
The Copyright Act, 1912

(as last amended by the Law of October 27, 1972) *

CHAPTER I

Section 1. — Nature of copyright

Article 1. — Copyright is the exclusive right of the author of a literary, scientific or artistic work, or of his assignees, to make such work public and to reproduce it, subject to the limitations provided in the Law.

Article 2. — Copyright shall be deemed personal property. It shall pass on by succession and shall be capable of transfer in whole or in part. Transfer of copyright in whole or in part may be effected only by an authenticated or private deed. The transfer shall comprise only those rights specifically mentioned in the deed of transfer or which are necessarily implied from the nature or purpose of the agreement.

The copyright belonging to the author of a work and, after his death, the copyright belonging to the person having acquired any unpublished work as heir or legatee of the author, shall not be subject to seizure.

Section 2. — Author of the work

Article 3. — [repealed]

Article 4. — In the absence of proof to the contrary, the person who is indicated as author in or on the work or, where there is no such indication, the person who, when the work is made public, is made known as the author by the party who makes the work public, shall be deemed to be the author of the work.

If the author is not named, the person who delivers an oral address which has not appeared in print shall be deemed to be the author thereof, unless there is proof to the contrary.

Article 5. — If a literary, scientific or artistic work consists of separate works by two or more persons, the person under whose guidance and supervision the work as a whole has been made or, if there is no such person, the compiler of the various component works, shall be deemed to be the author of the whole work, subject to the copyright in each of the separate works.

Where a separate work in which copyright subsists is incorporated in a whole work, the reproduction or making public of each separate work, by any person other than the author thereof or his successor in title, shall be deemed to be an infringement of the copyright in the whole work.

Where such a separate work has not been previously made public, the reproduction or making public of the separate work by the author thereof or his successors in title, without mention of the whole work of which it is a part, shall be regarded as an infringement of the copyright in the whole work, unless otherwise agreed between the parties.

Article 6. — If a work has been produced according to the plan and under the guidance and supervision of another person, that person shall be deemed to be the author of the work.

Article 7. — Where work performed in the service of another person consists in the production of certain literary, scientific or artistic works, the person in whose service they were produced shall be deemed to be the author thereof, unless otherwise agreed between the parties.

* The basic Act is dated September 23, 1912. The Law of October 27, 1972, was published in the *Staatsblad*, 1972, No. 579. — WIPO translation.

Article 8. — Any public institution, association, foundation or partnership which makes a work public as its own, without naming any natural person as the author thereof, shall be regarded as the author of the work, unless it is shown that making the work public in such manner was unlawful.

Article 9. — If a work appearing in print does not mention the name of the author or does not mention his true name, the person mentioned in such work as the publisher or, where there is no such indication, the person whose name appears as the printer thereof may, on behalf of the copyright owner, assert the copyright in the work against third parties.

Section 3. — Works protected by copyright

Article 10. — For the purposes of this Act, the term “literary, scientific or artistic works” shall include:

- (i) books, pamphlets, newspapers, periodicals and all other writings;
- (ii) dramatic and dramatico-musical works;
- (iii) lectures;
- (iv) choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise;
- (v) musical works, with or without words;
- (vi) drawings, paintings, works of architecture and sculpture, lithographs, engravings and the like;
- (vii) geographical maps;
- (viii) plans, sketches and three-dimensional works relating to architecture, geography, topography or other sciences;
- (ix) photographic and cinematographic works, and works produced by analogous processes;
- (x) works of applied art and industrial designs,¹

and generally any production in the literary, scientific or artistic fields, whatever may be the mode or form of its expression.

Reproductions of adaptations of a literary, scientific or artistic work, such as translations, arrangements of music, cinematographic adaptations and other alterations, as well as collections of different works, shall be protected as separate works, without prejudice to the copyright in the original work.

Article 11. — No copyright shall subsist in laws, decrees or ordinances issued by public authorities, or in judicial or administrative decisions.

