

Law
dated July 27, 2001
on the Protection of Databases

Article 1.

The protection stipulated by this Law shall cover databases, excluding databases that constitute works in the meaning of the Law on Copyright and Related Rights dated February 4, 1994 (Official Journal of 2000, No. 80, Item 904).

Article 2.

In the meaning of the Law:

- 1) “database” is a collection of data or any other materials and elements arranged systematically or methodically, individually accessible by any means, including electronic means, where substantial investment, evaluated qualitatively and/or quantitatively, is required for its production, revision or presentation of its contents;
 - 2) “extraction” is the permanent or temporary takeover or transfer of all or a substantial part, evaluated qualitatively and/or quantitatively, of the contents of a database by or to another carrier, irrespective of the means or form of such takeover or transfer, subject to Article 3;
 - 3) “re-utilization” is any form of making the database available to the public, including in particular its distribution, direct transfer or lease, subject to Article 3;
 - 4) “maker of a database” is a natural or legal person or an organizational unit without legal personality, who bears the risk of investment involved in the production of the database.
2. Whenever the Law refers to the maker of a database this shall also include his legal successor.

Article 3.

The rental of databases shall not constitute the extraction or re-utilization of data.

Article 4.

Protection extended to databases shall not cover software used to produce or use them.

Article 5.

Protection shall be extended to databases whose:

- 1) maker is the citizen of the Republic of Poland or has the registered seat in its territory;
- 2) maker is the citizen of a member state of the European Union or his permanent place of residence is in the territory of the European Community;
- 3) maker is a legal person established pursuant to the laws of a member state of the European Union, having the registered seat and the principal place of business in the territory of the European Community; if only the registered seat of the maker is in the territory of the European Community, then his activity must be substantially and permanently connected with the economy of the member state of the European Union;
- 4) protection is provided for by international agreements, on principles and within the scope set forth therein; and
- 5) maker is an entity that has not been mentioned in Items 1-4 above, and is an entrepreneur in the meaning of the Law on Business Activity dated November 19, 1999 (Journal of Laws No. 101, Item 1178, of 2000, No. 86, Item 958, and No. 114, Item 1193, and of 2001, No. 49, Item 509, and No. 67, Item 679).

Article 6.

The maker of a database shall enjoy an exclusive and transferable right to extract and re-utilise data in whole or in a substantial part, evaluated qualitatively and/or quantitatively.

Article 7.

1. The maker of a database made in any manner available to the public may not prohibit the lawful user of such database from extracting or re-utilizing any insubstantial part, evaluated qualitatively and/or quantitatively, of the database for any purpose whatsoever.
2. If the lawful user of a database is entitled to extract or re-utilise only a part of the database the provision of Section 1 above shall only refer to that part.

3. The use of the database, as referred to in Section 1, may not conflict with the normal exploitation of the database or infringe upon legitimate interests of the maker of a database.

Article 8.

1. It shall be permitted to utilize the substantial part, evaluated qualitatively and/or quantitatively, of the contents of the database that has already been distributed:
 - 1) for personal use, but only with respect to the non-electronic contents of the database;
 - 2) as an illustration, for didactic or research purposes, with the indication of its source, if such use is justified by the non-commercial purpose to be achieved; and
 - 3) for the purposes of public safety, or legal or administrative proceedings.
2. It shall not be permitted to repeatedly or systematically extract or re-utilize the database in a manner that would conflict with the normal exploitation and cause unjustified infringement of the legitimate interests of the database maker.

Article 9.

1. The first act of sale of the copy of a database on the territory of the Republic of Poland by the rightholder or upon his consent shall exhaust the right to control the re-sale of that copy in that territory.
2. The first act of sale of the copy of a database in the member states of the European Union by the rightholder or upon his consent shall exhaust the right to control the re-sale of that copy on the territory of these states.

Article 10.

1. The term of protection of the database shall count starting from the date of its production for the period of fifteen years following the year in which the database was produced.
2. If during the term referred to in Section 1 the database was in any manner made available to the public, the term of its protection shall expire upon the lapse of the fifteen-year period following the year in which it was for the first time made available to the public.
3. Any substantial change to the contents of the database, evaluated in terms of quality or quantity, including its supplementation, modification, or deletion of its part, which

constitutes a new substantial investment, evaluated qualitatively and/or quantitatively, shall qualify such database for its own separate term of protection.

Article 11.

The maker of a database may demand that a person who infringed upon his right to the database should cease the activity causing such infringement, restore legality and return the financial profit gained illegally; the maker of a database may also demand that the damage done should be remedied on general principles.

Article 12.

1. Whoever, for the purpose of gaining profit, extracts or re-utilizes, without authorization or contrary to the conditions of such authorization, the entire database or a substantial part thereof, evaluated qualitatively and/or quantitatively, shall be liable to a fine.
2. The decision shall be based on the provisions of the Code of Procedure Regarding Petty Offences.
3. The Court may order the forfeiture of the copies of the database made illegally, for the benefit of the State Treasury.

Article 13.

The right to the database shall not infringe upon the protection of the database contents extended pursuant to the Law on Copyright and Related Rights dated February 4, 1994, or the protection of any elements comprising the database, extended pursuant to the regulations on inventions, trademarks, industrial designs, designations of the origin, regulations on combating unfair competition, legally protected secrets, protection of personal data, civil law and labour law.

Article 14.

The following amendments shall be introduced in the Law on Copyright and Related Rights dated February 4, 1994 (Official Journal of 2000, No. 80, Item 904):

- 1) in Article 2 Section 2, the second sentence shall added with the following wording:
„In the case of a database having the properties of a creative work, the author shall also give his permission for the adaptation of such database.”;

- 2) in Article 3 after the words „databases” the words „having the properties of a creative work” shall be added;
- 3) after Article 17, the following Article 17{1} shall be added:
„17{1}. The adaptation or reproduction of the database having the properties of a creative work, made by a lawful user of the database or a copy thereof, shall not require the permit of the author of the database, if such permit is necessary for the access to the database and the normal exploitation of its contents. If the user is authorized to utilize only a part of the database, this provision shall refer only to that part.”
- 4) In Article 23 Section 1 after the words „architectural and urban” the following words shall be added: „and to utilize the electronic databases having the properties of a creative work, unless this refers to the personal use for scientific purposes not related to any profit-gaining activity”;
- 5) After Article 30, Article 30{1} shall be added with the following wording:
„Article 30{1}. Article 28, 29 Sections 2 and 3 and Article 30 shall not apply to databases having the properties of a creative work”;
- 6) After Article 77{1}, Article 77{2} shall be added with the following wording:
„Article 77{2}. Protection extended to databases having the properties of a creative work shall not cover software used to produce or operate the databases accessible by electronic means.”

Article 15.

1. This Law shall also apply to databases existing as of the date of its coming into force, with respect to the utilization of such databases after that date.
2. Legal actions taken with respect to the databases before the date of this Law coming into force shall be effective and shall be subject to protection according to the existing principles.

Article 16.

1. The provisions of Article 5 Items 2 and 3 and Article 9 Section 2 shall become effective as of the date when the Republic of Poland becomes the member of the European Union.

2. The provisions of Article 5 Item 1 and Article 9 Section 1 shall become null and void as of the date when the Republic of Poland becomes the member of the European Union

Article 17.

The Law shall become effective after 12 months from the date of its promulgation.
