

LAW OF MONGOLIA
ON COPYRIGHT AND RELATED RIGHTS
(Revised text)

January 19, 2006
Ulaanbaatar city

(Turiin medeelel #7, 2006)

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose of the Law

1.1. The purpose of this law shall be to regulate matters related to the ownership, exploitation, administration and protection of works subject to the protection by copyright and related rights.

Article 2. Legislation on copyright

2.1. The legislation on copyright and related rights shall consist of the Constitution of Mongolia¹, Civil Code², this law and other legislative acts adopted in conformity with these laws.

2.2. If an international treaty to which Mongolia is a party to, provides otherwise than this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions of terms of the law

3.1. The following terms used in this law shall be interpreted as follows:

3.1.1. "Author" means an individual who has created a work as a result of his/her creative activity;

3.1.2. "Rightholder" means an individual or a legal entity who holds an exclusive right to exploit the work in respect of the literary and artistic works;

3.1.3. "Performer" means an individual who performs literary and artistic works, as well as expressions of folklore for the purposes of circus, stage, screen and artistic performances through acts such as singing, playing, acting, dancing and declaiming.

3.1.4. "Expression of folklore" means a work of traditional literature and arts which is communicated by any means from one generation to another and the author of which is unknown;

¹ Constitution of Mongolia – Published in "State Bulletin" Issue No 1, 1992.

² Civil Code – Published in "State Bulletin" Issue No 7, 2002.

3.1.5. "Backing track" means the recording of the sounds of a performance, or of a representation of sounds, other than in the form of recording incorporated in a cinematographic or other audiovisual work;

3.1.6. "Reproduction of a work" means making one or more copies of the copyrighted work, part of the work directly or indirectly by any means and methods;

3.1.7. "Publication" means making works subject to copyright and related rights available to the public with the consent of the rightholder, provided that the copies are offered to the public in a quantity sufficient to meet the public needs;

3.1.8. "Distribution" means distribution of works subject to copyright and related rights to the public in a way that the consumer has access to the work by wire and wireless means at the place and time chosen by him/her;

3.1.9. "Derivative work" means a work that has been changed, adapted, translated, converted, summarized, compiled or modified in other form through creative activity and based on the pre-existing work;

3.1.10. "Work of applied art" means an artistic work for household use, produced by industrial or handicraft methods;

3.1.11. "Work subject to related rights" means performance, first recording of audio and video, audiovisual recordings and broadcasts;

3.1.12. "Producer of a backing track" means an individual or a legal entity, who or which takes the initiative and has the responsibility for the first recording of the sounds of a performance or other sounds, or the representations of sounds;

3.1.13. "Audiovisual work" means a work that can present images along with sounds using equipment regardless of its tangible form.

3.1.14. "Rights management information" means information on the work, author, right holder and terms of use of the work contained in the work or marked to distribute the work to the public and the numeric or codified expression of such information.

CHAPTER TWO

Authorship and protected works

Article 4. Copyright holder

4.1. The following person shall hold the copyright under this law:

4.1.1. citizens of Mongolia, foreign nationals and stateless persons permanently residing in Mongolia, who have created work regardless of whether their works were published or not;

4.1.2. foreign nationals whose work has been first published in Mongolia;

4.1.3. authors who placed their sculptures, architectural works and/or works of fine arts being component of buildings permanently placed in the territory of Mongolia;

4.1.4. legal persons who are entitled to copyright under the legislation on copyright;

4.1.5. citizens and legal persons of other countries which are parties to international treaties of Mongolia.

4.2. A work of a foreign citizen shall be considered as having been first published in Mongolia if it was published within 30 days from the date when it was first published in any other country.

4.3. Persons provided in the law shall be entitled to copyright in case of works which were published under a pseudonym or anonymously.

Article 5. Co-authorship

5.1. Co-authors mean two or more persons who produced a work by their joint creative efforts for a common purpose.

5.2. Copyright in a joint work shall vest in the co-author jointly unless agreed otherwise in the agreement.

Article 6. Works subject to copyright (Subject matter)

6.1. Any scientific, literary or artistic works involving creative activity of authors shall be considered as works subject to copyright irrespective of their content, purpose, value, importance and methods of expression.

