

Act amending the Copyright Act, No. 73/1972, with subsequent amendments.

No. 9 of 28 February 2006.

Article 1

A new article, Article 10 a, shall stand before Article 11, reading as follows:

Authors' exclusive rights under Article 3 (cf. Article 2), shall not apply to the making of reproductions (copies) that:

1. are transient or incidental,
2. constitute an integral and essential part of a technological process,
3. are carried out for the sole purpose of enabling either efficient transmission in a network between third parties by an intermediary, or a lawful use of a work or other subject-matter to be made, and
4. have no separate economic value.

The provisions of the first paragraph of this Article shall not apply to computer programs and databases.

Article 2.

The first paragraph of Article 11 of the Act shall read as follows:

Individuals may make reproductions of published works exclusively for private use, providing that this is not done for commercial purposes. Such reproductions may not be used for any other purpose.

Article 3

Article 12 of the Act shall read as follows:

Regulations shall be issued containing authorisation for acts of reproduction by archives, libraries, museums and educational institutions for use in their operations as defined in further detail in the regulations, providing that this is not done for commercial purposes. Such reproductions may not be lent or published in another manner, except within the institution, without the permission of the author.

Article 4

The following shall be added to the second paragraph of Article 14: providing that no commercial purpose is involved.

Article 5

The following shall be added to the first sentence of the first paragraph of Article 17 of the Act: providing that no commercial purpose is involved.

Article 6

Article 19 of the Act shall read as follows:

The making and distribution of copies of published works shall be permitted when such copies are specifically intended for the use of blind, sight-impaired or deaf persons, or persons with reading disabilities or others who, by reason of disabilities, are not capable of reading printed material. This provision shall not apply if the reproduction or distribution is carried out for a commercial purpose.

The authorisation in the first paragraph shall not apply to the reproduction of sound recordings and shall not constitute an authorisation for distribution of copies by means of lending or rental to the public.

Any person who has acquired possession of a copy produced by others under the authorisation of the first paragraph of this Article may make similar copies of the copy he has acquired if this is necessary in order for him to use the copy for the purpose for which it is intended; these may include back-up copies. Such copies may not be used for other purposes. The right to use them shall expire if the copy acquired under the authorisation of the first paragraph of this Article is published. This last provision shall not apply, however, if public bodies or other social institutions working in the interests of the public lend or hire out such copies.

Sound-recording techniques may be used to make copies of works of literature in order to lend them to blind and sight-impaired persons, persons with reading disabilities and others who are not capable of reading ordinary books, providing that these copies are not made for commercial purposes. Authors shall be entitled to fair compensation for such reproductions.

Article 7

Article 24 of the Act shall read as follows:

If a copy of a work has been sold or assigned in another manner to other parties within the European Economic Area with the consent of the author, then further distribution of it shall be permitted. In the case of distribution in the form of lending or rental, the provision of the first sentence of this paragraph shall also apply to its sale or assignment by another manner to other parties outside the European Economic Area.

Notwithstanding the provisions of the first paragraph of this Article, copies of works may not be distributed to the public by means of rental unless the author's consent has been obtained. This shall not apply, however, to works of architecture or sculpture.

Notwithstanding the provisions of the first paragraph of this Article, it shall not be permitted, without the consent of the author, to distribute copies of films and computer programs in digital form to the public by lending them. This shall not apply, however when a copy of a computer program in digital form constitutes part of a work of literature and is lent together with it.

The provisions of the first paragraph of this Article shall not abridge the right to receive allocations under the Authors' Library Fund Act.

Article 8

The following amendments shall be made to Article 45 of the Act:

- a. The second sentence of the third paragraph shall be deleted.
- b. A new paragraph shall be added, reading as follows:

Performers of material of national cultural value shall have the same rights as performers under this Article.

Article 9

The following amendments shall be made to Article 46 of the Act:

- a. The words "the first and second paragraphs of Article 24" in the first sentence of the second paragraph shall be replaced by "Article 24".
- b. The second sentence of the second paragraph shall be deleted.

Article 10

A new sentence shall be added to the first paragraph of Article 47 of the Act, reading as follows: The authorisation for the use of a previously published audio recording for use in a broadcast or other public distribution of the performance shall not apply to the distribution of audio recordings in a form in which the recording is made accessible to members of the public on an “on-demand” basis (i.e. from a place and at a time individually chosen by them).

Article 11

The following amendments shall be made to Article 48 of the Act:

a. Item 4 of the first paragraph shall read as follows: the reproduction of a previously made recording of a broadcast, and the publication of such a recording.

b. A new paragraph shall stand after the first paragraph, reading as follows:

Broadcasting organisations’ rights under the first paragraph shall remain in force until 50 years have elapsed, running from the change of year following the first broadcast.

Article 12

The following amendments shall be made to Article 49 of the Act:

a. A new sentence shall stand after the first sentence of the first paragraph, reading as follows: Furthermore, the publication of such photographs without the permission of the rightholder shall be prohibited.

b. The words “25 years” in the final sentence of the first paragraph shall be replaced by: “50 years”.

Article 13

Chapter V of the Act shall be followed by a new chapter, Chapter V A, **Technological measures, etc.**, containing four new articles reading as follows:

a. (Article 50 a.)