Section 4. — Publication

Article 12. — The publication of a literary, scientific or artistic work shall include:

- (i) the publication of a reproduction of all or part of the work;
- (ii) the distribution of all or part of a work or of a reproduction thereof, so long as such work has not appeared in print;
- (iii) the public recitation, performance or presentation of all or part of a work or of a reproduction thereof.

A recitation, performance or presentation in a private circle shall be deemed to be a public recitation except where such circle is confined to relatives or friends, or to persons who may be assimilated to relatives

¹ Article 1a of the Law of October 27, 1972, contains the following provision:

Article 1a. — Until the date of entry into force of the Benelux Uniform Law on Designs and Models, annexed to the Benelux Convention on Designs and Models, concluded at Brussels on October 25, 1966, the first paragraph of Article 10, under (x), should read as follows:

- (x) works of applied art;

or friends, and where no fee of any kind is charged for admission to the recitation, performance or presentation. This provision shall apply also to an exhibition.

A recitation, performance or presentation which serves exclusively a scientific purpose, or education dispensed in the name of the public authorities or of a non-profit-making legal entity, shall not be deemed to be a public recitation, performance or presentation, provided that it is incorporated in the study program.

Simultaneous publication, by wire or otherwise, of a work made public by way of radio or television broadcast shall not be deemed to be separate publication where it is carried out by the organization making the broadcast.

Section 5. — Reproduction

Article 13. — The reproduction of a literary, scientific or artistic work shall include also translation, arrangement of music, cinematographic adaptation or dramatization, and generally any partial or total adaptation or imitation, in a modified form, which cannot be regarded as a new and original work.

Article 14. — The reproduction of a literary, scientific or artistic work shall be understood to mean also the recording of all or part of the work on an article intended for causing a work to be heard or seen.

Section 6. — Limitations on copyright

Article 15. — Unless the copyright is expressly reserved, the reprinting in a daily or weekly newspaper or weekly or other periodical, without the authorization of the author or his successors in title, of articles, reports or other contributions, with the exception of novels and short stories, having appeared in another daily or weekly newspaper or weekly or other periodical, shall not be deemed to be an infringement of copyright, provided that the name of the daily or weekly newspaper or weekly or other periodical from which they were reprinted is clearly stated, as well as the name of the author, if given. In the case of periodicals, it shall be sufficient to make a general reservation of copyright in the heading of each issue. No reservation of copyright may be made in respect of articles on current political topics, news of the day and miscellaneous information.

The right of reprinting referred to in the preceding paragraph shall apply to foreign newspapers and periodicals only with respect to news of the day, miscellaneous information and articles on current economic, political or religious topics, provided that the last sentence of the preceding paragraph shall not apply with respect to articles on current political topics.

The provisions of this Article shall apply also to reproductions in a language other than that of the original article.

Article 15a. — Short quotations of articles, even in the form of press summaries, appearing in a daily or weekly newspaper or weekly or other periodical shall not be deemed to be an infringement of copyright on condition that the name of the daily or weekly newspaper or weekly or other periodical from which they are taken is clearly stated, as well as the name of the author of the passages quoted, if given.

Article 15b. — Subsequent publication or reproduction of a literary, scientific or artistic work made public by or on behalf of the public authorities shall not be deemed to be an infringement of the copyright in such work, unless the copyright is expressly reserved, either in a general manner by a law, decree or administrative order, or in a specific case by a notice appearing on the work itself or a communication made at the time of its publication. Even if no such reservation has been made, the author retains the exclusive right to cause those of his works which have been published by or on behalf of the public authorities to appear in the form of a collection.

Article 16. — It shall not be deemed to be an infringement of the copyright in a literary, scientific or artistic work:

