

## ISRAEL

### Performers' Rights Law, 5744-1984

(of June 13, 1984)\*

#### Chapter One: Interpretation

##### *Definitions*

##### 1. In this Law —

"performer" means a person who by acting, singing, playing music, dancing, or in any other way performs a literary, artistic, dramatic or musical work;

"performance" means the performance of a literary, artistic, dramatic or musical work by a performer;

"fixation" means the preservation of a performance by any means whatsoever in a manner making it possible to see, hear or reproduce the performance;

"broadcast" means the transmission or dissemination to the public, by wire, wireless or in any other way, of sounds or images or a combination of sounds and images;

"rebroadcast" means a broadcast by any person of a broadcast of another person simultaneously with the broadcast of the other person;

"reproduction" means the making of a copy of a fixation or of a substantial part thereof.

#### Chapter Two: Performers' Rights

##### *Rights of Performer*

2. It shall be the right of a performer that the following acts shall not be done without his consent:

(1) a fixation;

(2) a reproduction unless both of the following apply:

- (a) the fixation was made with his consent;
- (b) the reproduction is made for the same purpose for which the consent was given.

(3) a broadcast of a performance unless one of the following applies:

- (a) the performance is broadcast by the Broadcasting Authority, Educational Television or the Army Radio from a fixation or a reproduction thereof, made with the consent of the performer, and an agreement exists between the agency which makes the broadcast and the person who made the fixation concerning the right to use the performance;
- (b) the broadcast is a rebroadcast to which the agency making the original broadcast has given its consent.

(4) the sale, hire, distribution, import or possession, for commercial purposes, of a fixation or a reproduction thereof if the fixation or reproduction was made without the consent of the performer.

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*Who may give consent*

## 3. Consent under section 2 —

(1) where the performer is a soloist or an individual who is not a member of a group — is given by the performer or a representative authorised by him in writing;

(2) where the performer is a group — is given by a representative authorised in writing by the members of the group or, if there is no such representative, by the majority of the members of the group.

*Exemptions from requirement of consent*

4. The provisions of section 2 shall not apply where the acts mentioned therein constitute distribution or fair use for the purposes of study or teaching on a non-profit basis or for the purposes of research, criticism, a review or a journalistic summary.

**Chapter Three: Remedies and Penalties***Civil remedies*

5. A performer whose right under this Law has been infringed shall, *mutatis mutandis*, have all the civil remedies available in law to the holder of a copyright whose copyright has been infringed.

*Penalties*

6. (a) A person who knowingly infringes rights of a performer under this Law shall be liable to imprisonment for a term of six months or a fine as provided in section 61(a)(4) of the Penal Law, 5737-1977.

(b) A person who purports to give consent for the purposes of section 2 without being authorised to do so or in excess of such authorisation or a person who acts on the basis of consent as aforesaid knowing that it was given without or in excess of authorisation shall be liable to a fine.

*Responsibility for offence*

7. (a) Where an offence under this Law is committed by a body corporate, every person who at the time of its commission is an active director or a partner — other than a limited partner — of that body or a senior employee thereof responsible for the field in question shall also be guilty of the offence unless he proves that it was committed without his knowledge and that he took all reasonable measures to ensure compliance with this Law.

(b) Where an offence under this Law is committed by an employee in the course of the business of his employer or by an authorised agent acting within the scope of his functions, his employer or principal shall also be guilty of the offence unless he proves that it was committed without his knowledge or that he took all reasonable measures to ensure compliance with this Law.

*Order of seizure  
or prohibition of distribution*

8. In addition to any other relief, the court may order the seizure or the prohibition of the distribution of a fixation or of any reproduction thereof; where the court orders seizure, it shall direct how the fixation or reproduction seized shall be disposed of.

*Application of seizure order  
to person not a party*

9. (a) A seizure order under section 8 shall have effect against any person named therein who is in possession of a fixation or reproduction for the purpose of sale, hire, distribution or storage even if such person was not a party to the proceeding (such a person hereinafter referred to as a "non-party").

(b) The court may make the issue of a seizure order against a non-party conditional on the giving of security to its satisfaction; if the court, on the application of a non-party, is satisfied that the application for the order was unreasonable, it may, after giving the parties concerned an opportunity to be heard, direct the forfeiture of the whole or part of the security in favour of the person against whom the order was issued, to compensate him for the damage caused by the implementation of the order.

(c) A seizure order implemented against a non-party shall become void upon the expiration of thirty days from the date of its implementation save if a criminal or civil action is brought against him for the infringement which was the ground for the issue of the order or if the order is quashed under subsection (e).

(d) A seizure order which has not been implemented shall become void upon the expiration of ninety days from the date on which it was made.

(e) A person against whom a seizure order under subsection (c) has been implemented may, within thirty days from the date of the implementation, apply to the court which made the order to revoke or vary it. The court may extend the period if it deems it justified to do so in the circumstances of the case.

## Chapter Four: Miscellaneous Provisions

### *Period of performers' rights*

10. The provisions of this Law shall not apply to a performance after the expiration of twenty-five years from the end of the year in which the original performance was given.

### *Performer being employee*

11. Where a performer is employed as an employee and the performance is given in the course and in consequence of his service with his employer, then, unless otherwise provided by agreement, the rights conferred by this Law on the performer shall, in the first fifteen years of the period mentioned in section 10, vest in the employer, and during the remainder of that period, in the performer.

### *Performer being police officer or soldier*

12. (a) Where a performance is given in the course and in consequence of the service of the performer in the Police or Army, the provisions of section 11 shall apply as if the State were the performer's employer if —

- (1) the performer is a police officer, or
- (2) the performer is a person who belongs to the regular forces of the Army, or
- (3) the performer is a person who belongs to the reserve forces of the Army and the performance is produced by the Army.

(b) Where a performance is given in the course and in consequence of the service of the performer in reserve service, the State may broadcast and fix it without his consent.

(c) In this section —

- (1) "a person who belongs to the regular forces of the Army" and "a person who belongs to the reserve forces of the Army" have the respective meanings assigned to these terms in the definition of "soldier" in section 1 of the Military Justice Law, 5709-1955;

tion 1 of the Military Justice Law, 5709-1955;

- (2) "reserve service" has the same meaning as in the Defence Service Law (Consolidated Version), 5719-1959.

### *Performance outside Israel*

13. (a) This Law shall not apply to performances given outside Israel.

(b) Notwithstanding the provisions of subsection (a), the Minister of Justice may direct by order that all or part of the provisions of this Law shall apply to performances given outside Israel if so provided by an international convention to which Israel is a party.

### *Performance before coming into force of Law*

14. This Law shall not apply to a performance which took place before its coming into force.

### *Saving of laws*

15. This Law shall be in addition to, and not in derogation of, any other law.

### *Freedom of stipulation*

16. The provisions of this Law shall not affect or derogate from the conditions of any agreement made either before or after its coming into force.

### *Status of the State*

17. This Law shall apply to the State.

### *Commencement*

18. This Law shall come into force upon the expiration of thirty days from the date of its publication.