

Copyright Law in Libya

Law No. (9) For 1968* Issuing the Copyright Protection Law

We Idris the First, King of the Kingdom of Libya

The Senate Council and the Representation Council have approved the following law, and hereby sanction and issue this law.

Article (1)

The provisions of this law shall apply to copyright protection and any provisions inconsistent therewith shall be repealed.

Article (2)

The Minister of Information & Culture shall implement this law and it shall be effective as from the date of its publication in the Official Gazette.

Idris

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At the King's order
Ahmad Al-Salhain Al-Honi Abdul Hamid Al-Bkoosh
Minister of Information & Culture Prime Minister

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Law for the Protection of Copyright PART ONE Works whose Authors are protected

Article (1)

The authors of original literary, artistic and scientific works of art, shall enjoy protection under this law no matter their type, method of expression, importance or their purpose of production.

Any natural or legal person who registers a work in his name shall be considered an author, except if there is evidence to the contrary. The priority of registration shall prevail when there are many registrations, unless there is evidence to the contrary.

Works of art shall be registered according to the regulations issued by The Minister of Information & Culture.

Article (2)

Protection shall include in particular authors of the following:

- Written works.
- Works included in the arts of drawing and painting with lines and colors, engraving, sculpture and architecture.
- Works conveyed verbally, such as lectures, speeches, preachments and similar works.
- Dramatic works and musical plays.
- Musical works whether accompanied with words or not.
- Photographic and cinematic works.
- Geographical maps and drawings.
- Three-dimensional works related to geography, topography or science.
- Eurythmics prepared materially for production.
- Works related to applied arts.
- Works especially prepared for or broadcasted by radio or television.

Protection in general shall include the authors of works of art whose method of expression is writing, sound, drawing, painting or movement.

The work's title when distinguished by innovation shall be considered a trademark to which the law of trademarks shall apply.

Article(3)

Without prejudice to the rights of the original author, whoever translates a work of art into Arabic or any other language, transforms it from one type of literature, arts or science into another, summarizes, amends, modifies, explains, comments on it, or indexes a work of art, in any manner which renders it a novel in form, shall enjoy protection under this law. However, the rights of a photographer shall not result in preventing others from taking new photographs of the photographed object, even if these new photographs are taken from the same place and in the same conditions of the first photograph.

Article (4)

Protection shall not include the following:

- 1- Collections which comprise various works such as verse, prose and music anthologies and other collections, without affecting the copyrights of the author of each work.
- 2- Collections of work which have become public property.

3- Collections of official documents such as texts of laws, decrees, regulations, international agreements, legal judgments and various official documents.

However, the above mentioned collections shall enjoy protection if they are characterized by innovation, arrangement or any other personal effort worthy of protection.

PART TWO
Copyrights
Chapter One
General Provisions

Article(5)

The author shall have exclusive right to decide publishing his work and determining the method of publication. He shall also have exclusive right to utilize his work financially in any legal method of utilization. No person may exercise this right without his prior written approval or the approval of his successor.

Article(6)

The author's right of utilization shall include the following:

1- To convey a work of art directly to the public in any method and in particular in any of the following methods: public recital, musical play, dramatic acting, public performance, radio transmission of words or sound or image, presentation by a projector, cinema, radio or television transmission through loudspeakers of performances in a public place.

2- To convey a work of art indirectly to the public by making copies thereof which are accessible to the public through printing, drawing, engraving, photography, pouring into moulds or through any of the methods of graphic art, sculpture, photographic or cinematic publication or through other means.

Article(7)

The author shall have exclusive right to make modification or alteration to his work and to translate it into another language after observing the provisions of the following article.

No other person may exercise any of the above, or exercise any of the matters provided for in Article (13) except with the author's written approval or the approval of his successor

Article(8)

The author's right and the right of the person who translated his work into a foreign language shall expire with regard to the translation of that work into Arabic, if the author or translator does not exercise this right himself or through others within three years as from the date of first publication of the work or its translation

Article(9)

The author shall have exclusive right to have his work attributed to him and to shove away any infringement upon his work. He may also prevent any deletion or change to his work.

However, if there has been any deletion or change in the translation of the work and it is mentioned, then the author shall have no right to prevent it except if the translator overlooks referring to the places of deletion or change, or if the translation results in affecting the author's reputation and his artistic standing.