6.2. Works subject to copyright shall be expressed in written, verbal, graphic and other tangible forms regardless of whether they were published or not.

Article 7. Works to be protected by copyright

7.1. The following works shall be protected by copyright:

7.1.1. all types of scientific and literary works whether in verbal or written form, including computer programs;

7.1.2. all types of musical works whether with or without lyrics;

7.1.3. all types of works of fine art;

7.1.4. works of decorative, applied and theatrical arts;

7.1.5. works of architecture and sculptures;

7.1.6. all types of choreographic works, works of contortionists and pantomime;

7.1.7. all types of plays and musical works created for the stage art;

7.1.8. all types of photographic works and works created by methods similar to photography;

7.1.9. audiovisual works;

7.1.10. derivative works;

7.1.11. glossaries, references, compilations and databases that are considered to be intellectual works by its structure and contents and have been created through creative activities such as selection and placement of materials;

7.1.12. derivative works based on the works of folklore.

Article 8. Works not to be protected by copyright

8.1. The following works shall not be protected by copyright:

8.1.1. texts of laws and other legal acts;

8.1.2. administrative decisions and official documents of legal entities and organizations;

8.1.3. court decisions, resolutions, judge's decrees, other documents and speeches delivered during court hearings;

8.1.4. translation of documents specified in Subsections 8.1.1-8.1.3 of this law;

8.1.5. coats of arms, banners, flags, awards, orders and medals;

8.1.6. any news or information with facts and figures for the purpose of reporting the current events and results thereof;

8.1.7. works of folklore and national traditions;

8.1.8. any ideas, methods, procedures, scientific discoveries and mathematical concepts.

CHAPTER THREE TERM OF COPYRIGHT

Article 9. Establishment and certification of copyright

9.1. Copyright in scientific, literary and artistic works shall start from the actual creation of the work.

9.2. No certification is required for establishment and enjoyment of copyright.

9.3. The owner of the exclusive rights may use the copyright protection notice for the purposes of information.

9.4. In the absence of documents proving the authorship, the author whose name is indicated on the original work or copies thereof shall be considered as the author.

9.5. The author may register his work or the agreement related to the transfer of his exclusive rights in the work with the government organization in charge of intellectual property matters (hereinafter to be referred to as "Intellectual Property Office") on the voluntary basis.

9.6. The copyright notice specified in Section 9.3 of this law may be expressed as follows:

9.6.1. Latin letter C in a circle;

9.6.2. The name of the owner of the exclusive rights;

9.6.3. The year of first publication.

Article 10. Rights of authors

10.1. The author shall have intangible and exclusive rights in respect of his work.

Article 11. Intangible rights of authors

11.1. An author is entitled to the following intangible rights in respect of his work:

11.1.1. To publish his work under his real name, a pseudonym or anonymously;

11.1.2. It shall be prohibited to alter or disclose an author's pseudonym without his/her consent;

11.1.3. To require his/her name to be mentioned whenever his/her work is published or exploited;

11.1.4. It shall be prohibited to modify, alter or change a work or its title in any manner or form without the author's consent.

Article 12. Exclusive rights

12.1. An author shall have exclusive rights over the exploitation of his/her work in any manner or form.

12.2. The exclusive rights over the exploitation of his/her work shall include the exclusive rights to allow or prohibit the following activities:

12.2.1. reproduction of a work;

12.2.2. publication of a work;

12.2.3. distribution of a work;

12.2.4. modification of a work into a derivative work;

12.2.5. rental of a work.

12.3. The right specified in Section 12.1 of this law shall be assigned to others only with the author's consent and on the basis of an agreement.

Article 13. Term of copyright

13.1. The term of copyright protection in respect of a particular work shall begin from the day of its creation.

13.2. And author shall enjoy the exclusive rights for his/her lifetime and 50 years after his/her death.

13.3. The term of intangible rights of an author has no time limitations.

13.4. In the case of pseudonymous or anonymous works, the exclusive rights of an author in copyrighted works shall begin from 1st January of the year following the year the first publication of a work and be valid for 75 years.