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- (a) to reproduce, in whole or in part, in the original language or in translation, works already published (*uitgegeven*) in anthologies and other works clearly intended for use in education or for other scientific purposes, provided that:
- (i) reproduction is confined to a small number of brief portions of the work, or to a small number of short essays or poems by the same author and, in the case of works referred to in Article 10, first paragraph, under (vi), to some of those works, and that the reproductions differ appreciably in size or process of manufacture from the original work, on the understanding that, where two or more such works have been made public together, the reproduction of only one of them shall be permitted;
 - (ii) the provisions of Article 25 are respected;
 - (iii) the reproductions mention the original work and the name of the author if it is indicated therein or thereon;
 - (iv) equitable remuneration is paid to the author or to his successors in title;
- (b) to quote, in the original language or in translation, parts of writings already made public, to quote parts of musical works already made public, and to incorporate reproductions of works of plastic art already made public in the texts of announcements or criticisms, polemic writings or scientific treatises, provided that:
- (i) the number and length of the parts quoted or reproductions incorporated do not go beyond what is reasonably acceptable to social custom;
 - (ii) the provisions of Article 25 are respected;
 - (iii) the name of the author is mentioned if it is indicated on or in the original work.

The right [of the Queen] to determine by administrative regulation what shall be understood, in the first paragraph, under (a)(i), by “a small number of brief portions of the work or a small number of short essays or poems by the same author”, and to determine what shall be understood, in the first paragraph, under (a)(iv), by “equitable remuneration”, is reserved.

A summary of a lecture which has been delivered in public without having previously appeared in print may contain quotations of the said lecture in the original language or in translation, provided that the number and length of such quotations do not go beyond what is reasonably acceptable to social custom and that the name of the speaker is indicated; the provisions of Article 25 shall be complied with.²

Article 16a. — It shall not be deemed to be an infringement of the copyright in a literary, scientific or artistic work to make a short recording, reproduction or presentation thereof in public in a photographic, film, radio or television report, provided that this is necessary to give a proper account of the current events which are the subject of the report.

Article 16b. — It shall not be deemed to be an infringement of the copyright in a literary, scientific or artistic work to reproduce it in a limited number of copies for the sole purpose of the personal practice, study or use of the person who makes the copies or orders the copies to be made exclusively for himself.

Where the work is one of those referred to in Article 10, first paragraph, under (i), including the score or parts of a musical work, the reproduction shall furthermore be confined to a small portion of the work, except in the case of:

- (a) works of which, in all probability, no new copies are made available to third parties for payment of any kind;
- (b) short articles, news items or other texts which have appeared in a daily or weekly newspaper or weekly or other periodical.

² Article II of the Law of October 27, 1972, contains the following provision:

Article II. — Article 16(a) shall not be applicable to anthologies and other works clearly intended for use in education or for other scientific purposes, and which are published unabridged in the same form as that in which they were published prior to the entry into force of this Law. Such anthologies and works shall remain subject to the law applicable prior to the entry into force of this Law.

Where the work is one of those referred to in Article 10, first paragraph, under (vi), the copy must differ appreciably in size or process of manufacture from the original work.

The provisions of the first paragraph concerning reproduction made to order shall not apply to reproduction made by recording a work or a part thereof on an article intended for causing the work to be heard or seen.

In the case of reproduction permitted under this Article, the copies made may not be transmitted to third parties without the consent of the copyright owner, except where such transmittal is effected for the purposes of a judicial or administrative proceeding.

An administrative regulation [issued by the Queen] may provide that, with respect to the reproduction of works referred to in Article 10, first paragraph, under (i), the provisions of one or several of the foregoing paragraphs may be waived for the operation of the public service and for the performance of the tasks incumbent on public service institutions. Directions and precise conditions may be fixed to this end.

The foregoing provisions of this Article shall not apply to the imitation of an architectural work.³

Article 17. — Without prejudice to the provisions of the foregoing Article, it shall not be deemed to be an infringement of the copyright in the works referred to in Article 10, first paragraph, under (i), to reproduce, on behalf of an enterprise, organization or other establishment, articles, information or other separate texts which have appeared in a daily or weekly newspaper or weekly or other periodical, or small portions of books, pamphlets or other writings, provided that they are scientific works and that the number of copies made does not exceed that which the enterprise, organization or establishment may reasonably need for the purposes of its internal activities. Copies may only be transmitted to persons employed by the enterprise, organization or establishment.

Any person who makes copies or orders the making of copies shall pay equitable remuneration to the author of the work thus reproduced or to his successors in title.