Article (10)

It shall not be possible to seize the copyright in any work of art. However, it shall be allowed to seize the copies of the work which have been published. Likewise, it shall not be permitted to seize the work whose author dies before publishing it unless it is proven that he had intended to publish it before his death.

Article(11)

After the publication of his work, the author may not prevent its eurythmy, acting, or delivery if it took place during a family gathering, a society, a private club or school meeting as long as it does not yield any financial return.

The armed forces' musical band, other bands of the State or other public persons, except the radio and television bands shall have the right to play the works without having to pay any consideration to the author as long as it does not yield a financial return

Article (12)

The author may not prevent a person making one copy of a published work for his own use.

Article(13)

After the publication of a work, the author may not prevent analyses and short quotations

from it, if they are intended for criticism, discussion, education or information as long as they refer to the name of the author, if he is known, and to the source from which it is taken.

Article(14)

Newspapers and periodicals may not copy scientific, literary or artistic articles, serials and short stories published in other newspapers and periodicals without the permission of their authors.

However, the newspapers or periodicals may publish a quotation, a summary or a short statement from the works or novels without the permission of their authors and before the expiry of the term provided for in Article (8) of this law.

The newspapers and periodicals may copy the articles on political, economic, scientific or religious discussion which are of interest to the public at a certain time, as long as nothing is indicated in the newspaper which strictly prohibits copying.

The protection provided for in this law shall not include the daily events and the various events which have the nature of ordinary news. In the case of copying, publication of a quotation or others mentioned in the previous paragraphs, the source must always be clearly mentioned, as well as the author's name.

Article(15)

The newspapers, radio and television broadcasting may, without the author's permission publish or broadcast as news the speeches, lectures and talks delivered in open meetings of the legislative and administrative bodies and scientific, literary, political, social and religious meetings as long as they are addressed to the public. They may also without the author's permission publish the public legal pleadings within the provisions of the law.

Article(16)

The author shall have exclusive right in the cases provided for in the previous two articles to publish the collections of his speeches or articles.

Article(17)

The following shall be allowed in school books and in literature, history, science and art books:

(a) Copying short quotations from published works.

(b) Copying published works on graphic art, sculpture and photography provided that copying shall be limited to the extent necessary to explain what is written.

In all cases, the sources from which the copying is made and the names of the authors shall be clearly mentioned.

Article(18)

The heirs of an author shall have exclusive right to determine publishing his works which were not published during his life time, unless the author requests otherwise in his will. However, if the author fixes a date for publication, the work may not be published before that date.

Article(19)

the heirs of an author shall have exclusive right to exercise the financial utilization rights provided for in this law. If the work is a joint effort and one of the authors dies without leaving an heir or a legatee, his share shall devolve to his partners in the authorship or their successors, unless it is otherwise agreed.

Article(20)

Without prejudice to the provisions of Article (8), the financial utilization rights provided for in this law shall expire with the elapse of twenty five years after the death of the author, provided that the total period of protection shall not be less than fifty years as from the date of first publication of the work. However, with respect to photographic and cinematic works which are limited to the mere mechanical transmission of scenery, such rights shall expire with the lapse of five years as from the date of first publication of the work.

The period of protection for joint works of art shall be calculated as from the date of death of the last author who survived. If the author is a legal public or private entity, the financial utilization rights shall expire with the elapse of thirty years as from the date of first publication of the work.

Article(21)

The financial utilization rights of works of art published anonymously and under a pseudonym shall expire with the elapse of twenty five years after publication of the work, unless the author's identity is revealed within this period, in which case the protection period shall be calculated according to paragraph one of the previous article.

Article(22)

Without prejudice to the provisions of paragraph two of Article (20), the protection period for the works of art published for the first time after the author's death shall expire with the elapse of fifty years after his death.

Article(23)

If the author's heirs or successors do not exercise the rights provided for in Articles 18 and 19 of this law, and the Minister of Information & Culture deemed that the public interest dictates publishing the work, he may request from them through a registered letter to publish it. If sixty days elapse after the date of request, and the author's successors did not express their readiness for publication or expressed their abstention from doing it, the Minister may exercise the said rights after obtaining an order from the head of the Court of First Instance within whose jurisdiction the headquarters of the Ministry of Information & Culture is located.

