

III. Law

1. Table of copyright acts used for the guidelines

| Countries | English versions of copyright law | Original titles | Future developments |
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| Austria | Federal Law on Copyright in Works of Literature and Art and on Related Rights (BGBl. No. 111/1936) as last amended by the Law of 1.7.2003 (BGBl. I No. 32/2003) (No English version available) | Urheberrechtsgesetz in der Fassung nach der Änderung gem. Bundesgesetzblatt BGBl. I 32/2003 www.50plus.at/Default.htm?http%3A//www.50plus.at/stichw/urheberrechtsgesetz.htm Urheberrechtsgesetz-Novelle 2003 http://attorney.bei.t-online.de/0306Nove.pdf | |
| Belgium | Law on Copyright and Neighbouring Rights of June 30, 1994, as amended by the Law of April 3, 1995 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 Law Transposing to Belgian Law the European Directive of May 14, 1991, on the Legal Protection of Computer Programs (of June 30, 1994) http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 Law of August 31, 1998 implementing the Directive 1996/9/EC on the legal protection of databases (No English version available) | Loi relative au droit d'auteur et aux droits voisins du 30 juin 1994, modifiée par la loi du 3 avril 1995 et par la loi du 31 août 1998 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 Loi transposant en droit belge la directive européenne du 14 mai 1991 concernant la protection juridique des programmes d'ordinateur (du 30 juin 1994) http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 Lois du 31 août 1998 transposant en droit belge la directive européenne du 11 mars 1996 concernant la protection juridique des bases de données Moniteur belge, 14 novembre 1998, p.36.914 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 | Proposition de loi modifiant la loi du 30 juin 1994 relative au droit d'auteur et aux droits voisins dans le contexte du développement de la société de l'information www.ael.be/docs/eucd/704-4.pdf |

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| Denmark | Consolidated Act of Copyright 2003, No. 164 of March 12, 2003 www.kum.dk/sw4550.asp?usepf=true | Bekendtgørelse af lov om ophavsret LBK nr 164 af 12/03/2003 (Gældende) www.retsinfo.dk/_GETDOC_/ACCN/A20020105130-REGL | |
| Finland | Copyright Act, Law No. 404 of July 8, 1961, as last amended by Law No. 748 of October 9, 1998 (not an official translation!) www.copyrightsociety.fi (user identification required!) | | |
| France | Law No. 92-597 of July 1, 1992, on the Intellectual Property Code Legislative Part as amended by Law No. 97-283 of March 27, 1997 As amended Law No. 98-536 of July 1, 1998 (Database) As amended Law No. 2001-624 of July 17, 2001 As amended Law No. 2001- 1135 of 3 December 2001 <i>ANNEX</i> Intellectual Property Code (Legislative Part) http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 | Loi n° 97-283 du 27 mars 1997 portant transposition dans le code de la propriété intellectuelle des directives du Conseil des Communautés européennes n°s 93/83 du 27 septembre 1993 et 93/98 du 29 octobre 1993 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 | |
| Germany | Law on Copyright and Neighbouring Rights as last amended by the Law of 13. September 2003 (No English version available) | Gesetz über Urheberrecht und verwandte Schutzrechte (Urheberrechtsgesetz), zuletzt geändert am 13. September 2003 http://bundesrecht.juris.de/bundesrecht/urhg/index.html | |
| Greece | Copyright Law (Consolidation), 03/03/1993, No. 2121 as amended by Law No. 2435 of August 2, 1996 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 Copyright Law Amendment, Art. 8, 1997, No. 2557, | | |

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| | as last amended by Law 3057/2002, Article 81 Implementation of the Directive 2001/29 EC www.culturegr/8/84/e8401.html | | |
| Ireland | Copyright and Related Rights Act 2000, No. 28 of 2000 www.entemp.ie/copyright.pdf | | Expected date of the transposition of the Directive: 11 April 2003 (According to the Department of Enterprise, Trade & Employment www.entemp.ie/ecd/purpose.htm) |
| Italy | Law for the protection of copyright and neighbouring rights Law No. 633 of April 22, 1941, as last amended by Legislative Decree Law No. 154 of May 26, 1997 http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 as last amended by Legislative Decree No. 95 of February 2, 2001 (No English Version available) | L. 22 aprile 1941, n. 633-Protezione del diritto d'autore e di altri diritti connessi al suo esercizio. | |
| Luxembourg | Rights of the author, neighbouring rights and databases of April 18, 2001 (No English version available) | Loi du 18 avril 2001 sur les droits d'auteurs, les droit voisins et les bases de données, Memorial Journal Officiel du Grand-Duché de Luxembourg, A-No. 50, 30 avril 2001, p. 1042 www.etat.lu/legilux/DOCUMENTS_PDF/MEMORIAL/memorial/a/2001/a0503004.pdf | |
| Netherlands | Copyright Act 1912 consolidated version of July 20, 1999 www.ivir.nl/legislation/nl/copyrightact.html Database Act of 8 July 1999 www.ivir.nl/legislation/nl/databaseact.html Neighbouring Rights Act 1993 | Wet van 23 september 1912, houdende nieuwe regeling van het auteursrecht (Auteurswet 1912) www.ivir.nl/wetten/nl/auteurswet.html Wet van 8 juli 1999, houdende aanpassing van de Nederlandse wetgeving aan richtlijn 96/9/EG van het Europees Parlement en de Raad van 11 maart 1996 betreffende de rechtsbescherming | Act relating to an amendment to the 1912 Copyright Act, the Neighbouring Rights Act and the Database Act implementing Directive no. 2001/29/EC of the European Parliament and the Council of the European Union of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the |

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| | www.ivir.nl/legislation/nl/nra.html | <p>van databanken</p> <p>www.ivir.nl/wetten/nl/databankenwet.pdf</p> <p>Wet van 18 maart 1993, houdende regelen inzake de bescherming van uitvoerende kunstenaars, producenten van fonogrammen of van eerste vastleggingen van films en omroeporganisaties en wijziging van de Auteurswet 1912 (Wet op de naburige rechten)</p> <p>www.ivir.nl/wetten/nl/wnr.html</p> | <p>information society (OJ EC L 167) (Act relating to the implementation of EC Directive on copyright and related rights in the information society)</p> <p>www.justitie.nl/Images/11_14575.doc</p> |
| Portugal | <p>Code of Copyright and Related Rights (Law No. 45/85 of September 17, 1985, as last amended by Law No. 114/91 of September 3, 1991)</p> <p>http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0</p> | <p>Latest version (not used by RESPECT)</p> <p>www.gda.pt/legislacao_codigo.html</p> <p>Containing the following laws:</p> <p>2000 Decreto lei n.º 122/2000, de 4 de Julho (Protecção jurídica das bases de dados) and</p> <p>Decreto Lei n.º 332/97 e 334/97, de 27 de Novembro (Alteração ao Código do Direito de Autor e dos Direitos Conexos)</p> | <p>Projecto de Decreto Lei Para Transposição da Directiva Comunitária N.º 2001/29/CE, do Parlamento e do Conselho de 22 de Maio, Relativa à Harmonização dos Direitos de Autor e dos Direitos Conexos na Sociedade da Informação</p> <p>(Proposal for the law implementing the Directive 2001/29/EC in Portuguese)</p> <p>www.ansol.org/politica/eucd-texto.pt.html</p> |
| Spain | <p>Copyright Law, Consolidated Text of the Law of Intellectual Property, 06/03/1998</p> <p>(approved by Royal Legislative Decree 1/1996 of April 12, 1996, and amended by Law 5/1998 of March 6, 1998, incorporating Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the Legal Protection of Databases)</p> | <p>Real Decreto Legislativo 1/1996, de 12 de abril, por el que se aprueba el Texto Refundido de la Ley de Propiedad Intelectual, regularizando, aclarando y armonizando las disposiciones legales vigentes sobre la materia (BOE núm. 97, de 22-04-1996).</p> | <p>Borrador de Anteproyecto de Ley de Reforma del Real Decreto Legislativo 1/1996, de 12 de Abril, por el que se aprueba el texto refundido de la Ley de Propiedad Intelectual, Noviembre 2002.</p> <p>www.cobdc.org/00Home/BorradorNoviembre02.pdf</p> |

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| Spain (cont.) | http://clea.wipo.int/clea/lpext.dll?f=templates&fn=main-h.htm&2.0 | [Modificada por la Ley 5/1998, de 6 de marzo, por la que se incorpora al Derecho español la Directiva 96/9/CE, de 11-3-1996, del Parlamento Europeo y del Consejo, sobre la protección jurídica de las bases de datos (BOE núm. 57, de 7-3-1998), y la Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil (BOE núm. 7, de 8-1-2000), disposición final segunda] http://civil.udg.es/normacivil/estatal/reals/Lpi.html | |
| Sweden | Act on Copyright in Literary and Artistic Works (Law No. 729, of December 30, 1960, as amended up to April 1, 2000) (Not available online but used by RESPECT) | | Status: FIRST DRAFT: The Government presented a first draft of the preposition 17/06/2003 and will have a final preposition by the end of the year. The law is planned to come into force 01/01/2004. http://wiki.ael.be/index.php/EUCD-Status |
| UK | Copyright, Designs and Patents Act 1988 as amended at 1/2/2000 As amended by the Copyright, <i>etc.</i> and Trade Marks (Offences and Enforcement) Act 2002 (as amended by the Copyright (Visually Impaired Persons) Act 2002 coming into force 31st October 2003, as amended by Statutory Instrument 2003 No. 2498 The Copyright and Related Rights Regulations 2003 coming into force 31st October 2003, as modified by Statutory Instrument 2003 No. 2500 The Electronic Commerce (EC Directive) (Extension) (No. 2) Regulations 2003)) www.hmso.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm and www.patent.gov.uk/copy | | |

2. Survey of national provisions

The following Survey of national provisions on intellectual property is based on the aims of the RESPECT project and therefore limited to those provisions with probable relevance to typical activities carried out around socio-economic research. It is by no means a conclusive enumeration of all provisions possibly applicable in each Member State in a particular case; this is particularly true for provisions of general civil codes and the alike which have not been listed at all. Furthermore the Survey contains for practical reasons only those national provisions available to the project in English by October 2003. Due to the delay of publication of translated national acts and the ongoing implementation of the Copyright Directive, the Survey will not correspond to all acts entered into force and/or translated later by the time of publication of these guidelines.

e) Austria

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| Austria | |
| Federal Law on Copyright in Works of Literature and Art and on Related Rights (BGBl. 111/1936) as last amended 2003 (BGBl. I Nr. 32/2003). | |
| Modifications enacted by the Law of 2003 are not available in English yet. These modifications have therefore been subject to unofficial translations from the original document. For the original Austria document see table of copyright acts used for the guidelines. | |
| Protected Works | |
| Categories of protected works | <p>§ 1.</p> <p>(1) Works within the meaning of this Law shall be original intellectual productions in the fields of literature, music, art and cinematography.</p> <p>(2) The copyright protection provided by this Law shall extend to a work as a whole and to its parts.</p> <p>§ 2.</p> <p>Works of literature within the meaning of this Law shall be</p> <ol style="list-style-type: none"> 1. works of language of any kind, including computer programs (§ 40a) 2. theatrical works expressed by gestures or other movements of the body (works of choreography and pantomime); 3. works of a scientific or didactic nature which consist of pictorial representations in two or three dimensions, unless they constitute works of art. |
| Conditions for protection | <p>§ 1.</p> <p>(1) Works within the meaning of this Law shall be original intellectual productions in the fields of literature, music, art and cinematography.</p> <p>§ 5: Protection of translated and adopted works</p> <p>§7: No protection of official documents</p> |
| Database protection | <p>§ 6: Definition of Collective Works</p> <p>§ 40f :Definition of database</p> <p>§ 40 f : Copyright Protection of Databases</p> |

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| | <p>(2) Databases shall be protected by copyright as collective works (§ 6) if they constitute original intellectual creations (database works) by reason of the selection or arrangement of the material.</p> <p>§ 40g.</p> <p>The author shall have the exclusive right to reproduce a database work for public use.</p> <p>§ 40h.</p> <p>(1) § 42(1),(3) and (4) shall not apply to database works. However, any natural person may produce individual copies of a database work of which the elements are separately accessible by electronic means for personal use and neither directly nor indirectly for commercial purposes.</p> <p>(2) § 42 (2) shall apply to database works subject to the proviso that reproduction is also permissible on paper or a similar carrier.</p> <p>§ 76c.</p> <p>Sui Generis Protection of Databases:</p> <p>'qualitatively or quantitatively a substantial investment'</p> <p>§ 76 d.</p> <p>Sui generis protected rights.</p> <p>(1): The person who has made the investment as described in § 76c (producer) has, subject to the limitations stipulated by law, the exclusive right to reproduce, to distribute, to broadcast to publicly perform and to make available to the public the whole database or a part of it which is substantial as to the extent or kind of use.</p> <p>§ 76d (3) Nr. 2</p> <p>Exception for scientific or educational purposes : The reproduction, distribution, broadcasting, public performance and making available to the public of a substantial part of a published database shall be permissible</p> <p>...</p> <p>2. for scientific or educational purposes, to the extent justified by the purpose, provided there is no commercial purpose and the source is stated.</p> <p>§ 76e.</p> <p>Contracts for the use of databases</p> <p>Any contractual agreement under which the lawful user of a published database has an obligation towards the maker to refrain from reproducing, distributing, broadcasting or communicating to the public qualitatively or quantitatively insubstantial parts of the database shall be invalid where such acts neither conflict with the normal exploitation of the database nor unreasonably prejudice the legitimate interests of the maker of the database.</p> |
| Computer Software | <p>Special provisions in §§ 40a.-40e.</p> <p>§ 40a.</p> <p>(1) Computer programs shall constitute works within the meaning of this Law when they are the result of their author's own intellectual creation.</p> <p>(2) The term 'computer program' as used in this Law shall comprise all forms of expression, including the machine code, and the material for developing the program.</p> <p>§ 40c.</p> <p>Rights to use computer programs may be transferred to others without the</p> |