An administrative regulation [issued by the Queen] may fix provisions concerning the maximum number of copies, the maximum size of copies, the amount of remuneration, the mode of payment of remuneration and the number of copies in respect of which no remuneration is payable.³

Article 17a. — Provisions may be enacted by administrative regulation, in the general interest, to govern the exercise by the author or his successors in title of the copyright in a literary, scientific or artistic work with respect to the publication of such a work by means of the radio or television broadcasting of signs, sounds or images, or the distribution on a broader scale, by wire or otherwise, of a work made public in such a manner. The said administrative regulation may state that such a work may be made public in such a manner or be distributed on a broader scale without the prior consent of the author or his successors in title. Those who are thus entitled to make a work public or to distribute it on a broader scale shall nevertheless be bound to respect the rights of the author referred to in Article 25 and pay the author or his successors in title equitable remuneration which, failing agreement and at the request of the most diligent party, shall be fixed by the Court, which may at the same time order the payment of security.

The provisions of the foregoing paragraph shall apply accordingly to the production and distribution of articles, with the exception of cinematographic reproductions, designed to render all or part of a musical work audible by mechanical means, where in connection with the same musical work such articles have already been produced and distributed either by or with the consent of the author or his successors in title.

Article 17b. — Unless otherwise agreed, the right to make a work public by broadcasting on radio or television shall not imply the right to record the work.

The radio or television broadcasting organization entitled to the publication referred to in the foregoing paragraph shall nevertheless be permitted to record the work intended for broadcasting, using its own facilities and solely for the purpose of its own radio and television broadcasts, provided that the recording of sounds or images is destroyed within 28 days from the date on which the first radio or

³ The second paragraph of Article IV of the Law of October 27, 1972, contains the following provision:

Articles 16b and 17 shall enter into force on a date which shall be determined by administrative regulation, but not later than July 1, 1974.

television broadcasting of the work took place, and in any event within six months following the date of the recording. The organization thus entitled to make the recording shall nevertheless be bound to respect the rights of the author referred to in Article 25.

An administrative regulation may provide that recordings thus made which possess exceptional documentary value may be kept in official archives, and may further determine the conditions applicable in such a case.

Article 17c. — It shall not be deemed to be an infringement of the copyright in a literary or artistic work when such work is performed vocally by a religious community and is provided with instrumental accompaniment in the course of a service.

Article 17d. — The administrative regulations referred to in Articles 16, second paragraph, 16*b*, sixth paragraph, 17, third paragraph, and 17*a*, first and second paragraphs, and the possible amendment of such regulations, as well as all decisions, directions or measures deriving therefrom shall not enter into force until two months have expired following the date of their publication in the *Staatsblad*.

Article 18. — It shall not be deemed to be an infringement of the copyright in a work referred to in Article 10, first paragraph, under (vi), which is permanently displayed in a public thoroughfare, to reproduce or publish a reproduction of such work, provided that the work does not constitute the main part of the reproduction, that the reproduction differs appreciably in size or process of manufacture from the original work and that, with regard to architectural works, only the exterior thereof is reproduced.⁴

Article 19. — The reproduction of a portrait by or on behalf of the person portrayed, or, after his death, by or on behalf of his relatives, shall not be deemed to be an infringement of copyright.

If the portrait is of two or more persons, reproduction thereof by or on behalf of one of the persons portrayed shall not be lawful without the consent of the others or, during the ten years following their death, without the consent of their relatives.

It shall not be deemed to be an infringement of copyright to reproduce a photographic portrait in a newspaper or periodical if the reproduction is made by one of the persons referred to in the first paragraph of this Article or with his consent, provided that the name of the photographer is indicated if it appears on the portrait.

This Article shall apply only to portraits which have been made pursuant to an order given to the author of the portrait by or on behalf of the persons portrayed.

Article 20. — Unless otherwise agreed, the owner of the copyright in a portrait shall not be entitled to make such portrait public without the consent of the person portrayed or, during the ten years following his death, without the consent of his relatives.

If the portrait is of two or more persons, reproduction thereof shall be lawful only with the consent of all the persons portrayed or, during the ten years following their death, with the consent of their relatives.