13.5. If the name of the author of a work specified in Section 13.4 of this law is disclosed to the public, the term of copyright shall be determined in accordance with Section 13.2 of this law.

13.6. In case of the co-authorship, the copyright shall be protected for the lifetime of the authors and for a period of 50 years from 1st January of the year following the death of the last surviving author.

Article 14. Succession of copyright

14.1. The exclusive rights of an author in a copyrighted work shall pass to his/her heirs in accordance with the rules set forth in the Civil Code of Mongolia.

14.2. Succession of exclusive rights in joint works shall start on the day of death of the last surviving author.

CHAPTER FOUR PARTICULARITIES OF CERTAIN WORKS

Article 15. Copyright in derivative works

15.1. Copyright in a derivative work shall not prejudice copyright in the original work and the author shall obtain permission provided in Subsection 12.2.4 of this law.

15.2. Copyright in a derivative work shall not prevent other authors from creating other derivative works based on the original work.

Article 16. Copyright in collections and other compiled works

16.1. The compiler of a compilation work shall not prejudice copyright of authors of original works and shall have the consent of authors provided in Subsection 12.2.4 of this law.

16.2. Unless otherwise provided in the agreement with the compiler, the authors of any original works shall have right to use his/her own work independently, irrespective of its inclusion in the collection.

Article 17. Copyright in a work created in the course of execution of official duties

17.1. The author of a work created in the course of execution of his/her duties shall enjoy non-economic intangible rights

17.2. The employer may have the exclusive rights over the exploitation of the work created as part of the exercise of official duties if not otherwise stipulated in the contract.

Article 18. Commissioned works

18.1. Pursuant to the agreement for a commissioned work, the author shall undertake duties to create and submit a work and the person commissioning the work shall undertake duties to pay the remuneration to the author.

18.2. The holder of exclusive rights shall be determined by the agreement.

CHAPTER FIVE PROTECTION OF RELATED RIGHTS

Article 19. Persons entitled to related rights

19.1. According to the provisions of this law, the following persons shall be entitled to related rights:

19.1.1. A performer who made performance, broadcasted his/her performance or made first recording of his performance in Mongolia;

19.1.2. A producer of a backing track which has first been fixed and published in Mongolia;

19.1.3. A broadcasting organization the headquarters of which are located in the territory of Mongolia at the time of the broadcasting;

19.1.4. Citizens and legal persons of other countries members of the international treaties to which Mongolia is a party.

19.2. The holder of the related rights shall enjoy his/her rights without prejudice to the copyright of original works.

19.3. Establishment and enjoyment of related rights shall not be subject to any formalities.

Article 20. Performer's rights

20.1. A performer shall have exclusive rights to authorize or prohibit the following activities in respect of his/her performance:

20.1.1. to perform, broadcast or transmit the recording of the performance of works, excluding those broadcasted before;

20.1.2. to make recording of a work;

20.1.3. to make a reproduction of audio and video recording;

20.1.4. to distribute the original and duplicate copies of the performance fixed in backing tracks through sale or assignment of rights;

20.1.5. to rent the recording of a performance;

20.1.6. to assign exclusive rights to others on a basis of an agreement.

20.2. A performer shall be entitled to intangible rights to claim authorship of the work as regards to their performances and to prohibit any distortion, mutilation or other modification of, or other derogatory action in relation to the said work, which would be prejudicial to his honor or reputation

20.3. The term of protection to be granted to performers shall be 50 years from the date when the performance or the recording of the performance was made.

Article 21. Rights of producers of backing track

21.1. A producer of backing track shall have exclusive rights to authorize or prohibit the following activities in respect of his/her backing track:

21.1.1. to make reproduction of the backing track directly or indirectly;

21.1.2. to publish the original or duplicate copies of the backing track by means of sale or assignment of rights;

21.1.3. to rent the original or duplicate copies of the backing track;

21.1.4. to distribute the backing track;

21.1.5. to assign his/her exclusive rights to others under an agreement.

21.2. The term of protection of rights of a producer of backing track shall be 50 years from the date of publication and if is not published, from the date of the first recording of the backing track.