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| | <p>consent of the author, unless otherwise agreed with the author. The provisions of § 29 shall not apply to rights to use computer programs.</p> <p>§ 90b.</p> <p>The rightholder of an exclusive right/right of exclusion on a computer program provided for by this act using technical measures to protect that program can claim omission and removal of the conditions violating the law if means are brought on the market or being possessed for profit purposes, which are solely determined to help illegally removing or circumventing the technical measures. The §§ 81, 82 (2) to (6), 85, 87 (1) and (2), 87a (1), 88 (2), 89 and 90 apply accordingly.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Exploitation rights | <p>§ 14.</p> <p>(1) Within the limits defined by law, the author shall have the exclusive right to exploit his work in the manner reserved to him in the provisions which follow (exploitation rights).</p> <p>(2) The author of a translation or other adaptation may exploit such work in the manner reserved to him only where the author of the adapted work has granted him the exclusive right or the permission to do so (right of adaptation or translation).</p> <p>(3) Communication to the public of the contents of a work of literature or cinematography shall be reserved to the author, for as long as neither the work nor its substance has been published with his consent.</p> <p>Chapter VI (§§ 38-41): Special Rules for Cinematographic Works Commercially Produced</p> |
| Right of reproduction | <p>§ 15.</p> <p>(1) The author shall have the exclusive right to reproduce his work by any process, in any quantity whether temporarily or permanently.</p> <p>(2) Reproduction shall also be constituted by, in particular, the fixation of a recitation or performance of a work on any device permitting repeated visual or sound reproduction (video or audio recording media), such as film or phonograms.</p> <p>(3) Devices permitting the repeated reproduction of works without recording of the sound, produced by perforating, punching, arranging pins or similar (barrel-organs, musical boxes, <i>etc...</i>) shall be considered equivalent to phonograms.</p> <p>(4) In the case of plans and designs for works of art, the right of reproduction shall also include the exclusive right to execute the work according to such plans or designs.</p> <p>§ 41a: Casual/incidental reproduction</p> |
| Right of communication to the public and right of making available | <p>§§ 8, 9: Definitions of published works and works made available to the public</p> <p>§ 16a: Rental and Lending</p> <p>§§ 17.-17b: Broadcasting</p> <p>§§ 18.-18a: right of recitation, performance and presentation</p> |
| Distribution right | <p>§ 16.</p> <p>(1) The author shall have the exclusive right to distribute copies of his work. By virtue of this right, copies of the work may not be offered for sale or put into circulation in such manner that the work is made available to the public without the author's consent.</p> |

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| | <p>(2) For as long as a work remains unpublished, the right of distribution shall further include the exclusive right to make the work available to the public by publicly posting, printing, hanging, exhibiting or similarly using copies thereof</p> <p>(3) The right of distribution shall not extend, subject to § 16 a, to copies of the work which, with the authorization of the person entitled thereto, have been put into circulation in a Member State of the European Community or of the European Economic Community by transfer of ownership.</p> <p>(4) The right of distribution in a work of art shall not extend to copies which are attached to immovable property</p> <p>(5) The term 'to distribute a work', as used in this Law, means only such distribution of copies as is reserved to the author under subsections (1) to (3).</p> <p>§16a: Exemptions for lending and rental</p> <p>Chapter V (§§ 33-37): Reservations in favor of the author</p> <p>[mostly concerning the right of distribution]</p> |
| Moral rights | |
| Right of publication | <p>§ 14.</p> <p>(3) The communication to the public of the contents of a work of literature or cinematography shall be reserved to the author as long as neither the work nor its substance has been made public with his authorization.</p> |
| Recognition of authorship | <p>§ 19.</p> <p>(1) Where the authorship of a work is contested or the work is attributed to a person other than its creator, the latter shall be entitled to claim authorship. After his death, the right to safeguard the authorship of the creator of the work shall, in such cases, be held by the persons upon whom the copyright devolves.</p> <p>(2) Waiver of this right shall be without effect.</p> <p>§ 20.</p> <p>(1) The author shall determine whether and in what manner the work is to bear a designation of author.</p> <p>(2) An adaptation may not bear a designation of author in a manner that would make the adaptation appear to be an original work.</p> <p>(3) Copies of works of art may not bear a designation of author that would make the copies appear to be originals.</p> |
| Distortion of the work | <p>§ 21.</p> <p>Where a work is used in a manner which makes it available to the public, or where it is reproduced for the purpose of distribution, no abridgements, additions or other alterations to the work itself, its title or the designation of author may be made, even by a person entitled to such use, unless the author consents thereto or unless the law permits such alteration. Such alterations, in particular, shall be permissible, as the author may not prohibit in accordance with the accepted practices of fair trading, that it to say, alterations necessitated by the manner or purpose of the authorized use of the work.</p> <p>(2) The provisions of subsection 1 shall apply to the originals of works of art even where such originals are not used in a manner that makes the work available to the public.</p> <p>(3) The fact of having given his consent to alterations which are not specifically designated shall not prevent the author from opposing</p> |

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| | <p>distortions, mutilations or other alterations of the work which seriously violate his moral interests in the work.</p> <p>For damage to the author's reputation by presentation/performance of works of language/music using recording devices cf. § 68 (1) and (1a).</p> |
| Duration of Protection | <p>§ 60. Works of literature, music and art with presumption of authorship (Art. 12) 70 years after the death of the author or the last surviving joint author</p> <p>§ 61. Works of literature, music and art without presumption of authorship (Art. 12) 70 years after the creation of the work; if published before the expiry of this period 70 years after making public.</p> <p>§ 61a. Within the term specified in § 61, the name of the author (§ 10(1)) may be notified to the Register of Authors maintained by the Federal Minister for justice either by the author or by the persons upon whom the copyright devolves after his death. Upon such notification, the term of protection shall be computed pursuant to 60.</p> <p>(...)</p> <p>§ 62. Copyright in cinematographic works shall terminate 70 years after the death of the last surviving person among the following: the principal director of the film and the authors of the screenplay, the dialogues and the musical work specially created for the cinematographic work.</p> <p>§ 63. For works which are made public in several volumes, parts issues, numbers or episodes, and for which publication determines the commencement of the term of protection, that term shall be computed from the publication of each separate element.</p> <p>§ 64. In computing terms of protection (§§ 60-63) the calendar year in which occurs the event that determines the commencement of the term shall not be counted.</p> <p>§ 65. The creator of a work shall be entitled to assert his rights under §§ 19 and 21 (3) during his lifetime even if the term of protection has expired.</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | <p>§ 42. Reproduction right for personal use</p> <p>(6) Schools and higher educational institutions for purposes of teaching or training, in the quantities required for a specific class or lecture (reproduction by schools for own use).</p> <p>Modification: other carriers than mentioned in subsection 1 for non-commercial purposes only</p> <p>Exemption: works which, by their nature and designation, are intended for teaching or training.</p> <p>(8) However consent of the person entitled required for:</p> <p>1. reproduction of whole books or periodicals or of sheets of music; the same shall also apply where the copy is not made from the book or periodical itself but from a copy thereof, produced by any method;</p> |

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| | <p>exception has to be made where reproduction is made by hand, the work in question has not been published or has been sold out, or where subsection (7), item 1 applies;</p> <p>2. Execution of a work of architecture according to a plan or design or a reproduction of such work.</p> <p>For reproduction for use of a third person cf. § 42a</p> <p>For reproduction for distribution to disabled persons cf. § 42d.</p> <p>§ 44.</p> <p>(2) Essays included into a newspaper or a magazine may and reproduction of which is allowed under subsection 1 may be orally presented in public, broadcasted and made available to the public.</p> <p>§ 45. Reproduction and distribution of works of literature</p> <p>(1) Individual works of language or works as referred to in § 2, item 3, may be reproduced, distributed and made available to the public after they have been published, to the extent justified by the purpose and if this done for non-profit purposes</p> <p>1. in a collection containing the works of several authors and intended by its nature and designation for use in churches, schools, or for educational purposes; a work as referred in § 2, item 3, may be included only for the purpose of elucidating the content;</p> <p>2. in a work which, by its nature and designation, is intended for use in schools, only for the purpose of elucidating the content.</p> <p>(2) Works of language which have been published may also be used, to the extent justified by the purpose, in broadcasts designated as school broadcasts where the use of the work in schools has been authorized by the education authorities and the use does not serve a commercial purpose.</p> <p>(3) The author shall be entitled to equitable remuneration for reproduction, distribution and making available to the public in accordance with subsection (1) and for broadcasts in accordance with subsection (2). Such claims may only be asserted by collecting societies.</p> <p>§ 46.</p> <p>Reproduction and distribution as well as oral public presentation, radio broadcast and making available to the public shall be permissible:</p> <p>1. when individual parts of an published literal work are inserted</p> <p>2. when individual works of language or works as referred to in § 2, item 3, after they have been published in the quantity justified by the purpose, are included in a work of an essentially scientific nature; a work as referred to in § 2, item 3, may be included only for the purpose of elucidating the contents.</p> <p>§ 51: Individual works of music for school education</p> <p>§ 52.</p> <p>Reproduction, distribution, public performance, broadcasting and making available to the public of musical works (...) permitted (...)</p> <p>3. Where isolated musical works which have been published are included, to the extent justified by the purpose, in a work that is predominantly scientific.</p> <p>§ 54. Reproduction, distribution an making available to the public of works of art</p> <p>(1) (...)</p> |
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| | <p>3. works of art which have been published, in a work of language which is intended for use in schools or teaching, provided this serves only to elucidate the contents, or in a schoolbook for the purpose of educating the young in the arts and provided this is done for non-profit purposes;</p> <p>3a. works of art which have been published, in a work that is predominantly scientific;</p> <p>4. it is permitted to present in public, by means of optical devices, works of art which have been published, in a predominantly scientific or educational lecture, provided this serves only to elucidate the contents, and to make copies as necessary for this purpose;</p> <p>§ 56c. Cinematographic works and the associated musical works</p> <p>(1) Schools and higher educational establishments/universities?? for the purpose of teaching and lectures and to the extent justified thereby; higher educational establishments alone, however, shall have the right to show feature films.</p> <p>(2) The author shall be entitled to claim equitable remuneration for public performance in accordance with http://clea.wipo.int/lpbin/lpext.dll?l=jump&iid=10.1048%2f%5bNFOID%5d1ffe20fe.1e2be25a.0.0&f=link[document.htm]&nid=f8db - JD_f8db subsection (1). Such claims may be asserted only by collecting societies.</p> <p>(3) Subsections (1) and (2) shall not apply</p> <ol style="list-style-type: none"> 1. to cinematographic works which, by their nature and designation, are intended for use in schools or teaching; 2. Where the video or audio medium used has been produced or distributed in infringement of an exclusive right to reproduce or distribute the work fixed thereon. <p>School books</p> <p>§ 59c.</p> <p>Use of works described in § 45 (1) and (2), 351 (1) and § 54 (1) item 3 is also permitted for commercial purposes if the user has obtained the rights required for this from the responsible collecting society (§ 3 VerwGesG, official gazette (BGBl.) No. 112/1936). Concerning this authorisation authors who are not bound by a contract with the collecting society and whose rights are not exercised by a foreign country collecting society also have the same rights as persons entitled to benefits by contract with the collecting society.</p> <p>§§ 66-80 Related rights including exceptions</p> <p>§ 71a</p> <p>(4) The use of individual oral presentations or individual performances of works of literature for scientific and educational purposes to the extent justified by a non-commercial purpose is permitted. In these cases the source is to be indicated except where this turns out to be impossible.</p> <p>§ 72. (Related rights)</p> <p>(4) The use of individual recitals or performances of literary or musical works for scientific or educational purposes is allowable, to the extent justified by the purpose.</p> |
| Scope of exceptions | |

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| Libraries and archives | <p>§ 42.</p> <p>(7) Establishments which are open to the public and which collect works may make the following copies of works (reproduction by collections for own use), however on other carriers than mentioned in subsection 1 only if this is not done directly or indirectly for an economic or profit purpose:</p> <ol style="list-style-type: none"> 1. a single copy of works in their possession; such copy may be exhibited (§ 16(2)), lent (§ 16a) and used in accordance with § 56b in place of the work copied, subject to the same conditions as that work; 2. single copies of works which have been made public, but have not been published or which have been sold out; for as long as the work has not appeared or has been sold out, such copies may be exhibited, (§ 16 (2)), lent (§ 16a) or used in accordance with § 56b. <p>(5) The following forms of reproduction, however, shall not be permissible at any time without the consent of the person entitled:</p> <ol style="list-style-type: none"> 1. reproduction of whole books or periodicals, except where copied by hand, unless the work in question has not been published or has been sold out, or where subsection (4), item 1 applies; the same shall also apply where the copy is not made from the book or periodical itself but from a copy thereof, produced by any method; 2. execution of a work of architecture according to a plan or design or a reproduction of such work. <p>§ 56b.</p> <p>(1) Establishments open to the public (libraries, video or record libraries, <i>etc.</i>) may use video or audio media for public recitation, performance or presentation of the works fixed thereon for not more than two visitors at a time, provided this is not done for profit. The author shall be entitled to equitable remuneration therefor. Such claims may only be asserted by collecting societies.</p> <p>(2) Subsection (1) shall not apply to video or audio media made or distributed in infringement of an exclusive right to reproduce or distribute the work fixed thereon.</p> |
| Acknowledgement of source | <p>§ 57.</p> <p>(2) Where passages of a work are reproduced in accordance with § 46, item 1, or § 52, item 1 by means other than audio media, or where a work is reproduced in whole or in part in accordance with §§ 45, 46, item 2, 47, 48, 51, 52, items 2 or 3, or 54, items 1 to 3a, the source must always be clearly shown. The statement of the source shall include the title of the work and the designation of the author in accordance with the provisions of § 21 (1). Where individual passages of works of language are used in schoolbooks under § 45, the title of the work need only be shown where such work is not designated by the name or pseudonym of the author. Where passages or parts of works of language are reproduced under § 46, they shall be clearly identified in the statement of the source, enabling them to be readily located in the original work. Where a work reproduced under § 46 is taken from a collection, the collection shall also be identified; in such case, the title of the original work may be replaced by a reference to the relevant passage in the collection.</p> <p>(3) In the cases referred to in § 44 (1) and (2), the newspaper or periodical from which the article was taken shall be shown in addition to the name or pseudonym of the author given in the source used; where the source given is another newspaper or periodical, the latter must be clearly stated. Where statement of such newspaper or periodical is omitted, the editor thereof or, if no editor is named, the publisher thereof shall have the same rights as an</p> |

