

ACT NO. 2 OF 12 MAY 1961 RELATING TO COPYRIGHT IN LITERARY, SCIENTIFIC AND ARTISTIC WORKS, ETC., WITH SUBSEQUENT AMENDMENTS, LATEST OF 22 DECEMBER 2006 (IN FORCE 1 JANUARY 2007)

**Chapter 1. The object and substance of the copyright**

**§ 1.** Any person who creates a literary, scientific or artistic work shall have the copyright therein.

By such a work is meant in this Act a literary, scientific or artistic work of any kind, irrespective of the manner or form of expression, such as:

- 1) writings of all kinds,
- 2) oral lectures,
- 3) works for stage performance, dramatic and musical as well as choreographic and pantomimic; also radio plays,
- 4) musical works, with or without words
- 5) cinematographic works,
- 6) photographic works,
- 7) paintings, drawings, graphic and similar pictorial works,
- 8) sculpture of all kinds,
- 9) architectural works, drawings and models as well as the building itself,
- 10) pictorial woven tissues and articles of artistic handicraft and applied art, the prototype as well as the work itself,
- 11) maps, also drawings and graphic and plastic representations or portrayals of a scientific or technical nature,
- 12) computer programs,
- 13) translations and adaptations of the above-mentioned works.

In the case of photographic pictures which are not a literary, scientific or artistic work, section 43 a shall apply.

**§ 2.** Subject to the limitations laid down in this Act, copyright shall confer the exclusive right to dispose of a literary, scientific or artistic work by producing permanent or temporary copies thereof and by making it available to the public, be it in the original or an altered form, in translation or adaptation, in another literary or artistic form, or by other technical means.

The transferring of a work to any device by which it can be reproduced shall also be considered a production of copies.

The work is made available to the public when

- a) copies of the work are offered for sale, rental or lending, or otherwise distributed to the public,
- b) copies of the work are displayed publicly without the use of technical aids, or
- c) the work is performed publicly.

As public performance is also included broadcasting or other transmission by wire or wireless means to the public, hereunder when the work is made available in such a way that the individual can choose the time and place of access to the work.

§ 3. Both when copies of a literary, scientific or artistic work are produced, and when it is made available to the public, the author is entitled to have his name stated in the manner required by proper usage.

If another person has the right to alter a literary, scientific or artistic work or to make it available to the public, this must not be done in a manner or in a context prejudicial to the author's literary, scientific or artistic reputation or to his individuality, or prejudicial to the reputation or individuality of the work itself.

The author may not waive his rights under the first and second paragraphs, unless the use of the work in question is limited in nature and extent.

If the work is made available to the public in such prejudicial form as is stated in the second paragraph, the author, even if he has given valid consent to the use of the work, shall have the right to demand either that he is not to be named as the author, or that it is stated in a satisfactory manner that the alterations made do not derive from him. This right may not be waived by the author.

§ 4. The author may not object to other persons using his scientific, literary or artistic work in such a manner that new and independent works are created. The copyright in the new and independent work shall not be subject to the copyright in the work that has been used.

Any person who translates or adapts a literary, scientific or artistic work or converts it into another literary or artistic form shall have the copyright in the work in that form, but may not dispose of it in such a manner as to infringe the copyright in the original work.

§ 5. Any person who by combining several literary, scientific or artistic works, or parts thereof, creates a collective literary, scientific or artistic work shall have the copyright in the collective work, but this right shall in no way restrict the copyright in the individual works of which the collective work consists.

Unless otherwise agreed, the individual contributors shall be free to make their contributions public in another manner.

§ 6. If a literary, scientific or artistic work has two or more authors whose individual contributions cannot be distinguished as separate works, the copyright in the work shall belong to the authors jointly.

For the initial issuing of such a work the consent of all the authors must be obtained, unless such consent has, explicitly or tacitly, been given in advance. The same shall apply to the issuing of such a work in another manner or in another form than previously. However, it may be reissued in the same manner at the demand or with the consent of each of the authors.

Each of the authors shall have the right to prosecute in respect of infringements of the copyright.

§ 7. In the absence of proof to the contrary, the person whose name or generally known pseudonym, mark or symbol is entered in the usual manner on copies of a work, or stated when the work is made available to the public, shall be deemed to be the author of the work.

If a work is published without the name of the author being stated in accordance with the first paragraph, the editor, or if he is not named either, the publisher, may act on behalf of the author until the latter's name is stated in a new edition or in a notification to the Ministry concerned.

**§ 8.** A literary, scientific or artistic work is issued when with the consent of the author it has been made available to the public. A work of art is issued also when the author has assigned a copy of the work to another person, and such copy has been made available to the public pursuant to sections 19, 20, 23, 23a and 24.

A literary, scientific or artistic work is published when a reasonable number of copies thereof have, with the consent of the author, been placed on sale or otherwise distributed to the public.

**§ 9.** Legal statutes, administrative regulations, court decisions and other decisions by public authorities are not protected by this Act. This is also the case with proposals, reports and other statements which concern the public exercise of authority, and which are made by a public authority, a publicly appointed council or committee, or published by the public authorities. Similarly, official translations of such texts are not protected by this Act.

Literary, scientific or artistic works which have not been produced specially for use in documents specified in the first paragraph, and from which parts are quoted or which are reproduced in a separate appendix, are not covered by this provision. Nor shall the first paragraph apply to poetry, musical compositions or works of art.

**§ 10.** Registration of a literary, scientific or artistic work as a design shall not affect the protection of such work pursuant to this Act.

The layout-design of integrated circuits shall not be covered by this Act.

## **Chapter 2. Limitations on copyright and the management of rights by extended collective licence**

### **General provisions**

**§ 11.** The provisions of this chapter shall impose no further restriction of the author's rights pursuant to section 3 than that ensuing from section 29.

When a work is publicly reproduced pursuant to the provisions of this chapter, this may be done in the dimensions and form required for the purpose, but without thereby altering or prejudicing the character of the work. When a work is thus reproduced, the source shall always be stated in the manner required by proper usage.

### **Certain temporary copies**

**§ 11a.** When an occasional or incidental reproduction of temporary copies forms part of an integral and essential part of a technological process that has the sole purpose of enabling

- a) a lawful use of a work, or
  - b) a transmission in a network by an intermediary on behalf of third parties,
- such reproduction of copies is exempted from the exclusive right provided for in section 2, unless it has independent economic significance.

The provision in the first paragraph shall not apply to computer programs and databases.

### **Making copies for private use**

**§ 12.** Provided this is not done for purposes of gain, single copies of a work that has been issued may be made for private use. Such copies may not be used for other purposes. The authors shall receive fair compensation through annual grants via the State Budget. The King may issue further regulations governing the distribution of the compensation.

The provision in the first paragraph shall not confer a right to:

- a) copy an architectural work through the construction of a building,
- b) make machine-readable copies of computer programs,
- c) make machine-readable copies of databases in machine-readable form, or
- d) make copies of works of art by means of photocopying, taking a cast or impression or by other similar means of reproduction if the copy may be perceived as an original.

The provision in the first paragraph shall not confer a right to engage outside assistance to a reproduction regarding

- a) musical works,
- b) cinematographic works,
- c) sculpture, pictorial weavings and articles of artistic handicraft and applied art, or
- d) the artistic reproduction of other works of art.

Disabled persons can without hinder under this provision let the production of musical or cinematographic works be carried out with the aid of outside assistants that do not participate for the purpose of gain, when this is necessary due to the disablement.