The last paragraph of the preceding Article shall apply.

Article 21. — If a portrait is made without having been ordered by or on behalf of the person portrayed, the copyright owner shall be allowed to make it public only in so far as the person portrayed or, after his death, his relatives have no legitimate reason for opposing its being made public.

⁴ Article III of the Law of October 27, 1972, contains the following provision:

Article III. — The present version of Article 18 shall not be applicable to reproductions appearing in books or printed matter which are published unabridged in the same form as that in which they were published prior to the entry into force of this Law. Such books and printed matter shall remain subject, as far as reproductions are concerned, to Article 18 as worded prior to the entry into force of this Law.

Reproductions to which the first paragraph is not applicable and which, prior to the entry into force of this Law, were made under Article 18 without infringing any copyright, as well as unchanged copies of such reproductions, may be distributed during the five years following the entry into force of this Law.

Article 22. — In the interest of public safety and for the purpose of judicial inquiries, images of any nature may be reproduced, publicly exhibited and distributed by, or by order of, the judicial authorities.

Article 23. — Unless otherwise agreed, the owner of a drawing or painting, a work of architecture, a sculpture or a work of applied art shall be entitled, without the consent of the copyright owner, to exhibit such work publicly or to reproduce it in a catalog for the purpose of sale.

Article 24. — Unless otherwise agreed, the author of a painting shall, notwithstanding the transfer of his copyright, be entitled to make further similar paintings.

Article 25. — Even after transfer of his copyright, the author of a work shall have the following rights:

- (a) the right to object to publication of the work under a name other than his own, as well as any alteration of the name of the work or the indication of the author, if such name or indication appears on or in the work or has been made public in conjunction with the work;
- (b) the right to object to any other modification of the work, except where the nature of the modification is such that it would be unreasonable to object to it;
- (c) the right to object to any distortion, mutilation or other modification of the work which would be prejudicial to the honor or reputation of the author or to his value as such.

The rights referred to under (a), (b) and (c) above shall accrue, after the death of the author and until the copyright expires, to the person whom the author shall have appointed by will or codicil.

The rights referred to under (a) and (b) above may be transferred when modifications are to be made to the work or to its name.

If the author of the work has transferred his copyright, he shall retain the right to make such modifications to the work as he may make in good faith in accordance with the rules established by social custom. As long as copyright subsists, the same right shall belong to the person whom the author has appointed by will or codicil, if it may reasonably be supposed that the author would have approved such modifications.

Article 25a. — For the purposes of this Section, “relatives” means the father and mother, spouse and children. Each of the relatives may exercise individually the rights accruing to him or her. In the event of dispute, the Court may render a decision which shall be binding on each of the parties.

CHAPTER II

Enforcement of copyright and criminal provisions

Article 26. — Where the copyright in a work belongs jointly to two or more persons, it may be enforced by any one of them, unless otherwise agreed.

Article 27. — Notwithstanding the transfer of his copyright in whole or in part, the author shall retain the right to institute an action for damages against infringers.

After the death of the author, the right to institute actions for damages as provided for in the first paragraph shall accrue to his heirs or legatees until the copyright expires.

Article 28. — Copyright shall confer the power to seize personal property, objects made public in infringement of that copyright and unlawful reproductions, in accordance with the provisions governing seizure under a prior claim, and either to claim ownership of them or to demand that they be destroyed or rendered unusable. The same powers of seizure and claim shall exist with respect to the entrance fees paid for admission to a recital, performance, exhibition or presentation which constitutes an infringement of copyright.

Where the surrender of the objects referred to in the first paragraph is demanded, the Court may order that such surrender be made only in return for compensation to be paid by the claimant.

The two foregoing paragraphs shall apply exclusively to personal property and to property which, by reason of its use, is regarded as real property.

With respect to real property other than that referred to in the preceding paragraph which is liable to be the subject of an infringement of copyright, the Court may, at the request of the owner of the right, order that the defendant introduce such changes as will remove the infringement of the copyright, and may order the defendant to pay a certain sum of money as compensation if, within a specified time, the Court order is not complied with.

