, should said court order be not executed within the fixed period of time, without prejudice to any criminal prosecution of the offense

Article 43. (1) The right of the copyright holder as meant in Article 42 shall not apply to any object, being in the hands of somebody who does not do business in such objects and who has acquired it for his own purpose.

(2) The claim as meant in Article 42, paragraph (3) shall only be lodged against an offender who has deliberately caused a copyright offense.

CHAPTER VI — CRIMINAL PROVISIONS

Article 44. (1) Whosoever intentionally commits an offense against copyright, shall be sentenced to imprisonment of 3 (three) years at the most or fined as much as Rp. 5,000,000.— (five million rupiah) maximally.

(2) Whosoever broadcasts, exhibits or sells to the public a work, which he knows is in defiance of a given copyright, shall be sentenced to imprisonment of 9 (nine) months at the most or fined as much as Rp. 5,000,000.— (five million rupiah) maximally.

(3) Whosoever intentionally commits an offense against the provision in Article 18, shall be sentenced to imprisonment of 6 (six) months at the most or fined as much as Rp. 500,000.— (five hundred thousand rupiah) maximally.

(4) The criminal acts stated in this article, are crimes.

Article 45. The criminal acts as meant in Article 44, shall not be prosecuted unless a charge is

brought against by the copyright holder concerned.

Article 46. In the event that a crime as meant in Article 44, is committed by or on behalf of a corporate body, then a criminal prosecution shall be instituted and a criminal or administrative action shall be taken against the corporate body concerned or the person who has given orders to commit it or the person who has led the act of committing the crime in question.

Article 47. Any reproduction seized for reasons of proven offense against copyright, may be destroyed by the Court, however, the Court in its verdict may decide that the reproduction in question be handed over to the copyright holder concerned upon his request, which has to be submitted at the

latest one month following the date on which said verdict has obtained permanent legality.

CHAPTER VII — CLOSING PROVISIONS

Article 48. This Act shall apply to:

- (a) all works of Indonesian citizens and corporate bodies, publicized for the first time at home or abroad;
- (b) all works of non-Indonesian citizens and foreign bodies, publicized for the first time in Indonesia.

Article 49. This Act comes into force as from the date of its promulgation. In order that everybody has knowledge of it, it is hereby instructed to promulgate this Act by placing it in the State Gazette of the Republic of Indonesia.