Copies cannot be made pursuant to this paragraph on the basis of a representation of the work in conflict with section 2, or on the basis of a copy that has been the subject matter of or is the result of a circumvention of protected technological protection measures, unless such production is necessary pursuant to section 53 a third paragraph second sentence.

### **The use of works in educational activities**

**§ 13.** Teachers and pupils may make fixations of their own performances of works for educational use. Such fixations shall not be used for other purposes.

The King may decide that schools and other educational institutions may make fixations of broadcasts for time-deferred use free of charge.

### **Compulsory licence for the use of works for educational use**

**§ 13a.** Copies of a published work may be made for use in a public examination. The originator of the work shall be entitled to remuneration.

### **Extended collective licence for the use of works in educational activities**

**§ 13b.** Copies of a published work can be made for use in own educational activities if the conditions for an extended collective licence pursuant to section 36 first paragraph are fulfilled. Fixations of broadcasts can be made on the same conditions. This does however not apply if the broadcast consists of a cinematographic work which must be perceived as also intended for uses other than presentation via television, unless only minor parts of the work are used in the broadcast.

Fixation centres which are approved by the Ministry may, for use in educational activities, make fixations as specified in the first paragraph, if the centre fulfils the conditions for an extended collective licence pursuant to section 36, first paragraph.

Copies made pursuant to the first and second paragraphs may only be used in educational activities covered by the agreement under section 36.

The King will issue regulations concerning the storage and use of fixations pursuant to the first and second paragraphs.

### **Extended collective licence for the use of works in institutions, commercial enterprises etc**

**§ 14.** Public and private institutions, organizations and commercial enterprises may, for use within their own activities, make copies of a published work if they fulfil the conditions for an extended collective licence pursuant to section 36, first paragraph. Fixations of broadcasts can be made on the same conditions. This does however not apply if the broadcast consists of a cinematographic work which must be perceived as also intended for uses other than presentation via television, unless only minor parts of the work are used in the broadcast.

Copies made pursuant to the first paragraph can only be used within the activity which is covered by the agreement pursuant to section 36.

### **Fixations made in health institutions, etc.**

**§ 15.** Health institutions, homes for the elderly, prisons and similar institutions may make fixations of works that are part of a broadcast for presentation within a short period of time in the institution.

The King will determine which institutions shall have the right to make fixations as specified in the first paragraph, and will issue regulations regarding the use and erasure of such fixations.

### **Making copies in archives, libraries and museums, etc.**

**§ 16.** The King may issue rules regarding the right of archives, libraries and museums and educational and research institutions to make copies of works for conservation and safety purposes and other special purposes. The provision does not apply to commercial use.

The King may issue regulations on that archives, libraries, museums and educational institutions, using terminals on their own premises, can make works in the collections available to individual persons when this is done for the purpose of research or private study.

### **Extended collective licence for the use of works in archives, libraries and museums**

**§ 16a.** Archives, libraries and museums as described in section 16 first paragraph can make copies of published works in the collections and make such works available to the public if the conditions of the extended collective licence pursuant to section 36 first paragraph are fulfilled.

### **Making copies for use by the disabled**

**§ 17.** From a published literary or scientific work or musical work copies intended for the use of the blind and persons whose sight is impaired and others who due to the disability cannot attain the work in a usual manner may be made in a form other than a sound fixation. Published literary or scientific works may be reproduced on film, with or without sound, intended for the use of persons whose hearing or speech is impaired. The provision does not apply to commercial use.

The provisions of the first paragraph shall not confer a right to reproduce copies which others have made with a particular view to the uses specified therein.

### **Compulsory license for the production and use of fixations for the disabled**

**§ 17a.** The King may decide that certain specified organizations and libraries shall, on stipulated terms, for the purpose of free use by the disabled, have the right to make copies of published literary or scientific works by making a fixation on a device that can reproduce them. In connection with the text of such works, issued works of art and issued photographic works may be reproduced on the fixation. The author is entitled to remuneration to be paid by the State. The provision does not apply to commercial use.

### **Extended collective licence for the production and use of fixations for the disabled**

**§ 17b.** The King may issue regulations regarding the right to make a fixation of a published film or picture, with or without sound, and of a transmitted broadcasting programme not essentially consisting of musical works. Such regulations shall only apply to such use as is specified in section 17a, and only be applicable when the person making the fixation fulfils the conditions for an extended collective licence pursuant to section 36, first paragraph.

### **Collective works for use in education, etc.**

**§ 18.** In a collective work, intended for use in religious services or in education, and consisting of works by a large number of authors, minor parts of literary or scientific works or musical works or short works of this kind, may be reproduced if five years have elapsed since the expiry of the year in which the particular work was published. In connection with the text of such works, works of art and photographic works may also be reproduced if five years have elapsed since the expiry of the year in which the work was issued. A work created for use in education shall not be reproduced in a collective work compiled for the same purpose. The provision does not provide the right to reproduction in machine-readable media.

The author is entitled to remuneration.

### **Distribution of copies**

**§ 19.** When a copy of a work has been sold with the consent of the author, the copy may be further distributed amongst the public. The same shall apply to copies of issued works, and any copy of a work of art or photographic work which the author has assigned in any other way. The provisions apply only when the copy has been sold or transferred as described within the European Economic Area, unless the copy has been acquired by a person for private use or is further distributed through lending or rental.

The provisions of the first paragraph shall not confer a rental right, except in respect of buildings and works of applied art. Nor do the provisions confer a lending right in respect of machine-readable copies of computer programs. Exchanges that are carried out as an organized activity shall be considered on a par with rental.

### **Exhibition of copies**

**§ 20.** If a work has been published, or if the author has assigned copies of a work of art or a photographic work, the copies may be publicly exhibited. Copies of issued works of art and of issued photographic works may be publicly exhibited in an educational context.

### **Performance in an educational context, etc.**

**§ 21.** A published work may be performed publicly at religious services and in an educational context. If the author has transferred copies of a work of art or a photographic work, or such works have been issued, the work can be performed publicly in an educational context.

A published work may also be performed publicly:

- a) at events where the performance of literary, scientific or artistic works is not the primary feature, provided that the audience is admitted free of charge, and the event is not even indirectly organized for purposes of gain,
- b) at youth meetings that have not been arranged for purposes of gain.

This section shall not apply to cinematographic works or the stage performance of stage works or to the public performance of databases in an educational context of a commercial nature. Nor shall the section confer a right to perform a work in a broadcast. Neither does it within education for commercial purposes provide the right to other transmission by wire or wireless means to the public. The right to perform a work in an educational context shall not apply to performances within the framework of organized concerts.

### **Quotation**

**§ 22.** An issued work may be quoted, in accordance with proper usage and to the extent necessary to achieve the desired purpose.

### **Reproduction of works of art, etc.**

**§ 23.** Issued works of art and issued photographic works may be reproduced in connection with the text of a critical or scientific treatise which is not of a generally informative character, when this is done in accordance with proper usage and to the extent necessary to achieve the desired purpose.

Subject to the same limitation an issued photographic work may also be reproduced, on payment of remuneration, in critical or scientific treatises of a generally informative character and in connection with the text in works intended for instructional use.

An issued portrait in the form of a photographic work may be reproduced in a publication containing biographical material.

The provisions of this paragraph do not provide the right to reproduction in machine-readable form, unless this concerns a non-commercial reproduction pursuant to the first paragraph.