These provisions shall not prejudice any right to institute criminal proceedings for infringement of copyright and civil proceedings for damages.

Article 29. — The right provided for in the first paragraph of the preceding Article shall not be exercised in respect of objects in the possession of persons who do not deal in similar objects and who have acquired them exclusively for their own use, unless they have themselves infringed the copyright.

A request under the fourth paragraph of the preceding Article may be made against the owner or possessor of real estate only when he is responsible for the infringement of copyright concerned.

Article 30. — If any person makes a portrait public without being entitled to do so, the provisions of Articles 28 and 29 on copyright shall be applicable with respect to the right of the person portrayed.

Article 30a. — The exercise, with or without gainful intent, of the profession of intermediary in matters of copyright in musical works, shall be subject to the permission of the Minister of Justice.

The following shall be deemed to be acts of an intermediary in matters of copyright in musical works: the conclusion or implementation, whether or not in the name of the intermediary, and on behalf of the authors of musical works or their successors in title, of agreements concerning the public performance or the broadcasting on radio or television by signs, sounds or images of such works or reproductions thereof, in whole or in part.

The performance or radio or television broadcasting of dramatico-musical works, choreographic works and entertainments in dumb show, and reproductions thereof, if such works are rendered audible without being shown, shall be assimilated to the performance and radio or television broadcasting of musical works.

Any agreement as referred to in the second paragraph which is entered into without the ministerial permission required under the first paragraph shall be null and void.

Further provisions shall be made by administrative regulation, concerning among other things the supervision of the person having obtained the permission of the Minister of Justice. The cost of such supervision may be charged to that person.

The supervision referred to in the foregoing paragraph may only concern the way in which the intermediary carries out the duties assigned to him. Interested parties shall participate in the supervision.

Article 31. — Any person who intentionally infringes another's copyright shall be punishable by imprisonment not exceeding six months or by a fine not exceeding 25,000 guilders.

Article 32. — Any person who, knowing that a work constitutes an infringement of copyright, distributes it or publicly offers it for sale shall be punishable by a fine not exceeding 10,000 guilders.

Article 33. — The infringements referred to in Articles 31 and 32 shall be misdemeanors.

Article 34. — Any person who intentionally and unlawfully makes changes in a literary, scientific or artistic work protected by copyright, or in the title or the indication of the author of such work, or who performs another act derogatory to a work in a manner prejudicial to the honor or reputation of the author or his value as such, shall be punishable by imprisonment not exceeding six months or by a fine not exceeding 25,000 guilders.

Such act shall be a misdemeanor.

Article 35. — Any person who, without being authorized to do so, publicly exhibits a portrait or makes it public in any other manner shall be punishable by a fine not exceeding 10,000 guilders.

Such act shall be a minor offense.

Article 35a. — Any person who, without having obtained the required permission of the Minister of Justice, performs acts attributable to the exercise of the profession of intermediary as defined in Article 30a shall be punishable by a fine not exceeding 5,000 guilders.

Such act shall be a minor offense.

Article 35b. — Any person who deliberately supplies inaccurate or incomplete information in a written request or statement on the basis of which amounts due as royalties are determined, by the action of the person who, with the permission of the Minister of Justice, intervenes in matters of royalties payable on musical works, shall be punishable by imprisonment not exceeding three months or by a fine not exceeding 1,000 guilders.

Such act shall be a minor offense.

Article 36. — Reproductions confiscated by virtue of a decision of the Criminal Court shall be destroyed; however, the Court may order in its decision that they be surrendered to the copyright owner if the latter applies to the Office of the Clerk of the Court within one month from the date on which the decision becomes final.

Upon such surrender, ownership of the copies shall pass to the copyright owner. The Court may order that such surrender take place only on payment by the copyright owner of compensation, which compensation shall accrue to the State.

Article 36a. — If an infringement is committed by a legal entity, society, association or foundation, or on its behalf, criminal action shall be instituted against, and sentences and other measures imposed on:

- (i) either the legal entity, society, association or foundation in question,
- (ii) or those who gave the order to perform the unlawful act or omission concerned or are directly responsible for it,
- (iii) or against both.

