

LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON THE PROTECTION OF COMPUTER SOFTWARE

Adopted by Decree No. 3831 of the Presidium of the Supreme People's Assembly on June 11, 2003

Chapter 1 Fundamentals

Article 1 (Mission)

The Law of the DPRK on the Protection of Computer Software shall aim to provide strict guidelines for the registration and use of software, thereby contributing to the protection of the right of copyright holders and the development of software technology.

Article 2 (Principle of registration)

Registration of software is the first process in the protection of software.

The state shall see that the objects to be protected are determined properly and scientific accuracy, impartiality and timeliness are ensured in its registration.

Article 3 (Encouragement of development, protection of copyright)

The state shall see that the development of software is encouraged and the moral and economic rights of software copyright holders are protected.

Article 4 (Protection of foreigner's copyright)

The copyright of a software that has been developed by a foreign legal person or an individual and registered for the first time in the DPRK shall be protected by this Law.

Article 5 (State concern, increase of investment)

The state shall direct a close attention to the work of software protection and increase its investment in the sector of software protection.

Article 6 (Validity of relevant treaties)

The treaties concluded by the DPRK for software protection shall have the same effect as this Law.

Article 7 (Exchange and cooperation)

The state shall develop exchange and cooperation with international organizations and foreign countries in the field of software protection.

Chapter 2 Registration of Computer Software

Article 8 (Registration organ)

Proper registration of the software is an important requirement of software protection. Software shall be registered with the software registration organ.

Article 9 (Application, contents)

The institutions, enterprises, organizations or citizens that wish to have their software protected shall submit to the software registration organ a written application for registration.

The application shall contain the title of the software, the name, nationality and address of the applicant, date of application, accompanied by the medium containing the software, its abstract specifications, etc.

Article 10 (Term of evaluation)

The software registration organ shall evaluate the application and decide on either approval or rejection within 3 months of its receipt. In this case the software shall be debugged.

Article 11 (Method of evaluation)

Evaluation of software to be registered shall be done in such way as identifying the software developer and confirming whether there is anything identical with or similar to the software in question.

Evaluation of an adapted software for registration shall be done by making inquiry into whether the right of the original author has not been infringed upon.

Article 12 (Request for necessary information, provision)

The software registration organ may demand information needed for the evaluation of the relevant institution, enterprise, organization or citizens.

Institutions, enterprises, organizations or citizens shall offer in time the data demanded by the software registration organ.

Article 13 (Issuance of certificate)

The software registration organ shall issue a copyright certificate in case it approves of the registration.

In case of rejection, a notice specifying the reason for rejection shall be sent to the applicant.

Article 14 (Announcement of registration)

A registered software shall be made public through the official bulletin.

A registered software may not be made public upon request by the state or the copyright holder.

Article 15 (Complaints, settlement)

Institutions, enterprises, organizations or citizens may lodge any grievances with the software registration organ within six months of the registration.

The software registration organ shall settle the grievances within two months of receipt.

Article 16 (Storage)

The software registration organ shall store in a designated storage me written application for the registration of software and the medium containing the software.

The storage shall be equipped with the facilities needed for preventing damage and destruction of software.

Article 17 (Use of foreign software)

Institutions, enterprises, organizations or citizens shall register with the software registration organ the software they have brought in from abroad.

A software from a foreign country shall not be used if it is not registered.

Article 18 (Access to software registry)

Institutions, enterprises, organizations or citizens may have access to the software registry the software registration organ. In this case they shall pay prescribed fees.

Chapter 3 Copyright of Computer Software

Article 19 (Copyright holder)

The institutions, enterprises, organizations or citizens that have developed a software shall be entitled to be a software copyright holder.

The institutions, enterprises, organizations or citizens that have been transferred a software copyright may also be a copyright holder.

Article 20 (Moral right)

The moral right of a software copyright holder shall include:

1. the right to make public a software;
2. the right to attach the name of the developer to the software; and
3. the right to forbid any alteration of the name of the developer or the name and content of the software.

Article 21 (Limit of moral right)

The moral right of a software copyright holder shall be possessed by the software developer.

The moral right of a copyright holder shall not be transferred.

Article 22 (Economic right)

The economic right of a software copyright holder shall include;

1. the right to copy, exhibit and circulate the software;
2. the right to adapt the software;
3. the right to permit the use of the software and to receive reasonable royalty;
4. the right to transfer a part or the whole of the software economic rights; and
5. the right to claim indemnity for the damage caused by infringement upon the software copyright.