**§ 23a.** Issued works of art and issued photographic works may be reproduced in newspapers, periodicals and broadcasts in connection with the reporting of a current event. However, this shall not apply to works that are created with a view to reproduction in newspapers, periodicals or broadcasts. The author shall be entitled to remuneration except in the case of a current event related to the work that is reproduced.

If a work of art or a photographic work has been published, or if the author has assigned a copy of such a work, the latter may be included in newspapers, books, periodicals, films or broadcasts, provided that the work forms part of the background or in like manner is of minor importance in the overall context.

**§ 24.** Works of art and photographic works which form part of a collection or which are exhibited or offered for sale may be depicted in catalogues of the collection and in announcements of the exhibition or sale. Catalogues can only be produced by printing, photocopying or similar methods.

Works of art and photographic works may also be depicted when they are permanently located in or near a public place or thoroughfare. However, this shall not apply when the work is clearly the main motif and the reproduction is exploited commercially.

Buildings may be freely depicted.

### **News report in a broadcast or film**

**§ 25.** If the performance or exhibition of a work forms part of a current event which is broadcast or filmed, brief excerpts from the work, or the entire work if it is of minor extent, may be included in the broadcast or film. In cases where the performance or exhibition of the work only forms part of the background or in like manner is of minor importance compared to the main subject of the news report, the entire work may be reproduced.

### **Public proceedings, right of information, etc.**

**§ 26.** Proceedings in public assemblies, boards, councils and the like, in meetings of elected public authorities, in court cases and in public meetings held to discuss questions of public interest, may, subject to the limitations ensuing from section 28, be made available to the public by any person without the author's consent. An author shall, however, retain the exclusive right to publish a compilation of his own statements.

**§ 27.** Protection pursuant to this Act shall not preclude access to documents pursuant to the Public Administration Act and the Freedom of Information Act or other legislation.

Nor shall the Act prevent a work from being used in connection with a search, an investigation or as evidence.

**§ 28.** The right to further reproduce documents invoked as evidence or as an expert opinion, etc. in such proceedings as are specified in section 26, and documents that may be inspected pursuant to legislation as specified in section 27, is dependent on the rules that otherwise apply. Nonetheless, such documents may be quoted in accordance with proper usage and to the extent necessary in order to describe the proceedings or the matter for which the document has relevance, even if the work has not been issued.

### **Alteration of buildings and works of applied art**

**§ 29.** Buildings and works of applied art may be altered without the author's consent when this is done for technical reasons or for utilitarian purposes.

### **Special provisions regarding broadcasting, etc.**

**§ 30.** The Norwegian Broadcasting Corporation and other broadcasting organizations, as decided by the King, are entitled, on payment of remuneration, to broadcast a published work if the conditions for an extended collective licence pursuant to section 36 first paragraph are fulfilled. The same shall apply to issued works of art and issued photographic works.



In the case of satellite broadcasting, the provisions of the first paragraph shall not apply unless the broadcast from the same broadcasting organization is simultaneously transmitted in the realm over a territorial network.

The provisions of the first paragraph shall not apply to transmission by wire. It shall not apply to stage works and cinematographic works, nor to other works if the author has prohibited broadcasting by the said organization, or there is otherwise special reason to assume that he is opposed to the work being broadcast.

**§ 31.** The Norwegian Broadcasting Corporation and others who have a licence to operate a broadcasting organization may, by means of their own equipment and for use in their own broadcasts, make fixations of works on devices that can reproduce them, if they otherwise have the right to include the work concerned in their broadcasts. The right to make such fixations available to the public shall be subject to the rules which are otherwise in force. The King will issue further regulations concerning the use and storage of such fixations.

The provision in the first paragraph shall not confer a right to combine film and sound by transferring a sound fixation to a film unless a performance at the time of fixation forms part of the film.

### **Extended collective licence for the use of works in the broadcasting organizations' collections**

**§ 32.** The Norwegian Broadcasting Corporation and others who are licenced to operate a broadcasting organization have the right to use issued works in their collections in connection with

- a) new broadcasts, or
- b) transmission in such a way that the individual can choose the time and place of access to the work

if the conditions for an extended collective licence pursuant to section 36 first paragraph are fulfilled.

This paragraph applies only to works that were broadcasted prior to 1st January 1997 and that are part of the broadcasting organization's own productions. The paragraph does not apply if the author has prohibited such use of the work or there is otherwise special reason to believe that he is opposed to such use.

**§ 33.** Discussion programmes which are broadcast and in which topics of public interest are discussed may be publicly reproduced by anyone without the consent of the author. An author shall, however, have an exclusive right to publish compilations of his own statements.

**§ 34.** Works that are lawfully included in a broadcast may, by simultaneous and unaltered retransmission, be communicated to the public when the person effecting the retransmission fulfils the conditions for an extended collective licence pursuant to section 36, first paragraph, or retransmits with the permission of a commission pursuant to the provisions of section 36, second paragraph.

The exclusive right of the author as regards retransmission may only be exercised through an organization approved in terms of section 38 a.

Retransmission of works originally broadcast by wire is not covered by this section.

### **Common provisions regarding compulsory licences, extended collective licences, commissions, etc.**

**§ 35.** Each of the parties may demand that remuneration pursuant to sections 13a, 17a, 18, 23, 23a and 45b shall be determined in a binding manner in accordance with rules

prescribed by the King. The King will lay down rules to the effect that a person who fails to pay remuneration for which he is liable may, on the request of the person entitled thereto, with binding effect be prohibited from making continued use of a work.

The King will issue rules regarding a commission as referred to in sections 34 and 45a, fourth paragraph.

**§ 36.** When there is an agreement with an organization referred to in section 38 a which allows such use of a work as is specified in sections 13b, 14, 16a, 17b, 30, 32 and 34, a user who is covered by the agreement shall, in respect of rightholders who are not so covered, have the right to use in the same field and in the same manner works of the same kind as those to which the agreement (extended collective licence) applies. The provision shall only apply to use in accordance with the terms of the agreement. The provision shall not apply in relation to the rights that broadcasting organizations hold in their own broadcasts.

As regards the retransmission of works pursuant to section 34, where negotiations on an agreement as referred to in the first and second sentences of the first paragraph, or negotiations with a broadcasting organization concerning an agreement, are refused or no agreement has been entered into within six months after the commencement of negotiations, each of the parties may demand that permission and conditions for retransmission be determined in a binding manner by a commission pursuant to section 35, second paragraph. The provisions of the first paragraph shall apply correspondingly in such cases.

**§ 37.** In connection with the use of works pursuant to section 36, whatever the agreement, the commission or the organization receiving the remuneration for such use decides with regard to the collection and distribution of remuneration shall also be binding on the rightholders who are not represented by the organization. Non-member rightholders shall have the same rights as rightholders who are members of the organization to share in the funds and benefits that are distributed or largely financed from the remuneration.

Irrespective of the provision in the first paragraph, a non-member rightholder who can substantiate that his work has been used pursuant to section 36 may demand that remuneration for such use shall be paid to him. Such claim must be put forward within three years from the expiry of the year the use took place, and may only be directed to the organization which pursuant to section 36 has collected remuneration. Each party may demand that the amount of the remuneration be determined pursuant to rules laid down by the King.

**§ 38.** Should an agreement pursuant to sections 13b, 14, 16a, 17b, 30 and 32 not be concluded, each of the parties may demand mediation in accordance with rules laid down by the King. Where the parties so agree, permission and conditions for making copies may be determined in accordance with the rules prescribed pursuant to section 35, first paragraph. Such determination shall have the same effect as an agreement pursuant to section 36, first paragraph.