Article(24)

In cases where the protection period is calculated to start as from the date of publication of the work, according to the provisions of this law, the date of first publication of the work shall be considered as the date for calculating the period irrespective of re-publication, unless the author makes upon re-publication basic modifications that it can be considered a new work of art.

If the work of art consists of many parts or volumes published separately and at different intervals, each part or volume shall be considered an independent work of art for the calculation of periods of protection

Chapter Two Provisions for Certain Works

Article(25)

If more than one person takes part in compiling a work of art, so that it is not possible to separate the share of each one of them in the joint work, then all of them shall be regarded as equal owners of the work, unless otherwise agreed. In this case, the copyright cannot be exercised without the agreement of all the participating authors. If a dispute arises among them, it shall be settled before the Court of First Instance. Without prejudice to Articles (27), (29), (30), (32), (33) and (34), each one of the participating authors shall have the right to file a lawsuit if any copyright infringement takes place.

Article (26)

If more than one person takes part in compiling a work of art in such a way to make it possible to separate the share of each one of them in the joint work , then each one of them shall have the right to utilize his share separately, provided that it is not detrimental to the utilization of the joint work, unless otherwise agreed.

Article(27)

A collective work is a work in which a group of persons share willingly in making it

under the directives of a natural or legal person, who sponsors its publication under his management and the work of the participants is merged in the general objective intended by this natural or legal person, so that the work of each one of the participants cannot be separated.

The natural or legal person who directed the creation of the work shall be considered as author of the work and he shall have exclusive right to exercise the author's rights therein.

Article(28)

If a work of art bears a pseudonym or is anonymous, then it shall be assumed that the author has authorized the publisher to exercise the rights provided for in this law, unless the author appoints another agent or reveals his identity and proves it.

Article(29)

If more than one person participates in compiling a music-song work, the author of the musical part shall have exclusive right to license to others the public performance of the whole work, its execution, publication or making copies thereof, provided this does not prejudice the copyright of the literary part.

The author of the literary part shall have exclusive right to publish his part. However, he may not dispose of this part to be the basis of another musical work, unless otherwise agreed.

Article(30)

In works of art executed with movements accompanied with music, shows accompanied with music and all similar works, the author of the part other than the musical part shall have the right to license to others the public performance of the whole work, its execution and making copies thereof.

The composer of the musical part shall have the right to dispose of the musical part only, provided it shall not be used in a work similar to the joint work, unless otherwise agreed.

Article (31)

Each of the following shall be considered as a partner in composing cinematic works or works prepared for radio or television broadcasting:

- 1- The scenarist or the author of the written theme of the programme.
- 2- The adapter of the literary part to make it executable.
- 3- The dialogist.
- 4- The work's musical composer if he composed the music specifically for the work.
- 5- The director if he has exercised actual control in executing it and has achieved positive results action from the intellectual aspect to bring the work into being. If the cinematic

work or the work prepared for radio or television broadcasting is simplified or derived from another previous work, then the author of the earlier work is considered as a partner in the new work.

Article(32)

The scenarist, the adapter of the literary work, the dialogist and the director shall jointly have the right to show the cinematic work or the work prepared for radio or television broadcasting, despite the objection of the author of the original literary part or the composer of the musical part, provided that this does not prejudice the objector's rights derived from participating in the work.

The author of the literary part and the musical part of the work shall be entitled to publish the part which belongs to him in any way other than the cinema, radio or television, unless otherwise agreed.

Article (33)

If one of the participants in compiling a cinematic work or a work prepared for radio or television broadcasting refrains from completing his part of the work, this shall not entail preventing any of the other participants from using the part which he has completed, provided this does not prejudice the rights of the refraining participant resulting from his participation in the work.

Article (34)

He shall be considered as the producer of the cinematic work or the work prepared for radio or television broadcasting, the person who handles achieving a work of art, or takes the responsibility of achieving it and provides the authors with the material and financial means which guarantee producing and directing the work.

The producer shall always be regarded as the publisher of the cinematic work and shall enjoy all the rights of the publisher on the work itself and any copies of it.