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| | <p>author in the event of unlawful omission of the designation of the author.</p> <p>(3a) Apart from this, in the following cases the source, including the author's name, is to be indicated:</p> <p>where works as a whole or partly are reproduced according to § 42c, except where they are included into the report casually;</p> <p>where works as a whole or partly are reproduced according to §§ 43, 54 I item 4 or 56a;</p> <p>where parts of a work as described in § 46 item 1 or § 52 item 1 are being reproduced on a recording device.</p> |
| Private use | [§ 42 contained a reproduction right for one's own use and at the same time a limitations of this right (§ 42 (5)). That means, that copies reproduced for one's own use must not be used for the purpose of making the work accessible to the public. The original English version was not available at the time of publication; for the original German document see table of copyright acts used for the guidelines.] |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>§ 10.</p> <p>Person who has created the work;</p> <p>Persons on whom the copyright devolves after the author's death.</p> <p>§ 12: Presumption of authorship</p> <p>§ 13: Unnamed authors</p> |
| Joint authors/ compound works/ authors in employment | <p>§ 11. Joint authorship</p> <p>Where two or more persons have jointly created a work in such a manner that the result forms an indivisible whole, the copyright shall belong jointly to all the authors.</p> <p>Separately entitled to institute proceedings for infringement; any alteration or exploitation of the work requires the consent of all joint authors</p> <p>No joint authorship out of combination of works of different kinds itself.</p> <p>§ 6: Definition of Collective Works</p> <p>§ 40b. Employees/Computer programs</p> <p>If a computer program is created by an employee in the performance of his employment duties, the employer shall enjoy an unlimited right of utilization in the work unless he has agreed otherwise with the author of the program. In such cases, the employer shall also be entitled to exercise the rights referred to in 20 and 21 (1); the author's right to claim authorship for himself under § 19 shall remain unaffected.</p> |
| Collecting Societies | Law on Collecting Societies, BGBl. No 112/1936 |
| Contract Law/Licenses | |
| Transfer of rights | <p>§ 23.</p> <p>(1) The copyright shall be subject to inheritance; it may also pass to legatees [Sondernachfolger] in execution of a disposition mortis causa.</p> <p>(2) Where there is no successor to the estate of a co-author and the state does not take it over by escheat, the copyright of such co-author shall devolve upon the other co-authors. The same shall apply where a co-author waives his copyright to the extent that such waiver is effective.</p> |

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| | <p>(3) Otherwise, copyright shall be inalienable.</p> <p>(4) Where the copyright passes to several persons, the provisions concerning co-authors (§ 11) shall be analogously applicable to them.</p> <p>§ 24.</p> <p>(1) The author may authorize others to use the work by some or all of the methods of exploitation reserved to the author under §§ 14 to 18a (authorization to use). He may also grant to other persons the exclusive right so to do (right to use).</p> <p>(2) An authorization to use a work given prior to the granting or assignment of a right to use shall continue to have effect in respect of the person entitled to use, unless otherwise agreed with the holder of the authorization to use.</p> <p>§ 26.</p> <p>The way in which an entitled person (§ 24 (1), second sentence) may use a work, the means employed and any limits of place and time shall be governed by the contract concluded with the author. Insofar as the right to use extends thereto, the author shall abstain, as any third party, from making use of the work, but without prejudice to his right to institute copyright infringement proceedings. Upon the expiry of this obligation, the earlier exploitation right shall re-enter into force.</p> <p>§§ 27.-30: Detailed provisions on the transfer of the right to use</p> <p>§ 31.</p> <p>(1) Valid dispositions may be made in advance in respect of works yet to be created.</p> <p>(2) Where the author has contracted to grant to another person the right to use all his works, not specifically designated, or designated only as to their kind, to be created during his lifetime or during a period exceeding five years, either party may give notice of termination of the contract upon the expiry of five years from its conclusion. The right of termination may not be waived in advance. The period of notice shall be of three months unless a shorter period has been agreed. Notice of termination shall affect the contractual relationship only in respect of works which have not been completed by the end of the period of notice.</p> <p>(3) The provisions of subsection (2) shall not affect other rights to terminate the contract.</p> <p>Waiver of moral rights: in general not admissible; exceptions § 40.</p> |
| Remuneration Schemes/ compensation | |
| Protection of technological measures and rights management information | <p>§ 90c</p> <p>§ 90d</p> |
| Consequences of copyright infringement | <p>Under § 81 of the Austrian Copyright Act the rightholder can demand the omission of infringing acts. He is also entitled to injunctive measures. Moreover, according to § 82 (1) he is entitled to demand the removal of infringing conditions. He can demand the destruction of unlawfully manufactured or distributed copies and the rendering useless of devices which are intended exceptionally for the unlawful manufacture of copies, unless these measures are disproportionate(§ 82 (4)). Instead of the destruction or the rendering useless of the unlawful copies and devices, the right-holder is entitled to require the surrender of the said objects in return</p> |

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| | <p>for equitable remuneration (§ 82 (5)).</p> <p>These provisions do not apply to works of architecture (§ 83 (3)).</p> <p>If a the original of a work has been altered without authorisation, the author can only demand, that it is not his work or he can restore the old condition on his own costs if it is proportionate (§ 83)</p> <p>The injured party is according to § 86 (1) entitled to appropriate remuneration, if a copyright infringement occurs, even if the defendant acted in good faith.</p> <p>Any person who infringes a copyright or any other right protected by the Austrian Copyright Act intentional or with negligence, has to indemnify the injured party for lost profits (§ 87). In this case the injured party is also entitled to reasonable indemnification for non economic losses. The amount of indemnification is twice the amount of reasonable remuneration if no higher losses are proven.</p> <p>Moreover, the injured party can demand the surrender of the profits derived by the infringer from the acts of infringement.</p> <p>However, beside appropriate remuneration and surrender of profits, indemnification for lost profits will only be granted to that amount, which exceeds the amount of remuneration and the surrendered profit.</p> <p>Under § 81 (1a) it is also possible to claim the omission as described in subsection 1 from a middleman serving the infringing person. This also applies to the remedies provided for in § 82 (2).</p> <p>Criminal liability is regulated § 91pp. According to § 91 (1) any person who commits an infringement of the kind referred to in § 86 (1), 90b, 90c (1) or 90d (1) is liable to imprisonment not exceeding six months or to a fine not exceeding 360 times the daily rate, unless the infringement only involves the unauthorized reproduction or an unauthorized recording of a recitation or a performance for personal use or for the personal use of another person. According to § 91 (2) any person who, as the owner or director of an enterprise, does not prevent an infringement of this kind from being committed within the activities of the enterprise by an employee or agent shall also be liable to penalty. According to § 91 (2a) Any person who by way of trade commits an offence is liable to imprisonment not exceeding two years.</p> |
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| Belgium | |
| Law Transposing to Belgian Law the European Directive of May 14, 1991, on the Legal Protection of Computer Programs (of June 30, 1994) | |
| Law on Copyright and Neighbouring Rights, as amended by the Law of April 3, 1995 | |
| Law of August 11 & 31, 1998 implementing the Directive 1996/9/EC on the legal protection of databases | |
| Protected Works | |
| Categories of protected works | <p>Art. 8: Literary works</p> <p>Art. 9.-13: Works of fine art</p> <p>Art. 14.-20: Audiovisual works</p> |

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| Conditions for protection | <p>Art. 8.</p> <p>(1) Literary works shall mean writings of any kind, as also lessons, lectures, speeches, sermons or any other oral manifestation of thought. Speeches made in deliberative assemblies, in public hearings of the courts or in political meetings may be freely reproduced and communicated to the public, but the author alone shall have the right to make offprints.</p> <p>(2) Copyright shall not subsist in official acts of the authorities.</p> |
| Database protection | <p>The copyright related provisions of the Database Directive have been transposed closely to the Database Directive with the following derogations:</p> <p>Art. 20 ter:</p> <p>an employee who is a creator of a database is presumed to have waived the rights to the employer (this applies only in non cultural sector)</p> <p>Art. 20 quater:</p> <p>A lawful user is the person carrying out acts that are authorised by the author or by the law.</p> <p>Art. 22bis allows the reproduction and communication to the public of the copyright-protected database for purposes of scientific research to the extent justified by the non-profit purpose of research and without prejudice to the normal exploitation of the work. The exception is granted when the relevant acts are carried out by research bodies officially recognised.</p> <p>In case the exception of Art. 22bis is made use of fair remuneration has to be paid by the education or research institution. The system of fair remuneration is stipulated in Art. 61bis- 61quater for all types of works and neighbouring rights.. For the amount of remuneration special conditions must be set up by the Commission gathering the right owners and the interested parties (however, the Commission has never been set up yet).</p> <p>[There is a specific law on the sui generis protection of databases dated 31.08.1998. It contains only one provision derogating from the EC Database Directive: Art. 7, 2 provides for an exception to the extraction right for education or research purposes]</p> |
| Computer Software | <p>The following articles refer to the Law on the Legal Protection of Computer Programs of 1994:</p> <p>Art. 1.</p> <p>In accordance with Council Directive 91/250/EEC of May 14, 1991, on the legal protection of computer programs, computer programs, including the preparatory design material, shall be protected by copyright and assimilated to literary works within the meaning of the Berne Convention for the Protection of Literary and Artistic Works.</p> <p>Art. 2.</p> <p>A computer program shall be protected if it is original in the sense that it is the author's own intellectual creation. No other criteria shall be applied to determine its eligibility for protection under copyright.</p> <p>The protection afforded by this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, shall not be protected under copyright.</p> <p>Art. 3.</p> <p>Unless otherwise provided by contract or statute, the employer alone shall be deemed the assignee of the economic rights in computer programs</p> |

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| | <p>created by one or more employees or servants in the execution of their duties or following the instructions given by their employer.</p> <p>Art. 4.</p> <p>Moral rights shall be governed by Article 6bis(1) of the Berne Convention. (right of mentioning the author's name and right to oppose to any modification that prejudice author's reputation or honour)</p> <p>Art. 5.</p> <p>Subject to Articles 6 and 7, the economic rights shall comprise:</p> <p>(a) the permanent or temporary reproduction of a computer program by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission or storage of the computer program necessitate such reproduction, such acts shall be subject to authorization by the right holder;</p> <p>(b) the translation, adaptation, arrangement and any other alteration of a computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the program;</p> <p>(c) any form of distribution to the public, including rental or lending, of the original computer program or of copies thereof. The first sale of a copy of a program by the right holder or with his consent shall exhaust the distribution right within the European Union of that copy, with the exception of the right to control further rental or lending of the program or of a copy thereof.</p> <p>Art. 6.</p> <p>(1) In the absence of specific contractual provisions, the acts referred to in Article 5(a) and (b) shall not require authorization by the right holder where they are necessary for the use of the computer program by the person having the right to use the program in accordance with its intended purpose, including for error correction.</p> <p>(2) A person having the right to use a computer program may not be prevented from reproducing it in the form of a backup copy insofar as such copy is necessary for the use of the program.</p> <p>(3) A person having the right to use a computer program shall be entitled, without the authorization of the right holder, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.</p> <p>Art. 7.</p> <p>(1) The authorization of the right holder shall not be required where reproduction of the code or translation of its form within the meaning of Article 5(a) and (b) is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:</p> <p>(a) the acts of reproduction and translation are performed by a person having a right to use a copy of the program or on his behalf by a person authorized to do so;</p> <p>(b) the information necessary to achieve interoperability is not already readily and rapidly available;</p> <p>(c) the acts of reproduction and translation are confined to the parts of the original program which are necessary to achieve interoperability.</p> <p>(2) The provisions of the foregoing paragraph shall not permit the information obtained through its application:</p> |
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| | <p>(a) to be used for goals other than to achieve the interoperability of the independently created program;</p> <p>(b) to be given to others, except if such communication proves necessary for the interoperability of the independently created computer program;</p> <p>(c) or to be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.</p> <p>(3) This Article may not be applied in a manner which unreasonably prejudices the right holder's legitimate interests or conflicts with a normal exploitation of the computer program.</p> <p>Art. 8.</p> <p>The provisions of Articles 6(2) and (3) and 7 are obligatory.</p> <p>Art. 9.</p> <p>The term of copyright protection for computer programs shall be determined in accordance with Article 2 of the Law of June 30, 1994, on Copyright and Neighboring Rights. (Art 2 of the Law of April 1995; 70 years, see below)</p> <p>Art. 12.</p> <p>This Law shall also apply to computer programs created prior to its entry into force. It shall not affect rights acquired under law or through legal instruments nor to acts of exploitation carried out prior to such entry into force.</p> <p>Art. 10, 11, 13 and 14 contain regulations concerning punishment for infringement, questions of jurisdiction and civil procedure.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 1.</p> <p>(1) The author of a literary or artistic work alone shall have the right to reproduce his work or to have it reproduced in any manner or form whatsoever.</p> <p>This right shall also comprise the exclusive right to authorize adaptation or translation of the work.</p> <p>This right shall further comprise the exclusive right to authorize rental or lending of the work.</p> <p>Art. 10.</p> <p>No reproduction and communication of portraits without consent of portrayed person</p> <p>Art. 35: Reproduction rights of performers</p> <p>Art. 39: Reproduction rights of producers of phonograms or first fixations of films</p> <p>Art. 44: Reproduction rights of broadcasters</p> |
| Right of communication to the public and right of making available | <p>Art. 1. (1) S. 4</p> <p>The author of a literary or artistic work alone shall have the right to communicate his work to the public by any process whatsoever</p> <p>Art. 8. (1) S. 2</p> <p>Speeches made in deliberative assemblies, in public hearings of the courts or in political meetings may be freely reproduced and communicated to the public, but the author alone shall have the right to make offprints.</p> |