Where the parties to agreements pursuant to sections 13b, 14, 16a, 17b, 30 and 32, so agree, any dispute concerning the interpretation of an agreement may be decided in a binding manner in accordance with the rules prescribed pursuant to section 35, first paragraph.

Should an agreement with a broadcasting organization concerning permission to make fixations of the organization's broadcasts for such uses as are covered by sections 13b, 14 or 17b, not be concluded, the provision in the first and second sentences of the first paragraph shall apply correspondingly. In the event of a dispute regarding the interpretation of such an agreement, the provision in the second paragraph shall apply correspondingly.

Where the parties concerned so agree, a dispute regarding the interpretation of an agreement in respect of such retransmission as is specified in section 34 may in a binding manner be decided by the commission referred to in section 35, second paragraph.

**§ 38a.** Agreements intended to have an effect as specified in section 36, first paragraph, shall be entered into by an organization which in the field represents a substantial part of the authors of works used in Norway, and which is approved by the Ministry. For use in certain specified fields, the King may decide that the organization which is approved shall be a joint organization for the rightholders concerned.

The King may issue further provisions regarding the supervision of the organizations and funds which receive remuneration for further distribution.

### **The organizations' right of action**

**§ 38b.** An organization referred to in section 38 a may, in the absence of any objection from the rightholder, demand that a user who has not entered into such an agreement as is referred to in section 36 shall be prohibited by a court judgment from unlawfully exploiting a work in a manner that is covered by the provisions of sections 13b, 14, 16a, 17b, 30, 32 or 34. The same shall apply to a user who is party to such an agreement and who fails to pay the agreed remuneration.

Similarly, an organization referred to in section 38a may, in the absence of any objection from the rightholder, submit a claim pursuant to sections 55 and 56 of this Act against anyone who has undertaken such unlawful use as is referred to in the first paragraph. If the person who has unlawfully exploited a work has satisfied the organization's claim, the rightholder's claims as regards the same use may only be directed to the organization, which is then obliged to pay the rightholder what he is entitled to.

### **Resale right**

**§ 38c.** The author has the right to remuneration when an art market professional acts as a seller, buyer or agent in the resale of original works of art protected by copyright such as paintings, collages, drawings, etchings, prints, lithographs, sculptures, woven works/tapestries, ceramics, glass and photographic works. Original works of art are defined for this purpose as artworks produced in a limited number of copies by the artist him/herself or with his/her permission. This provision does not apply to buildings.

The right stated in the first paragraph does not apply to resale by private persons to museums that are open to the public and that are not operated as commercial enterprises, unless an agent as described in the first paragraph participates in the sale.

The remuneration shall be calculated on the basis of the sales price excluding value added tax in accordance with the following rates:

- ☐ a) 5 % of the part of the sales price that does not exceed 50,000 euro,
- ☐ b) 3 % of the part of the sales price that exceeds 50,000 euro, but does not exceed 200,000 euro,
- ☐ c) 1 % of the part of the sales price that exceeds 200,000 euro, but that does not exceed 350,000 euro,
- ☐ d) 0.5 of the part of the sales price that exceeds 350,000 euro, but that does not exceed 500,000 euro, and

- e) 0.25 % of the part of the sales price that exceeds 500,000 euro.

The remuneration shall be paid when the sales price excluding value added tax exceeds 3,000 euro. The total remuneration for a resale shall not exceed more than 12,500 euro.

Sellers and agents as described in the first paragraph are jointly and severally responsible for paying the resale right remuneration. If neither of these is an art market professional, the buyer is responsible for paying the remuneration.

The demand for remuneration must be brought to apply against the person/persons liable for payment of this through the good offices of the collection and distribution organisation approved by the Ministry. When a demand for remuneration pursuant to the first paragraph is time-barred as a result of the articles and provisions of the Act of 18<sup>th</sup> May 1979 No. 18 on the limitation of action on receivables, the remunerations shall become the property of the organisation and shall be used to cover the costs incurred by the organisation in collecting and distributing the resale right remuneration, or for other collective purposes stipulated in the organisations Articles.

The right under the first paragraph can be neither waived not transferred. If the author has no heirs, resale right remuneration that fall due after the death of the author become the property of the organisation approved at any one time mentioned in the sixth paragraph. Such monies shall be employed as described in the sixth paragraph, second point.

A seller, buyer or agent as described in the first paragraph shall, within the sixth period for the payment of value added tax to the organisation that is at any one time approved pursuant to the sixth paragraph, provide all information necessary to ensure payment of the resale right remuneration for the previous year's sales. The said organisation can also demand information concerning sales for the three previous years.

### **Chapter 3. Transfer of copyright**

#### **General provisions**

**§ 39.** Subject to the limitation ensuing from section 3, the author may, wholly or partly, assign his right to dispose of a literary, scientific or artistic work.

Assignment of a copy shall not include assignment of the copyright or any part thereof, even if it is the original that is assigned. Assignment of copyright does not include ownership of the manuscript or any other copy that is delivered in connection with the assignment.

**§ 39a.** If the author has assigned the right to use the work in a specific manner or by specific means, the assignee shall not have the right to use it in another manner or by other means.

#### **Alterations and further assignment**

**§ 39b.** Assignment of copyright shall not confer a right to alter the work unless otherwise agreed.

Nor may any further assignment of copyright be made without consent, unless the copyright belongs to a business or to a part thereof and is assigned together therewith. The assignor shall remain liable for the fulfilment of the agreement with the author.

### **Checking accounts**

**§ 39c.** If the author's remuneration is calculated on the basis of the assignee's turnover, sales figures, etc. the author may demand that a statement of accounts be rendered at least once a year. Similarly, the author may demand that each statement be accompanied by detailed information regarding the matters on which the calculation of remuneration is based.

The author may demand that the assignee's balance sheets, account books and stock, as well as certificates from the person who has exploited the work, shall be placed at the disposal of a state-authorized accountant or registered auditor who has been appointed by the author. The accountant or auditor shall inform the author as to the accuracy of the statement of accounts that has been drawn up, and as to any irregularities therein, but otherwise he has a duty of confidentiality as regards all other matters of which he may learn in the course of his examination.

The provisions of this section may not be departed from in a manner prejudicial to the author.

### **Agreements regarding performance**

**§ 39d.** Assignment of the right to perform a work publicly shall not give the assignee an exclusive right unless this has been agreed. Unless otherwise agreed, such assignment shall be valid for three years.

Even though an exclusive right of performance has been assigned, the author may, unless otherwise agreed, himself perform the work or assign the right of performance to another person, if the assignee has for three consecutive years failed to exercise the right.

The provisions of this section shall not apply to cinematographic works.

### **Publishing agreements**

**§ 39e.** By a publishing agreement the author assigns the right to reproduce a work by means of printing or a similar process, and to publish the work in that form.

Insofar as a publishing agreement confers an exclusive right, the publisher is obliged to publish the work within a reasonable period of time and ensure that it is distributed in the usual manner. If, after the work has been published, the publisher does not ensure that copies of the work are made available to the public within a reasonable period of time after having been requested to do so by the author, the author may rescind the agreement and retain the fee received.

Unless otherwise agreed, the publisher shall have the right to publish up to 3,000 copies of the work, but if the publication comprises only musical works, not more than 1,000 copies, and when the publication comprises only works of pictorial art, not more than 200 copies.