The producer, shall throughout the period agreed upon to exploit the work, act as a deputy to the author of the work and his successors in contracting with other parties to show and exploit the work, without prejudice to the rights of the authors of adapted literary and musical parts, unless otherwise agreed.

Article(35)

The official parties in charge of radio and television broadcasting shall have the right to

broadcast or present the works which are shown in the theatres or in any other public place. The managers of these public places shall make it possible for the said official parties to make the necessary artistic arrangements for such broadcasting or presentation. The official parties shall mention the name of the author or his successor and pay a fair compensation to the author or his successor and to the owner of the place from which the work is broadcasted or in which it is presented, if required.

Article(36)

Whoever has taken a photograph shall not have the right to show, publish or distribute the original photograph or copies thereof, without an authorization from those represented in the photograph, unless otherwise agreed. This provision shall not apply if publishing the photograph takes place in the context of public events or if it relates to officials or persons enjoying public renown or if the public authorities have given permission to its publication for the general welfare. Even in the previous case, no photograph shall be permitted to be shown or circulated if its publication entails detriment to the honour, reputation or social standing of the person presented in the photograph.

However the person presented in the photograph shall have the right to authorize its publication in newspapers, magazines and similar publications even if the person who takes the photograph does not allow it, unless there is an agreement to the contrary. These provisions shall apply to pictures no matter the method by which they were made, whether painting, engraving, sculpture or any other means.

Article (37)

The author shall have the exclusive right to publish his letters, however this right may not be exercised without prior authorization from the addressee, if publication of those letters is detrimental to him.

Chapter Three Transfer of Copyrights

Article(38)

The author may transfer to others the rights of financial exploitation provided for in Articles (5) paragraph two, (6) and (7) paragraph two of this law. However, the transfer of one of these rights does not result in giving the right to exercise any other right.

It is stipulated for the disposal to be valid that it should be in writing and shall determine in all frankness and detail each disposable right, stating its extent, purpose, exploitation period and place. The author shall refrain from taking any action that may hinder using the disposed of rights .

Article(39)

Any disposal of the rights provided for in Articles (5) paragraph one, (7) paragraph one and (9) shall be regarded as null and void.

Article(40)

The author may dispose of his rights in the work, whether whole or partial, on the basis of a share percentage in the revenue resulting from utilization of the work.

However, if it is revealed that the agreement was unfair to the author's rights or becomes so because of conditions which occurred after the agreement, the judge may according to the circumstances and after comparing the interests of the two parties decide in favour of the author, an increase over the agreed net profit realized from the work's utilization.

Article (41)

It shall be regarded as null and void the disposal of all the author's future intellectual output.

Article (42)

If the ownership of the original copy of any type of work of art is transferred, this shall not include the transfer of the copyright in that work. However, the transferee shall not be obligated to grant the author the right to copy, reproduce or display the work, unless otherwise agreed.

Article (43)

The author shall have exclusive right, if serious moral reasons arise, to ask the court of first instance to decide the withdrawal of his work from circulation or the introduction of substantial modifications to it, in spite of his disposal of the financial exploitation rights.

The author shall be obligated in this case to pay to the party to which the financial exploitation devolved a fair compensation to be estimated by the court, which may decide to obligate the author to pay this compensation in advance within a certain period of time, otherwise this will invalidate the decision of the court, or the court may obligate the author to present a guarantor acceptable to it.

PART THREE **Chapter One** **Procedures**

Article(44)

The court of first instance may, at the request of the concerned parties, order making a detailed description of the work which was illegally published or re-published, or the seizure of the original copy, its copies or photocopies, as well as the material used in re-

publishing the work or making copies thereof, provided the said materials are not fit except for re-publishing the work.

As regards eurythmy, acting and conveying to the public, the court may order computation of the revenue resulting from publication or presentation and seizing it.

These procedures shall be taken according to an order issued in response to a petition. The order may provide that the process server entrusted with execution be assisted by one or more experts, who shall obligate the petitioner to deposit an appropriate guarantee.

These procedures shall not be subject to the provisions of the Civil Code of Procedures related to the hours of notification and holidays.

The applicant must file the substance suit to the competent court within fifteen days following the issuance of the order, otherwise it will have no effect.