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| | <p>Art. 9. S. 1</p> <p>Unless otherwise agreed, assignment of a work of fine art shall imply assignment to the acquirer of the right to exhibit the work as such under conditions that are not damaging to the honour or reputation of its author, but not the assignment of any other of the author's rights.</p> <p>Art. 41.</p> <p>Without prejudice to the author's right, when a performer's performance is lawfully reproduced or broadcast, the performer and the producer may not oppose:</p> <ol style="list-style-type: none"> 1. Its communication in a public place, on condition that the performance is not used in an entertainment and that no entrance fee to the place or no equivalent is charged to the public in order to enjoy that communication 2. Its broadcasting. <p>Art. 42. — 43: Remuneration right for use according to Art. 41</p> <p>Art. 48.-50: Communication to the public by satellite</p> <p>Art. 51.-54: Retransmission by cable</p> |
| Distribution right | <p>Art. 9. S. 2</p> <p>Unless otherwise agreed or save for customary practice to the contrary, the assignment of a work of fine art shall imply prohibition on making other identical copies.</p> <p>Case law has granted a distribution right to the authors.</p> |
| Moral rights | |
| Right of publication | <p>Art. 1.</p> <p>(2) The author of a literary or artistic work shall enjoy an inalienable moral right in his work.</p> <p>Overall renunciation of the future exercise of this right shall be null and void.</p> <p>This right shall comprise the right to disclose the work.</p> <p>Non-disclosed works may not be seized.</p> <p>An author shall have the right to claim or to refuse authorship of his work.</p> <p>He shall enjoy the right to respect for his work that shall permit him to oppose any alteration to that work.</p> <p>Notwithstanding any renunciation, he shall maintain the right to oppose any distortion, mutilation or other alteration to his work or any other prejudicial act to the same work that may damage his honor or reputation.</p> |
| Recognition of authorship | Art. 1., see above |
| Distortion of the work | Art. 1., see above |
| Duration of Protection | <p>Art. 2.</p> <p>(1) Copyright shall subsist for 70 years after the death of the author to the benefit of the person he has designated to such effect or, failing such person, to his heirs in accordance with Article 7.</p> <p>(2) Without prejudice to the second subparagraph of this paragraph, where a work is the result of collaboration, the copyright shall subsist to the benefit of all successors in title for 70 years after the death of the last surviving joint author.</p> <p>The term of protection for an audiovisual work shall expire 70 years after the death of the last survivor of the following persons: the main director, the author of the screenplay, the author of the dialogue and the author of the musical compositions with or without words specifically composed for the work.</p> |

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| | <p>(3) In the case of anonymous or pseudonymous works, the term of copyright shall be 70 years from the time the work is lawfully made accessible to the public. However, where the pseudonym adopted by the author leaves no doubt as to his identity or if the author discloses his identity during the period referred to in the foregoing subparagraph, the term of protection of the work shall be that laid down in paragraph (1). In the case of anonymous or pseudonymous works that have not been lawfully made accessible to the public during the 70-year period following their creation, protection shall expire at the end of that period.</p> <p>(4) Where a work is published in volumes, parts, issues or instalments and the 70-year period begins at the time the work is made accessible to the public, the term of protection shall run separately for each element.</p> <p>(5) The term of protection for photographs that are original in that they constitute the author's own intellectual creation, shall be determined in accordance with the foregoing paragraphs.</p> <p>(6) Any person who, after expiry of copyright protection, lawfully publishes or lawfully communicates to the public for the first time a work not previously published, shall enjoy protection equivalent to that for the author's economic rights. The term of protection for such rights shall be 25 years from the time the work was lawfully published or lawfully communicated to the public for the first time.</p> <p>(7) The terms laid down in this Article shall be computed from January I of the year following the act that has generated the right.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Art. 21. Short quotations taken from a lawfully published work for the purpose of criticism, polemic or teaching or in scientific works in accordance with the fair practice of the profession and to the extent justified by the purpose, shall not infringe copyright. ... The compilation of an anthology intended for teaching shall require the consent of the authors of whose works extracts are compiled in that way. However, after the death of the author, the consent of his successor in title shall not be required on condition that the choice of the extract, its presentation and its place respect the moral rights of the author. Also that equitable remuneration be paid as agreed between the parties or, failing that, determined by the court in accordance with fair practice.</p> <p>Art. 22. (1) Once a work has been lawfully published, its author may not prohibit: (...)</p> <p>4. reproduction in part or in whole of articles or works of fine art or reproduction of short fragments of other works fixed on a graphic or similar medium where such reproduction is intended for a strictly private or didactic purpose and does not prejudice the publication of the original work;</p> <p>5. Reproduction in part or in whole of articles or works of fine art or reproduction of short fragments of other works fixed on a medium other than graphic or similar where such reproduction is intended for illustration of education or scientific research to the extent justified by the education or research purpose and does not prejudice the publication of the original work;</p> <p>6. Free performance of a work during a public examination where the purpose of the performance is not the work itself, but assessment of the performer or performers of the work with a view to awarding them a</p> |

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| | <p>certificate of qualification, a diploma or other title within the framework of an approved type of teaching...</p> <p>Art. 22bis: special provisions for databases (see above) and remuneration (61bis-61quater)</p> <p>Art. 23.</p> <p>(1) An author may not prohibit the lending of literary works, the scores of musical works, sound and audiovisual works where lending is carried out with an educational and cultural intention by institutions that are approved or officially established for that purpose by the public authorities.</p> <p>(2) Lending of sound or audiovisual works may not take place earlier than six months after the first distribution of the work to the public. After consultation with the institutions and the copyright administration societies, the King may, for all phonograms and first fixations of films or for some of them, extend or reduce the period of time referred to in the foregoing subparagraph.</p> <p>(3) The institutions referred to in paragraph 1 that have been designated by the King may import copies of literary, sound or audiovisual works, as well as the scores of musical works, that have been the subject of a first lawful sale outside the European Union and have not been distributed to the public on the territory of the European Union, provided that such importation is for the purpose of public lending organized for educational or cultural purposes and does not relate to more than five copies or scores of the work.</p> <p>Art 46. [especially performers and producers]</p> <p>Articles 35, 39, 42 and 44 shall not apply where the acts referred to in those provisions are carried out for the following purposes:</p> <ol style="list-style-type: none"> 1. short quotations made for the purpose of criticism, polemics or teaching, or in scientific works, in accordance with fair practice and to the extent justified by the purpose, of the performances of the right holders referred to in Sections 2 to 6 of this Chapter ... 3. Free and private performance carried out within the family circle or as part of school activities; 6. Free performance of a work during a public examination where the purpose of the performance is not the work itself, but assessment of the performer or performers of the work with a view to awarding them a certificate of qualification, a diploma or other title within a recognized teaching establishment ... <p>Art. 47.</p> <p>(1) Performers may not prohibit the lending of phonograms or first fixations of films where the lending is carried out for an educational and cultural purpose by institutions that are recognized or are officially established for that purpose by the public authorities.</p> <p>(2) The phonograms and the first fixations of films may not be lent until six months after the first distribution to the public of the work. After consultation with the institutions and copyright administration societies, the King may extend or reduce the period of time laid down in the preceding subparagraph with respect to all phonograms and first fixations of films or for some of them.</p> <p>(3) The institutions referred to in paragraph (1) that have been designated by the King may import phonograms or first fixations of films that have been the subject of a first lawful sale outside the European Union and have not been distributed to the public in the territory of the European Union, provided that such importation is for the purposes of public lending organized for educational or cultural purposes and does not relate to more than five copies of the phonogram or of the first fixation of the film.</p> |
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| Scope of exceptions | Art. 22. (1) Exceptions after lawful publication of the work |
| Libraries and archives | Art. 22. (1) item 8 Once a work has been lawfully published, its author may not prohibitduplicates, copies, restorations and transfers by the Cinémathèque royale de Belgique, for the purpose of preserving the cinematographic heritage, provided that this does not prejudice the normal exploitation of the work or the legitimate interests of the author. The material thus produced shall remain the property of the Cinémathèque, which shall not engage in any commercial use or use for profit. The author may have access to the material, subject to strict respect for the preservation of the work and fair remuneration for the intervention of the Cinémathèque. Art. 46 item 7. Articles 35, 39, 42 and 44 shall not apply where the acts referred to in those provisions are carried out for the following purposes ... 7. preservation of the cinematographic heritage by the Cinémathèque royale de Belgique by means of duplicates, copies, restorations and transfers, provided that this does not prejudice the normal exploitation of the work or the legitimate interests of the owners of the neighboring rights. The material thus produced shall remain the property of the Cinémathèque, which shall not engage in any commercial use or use for profit. The author may have access to the material, subject to strict respect for the preservation of the work and fair remuneration for the intervention of the Cinémathèque. |
| Acknowledgement of source | Art. 21. S. 2 The quotations referred to in the foregoing subparagraph shall mention the source and the name of the author. Art. 22. (2) Where the subject matter of a report on current events concerns the work itself, the name of the author and the title of the work that is reproduced or quoted shall be acknowledged. |
| Private use | Art. 22. (1) Once a work has been lawfully published, its author may not prohibit: (...) 4. reproduction in part or in whole of articles or works of fine art or reproduction of short fragments of other works fixed on a graphic or similar medium where such reproduction is intended for a strictly private or didactic purpose and does not prejudice the publication of the original work (...) |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | Art. 6. Copyright shall belong as of origin to the natural person who has created the work. Unless proved otherwise, the author shall be presumed to be the person shown as such on the work by the fact of his name being mentioned or of a sign that enables him to be identified. The publisher of an anonymous or pseudonymous work shall be deemed to be the author of the work in respect of other parties. Art. 7. |

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| | <p>After the death of the author, the rights laid down in Article 1 (1) shall be exercised during the term of copyright protection by his heirs or legatees, unless the author has allocated them to a specific person, subject to the statutory portion of inheritance that devolves upon the heirs.</p> <p>After the death of the author, the rights laid down in Article 1(2) shall be exercised by his heirs or legatees, unless he has designated a person to such effect.</p> <p>In the event of disagreement, the procedure under Article 4 shall apply.</p> <p>Art. 14.</p> <p>In addition to the main director, those natural persons who have participated in the creation of an audiovisual work shall be deemed authors. Unless proven otherwise, the following shall be presumed the authors of a jointly created audiovisual work:</p> <ul style="list-style-type: none"> (a) the author of the screenplay; (b) the author of the adaptation; (c) the author of the words; (d) the graphical author in the case of animated works or of animated sequences in audiovisual works where they represent a significant part of such work; (e) the author of the musical compositions, with or without words, specifically composed for the work. <p>The authors of the original work shall be assimilated to the authors of the new work if their contribution has been used therein.</p> <p>Art. 15.</p> <p>An author who refuses to complete his contribution to an audiovisual work or who is not in a position to do so may not oppose the use of his contribution for the purpose of completing the work.</p> <p>He shall be deemed an author, with respect to that contribution, and shall enjoy the rights deriving therefrom.</p> |
| <p>Joint authors/ compound works/ authors in employment</p> | <p>Art. 3.</p> <p>(3) Where works are created by an author under an employment contract or a service relationship, the economic rights may be assigned to the employer on condition that assignment of such rights is explicitly laid down and that the creation of the work falls within the scope of the contract or service relationship.</p> <p>Where works are created by an author on a commission, the economic rights may be assigned to the person who has given the commission on condition that the latter's activity is in a non-cultural field or in advertising, that the work is intended for such activity and that assignment of the rights is explicitly laid down.</p> <p>In such cases, the fourth to sixth subparagraphs of paragraph (1) and paragraph (2) shall not apply.</p> <p>The clause affording to the copyright assignee the right to exploit a work in a form that is unknown at the date of the contract or of appointment to the service relationship shall be explicit and shall lay down participation in the profits obtained from such exploitation.</p> <p>The scope and conditions of transfer may be laid down in collective agreements.</p> <p>Art. 20ter: special provisions for databases (see above)</p> <p>Law on the Legal Protection of Computer Programs of 1994:</p> <p>Art. 3.</p> <p>Unless otherwise provided by contract or statute, the employer alone shall be deemed the assignee of the economic rights in computer programs</p> |

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| | <p>created by one or more employees or servants in the execution of their duties or following the instructions given by their employer.</p> <p>Art. 4.</p> <p>Where copyright is indivisible, exercise of the right shall be governed by agreement. Failing agreement, none of the authors may exercise the right in isolation, subject to a decision by the courts in the event of disagreement.</p> <p>However, each author may take action, on his own behalf and without the intervention of the other authors, against any infringement of copyright and may claim damages on his own behalf.</p> <p>The courts may, at any time, make the authorization to publish a work subject to the measures they deem necessary; they may order, at the request of the opponent author, that he should participate neither in the costs nor in the profits of exploitation or that his name should not be shown on the work.</p> <p>Art. 5.</p> <p>In the case of a work of collaboration in which the contributions of the authors may be individually identified, those authors may not, unless otherwise agreed, deal in their works with new collaborators.</p> <p>However, they shall share the right to exploit their contribution in isolation where such exploitation does not prejudice the joint work.</p> |
| Collecting Societies | Art. 65.-78: Copyright Administration Societies |
| Contract Law/Licenses | |
| Transfer of rights Remuneration Schemes/ compensation | <p>Art. 3.</p> <p>(1) The economic rights shall be movable, assignable and transferable, in whole or in part, in accordance with the provisions of the Civil Code. In particular, they may be the subject of alienation or of an ordinary or exclusive license.</p> <p>All contracts affecting the author shall require written form.</p> <p>Contractual provisions relating to copyright and to its modes of exploitation shall be interpreted restrictively. Assignment of an article incorporating a work shall not imply assignment of the right to exploit that work; an author shall have access to his work to the extent necessary for him to exercise his economic rights.</p> <p>The author's remuneration, the scope and duration of the assignment shall be set out explicitly for each mode of exploitation.</p> <p>The assignee shall be required to exploit the work in accordance with the fair practice of the profession.</p> <p>Notwithstanding any provision to the contrary, the assignment of rights in respect of as yet unknown forms of exploitation shall be null and void.</p> <p>(2) The assignment of economic rights relating to future works shall be valid only for a limited period of time and only if the types of works to which the assignment applies are specified.</p> <p>Art. 11.-13: Resale royalty right for works of fine arts</p> <p>Art. 17.</p> <p>The assignment of the right of audiovisual adaptation of an existing work must be the subject of a contract that is separate from the contract for publishing the work.</p> <p>The assignee of the right shall undertake to exploit the work in accordance with fair practice in the profession and to pay to the author, unless otherwise provided remuneration that is proportional to the gross revenue he has obtained.</p> |

