

**Act (Swedish Statute Book 1998: )**  
**Amending the Act (1960:729) on Copyright in Literary and Artistic Works**

December 1998

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

**that** the heading to Chapter 2*a* shall read: “Right to Special Remuneration.”

**that** Articles 45, 46, 60 and 61 shall read as follows,

**that** immediately before Article 26*j* a new heading shall be inserted, reading: “Remuneration for Resale of Copies of Works of Art”, and

**that** a new Article, numbered Article 26*k*, and, immediately before Article 26*k*, a new heading shall be inserted, reading as follows.

**Remuneration Relating to the Manufacture and Importation of Material Supports for the Recording of Sounds or Images.**

**26k.** When a businessman, in the course of his professional activities, manufactures or imports into this country material supports on which sounds or moving images may be recorded and which are especially suitable for the making of copies of works for private purposes, the authors of protected works which have thereafter been broadcast by sound radio or television or which have been published on material supports by means of which which they may be reproduced, have a right to remuneration from the businessman.

The authors have, however, no right to remuneration if the manufactured or imported material supports are intended

1. to be used for purposes other than the making of copies of works for private purposes,
2. to be exported from the country, or
3. to be used for the making of copies of works for persons who are visually or aurally handicapped.

The remuneration shall be two “Öres” for each possible recording minute, but not more than six Crowns for each material support. Only an organisation representing a substantial number of Swedish authors and holders of neighboring rights in the field concerned who have a right to remuneration is entitled to claim the remuneration. The organisation shall claim the remuneration and distribute it between those entitled to it after deduction of a reasonable compensation to the organisation for its costs. Right-owners who are not represented by the organisation shall, in the course of the distribution, be treated in the same way as those right-owners who are represented by the organisation.

The businessman shall give notice of himself to an organisation as referred to in the third paragraph. The businessman shall upon request by the organisation give an account of the number of material supports which are covered by the right to remuneration, the recording time of the supports and when the supports were manufactured or imported. The account shall indicate the number of material supports referred to in the second paragraph.

**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, 25–26*b*, 26*e*, 26*f*, 26*k*, 27–29, 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 performing artist, 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.

**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, 16, 21, 22, 25–26*b*, 26*e* and 26*k* shall apply to recordings mentioned in this Article. In addition, Article 26*f* 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, 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.

**60.** The provisions 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 outside the Realm,
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 in the usual manner shall, in the absence of a proof to the contrary, be deemed to be the producer of the said work.

The provisions of Articles 26*j* and 26*k* apply to works of persons who are Swedish citizens or who have their habitual residence in Sweden.

The provisions of Article 44 *a* 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.

**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 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 who has 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. However, the provision of Article 46 applies, as regards reproduction, to all sound recordings.

The provisions of Article 49 apply to productions of which the producer is a Swedish citizen or has his habitual residence in Sweden. The provisions apply also to productions of which the producer is a Swedish legal entity and has its registered office, its main headquarters or its principal place of business in Sweden. Where the legal entity has its registered office in Sweden but does not have its main headquarters or its principal place of business here, the provisions apply, however, only where the production forms part of an economic activity established in Sweden.

Of the provisions in Article 49*a*, 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 located 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.

Of the provisions in Article 45, the reference to Article 26*k* applies only to performances by someone who is a Swedish citizen or has his habitual residence in Sweden. Of the provisions in Article 46, the reference to Article 26*k* applies only to recordings the producer of which is a Swedish citizen or a Swedish legal entity or has his habitual residence in Sweden. Of the provisions in Article 49*a*, the references to Articles 26*j* and 26*k* apply only to photographic pictures the producer of which is a Swedish citizen or has his habitual residence in Sweden.

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1. This Act enters into force on January 1, 1999
  2. The new provisions apply also to works or other subject matter which have come into being before the entry into force.
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