Article(45)

A person against whom an order was issued may protest against it to the president of the court which issued the order. The court president may in this case, after hearing the statements of the parties to the dispute, decide to support the order, cancel it in whole or in part, or appoint a trustee whose assignment shall be the re-publication, presentation or making copies of the work of art which is the subject of the dispute, provided that the resulting revenue shall be deposited in the court's safe, pending settlement of the cause of the dispute by the competent court.

Article(46)

The court before which the dispute is brought may, upon a petition filed by the author or his deputy, order destroying the copies or photocopies of a work of art which has been illegally published as well as the materials used in publishing the work, provided they are not fit for another work.

The court may order to change the features of the copies, photocopies and the materials or make them unfit for use and all of this shall be at the expense of the responsible party. However, the court may, instead of ordering to destroy or change the features of the work, decide levying provisional seizure on the work in payment of the compensation decided to the author by the court. This shall be followed if the copyright in a work of art shall lapse within a period of less than two years from the date of the issuance of the court's decision, provided the copyrights stipulated for in Articles (5) paragraph one, (7) paragraph one and (9) shall not be violated.

However, if the dispute is related to translation of a work of art into Arabic, in violation of the provisions of Article (8), the decision shall be limited to levying provisional

seizure on the translated Arabic copy of the work, in payment of the compensation decided by the court.

In all cases, the debt due to the author resulting from his right for compensation shall have a lien on the net sales value of the things and the seized amounts of money, second to the lien on legal fees and expenses incurred in maintaining such things and the collection of the compensation.

Article(47)

It is not allowed in any case for buildings to be seized, destroyed or confiscated, in application of Article (10) of this law, for the purpose of preserving the rights of the architect whose designs and drawings were illegally used.

Chapter Two Penalties

Article(48)

anyone who commits any of the following acts shall be punished with a fine not less than twenty pounds and not exceeding five hundred pounds.

1- Whoever infringes upon the copyrights provided for in Articles (5), (6), (7) and (9) of this law.

2- Whoever sells, offers for sale, broadcasts to the public in any method whatsoever, imports into the country's domain or exports out of the country, counterfeit works of art, knowing that they are counterfeit.

3- Whoever counterfeits in the country, works of art published abroad and protected under this law, or sells these works or exports or ships them abroad.

The court may as well order the confiscation of all the instruments used for illegal publication which has occurred in violation with the provisions of Articles (6), (7), (8), and (10) and which are not useful except for this publication and all counterfeit copies can be confiscated as well.

The court may order publishing the judgment in one newspaper, magazine or more at the condemned party's expense.

The offenses referred to in this article shall receive similar treatment if re-committed.

PART FOUR Final & Transitional Provisions

Article(49)

All publishers of works of art which are prepared for publication by making copies thereof, must deposit, within one month as from the date of publication, five copies of the work at The Ministry of Information & Culture. Non-depositing of a work of art shall be punishable with a fine not exceeding twenty five pounds, without prejudice to the necessity of depositing the copies.

Non-depositing shall not result in prejudicing the copyrights stipulated by this law. These provisions do not apply to works of art published in newspapers and periodicals, unless they were published separately.

Article(50)

The provisions of this law shall apply to authors holding the nationality of the State and foreign authors whose works of art are published, acted or presented for the first time in the Kingdom of Libya, as well as to the works of art of Libyan authors which are published, acted or presented for the first time in a foreign country. While the works of art of foreign authors which are published for the first time in a foreign country shall not be protected by this law, unless they are protected in the foreign country and that this country provides similar protection for Libyan authors for their published, acted or presented works for the first time in Libya.

Article(51)

Without prejudice to the provisions of the previous article, the provisions of this law shall apply to the works of art which exist at the time of its application. However, with respect to calculating the period of protection of existing works of art, the calculations must include the period which elapsed from the date of the event which shall be considered as the starting point and until the date of implementing the law.

The provisions of this law shall apply to all events and agreements concluded subsequent to the time of its implementation, even if they are related to works of art published, presented or acted for the first time before its implementation. As for agreements made before the implementation of this law, they shall not be subject to its provisions, but shall remain subject to the legal provisions which were effective at the time of their conclusion, without prejudice to the provisions of Article (40) paragraph two.