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| | <p>Art. 18. Unless otherwise provided, the authors of an audiovisual work as also the authors of a creative element lawfully integrated or used in an audiovisual work, with the exception of authors of musical compositions, shall assign to the producers their exclusive right of audiovisual exploitation of the work, including the rights required for such exploitation such as the right to add subtitles or to dub the work, without prejudice to the provisions of Article 16 of this Law.</p> <p>Art. 19. Save for-audiovisual works belonging to the non-cultural field or to advertising, authors shall be entitled to separate remuneration for each mode of exploitation. The amount of such remuneration shall, unless otherwise provided, be proportional to the gross revenue obtained from exploitation. In such case, the producer shall communicate to all authors, at least once a year, a statement of revenue he has obtained for each mode of exploitation.</p> <p>Art. 20. Rights of authors of audiovisual works in case of bankruptcy, transfer, legal settlement or liquidation of enterprise</p> <p>Art. 24. An author who transfers or assigns his right of rental in a sound or audiovisual work shall maintain his right to equitable remuneration on account of the rental. This right may not be waived by the author.</p> <p>Art. 25.-30.: Special provisions for publishing contracts: Obligations and rights of the publisher, especially:</p> <p>Art. 26 (1): manufacturing of copies within agreed period of time;</p> <p>Art. 26 (2): payment of a proportionate remuneration;</p> <p>Art. 27: right to market copies within 3 years after expiry of the contract unless author prefers to buy them;</p> <p>Art. 28: Communication of statement of sales to the author; Rights of the author</p> <p>Art. 29: termination right;</p> <p>Art. 30: rights in case of bankruptcy, liquidation, legal settlement of the publisher's enterprise;</p> <p>Art. 31.-32.: Special provisions for performance contracts</p> <p>Art. 55.-58: Remuneration for private copying of sound and audiovisual works</p> <p>Art. 59.-61: Remuneration for personal or internal use of works on a graphic or similar medium including use set out in Article 22 (1), item 4 (includes didactic purposes)</p> <p>Art. 61bis-61quater: system of fair remuneration for any types of works and objects protected by neighbouring rights;</p> <p>Art. 62.-64: Remuneration for public lending.</p> <p>Art. 62. (1) Authors shall have a right to remuneration in the event of the lending of literary works or the scores of musical works as laid down in Article 23 [educational purposes!]. (2) The author, performer and producer shall have a right to remuneration</p> |
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| | <p>for the lending of sound or audiovisual works as laid down in Articles 23 and 47.</p> <p>Art 63.</p> <p>After consultation with the institutions and the copyright administration societies, the King shall determine the amount of remuneration referred to in Article 62, Such remuneration shall be collected by the copyright administration societies.</p> <p>Under the conditions and detailed rules He lays down, the King may entrust a society that is representative of all the copyright administration societies to carry out the collection and distribution of the remuneration for public lending.</p> <p>After consultation with the Communities, and where appropriate at their initiative, the King shall lay down for certain categories of establishment that are recognized or established by the public authorities, an exemption or a lump-sum price for each act of lending in order to establish the remuneration referred to in Article 62.</p> <p>Art. 64.</p> <p>(1) Subject to the international conventions, the remuneration referred to in Article 62 (1) shall be distributed between the authors.</p> <p>(2) Subject to the international conventions, the remuneration referred to in Article 62 (2) shall be distributed, by thirds, between the authors, the performers and the producers.</p> <p>Waiver of moral rights</p> <p>Art. 1.</p> <p>(2) The author of a literary or artistic work shall enjoy an inalienable moral right in his work. Overall renunciation of the future exercise of this right shall be null and void.</p> |
| Protection of technological measures and rights management information | |
| Consequences of copyright infringement | <p>The Belgium Copyright Act grants no special action for an author or right-holder seeking civil remedies. However, it is stipulated in the act, that damages are allocated according to the general rules of Belgium civil law.</p> <p>In the case of criminal proceedings (Art. 80 ff Belgium Copyright Act) , seized goods like takings, receipts and articles may be allocated to the civil party in account of or up to the amount of the damages suffered (Art. 86).</p> <p>According to Article 80 any malicious or fraudulent infringement of copyright and neighboring rights constitutes an offence of counterfeiting. The same applies to malicious or fraudulent use of the name of an author or of a holder of a neighboring right or of any distinctive sign adopted by such person to designate his work or his performance; such articles shall be deemed counterfeit. Also any person who knowingly sells, hires, places on sale or on hire, holds in storage for hire or for sale or who introduces onto the Belgian territory with a commercial intent such counterfeit articles is guilty of the same offence.</p> <p>According to Article 81 these offences are punishable by a fine. Any repeat of such an offence is punishable by imprisonment of between three months and two years and (or) a fine.</p> |

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| Consolidated Act on Copyright 2003, No. 164 of March 12, 2003 | |
| Protected Works | |
| Categories of protected works | <p>Protected Works</p> <p>Sec. 1.-(1) The person creating a literary or artistic work shall have copyright therein, be it expressed in writing or in speech as a fictional or a descriptive representation, or whether it be a musical or dramatic work, cinematographic or photographic work, or a work of fine art, architecture, applied art, or expressed in some other manner.</p> <p>(2) Maps and drawings and other works of a descriptive nature executed in graphic or plastic form shall be considered as literary works.</p> <p>(3) Works in the form of computer programs shall be considered as literary works.</p> <p>Sec. 73: Protection of titles <i>etc..</i></p> |
| Conditions for protection | <p>Sec. 1.-(1) The person creating (...)</p> <p>[No express requirement of originality/creativity]</p> |
| Database protection | <p>Copyright Protection of Databases:</p> <p>Sec. 71 (3): If products of the nature mentioned in subsection (1) (means, above all, databases) or parts thereof are subject to the copyright or other protection, such rights may also be exercised.</p> <p>Sec. 36.-(1) The person who has the right to use a computer program shall be entitled to</p> <p>(i) produce such copies of the program and to make such alterations of the program which are necessary for the person to use the computer program in accordance with its intended purpose, including for error correction;</p> <p>(ii) make a back-up copy insofar as it is necessary for the use of the program; and</p> <p>(iii) observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing, <i>etc..</i> the program which he is entitled to.</p> <p>(2) The person who has the right to use a database may perform such actions which are necessary for the person to obtain access to the contents of the database and make normal use of it.</p> <p>(3) The provisions of subsection (1)(ii) and (iii) and of subsection (2) may not be deviated from by agreement.</p> <p>Sui generis protection:</p> <p>Chapter 5 Other Rights: Producers of Catalogues, <i>etc..</i></p> <p>Sec. 71.-(1) The person who produces a catalogue, a table, a database or the like, in which a great number of items of information has been compiled, or which is the result of a substantial investment, shall have the exclusive right to control the product in question as a whole or an essential part thereof by making copies of it and by making it available to the public.</p> <p>(2) The provision of subsection (1) shall apply correspondingly to a reproduction or making available to the public of insubstantial parts of the contents of a catalogue, a table, a database or the like, which is made</p> |

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| | <p>repeatedly and systematically, if the said acts may be equalled to acts which conflict with normal exploitation of the products in question or which unreasonably prejudice the legitimate interests of the producer.</p> <p>(3) Where products of the nature mentioned in subsection (1) or parts thereof are subject to copyright or other protection, such rights may also be exercised.</p> <p>(4) The protection according to subsection (1) shall subsist until 15 years have elapsed after the end of the year in which the product was produced. If a product of the said nature is made available to the public within this period of time, the protection shall, however, subsist until 15 years have elapsed after the end of the year in which the product was made available to the public for the first time.</p> <p>(5) The provisions of Section 2(2) -(4), Sections 6-9, Section 11(2) and (3), Section 12(1) and (2)(iv), Sections 13-17, Section 18(1) and (2), Section 19(1) and (2), Section 20-22, 25, 27, 28, 30-35, Section 36(2) and (3), Section 47 and Sections 49-52 shall apply correspondingly to the catalogues, tables, databases, <i>etc...</i>, mentioned in subsection (1).</p> <p>(6) Terms of agreement which extend the right of the producer according to subsection (1) in a product made public shall be null and void.</p> <p>Sec. 11a (2): No temporary reproduction exception for databases.</p> <p>Sec. 12.-</p> <p>(...)</p> <p>(2)The provision of subsection [1 = private copying] does not provide the right to</p> <p>(...) iv. make copies in digital form of databases if the copy is made on the basis of a reproduction of the database in digital form</p> <p>or</p> <p>(v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household</p> <p>Sec. 2- (1) (final provisions)</p> <p>(...)</p> <p>(2) This Act shall apply also to works and productions made before the coming into force of the Act. A catalogue, a table, a database or the like, produced not later than 15 years before January 1, 1998, is protected in accordance with Section 71 of the Act on Copyright as worded by Section 1, No. 12, of this Act, until January 1, 2013.</p> <p>(...)</p> |
| Computer Software | <p>Sec. 1.-</p> <p>(...)</p> <p>(3) Works in the form of computer programs shall be considered as literary works.</p> <p>Sec. 11a (2): No temporary reproduction exception for computer programmes.</p> <p>Sec. 12.-</p> <p>(...)</p> <p>(2)The provision of subsection [1 = private copying] does not provide the right to</p> <p>(...) iii. make copies of computer programs in digitized form;</p> |

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| | <p>(iv) make copies in digital form of databases if the copy is made on the basis of a reproduction of the database in digital form; or</p> <p>(v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household.</p> <p>Sec. 13.-</p> <p>(...)</p> <p>(3) The provision of subsection (1) (reproduction for educational purposes) concerning reproduction of published works shall not apply to computer programs in digital form.</p> <p>(...)</p> <p>Sec. 19.-</p> <p>(...)</p> <p>(3) Notwithstanding the provision of subsection (1=distribution of copies transferred to the others), copies of cinematographic works and copies of computer programs in digitalized form may not be distributed to the public through lending without the consent of the author. However, this does not apply if a copy of a computer program in digitized form constitutes a part of a literary work and is lent together with it.</p> <p>(...)</p> <p>Special Provisions on Computer Programs, <i>etc...</i></p> <p>36.-(1) The person who has the right to use a computer program shall be entitled to</p> <p>(i) produce such copies of the program and to make such alterations of the program which are necessary for the person to use the computer program in accordance with its intended purpose, including for error correction;</p> <p>(ii) make a back-up copy insofar as it is necessary for the use of the program; and</p> <p>(iii) observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing, <i>etc...</i> the program which he is entitled to.</p> <p>(2) The person who has the right to use a database may perform such actions which are necessary for the person to obtain access to the contents of the database and make normal use of it.</p> <p>(3) The provisions of subsection (1)(ii) and (iii) and of subsection (2) may not be deviated from by agreement.</p> <p>Sec. 37.-(1) Reproduction of the code of a computer program and translation of its form shall be permitted where this is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:</p> <p>(...)</p> <p>(detailed provision restricting the permission to acts that are necessary for the interoperability and restricting the further use of the information)</p> <p>(3) The provisions of subsections (1) and (2) may not be deviated from by agreement.</p> <p>Special Provisions on Computer Programs Produced in the Course of Employment</p> |
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| | <p>Sec. 59. Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer the copyright in such a computer program shall pass to the employer.</p> <p>Sec. 91.- (...) (4) The provision of Section 59 shall not apply to computer programs produced before January 1, 1993. (...)</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Scope of Protection</p> <p>Sec. 2.-(1) Within the limitations specified in this Act copyright implies the exclusive right to control the work by making copies thereof and by making it available to the public, whether in the original or in an amended form, in translation, adaptation into another literary or artistic form or into another technique.</p> <p>(2) Any direct or indirect, temporary or permanent reproduction, in whole or in part, by any means and in any form shall be considered as reproduction. The recording of the work on devices which can reproduce it, shall be considered as a reproduction. (...)</p> <p>Temporary Reproduction</p> <p>Sec. 11 a.-(1) It is permitted to make temporary copies</p> <ul style="list-style-type: none"> i) which are transient or incidental; ii) which are an integral and essential part of a technical process; iii) the sole purpose of which is to enable a transmission of a work in a network between third parties by an intermediary, or a lawful use of a work; and iv) which have no independent economic significance. <p>(2) The provision of subsection (1) shall not apply to computer programs and databases.</p> |
| Right of communication to the public and right of making available | <p>Scope of Protection</p> <p>Sec. 2.-(1) Within the limitations specified in this Act copyright implies the exclusive right to control the work by making copies thereof and by making it available to the public, whether in the original or in an amended form, in translation, adaptation into another literary or artistic form or into another technique.</p> <p>(2) (...)</p> <p>(3) The work is made available to the public when:</p> <ul style="list-style-type: none"> (i) copies of the work are offered for sale, rental or lending or distribution to the public in some other manner; (ii) copies are exhibited in public; or (iii) the work is performed in public. <p>(4) Public performance within the meaning of subsection (3)(iii) shall include</p> <ul style="list-style-type: none"> i) communication to the public of works, by wire or wireless means, including broadcasting by radio or television and the making available to the public of works in such a way that members of the public may access them from a |

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| | <p>place and at a time individually chosen by them; and</p> <p>ii) performance at a place of business before a large group, which would otherwise have been considered not public.</p> |
| Distribution right | <p>Distribution of Copies</p> <p>Sec. 19.-(1) When a copy of a work has been sold or otherwise transferred to others within the European Economic Area with the consent of the author the copy may be further distributed. In respect of further distribution in the form of lending or rental, the provision of subsection (1) shall also apply to sale or assignment in any other form to others outside the European Economic Area.</p> <p>(2) Notwithstanding the provision of subsection (1), copies may not be distributed to the general public through rental without the consent of the author. However, this does not apply to works of architecture and applied art.</p> <p>(3) Notwithstanding the provision of subsection (1), copies of cinematographic works and copies of computer programs in digitized form may not be distributed to the public through lending without the consent of the author. However, this does not apply if a copy of a computer program in digitized form constitutes a part of a literary work or is lent together with it.</p> <p>(4) The provision of subsection (1) shall not carry any limitation in the right to receive remuneration <i>etc...</i>, in accordance with the Act on Library Fees.</p> |
| Moral rights | |
| Right of publication | <p>Publication and Publishing</p> <p>Sec. 8.-(1) A work shall be considered to have been made public when it has lawfully been made available to the public.</p> <p>(2) A work shall be considered published if, with the consent of the author, copies of the work have been put on the market or otherwise distributed to the public.</p> |
| Recognition of authorship | <p>Sec. 3.-(1) The author of a work shall have the right to be identified by name as the author in accordance with the requirements of proper usage, on copies of the work as well as if the work is made available to the public..</p> |
| Distortion of the work | <p>Sec. 3</p> <p>(1) (...)</p> <p>(2) The work must not be altered nor made available to the public in a manner or in a context which is prejudicial to the author's literary or artistic reputation, or individuality.</p> <p>(3) The right of the author under this Section cannot be waived except in respect of a use of the work which is limited in nature and extent.</p> <p>Moral Rights after the Expiration of Copyright</p> <p>Sec. 75. Although the copyright has expired a literary or artistic work may not be altered or made available to the public contrary to Section 3(1) and (2) of this Act if cultural interests are thereby violated.</p> <p>Sec. 75a.: Special provisions for commercial activities with public performances of musical works</p> |
| Duration of Protection | <p>Sec. 63.-(1) The copyright in a work shall last for 70 years after the year of the author's death or with regard to the works mentioned in Section 6 after the year of death of the last surviving author. (...)</p> <p>(2) Where a work is made public without indication of the author's name, generally known pseudonym or signature, the copyright shall last for 70 years after the year in which the work was made public. Where a work</p> |

