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# Law Adapting the 1912 Copyright Law to the Paris Act of the Berne Convention

(of May 30, 1985)\*

*Article I.* The following amendments shall be made to the 1912 Copyright Law<sup>1</sup>:

A. Article 10 shall be amended as follows:

In the first paragraph, indent (iv), the words “choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise;” shall be replaced by “choreographic works and entertainments in dumb show;”.

The first paragraph, indent (ix), shall read as follows:

(ix) photographic works;

The first paragraph, indent (x), shall become first paragraph, indent (xi).

The first paragraph, indent (x), shall read as follows:

(x) film works;

B. Article 15 shall read as follows:

It shall not be deemed an infringement of copyright to reproduce news reports, miscellaneous reports, or articles concerning current economic, political or religious topics, that have appeared in a daily or weekly newspaper or weekly or other periodical, or works of the same nature that have been broadcast by radio or television or have been transmitted by cable by a cable broadcasting organization within the meaning of the 1904 Telegraph and Telephone Law (*Staatsblad* No. 7), on condition that:

- (i) the reproduction is effected by a daily or weekly newspaper or weekly or other periodical, in a radio or television broadcast, or by means of transmission by cable to the public by a cable broadcasting organization within the meaning of the 1904 Telegraph and Telephone Law (*Staatsblad* No. 7),
- (ii) the provisions of Article 25 have been complied with;
- (iii) the source is stated in a clear manner, together with the name of the author if it is given in the source;
- (iv) copyright is not explicitly reserved.

In the case of periodicals, a generally worded reservation placed at the head of each number shall also be deemed an explicit reservation within the meaning of indent (iv) of the first paragraph.

A reservation within the meaning of indent (iv) of the first paragraph may not be made in respect of news reports and miscellaneous reports.

The provisions of this Article shall be of application where the reproduction is in a language other than that of the original.

C. Article 15a shall read as follows:

Quotations in an announcement, criticism, polemic or scientific treatise shall not be deemed an infringement of copyright in a literary, scientific or artistic work where:

- (i) the work from which the quotation is made has been lawfully published,
- (ii) the quotation is compatible with that which may be reasonably accepted under the rules of social intercourse and the number and length of the quoted passages is justified by the purpose to be achieved;
- (iii) the provisions of Article 25 have been complied with;

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<sup>1</sup> See *Copyright*, 1973, pp. 181 *et seq.*

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- (iv) the source is stated in a clear manner, together with the name of the author if it is given in the source.

In the case of a short work or of a work within the meaning of Article 10, first paragraph, indent (vi), indent (ix) or indent (xi), it shall be permissible for the purpose and under the conditions stated in the first paragraph to reproduce the entire work if done in such a way that the reproduction differs appreciably in size or in process of manufacture from the original work.

Quotations within the meaning of this Article shall include quotations from articles that have appeared in daily or weekly newspapers, weeklies or other periodicals in the form of press reviews.

The provisions of this Article shall also be of application in respect of quotations in a language other than the original.

We reserve Our right to determine, in general administrative regulations, what is to be understood in the first paragraph, indent (ii), by “reasonably accepted under the rules of social intercourse.”

D. Article 16 shall read as follows:

The following shall not be considered an infringement of copyright in a literary, scientific or artistic work:

- (a) the reproduction of parts of works in publications or recordings of sounds or images made for use as illustrations in teaching, on condition that:
  - (i) the work from which the reproduction is made has been lawfully made available to the public;
  - (ii) the reproduction is compatible with that which may be reasonably accepted under the rules of social intercourse;
  - (iii) the provisions of Article 25 have been complied with;
  - (iv) the source is stated in a clear manner, together with the name of the author if it is given in the source;
  - (v) reasonable remuneration has been paid to the author or his successors in title;
- (b) making available to the public parts of works by means of a radio or television broadcast or by communication by means of cable by a cable broadcasting organization within the meaning of the 1904 Telegraph and Telephone Law (*Staatsblad* No. 7) in a program made to serve as an illustration in teaching, on condition that:
  - (i) the work from which the reproduction is made has been lawfully published;
  - (ii) the making available to the public is compatible with that which may be reasonably accepted under the rules of social intercourse;
  - (iii) the provisions of Article 25 have been complied with;
  - (iv) the source is stated in a clear manner together with the name of the author if it is given in the source;
  - (v) reasonable remuneration has been paid to the author or his successors in title.

In the case of a short work or of a work within the meaning of Article 10, first paragraph, indent (vi), indent (ix) or indent (xi), the entire work may be reproduced for the same purpose and subject to the same conditions.

In the case of reproduction in a work of compilation, only short works or short passages of works may be reproduced from one and the same author and, in the case of works within the meaning of Article 10, first paragraph, indent (vi), indent (ix) or indent (xi), only a small number of those works may be reproduced and only if done in such a way that they differ appreciably in size or process of manufacture from the original work, on the understanding that, where two or more such works had been made public together, the reproduction of only one of them shall be permitted.

The provisions of this Article shall also be of application in respect of reproduction in a language other than that of the original.