When more than one year has elapsed since the publisher published the work, or more than one year has elapsed since the author last made alterations in the work, the author shall be entitled, if further copies are to be made, to make alterations which do not entail disproportionate expense or alter the character of the work.

When 15 years have elapsed since the expiry of the year in which the publisher first published the work, the author shall have the right to include the work in an edition of his collected or selected literary works. The right to publish such an edition shall first be offered to the publisher or, if the author's works have been published by several different publishers, to the publisher who may be considered his main publisher.

The author may claim compensation for any damage resulting from default. However, this shall not apply insofar as it is substantiated that the damage is due to an obstacle which was beyond the publisher's control, and which the publisher could not reasonably have been expected to have taken into consideration at the time the agreement was made or to avoid or overcome the consequences thereof. If the damage is caused by a third party whom the publisher has charged with taking the action necessary to fulfil the agreement, the publisher shall only be free from liability if the third party would also have been exempt from liability pursuant to the provisions of this paragraph.

In the case of serious default on the part of the publisher as regards his obligations pursuant to the publishing agreement, the author may rescind the agreement, retain the fee received and claim compensation in accordance with the rules in the sixth paragraph for damage that is not covered by the said fee.

Any agreement that to the detriment of the author significantly deviates from the provisions of the second, sixth and seventh paragraph cannot be applied. The author may not waive his right pursuant to the fifth paragraph.

The provisions of this section shall not apply to agreements concerning contributions to newspapers or periodicals, or agreements concerning contributions which are to be used as illustrations in works that are to be published. The provisions of the second and third paragraphs shall not apply to agreements concerning contributions to collective works. The provisions of the second paragraph shall not apply to agreements concerning translations.

### **Agreements regarding the production of cinematographic works**

**§ 39f.** If the author has assigned the right to use a work for a film, the assignee shall, unless otherwise agreed, be obliged to produce the cinematographic work within a reasonable period of time and ensure that it is communicated to the public. In the case of serious default on the part of the assignee, the author may rescind the agreement, retain the fee received and, pursuant to the provisions of section 39 e, claim compensation for damage not covered by the said fee.

Unless otherwise agreed, the assignment of a right to produce a cinematographic work comprises the right to

- a) make copies of the cinematographic work,
  - b) make the cinematographic work available to the public by distributing copies and by showing the work, and
  - c) furnish the cinematographic work with subtitles or translated speech.
- The provision in the second paragraph shall not apply to
- a) already existing works,
  - b) screenplays and musical works specifically created for use in the cinematographic work, or
  - c) the principal direction of the cinematographic work.

## **Computer programs**

**§ 39g.** Copyright in a computer program which is created by an employee in the execution of duties for which he is employed or in accordance with the instructions of his employer shall, subject to the limitation ensuing from section 3, devolve on the employer, unless otherwise agreed.

**§ 39h.** Any person having a right to use a computer program may make copies of, alter and adapt the program insofar as is necessary for the use of the program in accordance with its intended purpose, including the correction of errors in the program.

Any person having a right to use a computer program may make a backup copy insofar as it is necessary for the use of the program.

Any person having a right to use a copy of a computer program may, in connection with such loading, displaying, running, transmission or storage of the program as the user is entitled to perform, observe, study or test the functioning of the program in order to determine the ideas and principles which underlie the various elements of the program.

Any person having a right to use a database, may perform such acts as are necessary to access and make normal use of the contents of the database

No departures from the provisions of the second , third or fourth paragraphs may be made by agreement.

**§ 39i.** It is permissible to make a copy of the code of a computer program and translate the form of the code when this is indispensable in order to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, if

- a) these acts are performed by a person having a right to use a copy of a computer program, or on his behalf by a person authorized to do so,
- b) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in litra a), and
- c) these acts are confined to the parts of the original program which are necessary to achieve interoperability.

The information obtained through the application of the provisions of the first paragraph shall not

- a) be used for purposes other than to make possible the interoperability of the independently created computer program,
- b) be given to others, except when this is necessary in order to make possible the interoperability of the independently created computer program, or
- c) be used for the development, production or marketing of a computer program substantially similar to the original in its expression, or for any other act which infringes copyright in the program.

No departures from the provisions of this section may be made by agreement.

## **Commissioned portraits**

**§ 39j.** The author may not exercise his rights relating to a commissioned portrait without the consent of the person who commissioned it..

If the portrait is a photographic work, a copy of it may in the usual manner be exhibited as an advertisement for the author's photographic activities, provided the person who commissioned it does not prohibit such exhibition.

With regard to protection of the subject of the portrait, the provisions of section 45 c shall apply even if the portrait is not a photographic work.

### **Inheritance and creditor prosecution**

**§ 39k.** After the author's death the rules relating to inheritance, the community property of spouses and the right of the surviving spouse to remain in possession of the undistributed estate shall also apply to the author's copyright.

In his will the author may, with binding effect also as regards the surviving spouse and the heirs of his body, make provisions as to the exercise of his copyright or empower another person to make such provisions.

If a copyright has been inherited from the author by several persons jointly, the consent of all the heirs must be obtained for the initial issuing of the work, unless they or the author have, explicitly or tacitly, given such consent in advance. For the issuing of the work in another manner or in another form than previously, it is nonetheless sufficient that consent has been given by the heirs that calculated by share of inheritance form a majority. Any heir can demand or give consent to the reissuing of the work in the same manner. Each of the heirs shall have the right to prosecute in respect of infringements of the copyright. This paragraph applies only where no other provision results from the provisions pursuant to the second paragraph.

Any infringement of such provisions as are referred to in the second paragraph or of the provisions of sections 3 and 11, second paragraph, may be prosecuted both by the author's surviving spouse and by any other of his relatives in direct line of ascent or descent, brothers and sisters, or by the person appointed pursuant to the second paragraph of this section.

**§ 39l.** The author's right to dispose of a literary, scientific or artistic work shall not be subject to execution or any other enforcement measure on the part of his creditors, either against himself, or against any person to whom, on the author's death, the copyright has passed in accordance with section 39 k, first paragraph.

The same shall apply to manuscripts or similar copies, plates, moulds, etc. which have been created to serve as a means of producing copies of a specific work of art, and to works of art which have not been exhibited, offered for sale or in any other way approved for public issue.

### **Right of remuneration for the rental of films and phonograms**

**§ 39m.** If the author has assigned to a film- or phonogramproducer the right to make a film or phonogram available to the public by way of rental, the author shall retain the right to obtain an equitable remuneration from the producer. Exchanges that are carried out as an organized activity shall be considered on a par with rental.

No departures from the provisions of this section may be made by agreement.

## **Chapter 4. Term of protection of copyright**

**§ 40.** Copyright shall subsist during the lifetime of the author and for 70 years after the expiry of the year in which the author died. For such works as are referred to in section 6, the period of 70 years shall be calculated from the expiry of the year in which the last surviving author died. In the case of cinematographic works, the term of protection shall run from the



expiry of the year of the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic work.

**§ 41.** If a work has been issued without stating the author's name, a generally known pseudonym, mark or symbol, the copyright shall subsist for 70 years after the expiry of the year in which the work was first issued. If the work consists of several parts, the term of protection shall be calculated separately for each part. The copyright in works by an unknown author shall subsist for 70 years after the expiry of the year in which the work was created, if the work is not issued during this period.

If during this period the name of the author is made known in accordance with section 7, or if it is established that he died before the work was issued, the term of protection shall be determined pursuant to section 40.