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| | <p>consists of parts, volumes, instalments, issues or episodes a separate term of protection shall run for each item.</p> <p>(3) If within the period mentioned the author is indicated in accordance with Section 7 or if it is established that he had died before the work was made public, the duration of copyright shall be calculated in accordance with subsection (1).</p> <p>(4) Copyright in a work of unknown authorship that has not been made public shall last 70 years after the end of the year in which the work was created.</p> <p>Sec. 64. When a work has not been published previously, the person who lawfully makes the work public or publishes it for the first time after the expiry of copyright protection, shall have rights in the work equivalent to the economic rights attributed by the Act to the person creating a literary or artistic work. This protection shall last for 25 years after the end of the year in which the work was made public or published.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Reproduction Within Educational Activities</p> <p>Sec. 13.-(1) For the purpose of educational activities copies may be made of published works and copies may be made by recording of works broadcast in radio and television provided the requirements regarding extended collective license according to Section 50 have been met. The copies thus made may be used only in such educational activities which are covered by the agreement presumed in Section</p> <p>Sec. 50.-</p> <p>(...)</p> <p>(2) The provision of subsection (1) concerning recording shall not apply to cinematographic works which are part of the general cinema repertoire of feature films except where only brief excerpts of the work are shown in the telecast.</p> <p>(3) The provision of subsection (1) concerning reproduction of published works shall not apply to computer programs in digital form.</p> <p>(4) Teachers and pupils may as part of educational activities make recordings of their own performances of works if this is not done for commercial purposes. Such recordings may not be used for any other purposes.</p> <p>Production of Anthologies for Educational Use, <i>etc...</i></p> <p>Sec. 18.-(1) Minor portions of literary and musical works or such works of small proportions may be used in composite works compiling contributions of a large number of authors for use in educational activities, provided that five years have elapsed since the year when the work was published.. In connection with the text also works of art and works of a descriptive nature, cf. Section 1(2), may be used, provided five years have elapsed since the year when the work was made public. The author shall be entitled to remuneration.</p> <p>(2) The provision of subsection 1 does not apply to works prepared for use in educational activities or if the use is for commercial purposes.</p> <p>(...)</p> <p>Public Performances</p> <p>Sec. 21-(1) A published work which is not a dramatic or cinematographic work may be performed in public</p> <p>(i) on occasions when the audience is admitted free of charge where the performance is not the main feature of the event and where the event does not occur for commercial purposes; and</p> |

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| | <p>(ii) where the performance occurs in the case of divine services or educational activities.</p> <p>(2) The provision of subsection (1)(ii) does not apply to performances on radio or television and to performances in educational activities which occur for commercial purposes.</p> <p>(3) In public libraries works which have been made public may be made available to individuals for personal viewing or study on the spot by means of technical equipment..</p> <p>Quotations</p> <p>Sec. 22. A person may quote from a work which has been made public in accordance with proper usage and to the extent required for the purpose.</p> <p>Use of Works of Fine Art, <i>etc.</i>.</p> <p>Sec. 23.-(1) Works of art and works of a descriptive nature, cf. Section 1 (2), which have been made public may be used in critical or scientific presentations in connection with the text in accordance with proper usage and to the extent required for the purpose. Reproduction for commercial purpose is not permitted.</p> <p>(...)</p> <p>Sec. 33.-(1) Broadcasts of works may be recorded on tape, film or any other device by means of which they can be reproduced and may be stored with the National Media Collection if the broadcast is of documentary value. The Media Collection may produce single copies of the broadcasts for security and protection purposes and for research purposes. The right to further exploitation shall be subject to any other rules in force.</p> <p>(2) The Minister for Culture may provide that the provision in subsection (1) shall apply correspondingly to other public archives.</p> |
| Scope of exceptions | <p>General Provisions</p> <p>Sec. 11.-(1) The provisions of this chapter do not limit the author's rights under Section 3, (moral rights) except as provided in Section 29 (not of interest, alteration of buildings and articles of everyday use)</p> <p>(2) Where a work is used in accordance with the provisions of this chapter, the work may not be altered more extensively than is required for the permitted use. If the work is used publicly, the source shall be indicated in accordance with the requirements of proper usage.</p> <p>(3) Where a work is used in accordance with the provisions of this chapter, copies may not be made on the basis of a reproduction of the work which is contrary to Section 2 or on the basis of a circumvention of a technological measure which is contrary to Section 75 c(1) .</p> |
| Libraries and archives | <p>Reproduction Within Archives, Libraries and Museums</p> <p>Sec. 16. (1) The Minister for Culture may lay down rules according to which archives, libraries and museums may, on specified conditions, make single copies of works to be used for the purpose of their activities if this is not done for commercial purposes. If the copying is made by way of sound and visual recording or in digital form, the copies may not without the consent of the author be lent or in any other way be made available to the public outside the archives, libraries or museums.</p> <p>For details see Order of the Right of Archives, Libraries and Museums to Make Copies of Literary and Artistic Works, <i>etc.</i>..No. 876 of November 28, 1997, especially Sections 6-8:</p> <p>6.-(1) It is permitted to make single copies of items in the institutions' collections:</p> |

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| | <p>(i) For use in research.</p> <p>(ii) For the purpose of handing out copies to other users, if it concerns single articles in composite works, newspapers, and periodicals, and short sections of books and other publications.</p> <p>(iii) For the purpose of lending copies, which on account of the items' special value, rarity or poor durability, it is not deemed justified by the institutions to lend.</p> <p>(2) Only one copy may be made available to the individual user.</p> <p>(3) Notwithstanding the provisions of subsection (1) and (2), copies may be made only of non-published works, <i>etc...</i> which have been given to the institution by agreement or under a will, if not otherwise stipulated or deemed to be a precondition.</p> <p>7. Copies made in accordance with this Order may be used only by individuals for personal consultation or study, including consultation or study by means of display reproduction and playing, within the institution at which the copying has taken place. However, it is permitted in paper form to hand out copies to individuals in accordance with Section 6.</p> <p>8.-(1) The right to make copies according to this Order does not comprise computer programs in machine-readable form.</p> <p>(2) This Order does not limit the right to make copies in accordance with the provisions of the Copyright Act otherwise, including the institution users' right to make or have made copies for private use under Section 12 of the Act.</p> <p>Sec. 16- (2) Copyright Act: Notwithstanding the provision of subsection (1), second sentence, public libraries and other libraries which are financed in whole or in part by the public authorities may upon request reproduce articles in newspapers, magazines and composite works, brief excerpts of books and other published literary works and illustrations and music reproduced in connection with the text, provided the requirements regarding extended collective license according to Section 50 have been met. The provision of subsection (1) shall not comprise broadcast by radio or television and the making available to the public of works in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of Section 2 (4)(i).</p> <p>Public Performances</p> <p>Sec. 21.-</p> <p>(...)</p> <p>(3) In public libraries published copies of cinematographic works, musical works and works in digital form can be made available to individuals for personal viewing or study on the spot by means of technical equipment. Reproduction is not allowed.</p> <p>Public Proceedings, Public Access, <i>etc...</i></p> <p>Sec. 26 (...)</p> <p>Sec. 27.-(1) Where copies of works protected under this Act have been lodged in custody of an administrative authority in connection with its activity, the copyright shall not prevent other parties from demanding access to copies of works nor from demanding a transcript or a copy in compliance with the existing statutory provisions thereon. The same shall apply to works produced within the administrative authority.</p> <p>(2) The copyright does not prevent that documents delivered to a public record office or an institution which the Minister for Culture has decided shall be considered equivalent hereto and made available to the public in</p> |
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| | <p>accordance with the provisions of the legislation on archives. However, it shall be prohibited to issue transcripts or to make copies of private records.</p> <p>(3) The right to further exploitation of works open to public access in pursuance of subsection (1) or (2) or of which transcripts or copies have been issued shall be subject to the provisions otherwise in force.</p> <p>See also Consolidated Public Lending Right Remuneration Act No. 21 of January 11, 2000 and Executive Order on Public Lending Right Remuneration No. 218 of March 29, 2000.</p> |
| Acknowledgement of source | <p>General Provisions</p> <p>Sec. 11.-(1) The provisions of this chapter do not limit the author's rights under Section 3, (moral rights) except as provided in Section 29.</p> <p>(2) (...) If the work is used publicly, the source shall be indicated in accordance with the requirements of proper usage.</p> <p>Sec. 3.-(1) The author of a work shall have the right to be identified by name as the author in accordance with the requirements of proper usage, on copies of the work as well as if the work is made available to the public.</p> |
| Private use | <p>Reproduction for Private Use</p> <p>Sec. 12.-(1) Anyone is entitled to make or have made, for private purposes, single copies of works which have been made public if this is not done for commercial purposes. Such copies must not be used for any other purpose.</p> <p>(2) The provision of subsection (1) does not provide the right to</p> <p>(i) construct a work of architecture;</p> <p>(ii) make a copy of a work of art by casting, by printing from an original negative or base, or in any other manner implying that the copy can be considered as an original;</p> <p>(iii) make copies of computer programs in digitized form;</p> <p>(iv) make copies in digital form of databases if the copy is made on the basis of a reproduction of the database in digital form; or</p> <p>(v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household.</p> <p>(3) The provision of subsection (1) does not confer a right to engage another person to make copies of</p> <p>(i) musical works;</p> <p>(ii) cinematographic works;</p> <p>(iii) works of applied art; or</p> <p>(iv) works of art if the copying is in the form of an artistic reproduction.</p> <p>(4) The provision of subsection (1) does not entitle the user to make copies of musical works and cinematographic works by using technical equipment made available to the public in libraries, on business premises, or in other places accessible to the public.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Sec. 1.-(1) The person creating a literary or artistic work shall have copyright therein, (...)</p> <p>Copyright Holder Presumption, <i>etc...</i></p> <p>Sec. 7.-(1) Where not otherwise stated the person whose name or generally known pseudonym or signature is indicated in the usual manner on copies</p> |

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| | <p>of the work, or when the work is made available to the public shall be deemed to be the author.</p> <p>(2) If a work is published without the author being indicated in accordance with the foregoing subsection (1), the editor, if named, and otherwise the publisher, shall act on behalf of the author until the latter is named in a new edition of the work.</p> <p>Inheritance and Creditor Proceedings</p> <p>Sec. 61.-(1) The usual provisions of the inheritance laws shall apply to the copyright upon the author's death.</p> <p>(2) The author may give directions in his will with binding effect also for the spouse and issue concerning the exercise of the copyright, or may authorize somebody else to give such directions.</p> |
| <p>Joint authors/ compound works/ authors in employment</p> | <p>Composite Works</p> <p>Sec. 5.- A person who, by combining works or parts of works, creates a composite literary or artistic work, shall have copyright therein, but the right shall be without prejudice to the rights in the individual works.</p> <p>Joint Authorship</p> <p>Sec. 6.- If a work has two or more authors, without the individual contributions being separable as independent works, the copyright in the work shall be held jointly. Each of the authors, however, may bring an action for infringement.</p> <p>Special Provisions on Computer Programs Produced in the Course of Employment</p> <p>Sec. 59.- Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer the copyright in such a computer program shall pass to the employer. (except programs produced before January 1, 1993, cf. Sec. 91 (4)).</p> |
| <p>Collecting Societies</p> | <p>Common Provisions on Extended Collective Licenses</p> <p>Sec. 50.-(1) Extended collective license according to Sections 13, (Reproduction within educational activities) and 14, Section 16 (2), Section 17(5), Section 23 (2) and Sections 30, 30a and 35 may be invoked by users who have made an agreement on the exploitation of works in question with an organization comprising a substantial number of authors of a certain type of works which are used in Denmark. The extended collective license gives the user right to exploit other works of the same nature although the authors of those works are not represented by the organization.</p> <p>(2) The extended collective license gives the user right only to exploit the works of the unrepresented authors in the manner and on the terms that follow from the agreement made with the organization and from the provisions mentioned in subsection (1).</p> <p>(3) Rightholder organisations who make agreements of the nature mentioned in subsection (1) , shall be approved by the Minister for Culture. Only one organisation can be approved for each type of works. The Minister may decide that an approved organisation in certain fields shall be a joint organisation comprising several organisations which meet the conditions of subsection (1).</p> <p>Sec. 51.-(1) For exploitation of works according to Sections 13 and 14, Section 16 (2), Section 17(5), Section 23 (2) and Sections 30, 30a and 35, the rules laid down by the organization with regard to the distribution of remuneration between the authors represented by the organization shall apply correspondingly to unrepresented authors.</p> <p>(2) Unrepresented authors may claim an individual remuneration although</p> |

