

ACT AMENDING THE ACT (1960:729) ON COPYRIGHT IN LITERARY AND ARTISTIC WORKS

(Swedish Statute Book 1995:1273, of December 7, 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 43 46, 60](#) and [62](#) shall read as follows,

that a new Chapter, [Chapter 2a](#), shall be inserted, reading as follows, and

that a new Article, [Article 44a](#), shall be inserted, reading as follows.

Chapter 2 a.

Remuneration in Connection with Resale of Copies of Works of Fine Art.

Article 26j. When a copy of a work of fine arts, which has been transferred, is resold in the course of the duration of the copyright by a trader in the exercise of his business activity, the author has a right to remuneration from the seller. The author has a right to remuneration also in other cases, where the sale is brought about by a trader in the exercise of his business activity. In such a case the remuneration shall be paid by the trader. The remuneration shall be five per cent of the sales price with the exclusion of the value added tax.

The author has, however, no right to remuneration

1. where the resale price, with the exclusion of the value added tax, does not exceed one twentieth of the basic amount under the Act (1962:381) on General Insurance,

2. where the copy of the work of fine art is a copy of a work of architecture, or

3. where the copy of the work of fine arts is a work of applied art which has been produced in a number of identical copies.

The right to remuneration is personal and can not be transferred. However, notwithstanding the provisions of Chapter 10, Article 3, of the Marriage Code, the provisions governing the division of property between spouses, inheritance and will shall apply to the right after the death of the author.

Only an organization representing a substantial number of Swedish authors in the field concerned is entitled to claim the remuneration. The organization shall claim the remuneration in respect of, and pay the amount to, the person entitled to it after deduction of a reasonable compensation to the organization for its administrative costs. If the organization does not claim the remuneration from the person liable for the payment within three years from the expiry of the calendar year when the sale took place, the claim is prescribed.

The person who is liable for the remuneration shall, at the request of the organization, provide details of the sales for which remuneration is due and which have taken place during the preceding three years.

Article 43. Copyright in a work shall subsist until the end of the seventieth year after the year in which the author deceased or, in the case of a work referred to in [Article 6](#), after the year in which the last surviving author deceased. However, copyright in a cinematographic work subsists, instead, to the end of the seventieth year after the death of the last deceased of one of the following persons, namely the principal director, the author of the screenplay, the author of the dialogue and the composer of the music specifically created for the work.

Article 44. In the case of a work which has been made public without mention of the author's name or generally known signature, the copyright shall subsist until the end of the seventieth year after the year in which the work was made public. If the work consists of two or more interconnected parts, the term shall be calculated separately for each part.

If the author reveals his identity within the term mentioned in the first paragraph, the provisions of [Article 43](#) shall apply.

For works which have not been made public and whose author is not known, the copyright subsists until the end of the seventieth year after the year in which the work was created.

Article 44a. Where a work has not been published within the term referred to in [Articles 43](#) or [44](#), the person who thereafter for the first time publishes or makes public the work shall benefit from such a right in the work which corresponds to the economic rights of the copyright. The right subsists until the end of the twenty-fifth year after the year in which the work was published or made public.

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

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 authorization 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 performance took place or, where the recording was published or made public within fifty years from the performance, after the year when the recording was first published or made public.

The provisions of [Articles 3, 6 9, 11 13, 15, 16, 21, 22, 25 26b, 26e, 26f, 27](#) and [28, 39](#), first sentence, [41](#) and [42](#) shall apply to performances mentioned in this Article.

When a copy of an recording under this Article has, with the authorization of the performer, been transferred within the European Economic Area, the copy may be distributed further

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

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

Article 46. A phonographic record, a film or another material support on which sounds or moving images have been recorded may not without the authorization 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, or, if the recording was published or made public within fifty years from the recording, after the year in which the recording was first published or made public. 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](#) and [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 an recording under this Article has, with the consent of the producer, been transferred within the European Economic Area, the copy may be distributed further

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

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

Article 60. The provisions of this Act concerning copyright apply to:

1. works of Swedish citizens or persons who have their habitual residence in Sweden,
2. works first published in Sweden or simultaneously in Sweden and abroad,
3. cinematographic works the producer of which has his headquarters or habitual residence in Sweden,
4. works of architecture constructed here,
5. works of fine arts incorporated in a building here or in some other way permanently fixed to the ground.

For the purposes of the application of the first paragraph, [item 2](#), a simultaneous publication shall be considered to have taken place if the work has been published in Sweden within thirty days from its publication abroad. For the purposes of the application of the first paragraph, [item 3](#), the person whose name appears on a cinematographic work shall, in the absence of a proof to the contrary, be deemed to be the producer of the said work.

The provisions of [Article 26j](#) apply to works of persons who are Swedish citizens or who have their habitual residence in Sweden.

The provisions of [Article 44a](#) apply to acts of publication or of making public by persons who are Swedish citizens or who have their habitual residence in Sweden. The provisions apply also to acts of publication or of making public by legal entities having their headquarters in Sweden.

The provisions of [Articles 50](#) and [51](#) apply to all literary or artistic works regardless of their origin.

Article 62. On condition of reciprocity, or where this follows from such an agreement with a foreign State or with an intergovernmental organization which has been approved by the Parliament, the Government may provide for the application of this Act in relation to other countries. The Government may also provide for the application of the Act to works and photographic pictures first published by an intergovernmental organization and to unpublished works and photographic pictures which such an organization may publish.

1. This Act enters into force on January 1, 1996.
2. The new provisions apply also to works which have come into being before the entry into force.
3. The new provisions do not apply as regards acts undertaken or rights acquired before the entry into force. Copies of a work which have been produced on the basis of the provisions previously in force may be freely distributed and displayed. The provisions of [Article 19](#), second paragraph, and [Article 26j](#) shall, however, apply.
4. Where someone after the expiry of the term of protection under the provisions previously in force but before the entry into force has commenced the exploitation of a work by reproducing it or by making it available to the public, he may, notwithstanding the new provisions on the duration of copyright, continue, to the extent necessary and customary, the planned exploitation, however, not later than until January 1, 2000. Such a right of exploitation is also available to any person who has taken substantial measures for reproducing the work, or for making it available to the public. Copies of a work which have been made by virtue of these provisions may be freely distributed and displayed. The provisions of [Article 19](#), second paragraph, and [Article 26j](#) shall, however, apply.
5. Where the term of copyright protection for a certain work under the new provisions is shorter than what it would have been through the application of the previous provisions, the previous provisions on the term of protection apply. The provisions of [Article 44](#), third paragraph, apply, however, always after the entry into force.
6. The provisions of [items 2](#) to [5](#). apply also to performances and recordings referred to in [Articles 45](#) and [46](#).