An infringement is deemed to have been committed by a legal entity, society, association or foundation, or on its behalf, if it is committed by persons who, either by virtue of their duties or for another reason, act on behalf of the legal entity, society, association or foundation, irrespective of whether those persons have committed the infringement individually or whether their action was concomitant with the perpetration of the infringement.

Where criminal proceedings are brought against a legal entity, society, association or foundation, the latter shall be represented at the proceedings by its director or one of its directors. The director may be represented by an agent. The Court may order the personal appearance before it of a particular director, in which case it may order that he be summoned.

Where criminal proceedings are brought against a legal entity, society, association or foundation, Article 538(ii) of the Code of Criminal Procedure shall be applicable accordingly.

Article 36b. — Investigators shall have the right of access to any place for the investigation of facts associated with infringements in terms of this Act and for the seizure of objects which are liable to be associated with such infringement.

If access is denied them, they may gain entry, if necessary, with the assistance of the police.

They shall not enter a dwelling against the will of the occupier unless they present a special warrant or are accompanied by the Royal Prosecutor or the deputy of the Royal Prosecutor. They shall report on such entry within twenty-four hours.

CHAPTER III

Duration of Copyright

Article 37. — Copyright shall terminate on the expiration of a term of fifty years from the first of January of the year following the year of the death of the author.

The duration of the copyright belonging jointly to two or more persons in their capacity as co-authors of a work shall be counted from the first of January of the year following the year of the death of the last surviving co-author.

Article 38. — The copyright in a work with respect to which the author has not been indicated, or has not been indicated in such a way that his identity is beyond doubt, shall terminate on the expiration of a term of fifty years from the first of January of the year following that in the course of which the work was first made public by or on behalf of the copyright owner.

This provision shall be applicable also to a work of which a public institution, an association, a foundation or a partnership is deemed to be the author, and to a work published for the first time after the death of the author.

If the author discloses his identity prior to the end of the term mentioned in the first paragraph, the duration of the copyright in the respective work shall be calculated in accordance with the provisions of Article 37.

Article 39. — [repealed]

Article 40. — [repealed]

Article 41. — For the purposes of Article 38, a work which has appeared in instalments or episodes shall be deemed to have been made public only on the issue of the last instalment or episode.

In the case of a work consisting of two or more volumes, numbers or sheets, or which has appeared in print on different dates, and in the case of reports or communications published by associations or private persons, each volume, number, sheet, report or communication shall be deemed to be a separate work.

Article 42. — Notwithstanding the provisions of this Chapter, no claim may be made in the Netherlands to a copyright which has already terminated in the country of origin of the work.

CHAPTER IV

(Articles 43 and 44) (contains modifications of the Bankruptcy Act and the Criminal Code)

CHAPTER V

(Article 45) [repealed]

CHAPTER VI

Transitional and Final Provisions

Article 46. — With the entry into force of this Act, the Copyright Act of June 28, 1881 (*Staatsblad* No. 124), shall be repealed.

However, Article 11 of the aforementioned Act shall remain in force in respect of works and translations deposited prior to the said date.

Article 47. — This Act shall apply to all literary, scientific or artistic works published for the first time in the Netherlands either before or after its entry into force, by or on behalf of the author, or published

in the Netherlands during the thirty days following first publication in another country, as well as to all such works not published, or not published under the same conditions, of which the authors are Dutch citizens.

A work shall be deemed to have been published within the meaning of this Article when it has appeared in print or, in general, when copies of the work, irrespective of their nature, have been made available to the public in sufficient quantity.

The performance of a dramatic, dramatico-musical or musical work, the presentation of a cinematographic work, the recitation or radio or television broadcasting of a work and the exhibition of a work of art shall not constitute publication (*uitgave*).

With regard to architectural works and works of plastic art constituting an integral part thereof, the construction of the architectural work or the incorporation of the work of plastic art shall constitute publication.

Article 47a — This Act shall remain applicable to all literary, scientific or artistic works published for the first time by or on behalf of the author prior to December 27, 1949, in the Dutch East Indies or prior to October 1, 1962, in Dutch New Guinea.