Article 23 (Registration of transfer)

The economic right of a software transferred under a contract shall be registered with the software registration organ.

The registration shall be made within seven days of transfer.

Article 24 (Ownership of copyright)

The copyright of a software developed in the name of an institution, enterprise or organization shall be granted to the relevant institution, enterprise or organization.

The copyright of a software developed in the name of an individual shall be granted to the individual concerned.

The copyright of a software developed by a group of people shall be owned jointly. In this case the exercise of the right shall be subject to the agreement of the developers.

Article 25(Copyright of a software developed on consignment)

The copyright of a software developed on consignment shall be owned according to the contract concluded among the parties.

The written contract shall clarify the ownership and the exercise of the copyright.

Article 26(Ownership of copyright by minor)

A software copyright may be owned by a minor as well.

The copyright of a minor shall be exercised through his parents or guardian.

Article 27 (Owning of copyright by state)

If a software copyright holder has no heir or dies without leaving a will with respect to donation of his copyright or if there is no institution, enterprise or organization to inherit the copyright, the economic rights of the software in question shall be owned by the state.

Chapter 4 Protection of Computer Software Copyright

Article 28 (General requirements)

Institutions, enterprises, organizations or citizens shall be obliged to protect software copyrights.

Institutions, enterprises, organizations or citizens shall not infringe upon software copyrights.

Article 29 (Term of protection)

The term of protection of the moral right of software copyright holder shall be indefinite and that of the economic right shall be 30 years.

If necessary, the term of protection of the economic right may be extended by up to 20 years.

Article 30 (Calculation of term of protection)

The term of protection of the economic rights of a software copyright holder shall be until December 31 of the 30th year from the day of its registration.

The term of protection of the economic right of a transferred software copyright shall be the remaining period from the day of its registration.

Article 31 (Scope of use)

Institutions, enterprises, organizations or citizens may use a registered software with the permission of the copyright holder.

The software shall be used within the range of permission.

Article 32 (Fees)

The institutions, enterprises, organizations or citizens that use a software shall pay reasonable fees.

Fees shall be set by the price fixing institution.

Article 33 (Use of literary and artistic works)

Institutions, enterprises, organizations or citizens may use the copyrighted literary and artistic works to develop or adapt a software. In this case they shall obtain the permission of the copyright holder.

Article 34 (Prohibition)

No one shall do the following acts without the permission of the copyright holder:

1. using, copying, exhibiting, circulating, adapting, translating, selling or telecasting a software;
2. altering the name of a software developer or a software;
3. exporting or importing a software; or
4. destroying or removing protection devices of software technology and offering such technology.

Article 35 (Use of Software without permission)

A software may be copied and used without the permission of the copyright holder in the following cases:

1. A software is used for educational purpose in educational institutions;
2. A software is used for investigation of a case by a law enforcement organ; or
3. A software has been distributed free of charge.

Chapter 5 Guidance and Control of Computer Software Protection

Article 36 (Requirements)

To strengthen the guidance and control of the work of the software protection is the basic guarantee for the correct implementation of the state policy on the software protection.

The state shall see that guidance and control of the work of software protection is strengthened.

Article 37 (Guidance organ)

Guidance of software protection shall be undertaken by the central guidance organ of software industry.

The central guidance organ of software industry shall establish a proper system for software protection and regularly grasp and guide the work of registering, storing and protecting the software.

Article 38 (Agencies)

The central guidance organ of software industry may set up its agencies in the necessary fields for the registration and protection of the software.

The agency shall be staffed with qualified personnel.

Article 39 (Supervision and control)

Supervision and control over software protection shall be undertaken by central guidance organ of software industry and the relevant supervisory and control organ.

The central guidance organ of software industry and the relevant supervisory and control organ shall strictly supervise and control such acts as infringement upon copyrights, production, copy and circulation of computer virus as well as a software contrary to the manners and customs of our nation and destruction of or illegal access to a software through computer networks.

Article 40 (Compensation, confiscation)

In case of any infringement upon software copyright, the damage shall be compensated and the money illegally gained and the software used confiscated.

Article 41 (Administrative or penal responsibility)

Officials of institutions, enterprises or organizations, or individual citizens who are responsible for serious consequences resulting from their violation of this law shall, depending on gravity, be liable for administrative or penal responsibility.

Article 42 (Settlement of dispute)

Any dispute arising in relation to software protection shall be settled by consultation.

In case of failure in consultation, the dispute may be referred to arbitration body or a court for settlement.