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| | <p>such a right appears neither from the agreement with the user nor from the organization's rules on remuneration. The amount of the individual remuneration may be fixed according to the provision of Section 47(1). (see below) The claim for remuneration shall be advanced against the organization only.</p> <p>(3) Claims for remuneration which the organisations approved according to Section 50(3) wish to make in connection with exploitation of works according to Section 35, shall be made simultaneously to the users.</p> <p>(4) The provision of Section 49 shall apply correspondingly to the claims for remuneration according to the rules mentioned in subsections (1) and (2).</p> <p>Sec. 52.-(1) In the absence of any result of negotiations on the making of agreements as mentioned in Section 13(1), Section 14, Section 16 (2), Section 17(5) and Section 23 (2) and Section 30a, each party may demand mediation.</p> <p>(2) Demands for mediation shall be addressed to the Minister for Culture. The request may be made if one of the parties has broken off the negotiations or rejected a request for negotiations, or if the negotiations do not appear to lead to any result.</p> <p>((3)-(7) contain detailed provisions concerning the procedural rules of mediation)</p> <p>Common Provisions on Compulsory License</p> <p>Sec. 47.-(1) If no agreement can be reached on the amount of the remuneration in accordance with Section 17 (4), Section 18(1), Section 51(2) (see above) and Section 68, each party may submit the question to a Tribunal, the Copyright License Tribunal, set up by the Minister for Culture. The decision of the Tribunal may not be brought before any other administrative authority. The Minister for Culture will lay down the rules governing the activities of the Tribunal and may in this connection lay down rules on the covering of the expenses incurred in connection with such activities.</p> <p>(...)</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>General Provisions</p> <p>Sec. 53.-(1) Subject to the limitations following from Sections 3 (moral rights) and 38 the copyright holder may wholly or partially assign his rights under this Act.</p> <p>(2) The transfer of copies shall not include an assignment of the copyright.</p> <p>(3) Where a right to exploit the work in a specific manner or through specific means has been assigned, the assignment does not give the assignee the right to exploit the work in any other manners or through any other means.</p> <p>(4) The provisions of Sections 54 to 59 on assignment of copyright may be deviated from by agreement between the parties except where otherwise provided in the individual provisions.</p> <p>Sec. 54.- The assignee shall be under an obligation to exploit the work. The author may cancel the agreement if the assignee has not exploited the work within a reasonable time or at the latest five years after the time where the agreement has been fulfilled on the part of the author.</p> <p>Sec. 55.- Where the agreement does not expressly specify individual forms of exploitation comprised by the assignment the author may subject to a reasonable notice terminate the assignment of the rights in the unspecified forms of exploitation which have not been implemented by the assignee</p> |

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| | <p>within three years from the time when the agreement has been fulfilled on the part of the author.</p> <p>Sec. 56.-(1) Assignment of copyright does not give the assignee any right to alter the work unless the alteration is usual or obviously presumed.</p> <p>(2) Assignment of the copyright does not give the assignee any right to reassign the copyright unless the reassignment is usual or obviously presumed. The assignor remains liable for the performance of the agreement with the author.</p> <p>Waiver of moral rights</p> <p>3. ~ (...)</p> <p>(3) The right of the author under this section cannot be waived except in respect of a use of the work which is limited in nature and extent.</p> |
| Remuneration Schemes/ compensation | <p>Settlement and Control</p> <p>Sec. 57.-(1) If the author's remuneration depends on the assignee's turnover, sales figures, <i>etc...</i>, the author may demand that settlement is made at least once a year. The author may likewise demand that the settlement be accompanied by satisfactory information on the circumstances forming the basis of the calculation of the remuneration.</p> <p>(2) The author may demand that the accounts, bookkeeping and inventory together with certifications by the party who has exploited the work in connection with the annual settlement according to subsection (1) be made available to a state-authorized public accountant or registered accountant appointed by the author. The accountant shall inform the author of the correctness of the settlement and of irregularities, if any. The accountant shall otherwise observe secrecy about all other matters that become known to him in connection with his review.</p> <p>(3) The provisions of subsections (1) and (2) shall not be deviated from to the detriment of the author.</p> <p>See also above under collecting societies.</p> <p>See also Consolidated Public Lending Right Remuneration Act No. 21 of January 11, 2000 and Executive Order on Public Lending Right Remuneration No. 218 of March 29, 2000.</p> |
| Protection of technological measures and rights management information | <p>Chapter 6a — Technological Measures, <i>etc...</i> (Sections 75b — 75e) (Sections 75c and 75d to be revised in the year 2005-2006 at the latest, cf. Section 89 (3)).</p> |
| Consequences of copyright infringement | <p>Under Section 83 (1) of the Danish Copyright Act, any person who violates with intent or by negligence any of the provisions 76 and 77(which are penal sanctions for the violation of the 'core' rights under the act), is liable to pay reasonable remuneration and damages. Even if the violation is committed in good faith, the infringed party is still entitled to remuneration and damages up to the profit gained by the violation (Section 83(2)).</p> <p>Moreover, according to Section 84 (1) illegal copies may be seized in favour of the infringed party or to be transferred to him against a remuneration not to exceed the production costs; according to Section 84 (2) they may also be destroyed or made unserviceable for unlawful use. Section 84 (1) and (2) does also apply to things that may serve unlawful production or application of the work or of the production. However, persons who have acquired copies in good faith for private use are not subject to seizure.</p> <p>Criminal liability is regulated in Sections 76 ff According to Section 76</p> |

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| | <p>anyone who with intent or by gross negligence infringes certain rights is liable to a fine. In the case of particularly aggravating circumstances punishment may be increased to imprisonment up to one year.</p> <p>According to Section 78 anyone who with intent or by gross negligence violates the protective provisions of Sections 75b (prohibition of marketing or possession of means for circumvention of technical protective devices) or Section 75c (prohibition of means of circumventing effective technological measures) is liable to a fine. The same applies to the intentional violation of Section 75 e (provisions on electronic rights-management information). According to Section 80 also companies, <i>etc...</i> (legal persons) are liable to punishment.</p> |
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h) Finland

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| <p>Finland</p> <p>Copyright Act, Law No. 404 of July 8, 1961, as last amended by Law No. 748 of October 9, 1998</p> <p>Modifications enacted by the Law of 1998 have been subject to unofficial translations from the original document.</p> | |
| <p>Protected Works</p> | |
| <p>Categories of protected works</p> | <p>Article 1.</p> <p>A person who has created a literary or artistic work shall have copyright therein, whether it be a fictional or descriptive representation in writing or speech, and whether it be a musical, dramatic, or cinematographic work, a work of fine art, architecture, artistic handicraft, industrial art, or expressed in some other manner.</p> <p>Maps and other descriptive graphically or three-dimensionally executed works, and computer programs, drawings, shall also be considered literary works.</p> |
| <p>Conditions for protection</p> | <p>Article 4.</p> <p>A person who translates or adapts a work or converts it into some other literary or artistic form shall have copyright in the work in that new form, but his right to dispose of it shall be subject to the copyright in the original work.</p> <p>If a person has drawn freely on a work to create a new and independent work, his copyright shall not be subject to the right in the original work.</p> <p>Article 5.</p> <p>A person who, by combining works or parts of works, creates a literary or an artistic compilation shall have copyright therein, but his rights shall not restrict the rights in the individual works.</p> <p>Article 9.</p> <p>There shall be no copyright in laws and decrees, or in decisions and declarations of public authorities and other public bodies.</p> <p>Article 10.</p> <p>Notwithstanding the registration of a work as a design in accordance with special provisions, the author may have copyright in it by virtue of this Act.</p> <p>Additional provisions regarding rights in photographs are laid down in Article 49a. Separate provisions shall be issued on the legal protection of rights in layout-designs of integrated circuits.</p> |

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| Database protection | <p>Article 49</p> <p>A person who has made</p> <p>1) a catalogue, table, program or any other production in which a large quantity of data are compiled, or</p> <p>2) a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents,</p> <p>has the exclusive right to dispose of the whole or of a substantial part, evaluated qualitatively or quantitatively, of the production by making copies of it and by making it available to the public.</p> <p>The right laid down in paragraph 1 shall subsist until 15 years have elapsed from the year in which the production was completed, or if the production was made available to the public before the end of that time, until 15 years have elapsed from the year in which the production was first made available to the public.</p> <p>The provisions of the Article 2, second and third paragraphs, Articles 8 and 9, Article 11, second paragraph, Article 12, first, second and fourth paragraphs, Article 13, Article 14, first to third paragraphs (Education and Scientific Research), Articles 15—18, (Art. 16: Libraries and Archives) Article 19, first and second paragraphs, Articles 22, 25 b—25 d, 25 f—25 i, Article 25 j, fourth and fifth paragraphs, and Article 26 shall correspondingly be applied to a production referred to above in the first paragraph.</p> <p>If such a production or a part of it is subject to copyright, that right may be claimed.</p> <p>Any contractual provision under which the maker of the published production referred to above in the first paragraph prevents the lawful user from using insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purpose whatsoever, or restricts such a use, shall be without effect.</p> <p>Article 25 j (see also below under Software protection)</p> <p>(...)</p> <p>Whoever has a right to use a database shall be entitled to make copies of it and perform all other acts which are necessary for accessing a database and for the common use of its contents. (250/1998)</p> <p>(...)</p> <p>Concerning databases created during an employment relationship see below, Art. 40 b</p> <p>Article 56 a</p> <p>Anyone who</p> <p>(1) wilfully or out of gross negligence violates a provision issued for the protection of copyright in the present Act or acts in violation of a direction issued under Article 41, second paragraph, of a provision of Article 51 or 52, or of a prohibition referred to in Article 53, first paragraph, or Article 54 b; or</p> <p>(2) imports into the country a copy of a work for distribution to the public, which copy he knows or has well-founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act, shall, unless the act is punishable as a copyright crime under Article 1 of Chapter 49 of the Penal Code, be sentenced for a copyright violation to a fine. (1024/1995)</p> <p>However, the making of single copies for private use of a computer-readable computer program or a database which has been published or</p> |
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| | copies of which have, with the consent of the author, been sold or otherwise permanently transferred, shall not be held to be a copyright violation. |
| Computer Software | <p>Article 1. S. 2: Maps and other descriptive graphically or three-dimensionally executed works, and computer programs, drawings, shall also be considered literary works.</p> <p>Article 19.</p> <p>When a copy of a work has been sold or otherwise permanently transferred with the consent of the author, further copies may be distributed.</p> <p>The provisions of the first paragraph above do not apply to the making available to the public of a copy of the work by rental or a comparable legal act. However, a product of architecture, artistic handicraft or industrial art may be rented to the public.</p> <p>The provisions of the first paragraph above do not apply to the making available to the public by lending of a copy of a cinematographic work or of a machine-readable computer program.</p> <p>Article 25j.</p> <p>Any person who has legally acquired a computer program shall be entitled to make such copies of the program and such alterations to it as may be necessary for its use for the intended purpose. This applies also to the correction of errors.</p> <p>Any person who has the right to use a computer program shall be entitled to make a back-up copy of the program where necessary for its use.</p> <p>Any person who has the right to use a computer program is entitled to observe, study or test the operation of the computer program in order to determine the ideas and principles underlying any element of it if he does so while engaged in the act of loading, displaying, running, transmitting or storing the program.</p> <p>Any contractual provision limiting the use of a computer program in accordance with the second and third paragraphs shall be void.</p> <p>Article 25k.</p> <p>The reproduction of the code of a program and the translation of its form are permissible, provided that these acts are an indispensable means of obtaining the information whereby an independently created computer program may be made interoperable with other programs and provided also that the following conditions are met:</p> <p>(1) the acts must be performed by the licensee or by another person who has the right to use a copy of the program, or on their behalf by a person authorized to do so;</p> <p>(2) the information necessary to achieve interoperability must not previously have been readily available to the persons referred to in subparagraph (1);</p> <p>(3) the acts must be confined to the parts of the original program that are necessary to achieve interoperability.</p> <p>The information obtained under the provisions of the first paragraph above must not, by virtue of these provisions:</p> <p>(1) be used for purposes other than making the independently created computer program;</p> <p>(2) be passed on to others, except when necessary for the interoperability of the independently created computer program;</p> <p>(3) be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act that</p> |

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| | <p>infringes copyright.</p> <p>Any contractual provision limiting the use of a computer program under this Article shall be void.</p> <p>Concerning software created during an employment relationship see below, Art. 40 b</p> <p>Article 56 a</p> <p>Anyone who</p> <p>(1) wilfully or out of gross negligence violates a provision issued for the protection of copyright in the present Act or acts in violation of a direction issued under Article 41, second paragraph, of a provision of Article 51 or 52, or of a prohibition referred to in Article 53, first paragraph, or Article 54 b; or</p> <p>(2) imports into the country a copy of a work for distribution to the public, which copy he knows or has well-founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act, shall, unless the act is punishable as a copyright crime under Article 1 of Chapter 49 of the Penal Code, be sentenced for a copyright violation to a fine. (1024/1995)</p> <p>However, the making of single copies for private use of a computer-readable computer program or a database which has been published or copies of which have, with the consent of the author, been sold or otherwise permanently transferred, shall not be held to be a copyright violation.</p> |
| Scope/Form of Protection | |
| Exploitation rights | See right of making copies: Art. 2 |
| Right of reproduction | See right of making copies: Art. 2 |
| Right of communication to the public and right of making available | <p>Article 2.</p> <p>Subject to the limitations stated hereinafter, copyright includes the exclusive right to dispose work by making copies of it and by making it available to the public, either in the original or an altered form, in translation or adaptation, in another literary or artistic form, or by other technical means.</p> <p>The recording of a work on a device by which it can be reproduced shall also be considered the making of copies.</p> <p>A work is made available to the public when it is performed in public or when copies of it are offered for sale, rental or lending or are otherwise distributed to the public or publicly exhibited. A performance that takes place within the framework of commercial activities for a comparatively large, closed group of persons shall also be considered a public performance.</p> <p>Article 8.</p> <p>A work shall be considered disseminated when it is lawfully made available to the public.</p> <p>A work shall be considered published when copies of it have been placed on sale or otherwise distributed to the public with the consent of the author.</p> <p>Articles 25f.-25i.: special provisions for radio and television broadcasts</p> <p>Articles 25j.-25k.: computer programs, see above</p> <p>Article 52a. fine arts: access right of the author.</p> |
| Distribution right | Part of making available to the public (Art. 2. S. 3) |