**§ 41a.** Any person who for the first time lawfully makes available to the public a literary, scientific or artistic work which has not been issued before the expiry of the term of protection pursuant to sections 40 and 41 shall be entitled to the same right as an author pursuant to section 2. This right shall subsist for 25 years after the expiry of the year in which the work was first made available to the public.

## **Chapter 5. Other rights**

**§ 42.** Subject to the limitations laid down in this Act, a performing artist has the exclusive right to dispose of his performance of a work by

- a) making temporary or permanent fixations of the performance,
- b) producing permanent or temporary copies of a fixation of the performance, and
- c) making the performance or a fixation of the performance available to the public. For the public performance of sound fixations the provisions in section 45b nonetheless apply, unless the performance is done in such a way that the individual can choose the time and place of access to the fixation.

The term of protection pursuant to this provision shall subsist for 50 years after the expiry of the year in which the performance took place. If the fixation is issued during this period, the term of protection shall subsist for 50 years after the expiry of the year in which the fixation was first issued.

When a copy of a fixation which reproduces a performing artist's performance of a work has been sold with the artist's consent within the European Economic Area, the copy may be further distributed by means other than by rental. The same shall apply when the artist has within the said area assigned a copy of an issued sound fixation or a film which reproduces such a performance.

Unless otherwise agreed, an agreement concerning the production of a film of the performance of a performing artist shall also include the right to rent out copies of the film.

The provisions of sections 2, 3, 6 to 8, 11 to 17, 17b, 18, 21, 22, 25, 27, 28, 31, 32, 33 to 39c, 39k to 39m and 50 shall apply correspondingly.

**§ 43.** A person who produces a formula, catalogue, table, program, database or a similar work in which a large number of items of information has been compiled, or which is the result of a substantial investment, shall have the exclusive right to dispose of all or a

substantial part of the contents of the work through the producing of copies thereof or through making it available to the public.

The exclusive right under the preceding paragraph applies correspondingly when insubstantial parts of works as mentioned, are repeatedly and systematically reproduced or made available to the public, if this constitutes acts conflicting with a normal exploitation of the work or which unreasonably prejudices the producer's legitimate interests.

The exclusive right to a work mentioned in the first paragraph shall subsist for 15 years following the expiry of the year the work was produced. If the work during this time is made available to the public, the term of protection shall subsist for 15 years following the expiry of the year the work was first made available to the public.

If a work of the kind specified in the preceding paragraph is wholly or partly subject to copyright, such right may also be enforced.

The provisions of sections 2, second and third paragraph, 6 to 8, 11a to 22, 25, 27, 28 30 to 38b and 39h, fourth and fifth paragraph shall apply correspondingly.

Agreements extending the producer's right beyond what is provided by the first paragraph to a work that has been made available to the public, are unenforceable.

**§ 43a.** A person who produces a photographic picture shall have the exclusive right to make copies thereof by photography, printing, drawing or any other process, and to make it available to the public.

The exclusive right to a photographic picture shall subsist during the lifetime of the photographer and for 15 years after the expiry of the year in which he died, but for not less than 50 years from the expiry of the year in which the picture was produced. If the exclusive right is shared by two or more persons, the term of protection shall run from the expiry of the year in which the last surviving person died.

The provisions of sections 2, second and third paragraphs, 3, 6 to 9, 11 to 21, 23 to 28, 30 to 39f and 39j to 39l shall apply correspondingly to photographic pictures to the same extent that they apply to photographic works.

If a photograph is subject to copyright, such right may also be enforced.

**§ 44.** Press reports which according by contractual arrangement are supplied by foreign news agencies or by correspondents abroad may not without the consent of the recipient be communicated to the public through the press or through broadcasting until 16 hours after they have been issued in this country.

In all cases where a press report from a news agency, newspaper, periodical or broadcasting service is reproduced by the press or by a broadcasting service, the source shall be stated in the manner required by proper press usage.

**§ 45.** Subject to the limitations laid down in this Act, a producer of sound fixations and films has the right to dispose over the fixation or film by making permanent or temporary copies of it and by making the fixation or film available to the public. For the public performance of sound fixations the provisions in section 45b nonetheless apply, unless the performance is done in such a way that the individual can choose the time and place of access to the fixation.

The term of protection pursuant to this provision shall subsist for 50 years after the expiry of the year in which the fixation took place. If the fixation is issued during this period of time, the term of protection shall subsist for 50 years after the expiry of the year in which the fixation was first issued.

When a copy of a sound fixation or a film has been sold, with the consent of the producer, within the European Economic Area, the copy may be further distributed by any means other than by rental. The same shall apply when within the said area the producer has assigned a copy of an issued sound fixation or film.

The provisions of sections 2, 7, 8, 11a to 17, 17b, 18, 21, 22, 25, 27, 28 and 31 to 38b shall apply correspondingly.

**§ 45a.** A broadcast or a part thereof may not, without the consent of the broadcasting organization

- a) be fixed on a device which can reproduce it,
- b) be transmitted by wireless diffusion or retransmitted to the public by wire or
- c) otherwise be communicated to the public for purposes of gain.

If a transmission has been fixed on a device as referred to in the first paragraph, it shall not, without the consent of the broadcasting organization, be transferred to another device until 50 years have elapsed since the expiry of the year in which the first transmission took place.

A broadcast may, on conditions to be prescribed by the King, be transmitted direct within an industrial or other enterprise by means of a radio or television receiver.

If a party should refuse to enter into negotiations concerning permission for simultaneous and unaltered retransmission to the public by wire of an originally wireless broadcast, or if no agreement has been concluded within six months after the commencement of negotiations, each of the parties may demand that permission and conditions for retransmission shall be determined by a commission pursuant to the provisions of section 35, second paragraph, of this Act.

The provisions of sections 7, 8, 11a to 13a, 15, 16, 18, 21, first paragraph, 22, 25, 27, 28, 31, 33, 35 and 38, third and fourth paragraphs, shall apply correspondingly.

**§ 45b.** Sound fixations of the performances of performing artists can, within the period of time specified in section 45, against remuneration, be made available to the public through public performance. This does not apply to transmission done in such a way that the individual can choose the time and place of access to the fixation.

Both the producer of the fixation and the performing artists whose performances are reproduced are entitled to remuneration. If two or more artists have cooperated in the performance, they shall jointly present their claim for remuneration. A claim for remuneration shall be presented to those who are liable to pay it through a collection and distribution organization approved by the Ministry concerned. The King may issue further rules for the collection and distribution of remuneration. The amount of the remuneration shall be fixed independently of the obligation to pay a levy pursuant to section 3 in the Act No. 4 of 14 December 1956 relating to a levy on the public performance of performing artists' performances, etc.

Rightholders who are not members of an organization approved pursuant to the second paragraph, must themselves claim remuneration from the organization. Such claim must be put forward within three years after the expiry of the year in which the fixation was performed. **Remuneration for forwarding can regardless be distributed in accordance with the principles in § 37.**

The provisions of sections 3, 22 and 25, cf. section 11, and section 39 k, fourth paragraph, shall apply correspondingly.

The provisions of this section shall not apply to sound film. For public performance of sound fixations that are not protected under the copyright act, the Act No. 4 of 14 December 1956 relating to a levy on the public performance of performing artists' performances, etc. applies.

## **Chapter 6. Various provisions**

**§ 45c.** Photographs of a person shall not be reproduced or publicly exhibited without the consent of the subject of the picture, except when

- a) the picture is of current or general interest,
- b) the picture of the person is less important than the main contents of the picture,
- c) the subject of the picture is a group assembled for a meeting, an outdoor procession or situations or events of general interest,
- d) a copy of the picture is exhibited in the usual manner as an advertisement of the photographer's work and the subject of the picture does not prohibit this, or
- e) the picture is used as specified in section 23, first paragraph, third sentence, or section 27, second paragraph.