It shall be forbidden to trade in, or to be in possession of, for commercial purposes, devices or materials that are intended solely to facilitate the unlawful removal or circumvention of technical equipment that is intended to prevent the unlawful reproduction of a computer program.

b. (Article 50 b.)

It shall be forbidden to circumvent technological measures (cf. the fourth paragraph).

It shall be forbidden to manufacture, import, distribute, sell, rent, advertise for sale or rental or be in possession of, for commercial purposes, equipment, goods or components which

1. are publicised or advertised as a method of circumventing technological measures,
2. have only limited financial value or application potential save as a method of circumventing technological measures, or
3. are primarily designed, manufactured, adapted or supplied in order to enable, or facilitate, the circumvention of technological measures.

The provisions of the second paragraph shall also apply to services.

The term 'technological measures' in the first and second paragraphs refers to any type of effective technological measures which, in the normal course of their operation, are intended to protect works and other materials protected under this Act.

The provisions of the first, second, third and fourth paragraphs shall not apply to the protection of computer programs.

Thus, provisions of the first, second, third and fourth paragraphs shall not prevent the study of encryption.

c. (Article 50 c.)

The Compensation Committee provided for in Article 57 may, at the request of a user who has taken efficient technological measures under the first paragraph of Article 50 b, grant the user access to the means necessary for him to be able to employ the provisions of Article 12, the second paragraph of Article 14 and the first paragraph of Article 17, regarding teaching, item 1 of the first paragraph of Article 21, the first and the second paragraphs of Article 22, Article 22 a and the fifth paragraph of Article 23. If the rightholder does not comply with the committee's instructions within four weeks, the user may, without prejudice to the provisions of the first paragraph of Article 50 b, ignore

the technological measures. The provisions of this paragraph may only be applied as regards those users who have legal access to the work or material in question.

The provisions of the first paragraph may only be applied if the rightholder has not voluntarily taken measures, e.g. by making an agreement with other parties concerned, which ensure that the user is not able to invoke the provisions referred to in the first paragraph regarding the application of effective technical measures.

The provisions of the first paragraph may not be applied regarding works and other materials which are made accessible to the public under an agreement on an 'on-demand' basis.

d. (Article 50 d)

It shall be forbidden, without the permission of the rightholder, to

1. remove or alter any electronic rights-management information or
2. distribute, import for distribution or make available to the public works and other materials from which electronic rights-management information has been removed or altered without the consent of the rightholder.

The provisions of the first paragraph may only be applied if the person involved in the action knew, or had reasonable grounds to know, that by carrying out the action he was inducing, enabling, facilitating or concealing an infringement of copyright on a work or other material protected by this Act.

Article 14

The following amendments shall be made to Article 54 of the Act:

a. In item 5 of the second paragraph, the words "Article 50 a, Article 50 b, Article 50 d" shall stand after the words "the first paragraph of Article 50".

b. A new paragraph shall be added, reading as follows:

Notwithstanding the provisions of the second paragraph (cf. items 4 and 5 of the second paragraph of Article 11 and the first paragraph of Article 50 b), copying by individuals for private use as follows shall not be punishable:

1. copying of a unique exemplar of a protected computer program or an exemplar of a machine-readable database which has been published, sold or permanently released with the approval of the author or manufacturer,

2. copying carried out in violation of the first paragraph of Article 50 b.

Article 15

The word “five” in the first sentence of Article 58 of the Act shall be replaced by “seven”.

Article 16

The following amendments shall be made to Article 60 of the Act:

- a. Item 1 of the first paragraph shall read as follows: works of persons who are citizens of, or are resident in, a Member State of the European Economic Area.
- b. Item 2 of the first paragraph shall be deleted.
- c. The first sentence of the second paragraph shall read as follows: “The provisions of Article 25 b shall apply to works of persons who are citizens of, or are resident in, a Member State of the European Economic Area.”

Article 17

The following amendments shall be made to Article 61 of the Act:

- a. Item 1 of the first paragraph shall read as follows: “artistic performances by persons who are citizens of, or are resident in, a Member State of the European Economic Area.”
- b. The first sentence of item 2 of the first paragraph shall read as follows: “artistic performances by other foreign nationals and stateless persons, as follows.”
- c. Paragraph 2 shall read as follows:

The provisions of Article 46 shall apply to visual and sound recordings irrespective of where, and by whom, they have been produced, while the right to remuneration under the third and fourth paragraphs of Article 11 shall apply solely to recordings that have been made in a Member State of the European Economic Area or in other states which grant rights of the same type applying to Icelandic recordings.

- d. The third paragraph shall read as follows:

The provisions of Article 47 shall apply to:

1. Audio recordings of artistic performances by persons who are citizens of, or are resident in, a Member State of the European Economic Area
2. Audio recordings, and the artistic performances which they contain, if the producer of the audio recording is a citizen of, or is resident in, a Member State of the European Economic Area.

e. The words “in Iceland” in items 1 and 2 of the fourth paragraph shall be replaced by: “in a Member State of the European Economic Area”.

Article 18

This Act shall take immediate effect. This Act gives effect to the provisions of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

Interim provision.

Draft legislation on the revision of the provisions of sections b and c of Article 13 of this Act (Articles 50 b and 50 c of the Copyright Act) shall be presented to the Althingi not later than during its legislative session 2006-2007.

Passed by the Althingi on 15 February 2006.