Article 48. — This Act does not recognize copyright in works in which, at the time of its entry into force, copyright has expired under Article 13 or 14 of the Copyright Law of June 28, 1881 (*Staatsblad* No. 124), or in works in respect of which, on the said date, the right of reproduction has expired under Article 3 of the Law of January 25, 1817 (*Staatsblad* No. 5), relating to the rights exercisable in the Netherlands in respect of the printing and publication of literary and artistic works.

Article 49. — Copyright obtained under the Copyright Act of June 28, 1881 (*Staatsblad* No. 124), and also the right to copy or any right of this nature obtained under earlier legislation and maintained by the said Act, shall continue after the entry into force of this Act.

Article 50. — [repealed]

Article 50a. — [repealed]

Article 50b. — The exclusive right of the composer of a musical work to manufacture instruments intended to render all or part of the work audible by a mechanical process, and the right of public performance of such work by means of similar instruments, shall not be applicable to all or part of a musical work which was adapted for sound reproduction by mechanical means prior to November 1, 1912, in the Realm in Europe or in the Dutch East Indies.

Instruments as referred to in the foregoing paragraph which have been manufactured in one of the States of the International Union for the Protection of Literary and Artistic Works without the consent of the composer of the musical work, but without violating a legal provision currently in force in that State, may be distributed, sold and used for public performances in the Netherlands.

Article 50c. — Any person who, prior to September 1, 1912, without violating the provisions of the Copyright Act of June 28, 1881 (*Staatsblad* No. 124), or of any treaty in force in the Netherlands or in the Dutch East Indies, has published copies of a literary, scientific or artistic work, which do not constitute a reprinting of all or part of such a work as referred to in Article 10, under (i), (ii), (v) or (vii), shall not, as a result of the entry into force of this Act, lose the right to distribute and sell such copies made before or after that date. This right may be transferred in whole or in part by inheritance or assignment. The second paragraph of Article 47 shall apply accordingly.

The Court may, on written petition by the owner of the copyright in the original work, either revoke the right provided for in the first paragraph, in whole or in part, or award the petitioner an indemnity for the exercise of the said right, and in either case the provisions of the following two Articles shall apply.

Article 50d. — The petition for total or partial revocation of the right set forth in Article 50c may only be made if a new edition of copies has been made since November 1, 1915. The second paragraph of Article 47 shall apply accordingly.

The petition shall be filed with the Court of Amsterdam before the end of the calendar year following that in the course of which publication took place. The Clerk of the Court shall summon the parties at an appropriate date to be specified by the Court. The case shall be heard in the Council Chamber.

The Court shall accede to the petition for revocation of the right only if and to the extent that it finds that the moral rights of the petitioner are injured by the distribution and sale of the copies. If the petition is not filed by the author of the original work, the Court shall refuse it if there is good reason to believe that the author has consented to the publication of the copies. The Court shall also refuse the petition where the petitioner has made an effort to obtain an indemnity from the persons who exercise the right. It may refuse the petition if revocation of the right would unduly prejudice the interests of the persons exercising the right as compared with the interests of the petitioner which have to be safeguarded. If the Court revokes the right in whole or in part, it shall set the date on which such revocation shall take effect.

In arriving at a decision, the Court shall make such provisions as it deems just in consideration of the interests of both parties and other interested persons. It shall assess the costs incurred by both parties and shall determine what portion thereof is to be paid by each. No appeal from judicial decisions rendered pursuant to this Article shall be admissible. No court clerk's fees shall be charged for proceedings under this Article.

Article 50e. — An indemnity may be awarded for the exercise of the right set forth in Article 50c only where a new edition of copies has been published since May 1, 1915. The second paragraph of Article 47 shall apply accordingly.

The second and fourth paragraphs of the preceding Article shall apply.

Article 50f. — [repealed]

Article 51. — [repealed]

Article 52. — This Act may be cited as “The Copyright Act, 1912”.

Article 53. — This Act shall enter into force in the Realm in Europe on the first day of the month following that in which it is promulgated.