The term of protection shall apply during the lifetime of the subject of the picture and for 15 years after the expiry of the year in which the subject died.

**§ 46.** A literary, scientific or artistic work shall not be made available to the public under a title, pseudonym, mark or symbol that is likely to cause confusion with a previously issued work or its author.

**§ 47.** The name, mark or symbol of an author shall not be placed on a copy of a work of art by any person other than himself, unless he has given his consent thereto.

The author's name, mark or symbol shall in no case be put on an imitation of a work in such a manner that the copy may be confused with the original.

**§ 48.** Even if the term of protection of copyright has expired, a literary, scientific or artistic work may not be made available to the public in a manner or in a context which is prejudicial to the author's literary, scientific or artistic reputation or individuality, or to the reputation or individuality of the work itself, or which may otherwise be considered harmful to general cultural interests.

Irrespective of whether the term of protection has expired or not, the Ministry concerned may, if the author is dead, prohibit a literary, scientific or artistic work from being made available to the public in such a way or in such a context as is referred to in the first paragraph. A similar prohibition may also be imposed by the Ministry at the request of a living author if the work in question is not protected in the realm.

The provision in section 3, first paragraph, shall apply correspondingly, even if the term of protection of the copyright has expired or if the work is not protected in the realm.

§ 49. If circumstances necessitate the destruction of the original copy, the author, if he is alive, shall be notified in reasonable time, if this can be done without particular disadvantage.

If the possessor of the original copy of a work without reasonable grounds prevents the author from exercising his exclusive right pursuant to section 2, he may by court judgment be ordered to give the author such access to the said copy as the court finds reasonable. The court will make its decision after taking into consideration all the existing circumstances, and may make the author's access to the copy conditional on his providing security, or impose other conditions.

Such proceedings as are referred to in the second paragraph may only be brought by the author personally with the consent of the Ministry concerned.

§ 50. Irrespective of any arrangement relating to property made between a husband and wife, an author who is married shall always retain sole control of his copyright.

If community property is divided during the lifetime of the author, his copyright shall be excluded from the settlement.

§ 51. (Repealed by Act No. 27 of 2 June 1995, from 30 June 1995. Now see section 35.)

§ 52. Printed works shall bear the number of the edition, the name of the printers, the place where the printing was carried out and the year of printing. Graphic works and printed reproductions of musical works shall also be supplied with a serial number within the edition.

§ 53. A council of experts consisting of representatives of authors and of industries or trades connected with the exploitation of literary, scientific or artistic works shall assist the Ministry concerned in the exercise of its duties pursuant to this Act.

Cases relating to prohibitions pursuant to section 48, and to the institution of legal proceedings pursuant to section 49, shall always be submitted to the said council of experts before the Ministry makes its decision.

The council, or a committee thereof, shall also have a duty to provide, when so requested, expert opinions for use by the courts in questions connected with this Act, and shall also act as an arbitration court in such cases if the parties agree to this.

The Ministry shall appoint the members of the council and shall issue regulations relating to the organization and activity of the council, and the remuneration of its members.

## **Chapter 6a. Provisions for the protection of technological protection measures and electronic rights information**

### **Prohibition against the circumvention etc. of effective technological protection measures**

§ 53a. It is prohibited to circumvent effective technological protection measures that the rightholder or others he has given permission employs to control the copying or making available to the public of a protected work.

It is also prohibited to:

- a) sell, rent or in any other way make available,
- b) manufacture or import for the making available to the public,

- c) advertise for sale or rental,
- d) possess for commercial purposes, or
- e) offer services in connection with devices, products or components that are offered for the purpose of circumventing effective technological protection measures, **or that** have only a limited commercial use for other purposes, **or that have** been developed mainly for the purpose of enabling or simplifying such circumvention.

The provisions of this section shall not hinder research into cryptology. Nor shall the provision in the first paragraph hinder private users in gaining access to legally acquired works on that which is generally understood as relevant playback equipment. For technical devices for the protection of computer programs the provisions in section 53c apply instead.

The provisions in the first paragraph shall not hinder copying pursuant to section 16.

### **Use of works when effective technical protective systems are employed**

**§ 53b.** Rightholders shall ensure that beneficiaries who have legal access to a protected work, without hinder by an effective technological protection measure, can use the work, hereunder produce new copies, pursuant to sections 13a, 15, 16, 17, 17a, 21, 26-28 and 31.

If the rightholder after a petition from a beneficiary of a section listed above fails to provide access as described in the first paragraph, he can, on the beneficiary's petition, be ordered to provide such information that is necessary to enable the work to be used in accordance with the objective. The petition shall be addressed to the Board established by the Ministry pursuant to regulations the King may issue. The Board can in addition to orders as mentioned, rule that the beneficiary without hinder under section 53a can circumvent the applied technological protection measures if the rightholder fails to adhere to the time limit imposed by the Board to comply with the order.

Copies of works that are encompassed under the Act No. 32 of 9 June 1989 relating to the legal deposit of generally available documents, shall nonetheless always be equipped with the information necessary to ensure that circumvention of technological protection measures to enable the legal copying is possible.

The provisions in this section do not apply where a protected work on agreed terms by transmission is made available to the public in such a way that the individual can choose the time and place of access to the work.

The provisions in this section do not apply to computer programs. The King may decide that some institutions in the sector of archives, libraries and museums automatically shall receive the information necessary to ensure that circumvention of technological protection measures to enable the legal copying is possible.

### **Technical devices for the protection of computer programs**

**§ 53c.** The sale of, or possession for purposes of gain, of any means the sole purpose of which is to facilitate the unlawful removal or circumvention of technical devices for the protection of a computer program, is prohibited.

### **Prohibition against the removal or alteration of electronic rights information**

**§ 53d.** It is prohibited without the rightholder's consent

- a) to remove or alter electronic rights information the rightholder has added to a protected work, and that is either included in a copy or shown in connection with the making available of the work to the public, or
- b) to import a copy for distribution, sell or in any other way make a protected work available to the public where electronic rights information has been removed or altered in contravention of litra a

if an action under litra a or b brings about, makes possible, makes easier or conceals a copyright infringement.

### **Work protected pursuant to Chapter 5**

**§ 53e.** What is stated concerning works in this chapter shall apply correspondingly to works protected pursuant to chapter 5.

## **Chapter 7. Penal sanctions, compensation and confiscation**

**§ 54.** Any person who wilfully or negligently contravenes this Act shall be liable to fines or to imprisonment for a term not exceeding three months if he

- a) infringes provisions laid down for the protection of copyright in or in accordance with Chapters 1 and 2, the provisions of section 39 j or 41 a, or prohibitions imposed pursuant to section 35 or 48, or provisions made by the author pursuant to section 39 k, second paragraph,
- b) infringes provisions laid down in or in accordance with Chapter 5 and Chapter 6a, sections 45 c, 46, 47 or 48, last paragraph,
- c) imports copies of literary, scientific or artistic works or of such works and fixations as are specified in sections 42, 43, 43 a, 45 and 45 a with the intention of making them available to the public, when the copies have been produced abroad under such circumstances that a similar production in this realm would have been unlawful, or
- d) offers or otherwise makes available to the public such works or fixations as are specified in sections 42, 43, 43 a, 45 or 45 a, when the copies have been produced contrary to these provisions or imported contrary to litra c of this section,
- f) imports copies of such fixations as are specified in section 45 with the intention of making them available to the general public for gain, when the producer has not consented to such import and copies of the same fixation are offered for sale in the realm with the consent of the producer. The Ministry may by regulations make exceptions to this provision for the import of copies from specific countries.

