

# Act

## Amending the Act (1960:729) on Copyright in Literary and Artistic Works

(Swedish Statute Book 1995:447, of May 11, 1995).

In accordance with the decision by the Parliament it is, as regards the Act (1960:729) on Copyright in Literary and Artistic Works, prescribed

that [Articles 19, 26d, 26f, 45 - 48, 49a, 57](#) and [61](#) shall read as follows,

that immediately before [Articles 45, 46, 47, 48](#) and [49a](#) §§ new headlines shall be inserted, reading as follows,

that two new [Articles, 52a](#) and [61a](#), shall be inserted into the Act, reading as follows, and

that a new headline shall be inserted, immediately before [Article 49](#), reading "Producers of Catalogues, etc."

**Article 19.** When a copy of a literary or musical work or a work of fine arts has been transferred with the consent of the author, that copy may be further distributed. However, as regards copies of computer programs the further distribution is, instead, allowed after the copy has, with the consent of the author, been transferred within the European Economic Area.

The provisions in the first paragraph do not constitute a right to make available to the public

1. copies of works, with the exception of buildings and works of applied art, through rental or similar acts, or
2. copies of computer programs in machine-readable form, through lending.

**Article 26d.** Sound radio and television organizations as specified in particular cases by the Government are entitled to broadcast such published literary and musical works and works of fine arts which have been made available to the public, provided that an extended collective agreement license applies under [Article 26i](#).

The provisions in the first paragraph do not apply to dramatic works, nor to other works if the author has prohibited such broadcasting or there are special reasons to assume that he would oppose the broadcast. The provisions in the first paragraph do not apply to retransmissions referred to in [Article 26f](#).

As regards transmissions via satellite the extended collective agreement license applies only if the emitting organization simultaneously carries out an emission through a terrestrial transmitter.

**Article 26f.** Anyone is entitled to distribute to the public, simultaneously and in an unaltered form, by wireless means or by cable (retransmission), such works which form part of a wireless sound radio or television broadcast, if an extended collective agreement license applies under to [Article 26i](#).

The provisions of the first paragraph do not apply to works where the retransmission rights belong to the sound radio or televisions organization which carries out the original emission.

### Performing Artists

**Article 45.** A performing artist's performance of a literary or artistic work may not without his consent

1. be recorded on a phonographic record, a film or another material support from which it can be reproduced, or
2. be broadcast over sound radio or television or be made available to the public by direct communication.

A performance which has been recorded on a material support as mentioned in the first paragraph, [item 1](#), may not without the consent of the artist be transferred from one such support to another one or be made available to the public until fifty years have elapsed from the year in which the first recording took place.

The provisions of [Articles 3, 6 - 9, 11 - 13, 15, 16, 21, 22, 25 26b, 26e, 26f, 27, Article 39](#), first sentence, [41](#) and [42](#) shall apply to performances mentioned in this Article.

When a copy of a recording of a performance under this Article has, with the consent of the performer, been transferred within the European Economic Area, that copy may be further distributed.

The provisions of the fourth paragraph do not constitute a right to make available to the public

1. copies of a recording, through rental or similar acts, or
2. copies of a film or another material support on which moving images have been recorded, through lending.

### Producers of Recordings of Sounds and of Images

**Article 46.** A phonographic record, a film or another material support on which sound or moving images have been recorded may not without the consent of the producer be reproduced or made available to the public until fifty years have elapsed from the year in which the recording was made. As a reproduction shall also be considered the transfer of the recording from one such support to another one.

The provisions of [Articles 6 9, 11](#), second paragraph, [12, 13, 15, 16, 21, 22, 25 26b](#) and [26e](#) shall apply to recordings mentioned in this Article. In addition, [Article 26f](#) shall apply as regards recordings other than such mentioned in [Article 47](#).

When a copy of a recording under this Article has, with the consent of the producer, been transferred within the European Economic Area, that copy may be further distributed.

The provisions of the third paragraph do not constitute a right to make available to the public

1. copies of a recording, through rental or similar acts, or
2. copies of a film or another material support on which moving images have been recorded, through lending.