Article 22. Rights of broadcasting organizations

22.1. A broadcasting organization shall have the exclusive rights to prohibit or allow the following activities related to its own programs:

22.1.1. to record their broadcasts;

22.1.2. to make reproduction of their broadcasts;

- 22.1.3. to rebroadcast its programs through wireless communication;
- 22.1.4. to transmit broadcasts simultaneously.

22.2. The term of rights in respect of rights of broadcasting organisations shall last for a period of 50 years from 1st January of the year following the year the first broadcast took place.

CHAPTER SIX EXPLOITATION OF COPYRIGHTED WORKS

Article 23. Assignment of exclusive rights

23.1. The exclusive rights may be assigned fully or partially on a basis of the agreement.

23.2. The assignment agreement may consist of following provisions:

23.2.1. method and form of exploitation of the work;

23.2.2. duration and covered territories;

23.2.3. regulations over the amount of remuneration, conditions of payment and deadlines;

23.2.4. rights and obligations of the author;

23.2.5. rights and obligations of the assignee;

23.2.6. liabilities of the parties;

23.2.7. dispute resolution.

23.3. The amount of royalties due to the author for exploitation of the work may be agreed by the author and assignee depending on the nature, specifics and magnitude of the work, form, quantity and duration for which the work shall be exploited.

23.4. It is prohibited to envisage in the assignment agreement any provisions limiting the right of the author to create further works on the same topic or in the same domain.

23.5. Author shall enjoy the right to redress rights assigned to the assignee if an infringement occurred as a result of negligence in implementing the obligations of the agreement.

Article 24. Exceptions and limitations

24.1. The following circumstances where the works were used without contradicting the normal exploitation of published works and without affecting the legal interests of the right holders shall not be deemed as copyright infringement:

24.1.1. To quote from published works in order to prepare a press review;

24.1.2. To quote from and to use parts of published works for research works, criticisms and information;

24.1.3. To reproduce parts of works used in the archives, museums and libraries;

24.1.4. To publish or broadcast works on current economic, political and religious issues, which were published in press or broadcasted through media, if

the reproduction of such works is not specifically prohibited, and to inform them to the public through wire and wireless communications;

24.1.5. To publish speeches and presentations delivered at meetings for the purpose of information;

24.1.6. To publish works of architecture, fine arts and photography located in public places in order to show the surrounding areas of events while reporting the events to the public;

24.1.7. To use works for the visually impaired and people with hearing problems;

24.1.8. To reproduce works for private use;

24.1.9. To reproduce works for criminal, civil and administrative procedures.

24.2. The following conditions shall be considered in determining the circumstances provided in Section 24.1 of this law:

24.2.1. To have a non-profit purpose;

24.2.2. The extent of use and the importance of the used parts;

24.2.3. The value of the work and the effect of the used part on the market.

24.3. The name of the author and source must be mentioned when a work is used under Section 24.1 of this law.

Article 25. Protection of copyright in the Internet

25.1. An internet service provider shall be obligated to prevent any copyright violation in websites hosted on its own server and provide authors and right holders with the possibility to enforce their rights.

25.2. An internet service provider shall facilitate the receipt of reports on violation of copyrights and related rights and shall be obligated to close the website in question as soon as such violation is reported.

25.3. A judge or a state inspector shall impose liabilities specified in the legislation on an internet service provider, which failed to perform its duties provided in Sections 25.1 and 25.2 of this law.

25.4. The court shall resolve disputes related to closing down of websites.

CHAPTER SEVEN COPYRIGHT PROTECTION ORGANIZATION

Article 26. Intellectual Property Office

26.1. The Intellectual Property Office shall be responsible for implementation of the public policy to protect copyright and shall perform the following functions:

26.1.1. to organize implementation of the copyright legislation nationwide;

26.1.2. to promote and improve the copyright legislation, to ensure that such legislation conforms with the international treaties and conventions of

Mongolia and to develop recommendations to make amendments to the legislation;

26.1.3. to protect the interests of authors and copyright holders, to support their creative activities and to conduct activities to improve legal knowledge of authors;

26.1.4. to provide collective management organization specified in Article 27 of this law with professional and methodological guidance and to cooperate with them;

26.1.5. to register works of copyrights and related rights at the requests of authors and copyright holders, to issue certificates and to establish a database of registered works;

26.1.6. to conduct the state inspection to monitor the implementation of laws and regulations on intellectual property and to employ a state intellectual property inspector;

26.1.7. to conduct activities aimed at eliminating copyright violations and to provide references for resolution of disputes related to copyrights;

26.1.8. to determine and certify the valuation of works pertaining to copyright;

26.1.9. to work with citizens and organizations on protecting works of folklore.