In cases of infringement of the provisions in section 12, fourth paragraph, the first paragraph in this section only applies if the act is wilful.

Accessory to an infringement as described in the first and second paragraphs shall be punished in the same way.

If any infringement mentioned in the **first to third paragraphs** is wilful, and has been committed under particularly aggravating circumstances, the penalty shall be fines or imprisonment for a term not exceeding three years. In assessing whether particularly aggravating circumstances subsist, importance shall primarily be attached to the damage caused to the copyright owner and others, the profit gained by the offender and the general extent of the infringement.

Any attempt at a wilful infringement as specified in the first to fourth paragraphs may be punishable in the same way as the completed crime.

Any person who wilfully or negligently fails **or neglects to provide information as described in § 38c eighth paragraph first part or** to insert in a work for the printing of which he is responsible the information specified in section 52 shall be liable to fines.

Infringement of the fourth paragraph, cf. fifth paragraph, shall be subject to public prosecution. Infringement of the other provisions of this section shall not be subject to public prosecution unless it is so requested by the aggrieved party or by an organization, cf. eighth paragraph, or required in the public interest.

If this Act has been infringed through use of a work in a manner specified in sections 13b, 14, 16a, 17b, 30, 32 and 34, prosecution may, insofar as the aggrieved party does not object thereto, be demanded also by the organization entitled to enter into agreements pursuant to section 36.

**§ 55.** Any damage caused by an infringement mentioned in section 54, or by an infringement of section 49, first paragraph, is subject to a claim for compensation according to the rules of compensation generally applicable. If the right of an author or a performing artist, or the right of a subject of a picture according to section 45 c) has been infringed wilfully or by gross negligence, the court may also award him a sum of money as redress for damage of a non-economic nature.

Even if the offender has acted in good faith, the aggrieved party may, irrespective of the extent of the damage, demand payment of the net profit accruing from the unlawful act.

The provisions in this section cannot be applied to whomsoever produces or accessorises in producing copies that infringe the provisions in section 12 fourth paragraph, unless the act is wilful.

**§ 56.** All copies of a literary, scientific or artistic work or other work which have been unlawfully produced, imported or made available to the public in the realm may by court judgment be confiscated for the benefit of the aggrieved party, or assigned to him in return for remuneration not exceeding the cost of production. The same shall apply to type matter, printing blocks, forms, etc., which can serve no other purpose than the unlawful production or exploitation of a work.

In lieu of confiscation or assignment, the aggrieved party may demand that the article in question shall be wholly or partly destroyed, or rendered useless for the unlawful production or exploitation of the work. If substantial economic or artistic values would thereby be lost, the court may nevertheless in certain circumstances permit the copies produced to be made available to the public in return for compensation or redress to the aggrieved party.

The provisions of this section shall not be applied to a person who in good faith has acquired a copy of a work for his own private use, except as regards the casting of a sculpture. Nor shall they be applied to buildings, but the aggrieved party may in certain circumstances demand alteration of the building, compensation or redress. Nor shall the provisions be applied to such press reports as are referred to in section 44.

## **Chapter 8. The scope of the Act.**

**§ 57.** The provisions of this Act concerning copyright shall apply to:

- a) literary, scientific or artistic works created by a Norwegian national or by a person who is resident in the realm,
- b) literary, scientific or artistic works first published in the realm, or which have been published simultaneously here and in another country,
- c) cinematographic and television works, the producer of which has his headquarters in the realm or is resident here,
- d) buildings erected in the realm,
- e) works of art and photographic works placed in buildings or permanent structures situated in the realm.



Simultaneous publication as specified in the first paragraph, litra b, shall be deemed to have taken place when the work in question is published in the realm within 30 days of the first publication.

The producer pursuant to the provision in the first paragraph, litra c, shall be deemed, unless otherwise indicated, to be the person whose name is stated in the usual manner on copies of the cinematographic work.

**The provision laid down in § 38c is applicable to works created by Norwegian citizens or a person who is domiciled in the Kingdom.**

The provisions of sections 46, 47 and 48 shall apply without the limitations stipulated in the preceding paragraphs.

The provision in section 41 a shall apply to literary, scientific or artistic works which have been made available to the public by a Norwegian national or a person who is resident in the realm, or by a company which has a Norwegian board of directors and whose registered office is in the realm.

**§ 58.** The provisions of chapter 5, except for sections 43, 43a and 44 and the right of distribution referred to in sections 42 and 45, shall apply for the benefit of works created by

- a) a Norwegian national or a person who is resident in the realm,
- b) a company which has a Norwegian board of directors and whose registered office is in the realm.

The provisions of sections 42 and 45 a shall, moreover, also apply to performances and broadcasts which take place in Norway. The provision concerning the right of distribution in sections 42 and 45 shall apply to sound and film fixations made in Norway. The provision in section 45 concerning the right to make copies shall apply for the benefit of all sound and film fixations. The provision in section 43 shall apply to works that are produced by a person who is a national of or resident in or who has his registered office in a country within the European Economic Area. The provision in section 44 shall apply to press releases which are received in Norway. The provision in section 43 a shall apply to photographic pictures first published in the realm or which have been produced by a person who is a national of or resident in or who has his registered office in a country within the European Economic Area. The same shall apply to photographs placed in buildings or permanent structures situated in a country within the said area.

The provision in section 45 c shall apply to pictures of persons who are or have been resident in the realm.

**§ 58a.** When works or performances are broadcast by satellite from a country outside the European Economic Area, this Act shall apply if the satellite receives signals from Norway or if the broadcast is commissioned by a broadcasting organization which has its headquarters in the realm. This provision shall apply only if the rules of the transmitting country regarding the right to broadcast works and performances do not provide protection corresponding to that provided under this Act.

**§ 59.** On condition of reciprocity, the King may issue regulations to the effect that the provisions of this Act shall apply, wholly or partly, to works which have a specific connection with a foreign state.

The King may further decide that the provisions of this Act shall wholly or partly apply to literary, scientific or artistic works published by a supranational organization, and unpublished works which such organization has the right to publish.

The provision shall apply correspondingly to the works described in chapter 5.

Out of consideration for an agreement with a foreign state, the King may furthermore issue special provisions concerning agreements regarding the assignment of the right to make a film of a work for cinema or television, including the works to which the provisions shall apply.

**§ 60.** This Act shall also apply to literary, scientific and artistic works and other works produced prior to the entry into force of this Act.

Copies that have lawfully been produced prior to the entry into force of this Act may continue to be distributed to the public or exhibited publicly, but in such a way that the provisions of sections 19, 42 and 45 and the provisions of section 19 regarding the lending of machine-readable copies of computer programs shall also apply in such cases.

## **Chapter 9. Entry into force of the Act and amendment of other statutes.**

**§ 61.** This Act enters into force on 1 July 1961.

From the same date the Act of 6 June 1930 relating to literary, scientific and artistic works is repealed.

References in other statutes to the Act of 6 June 1930, or to the Act of 4 July 1893 relating to authors' copyright and artists' rights, with the amending Act of 25 July 1910, shall apply to the corresponding provisions of this Act.