We reserve Our right to determine, in general administrative regulations, the reasonable remuneration to be paid in accordance with the first paragraph, indents (a)(v) and (b)(v), and also to

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determine what is to be understood in the third paragraph by “short works or short passages of works.”

E. In the second paragraph of Article 17a, the words “of cinematographic reproductions” shall be replaced by “of reproductions of film works.”

F. A new Article 29a shall be added, with the following wording:

*Article 29a.* Proceedings for the prohibition of an act by which copyright has been infringed or will be infringed by a third party may also be instituted by legal persons, to be designated by Our Minister for Justice, having full legal rights for the purpose of administering the interests of authors of works or their successors in title.

G. In the first paragraph of Article 38, the words “first made public by or on behalf of the copyright owner” shall be replaced by “first made lawfully public.”

H. A new Chapter V shall be inserted, with the following wording:

## CHAPTER V

### Special Provisions on Film Works

*Article 45a.* Film work shall mean a work consisting of a sequence of moving images, with or without sound, irrespective of the manner of fixation of the work, where it is fixed.

Notwithstanding the provisions of Articles 7 and 8, those natural persons who have furnished a contribution of a creative nature intended for the realization of a film work shall be considered the authors of a film work.

The natural or legal person responsible for the making of a film work with a view to its exploitation shall be considered the producer of the film work.

*Article 45b.* Where one of the authors is unwilling or unable to complete his contribution to the film work, he may not oppose, unless otherwise agreed in writing, the use by the producer of the contribution, to the extent that it is already in existence, for the purposes of completing the film work. He shall be considered the author within the meaning of Article 45a of the contribution that he has made.

*Article 45c.* A film work shall be deemed to have been completed once it is ready for exhibition. Unless otherwise agreed in writing, the producer shall decide when the film work is ready for exhibition.

*Article 45d.* Unless otherwise agreed in writing by the authors and the producer, the authors shall be deemed to have assigned to the producer as from the time referred to in Article 45c the right to make the film work available to the public, to reproduce it within the meaning of Article 14, to add subtitles to it and to dub the dialogue. The above shall not apply to those who have composed music for the purpose of the film work or who have written the words belonging to the music. If the producer effects exploitation in a form that did not exist or was not reasonably foreseeable at the time referred to in Article 45c or if he assigns the right to a third party to effect exploitation, he shall be required to pay reasonable remuneration to the authors for that exploitation.

*Article 45e.* Each author shall have the following rights in respect of the film work in addition to the rights set out in Article 25:

- (a) the right to have his name mentioned in the film work at the place that is usual for the purpose with mention of his capacity or of his contribution to the film work;
- (b) the right to require that the part of the film work referred to in (a) also be exhibited;
- (c) the right to oppose the mention of his name on the film work unless such opposition be unreasonable.

*Article 45f.* The author shall be assumed, unless otherwise agreed in writing, to have refrained in respect of the producer from opposing amendments referred to in Article 25, first paragraph, indent (b), to his contribution.

*Article 45g.* Each author shall preserve, unless otherwise agreed in writing, his copyright in his contribution where the latter constitutes a work that may be separated from the film work. After the time referred to in Article 45c, each author may, unless otherwise agreed in writing, make his

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contribution separately available to the public and reproduce it, on condition that he does not thereby prejudice the exploitation of the film work.

I. Article 47 shall be amended as follows:

In the first paragraph, the words “by or on behalf of the author” shall be deleted.

A new paragraph shall be inserted following the first paragraph, with the following wording:

For the application of the preceding paragraph, authors who are not Dutch citizens but who have their usual place of residence in the Netherlands shall be treated as Dutch citizens in respect of unpublished works or works that have been published subsequent to the author taking up his usual place of residence in the Netherlands.

The third paragraph (former second paragraph) shall read as follows:

A work shall be deemed to have been published within the meaning of this Article when, with the consent of the author, it has appeared in print or, in general, when, with the consent of the author, sufficient copies thereof, of whatever kind, have been made available, depending on the type of work, to meet the reasonable needs of the public.

In the fourth paragraph (former third paragraph), the words “cinematographic work” shall be replaced by “film work.”

A new paragraph shall be added at the end, worded as follows:

Notwithstanding the provisions of the preceding paragraphs, this Law shall be of application to film works if the producer thereof has his registered offices or his usual place of residence in the Netherlands.

J. Article 50b shall be deleted.

*Article II.* The provisions of section H of Article I shall not be of application if a start has been made on making the film prior to the time of the entry into force of this Law.

*Article III.* Objects that are intended to perform by mechanical means a musical work or a part thereof, fabricated in compliance with Article 50b as worded prior to the entry into force of this Law, may still be placed on the market during one year, computed from January 1 of the year following that in which this Law enters into force.

*Article IV.* This Law shall enter into force at a time that We shall determine.

We direct and ordain that it shall be entered in the *Staatsblad* and that all ministerial departments, authorities, official bodies and civil servants, as it concerns them, shall ensure its correct implementation.