26.2. The Intellectual Property office shall be financed from its revenue and the service fee shall be established by the Cabinet Member in charge of intellectual property matters.

26.3. The rules of the state intellectual property inspection shall be approved by the Cabinet.

Article 27. Collective management organization

27.1. Authors and right holders may establish a Collective management organization for the purpose of protection of their rights.

27.2. The Collective management organization shall be established at the initiative of authors and right holders.

27.3. Collective management organization may be specialized in the protection of one or more categories of works

27.4. Collective management organization shall operate on the basis of cooperation agreement with Intellectual Property Office.

Article 28. Activities of the collective management organization

28.1. Collective management organization as a representative body of right holders of copyright and related rights shall carry out the following activities within a power of attorney given to them:

28.1.1 to conclude contracts for exploitation of works with member-authors or right holders;

28.1.2. to negotiate the amount of royalties and other conditions with a licensee, to collect the payment;

28.1.3. to distribute collected royalties among right holders of copyright and related rights;

28.1.4. to submit request to the Intellectual property office to take necessary measures for the infringement of rights of their members on the basis of collected information.

Article 29. Obligations of collective management organization

29.1. Collective management organization shall have the following obligations in order to protect the rights and interests of right holders of copyright and related rights:

29.1.1. to provide information on the exploitation of a work in course of distribution of royalties;

29.1.2. to distribute royalties collected on the basis of the license to right holders of copyright and related rights;

29.1.3. to distribute, after deduction of administrative expenses, collected royalties on a regular basis in proportion to the exploitation of a work.

**CHAPTER EIGHT
PROTECTION OF COPYRIGHT, LIABILITY FOR COPYRIGHT
INFRINGEMENT**

Article 30. Protection of intangible rights

30.1. In the case of infringement of integrity of work or of other intangible rights of an author, the author of a work or his/her heir or successor, or the Intellectual Property Office (if there is no apparent heir or if such heir has waived or has been deprived of his/her right of succession) shall be entitled to demand from the infringer the restoration of the infringed rights and to file a complaint to the court.

Article 31. Liabilities for breach of the law on copyright and related rights

31.1. If a breach of the legislation on copyright is not to be subjected to criminal liability, it shall be subject to a fine by a judge or a state inspector in the amount of 2-6 times the minimum monthly wage in case of an individual or of 10-25 times the minimum monthly wage in case of a legal entity respectively, or a confinement by a judge of 7-14 days in case of a guilty individual or official, and a state inspector or a judge shall seize the infringing goods, products and items and the illegal income, transfer such income to the state treasury or give such income to the author or right holder and stop such activities.

31.2. If a forgery, fraudulent use, alteration or deletion of a copyright notice on a work, and introduction, smuggling for distribution and distribution of them to the public despite the fact, that the infringer knew or was able to know about unlawful alteration or deletion of the copyright notice on a work, is not to be subjected to criminal liability, it shall be subject to a fine by a judge in the amount of 2-6 times the minimum monthly wage in case of an individual or of 10-25 times the minimum monthly wage in case of a legal entity respectively.

31.3. Compensation for material damages due to an infringement of exclusive rights in copyrighted works shall be decided according to the provisions of the Civil Code of Mongolia.

31.4. If an author or right holder, whose rights were infringed, makes a request, the infringing goods may be given to him/her as compensation for his/her damages and if he/she does not make such request, a judge or a state inspector shall take an action to destroy the infringing goods.

31.5. The equipment used in infringement of copyright and reproduction of works that are subject to copyright and related rights shall be seized by a decision of the court or other authorities.

Article 32. Entry into force

32.1. This law shall not have retroactive effect.

CHAIRMAN OF THE
STATE IKH KHURAL

TS.NYAMDORJ