## Use of Sound Recordings for Public Performances

**Article 47.** Notwithstanding the provisions of [Articles 45](#), second paragraph, and [46](#), first paragraph, sound recordings may be used in a sound radio or television broadcast or in another public performance. In such a case the producer and the performers whose performances are recorded have a right to remuneration. If two or more performers have participated in a performance, their right may only be claimed jointly. As against the person who has used the recording the claims of the performers and those of the producers shall be put forward at the same time.

The provisions on sound radio or television broadcasts in the first paragraph apply also when such a wireless broadcast is redistributed to the public, simultaneously and without alteration, by wireless means or by cable (retransmission). As against the person who carries out the retransmission, the claim for remuneration may be put forward only through organizations representing a substantial number of Swedish performing artists or producers. The organizations shall put forward their claims at the same time as the claims referred to in [Article 26j](#), fifth paragraph.

The provisions of [Articles 8](#) and [9, 11](#), second paragraph, [21, 22](#) and [25 26a](#) shall apply in the cases mentioned in this paragraph. As regards the rights of performing artists also the provisions of [Articles 27, 28, 41](#) and [42](#) shall apply.

This Article does not apply to sound films.

## Sound Radio and Television Organizations

**Article 48.** A sound radio or television broadcast may not without the consent of the radio or television organization

1. be recorded on a material support from which it can be reproduced, or
2. be rebroadcast or made available to the public in places where the public has access against an entrance fee.

A broadcast which has been recorded on a material support as mentioned in the first paragraph, [item 1](#), may not without the consent of the broadcasting organization be transferred on another such material support until fifty years have elapsed from the year in which the broadcast took place. Furthermore, the material supports may not without the authorization of the organization be made available to the public before the same time has elapsed.

The provisions of [Articles 6 9, 11](#), second paragraph, [12, 15, 16, 21, 22, 25 26b](#) and [26e](#) shall apply in respect of sound radio and television broadcasts referred to in this Article.

When a copy of a recording under this Article has, with the consent of the organization, been transferred within the European Economic Area, that copy may be further distributed.

If a sound radio or television organization has a claim for remuneration for such a retransmission as referred to in [Article 26f](#) which has taken place with the authorization of the organization, the claim shall be put forward at the same time as the claims referred to in [Article 26j](#), fifth paragraph.

## Photographers

**Article 49a.** Anyone who has produced a photographic picture has an exclusive right to reproduce the picture and to make it available to the public. This right applies regardless of whether the picture is used in its original form or an altered form and regardless of which technique has been used.

As a photographic picture is considered also a picture which has been produced by a process analogous to photography.

The right under the first paragraph subsists until fifty years have elapsed from the year in which the picture was produced.

The provisions of [Articles 2](#), second and third paragraphs, [3, 7 - 9, 11, 12](#), first paragraph, [13, 15, 16, 18](#) to [20, 23, 24](#), first paragraph, [25 26b, 26d - 26f, 26j - 28, 31](#) to [38, 41, 42](#) and [50 52](#) shall apply to pictures referred to in this Article. If such a picture is subject to copyright, also copyright protection may be claimed.

**Article 52a.** Anyone wanting to carry out a retransmission by wire of works forming part of a wireless sound radio or television broadcast and who requests an agreement with an organization representing Swedish right-owners or with a sound radio or television organization carrying out emissions within the European Economic Area but is denied such an agreement on the terms requested, is, upon request, entitled to negotiations with the organization or the sound radio or television organization, respectively.

A party which has a duty to participate in such negotiations shall personally or through a representative attend a meeting for such negotiations and, if so is deemed necessary, put forward a reasoned proposal for the solution of the question which the negotiation concerns. The parties may agree on another form for negotiations than a meeting.

Anyone not complying with the provisions of the second paragraph shall pay a compensation for the damage incurred. In the considerations concerning if and to what extent a damage has been caused to someone, also his interest in that the provision is applied and to circumstances other than such of a purely economic character shall be taken into account.

**Article 57.** The provisions of [Articles 53](#) to [56](#) shall apply also to the rights which are protected under provisions in [Chapter 5](#).

**Article 61.** The provisions of [Articles 45, 47](#) and [48](#) apply to performances, sound recordings and sound radio and television broadcasts which take place in Sweden. In addition, the provisions of [Article 45](#) apply to performances of persons who are Swedish citizens or who have their habitual residence in Sweden, the provisions of [Article 47](#) to sound recordings the producer of which is a Swedish citizen or a Swedish legal entity or a person having his habitual residence here, and the provisions in [Article 48](#) to broadcasts by sound radio and television organizations which have their headquarters in this country. The provisions of [Article 46](#) apply to sound recordings and to recordings of moving images the producer of which is a Swedish citizen or a Swedish legal entity or has his habitual residence in Sweden as well as to such recordings of moving images which take place in Sweden. The provision of [Article 46](#) concerning reproduction applies, however, to all sound recordings.

The provisions of [Article 49](#) apply to productions the producer of which is a Swedish citizen or a Swedish legal entity or who has his habitual residence in Sweden as well as to productions which have been first published in Sweden.

Of the provisions in [Article 49a](#), the reference to [Articles 50](#) and [51](#) apply to all photographic pictures and the other provisions to photographic pictures,

1. the producer of which is a Swedish citizen or has his habitual residence in Sweden,
2. which have been first published in Sweden or simultaneously in Sweden and abroad,
3. which have been incorporated in a building or another construction which is permanently fixed to the ground, if the building or the construction is situated in Sweden.

For the purposes of the application of the third paragraph, [item 2](#), the publication shall be considered to have taken place simultaneously if the work has been published in Sweden within thirty days from its publication abroad.

**Article 61a.** When a work or another subject matter protected under this Act is communicated to the public via satellite, the act which is relevant from the point of view of copyright and neighboring rights shall be deemed to take place in the country where, the broadcasting organization, under its control and its responsibility, introduces the subject matter into an uninterrupted chain of communication to the satellite and from there down towards the earth.

What has been said now does not apply if the introduction has taken place in a country which is not part of the European Economic Area and which does not apply the level of protection provided for in Chapter 2 of the Directive of the European Communities No 93/83/EEG of September 27, 1993.

If, in cases referred to in the second paragraph, the transmission to the satellite takes place in a country member of the European Economic Area, the act which is relevant from the point of view of copyright and neighboring rights shall be deemed to take place in the country from where the transmission takes place. If the transmission to the satellite does not take place in a country member of the European Economic Area but the sound radio or television organization which has decided the transmission has its headquarters in a country member of that Area, the act relevant from the point of view of copyright and neighboring rights shall be deemed to take place in that country.

1. This Act enters into force on June 1, 1995
2. The provisions of [Article 26d](#), third paragraph and [Article 61a](#) shall, as regards contracts which have been concluded before the entry into force, not apply until January 1, 2000.
3. The provisions of [Article 45](#), third paragraph in so far as it concerns the reference to [Article 39](#), first sentence, shall not apply to film contracts concluded before the entry into force. The performing artist shall, however, as regards such contracts, be deemed to have transferred, through the contract, the right to make, through the film, the performance available for the public.
4. With the exceptions provided for in [items 5](#). and [6](#). the new provisions shall apply also to works and other subject matters which have come into being before the entry into force.
5. The new provisions shall not apply as regards acts undertaken or rights acquired before the entry into force. The provisions of [Article 19](#), second paragraph, and [Articles 45](#) and [46](#) as far as the reference to [Article 19](#), second paragraph, shall, however, always apply as from the time of the entry into force.
6. As regards performances, sound recordings and broadcasts for which the period of protection under the provisions previously in force expired before July 1, 1986, [items 4](#). and [5](#). of the provisions on the entry into force and transitional provisions to the Act (1986:367) Amending the Act (1960:729) on Copyright in Literary and Artistic Works apply.