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| Moral rights | |
| Right of publication | Article 8. publication only with author's consent |
| Recognition of authorship | <p>Article 3.</p> <p>S. 1. When copies of a work are made, or when the work is made available to the public in its entirety or in part, the name of the author shall be stated to the extent and in the manner required by proper usage.</p> <p>(...)</p> <p>S. 3. The author may waive his rights under this Article with binding effect only in relation to use that is limited in character and extent.</p> <p>Article 11.</p> <p>S. 2. When a work is used publicly on the basis of the provisions of this Chapter ('limitations on copyright'), the source shall be stated to the extent and in the manner required by proper usage.</p> |
| Distortion of the work | <p>Article 3.</p> <p>S. 2.</p> <p>A work may not be altered in a manner that is prejudicial to the author's literary or artistic reputation or to his individuality, nor may it be available to the public in such a form or context as to prejudice the author in the manner stated.</p> <p>Article 11.</p> <p>S. 3. The work shall not be altered more than is necessary for the permitted use without the author's consent.</p> <p>Article 52: no entering of author's name or signature on copies of art works by a third party</p> <p>Article 53: violation of cultural interests after the death of the author</p> |
| Duration of Protection | <p>Article 43.</p> <p>Copyright shall subsist until the end of the seventieth year following that in which the author died or, in the case of a work referred to in Article 6, following that in which the last surviving author died. Copyright in a cinematographic work shall subsist until the end of the seventieth year following that in which the last of the following persons to survive died: 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.</p> <p>Article 44.</p> <p>In the case of a work disseminated without any mention of the author's name or generally known pseudonym or signature, the copyright shall subsist until the end of the seventieth year following that in which it was disseminated. If the work is published in parts, the term of protection shall run for each part separately.</p> <p>If the identity of the author is disclosed during the period referred to in the foregoing paragraph, Article 43 shall apply.</p> <p>In the case of a non-disseminated work by an unknown author, the copyright shall subsist until the end of the seventieth year following that in which the work was created.</p> <p>Article 44a.</p> <p>Any person who for the first time publishes or disseminates a previously unpublished or non-disseminated work that has been protected under Finnish law and whose term of protection has expired shall have rights in</p> |

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| | <p>the work as provided in Article 2 of this Act. Those rights shall subsist until the end of the twenty-fifth year following that in which the work was published or disseminated.</p> <p>Article 45.</p> <p>2.: ...a performance of literary or artistic work shall not be copied or distributed to the public until 50 years have elapsed from the year in which the performance took place...</p> <p>Article 46.</p> <p>1.:a phonograph record or other sound recording devices shall not be copied or distributed to the public until 50 years from the year during which the recording was made have elapsed.....</p> <p>Article 46a.</p> <p>1 .</p> <p>A film or any other device on which moving images have been recorded shall not, without the consent of the producer, be copied or distributed to the public until 50 years have elapsed from the year during which the recording was made. If the recording is published or disseminated within that period, the protection thereof shall subsist until the end of the fiftieth year following that in which the recording was first published or disseminated...</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Article 14.</p> <p>Where an organization representing a large number of Finnish authors in a certain field has authorized the copying, by audio or video recording, on agreed terms, of a disseminated work included in a radio or television broadcast for use in educational activities or in scientific research, the recipient of the authorization may on corresponding terms make copies of another work in the same field, included in a broadcast, by an author not represented by the organization. It is permitted, in connection with educational activities, to make copies by direct audio or video recording of a disseminated work performed by a teacher or a student for temporary use in those activities. A copy so made may not be used for any other purpose.</p> <p>Parts of a disseminated literary work or, when the work is not extensive, the whole work may be incorporated in a test constituting part of the matriculation examination or in any other comparable test. A disseminated work of art may be reproduced in pictorial form for the same purpose.</p> <p>Article 18.</p> <p>Minor parts of a literary or musical work or, if it is not extensive, the whole work, may be incorporated in a compilation consisting of works by several authors and intended for use in education, provided that five years have passed since the year in which the work was published. A disseminated work of art may be reproduced in pictorial form in connection with the text. The provisions of this Article do not apply to a work created for use in education. The author is entitled to remuneration for use under the preceding paragraph.</p> <p>Article 49.</p> <p>3.: Art. 14 para 1, 3 and Art. 18 para 1, 2 accordingly apply to photographer's rights</p> <p>Article 19.</p> <p>4.: no right to remuneration for lending of copies, if the lending is done by a public library or a library serving research or educational activities.</p> |

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| | <p>Article 21. A published work may be publicly performed in connection with religious services and education.</p> <p>A published work may also be publicly performed in events where the performance of such works is not the main feature, provided that no admission fee is charged and the event is not arranged for profit. It may also be publicly performed in connection with public education activities and for charitable or other nonprofit purposes, provided that the performers, whether they are one or several, receive no payment for their performance.</p> <p>The provisions of the first and second paragraphs above do not apply, however, to dramatic or cinematographic works.</p> <p>Article 21. para 2 accordingly applies to recordings of performances (Art. 45 para 4).</p> <p>Article 22. A disseminated work may be quoted, in accordance with proper usage, to the extent necessary for the purpose.</p> <p>Article 25. Disseminated works of art may be reproduced in pictorial form in connection with text matter: (1) in a critical or scientific presentation; (...)</p> <p>Article 49. 3.: Art. 25 para 1, 3 accordingly apply to photographer's rights</p> <p>Article 54a. The provisions of this Act on educational activities do not apply to educational activities conducted for profit-making purposes.</p> <p>Article 54: arbitration procedure with special provisions for educational purposes use</p> |
| Scope of exceptions | <p>Article 11. The provisions of this Chapter shall not limit the author's rights under Article 3 more extensively than as provided in Article 25e.</p> <p>When a work is used publicly on the basis of the provisions of this Chapter, the source shall be stated to the extent and in the manner required by proper usage. The work shall not be altered more than is necessary for the permitted use without the author's consent.</p> |
| Libraries and archives | <p>16. Archives, libraries and museums, as defined by decree, shall have the right to make copies of a work, on conditions specified in the decree, for the purpose of their activities.</p> <p>The provisions of the Act Concerning the Delivery and Deposit of Films in Archives shall govern the right of the Finnish Film Archive to make copies of a work included in a publicly shown Finnish film or in the advertising or other promotional material for such a film.</p> <p>Article 16 para 1, 45 para 4: this also applies to the recordings of performances (neighbouring rights)</p> <p>Article 49. 3.: Art. 16 para 1, 3 accordingly applies to photographer's rights</p> |

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| Acknowledgement of source | <p>Article 11.</p> <p>The provisions of this Chapter shall not limit the author's rights under Article 3 more extensively than as provided in Article 25e.</p> <p>When a work is used publicly on the basis of the provisions of this Chapter, the source shall be stated to the extent and in the manner required by proper usage. The work shall not be altered more than is necessary for the permitted use without the author's consent.</p> |
| Private use | <p>Article 12</p> <p>Anyone may make single copies of a disseminated work for his private use. Such copies may not be used for other purposes.</p> <p>It is also permitted to engage an outsider to make copies which are intended for the private use of the party ordering the copies.</p> <p>What is provided in the second paragraph shall not apply to the reproduction of musical works, cinematographic works, useful articles or sculptures, or the copying of any other work of art by artistic reproduction.</p> <p>The provisions of this Article shall not apply to a computer-readable computer program, to a computer-readable reproduction from a computer-readable database, or to the construction of a work of architecture.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Article 1.</p> <p>A person who has created a literary or artistic work shall have copyright therein</p> <p>Article 7.</p> <p>The person whose name or generally known pseudonym or signature is shown in the usual manner on the copies of a work or when the work is made available to the public shall be deemed to be the author in the absence of proof to the contrary.</p> <p>If a work is published without the name of the author being shown in the manner described in the first paragraph, the editor, if named, and otherwise the publisher, shall represent the author until the latter's name is given in a new edition of the work or in a notification to the competent Ministry.</p> |
| Joint authors/ compound works/ authors in employment | <p>Article 6.</p> <p>If a work has two or more authors whose contributions do not constitute independent works, the copyright shall belong to the authors jointly. However, each one of them is entitled to bring an action for infringement.</p> <p>Article 40b.</p> <p>If a computer program and a work directly associated therewith have been created in the course of duties in employment relations, the copyright in the computer program and the work shall accrue to the employer. The same shall apply by analogy to a computer program and a work directly associated therewith created within the framework of a civil service post.</p> <p>The provisions of the foregoing paragraph shall not apply to a computer program, or to a work directly associated therewith, created by an author independently engaged in teaching or research work in a higher education establishment, with the exception of institutes of military education.</p> <p>The provisions in paragraphs 1 and 2 above shall apply correspondingly to a database, which is created while performing duties in employment relationship.</p> |

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| Collecting Societies | Articles 13., 14 para 1, 25f para 1, 25h para 1 |
| Contract Law/Licenses | |
| Transfer of rights | <p>Article 26: contractual licensing and remuneration</p> <p>Article 27.</p> <p>Copyright may be transferred in its entirety or in part, subject to the limitations provided for in Article 3.</p> <p>The transfer of a copy shall not constitute a transfer of the copyright. In the case of a portrait executed on commission, however, the author may not exercise his right without the permission of the person who commissioned it or, if that person is deceased, that of the surviving spouse and heirs.</p> <p>Provisions on the transfer of copyright in certain cases are contained in Articles 30 to 40 and 40b. The said provisions shall be applied, however, only in the absence of agreement to the contrary.</p> <p>Article 28.</p> <p>In the absence of agreement to the contrary, the person to whom copyright has been transferred may not alter the work or transfer the copyright to others. If the copyright belongs to a business, it may be transferred together with the business or part thereof; provided that the transferor shall remain liable for the fulfilment of the transfer agreement.</p> <p>Article 29.</p> <p>The provisions of the Contracts Act shall apply to the amendment of an unfair clause in an agreement on the transfer of copyright.</p> <p>Article 30.: special provisions for public performance contracts</p> <p>Articles 31.-38.: special provisions for publishing contracts</p> <p>Articles 39.-40.: special provisions for film contracts</p> <p>Article 41.</p> <p>On the author's death, the rules governing marital entitlement to property, inheritance and wills shall apply to copyright.</p> <p>The author may give directions in his will, with binding effect also on the surviving spouse and direct descendants, adopted children and their descendants, regarding the exercise of copyright, or may authorize another person to give such directions.</p> <p>Article 42.</p> <p>Copyright shall not be subject to legal seizure as long as the copyright remains vested in the author or in any other person who has acquired the copyright by virtue of marital entitlement to property, inheritance or testamentary provision. The same rule applies to manuscripts and works of art that have not been exhibited, placed on sale or otherwise authorized for dissemination.</p> <p>Waiver of moral rights</p> <p>Article 3.</p> <p>The author may waive his rights under this Article with binding effect only in relation to use that is limited in character and extent.</p> |
| Remuneration Schemes/ compensation | <p>Contractual license</p> <p>Article 26.</p> <p>Any provision that the organization referred to in Article 13 or in the first paragraph of each of Articles 14, 25f or 25h may have made regarding the apportionment of remuneration for the reproduction or broadcasting of a</p> |

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| | <p>work among authors represented by the organization, or regarding the use of the remuneration for the joint purposes of those authors, shall apply accordingly to authors who are not represented by the organization.</p> <p>If the provision made by the organization and referred to in the first paragraph above does not include the right to individual remuneration for the authors represented by the organization an author not represented by the organization does however have the right to claim individual remuneration. The remuneration shall be paid by the organization referred to in the first paragraph. The right to individual remuneration shall have lapsed, however, where no claim concerning it has been verifiably submitted within three years from the end of the calendar year in which the reproduction or broadcasting of the work took place.</p> |
| Protection of technological measures and rights management information | |
| Consequences of copyright infringement | <p>According to Article 57 of the Finnish Copyright Act, a person who uses a work in violation of the Act, is obliged to pay fair compensation. If this use was wilful or negligent, the infringer has to pay damages for any other loss in addition. This provision applies also to persons who are guilty of an act punishable under Article 1 of Chapter 49 of the Penal Code, or Article 56 a of the Finnish Copyright Act.</p> <p>According to Article 58, an unlawful copy or a device intended for the making of a copy can be destroyed, altered, or conveyed to the injured party against compensation to the cost of manufacture upon Court order, according to what it deems reasonable. Article 58 does not apply to persons who acted in good faith and to works of architecture, except if the modification of a building is reasonable.</p> <p>Moreover, the aforesaid does also apply to neighbouring rights (Article 60).</p> |

i) France

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| <p>France</p> <p>Law No. 92-597 of July 1, 1992, on the Intellectual Property Code</p> <p>Legislative Part</p> <p>as amended by Law No. 97-283 of March 27, 1997</p> <p>as amended Law No. 98-536 of July 1, 1998 (Database)</p> <p>as amended Law No. 2001-624 of July 17, 2001</p> <p>as amended Law No. 2001- 1135 of 3 December 2001</p> <p>ANNEX : Intellectual Property Code (Legislative Part)</p> | |
| Protected Works | |
| Categories of protected works | <p>Art. L. 112-1. The provisions of this Code shall protect the rights of authors in all works of the mind, whatever their kind, form of expression, merit or purpose.</p> <p>Art. L. 112-2. The following, in particular, shall be considered works of the mind within the meaning of this Code:</p> <ol style="list-style-type: none"> 1. books, pamphlets and other literary, artistic and scientific writings; 2. lectures, addresses, sermons, pleadings and other works of such nature; |

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| | <p>(...)</p> <p>7. works of drawing, painting, architecture, sculpture, engraving and lithography;</p> <p>8. graphical and typographical works;</p> <p>9. photographic works and works produced by techniques analogous to photography;</p> <p>11. illustrations, geographical maps;</p> <p>12. plans, <i>sketches</i> and three-dimensional works relative to geography, topography, architecture and science;</p> <p>13. software, including the preparatory design material;</p> <p>(...)</p> <p>Art. L. 112-3. The authors of translations, adaptations, transformations or arrangements of works of the mind shall enjoy the protection afforded by this Code, without prejudice to the rights of the author of the original work. The same shall apply to the authors of anthologies or collections of miscellaneous works or data which, by reason of the selection or arrangement of their contents, constitute creations of the mind.</p> <p>Art. L. 112-4. The title of a work of the mind shall be protected in the same way as the work itself where it is original in character. Such title may not be used, even if the work is no longer protected under Articles L. 123-1 to L. 123-3, to distinguish a work of the same kind if such use is liable to create confusion.</p> |
| Conditions for protection | <p>Art. L. 111-1. The author of a work of the mind shall enjoy in that work, by the mere fact of its creation, an exclusive incorporeal property right which shall be enforceable against all persons.</p> <p>This right shall include attributes of an intellectual and moral nature as well as attributes of an economic nature, as determined by Books I and III of this Code.</p> <p>The existence or conclusion of a contract for hire or of service by the author of a work of the mind shall in no way derogate from the enjoyment of the right afforded by the first paragraph above.</p> <p>Art. L. 111-2. A work shall be deemed to have been created, irrespective of any public disclosure, by the mere fact of realization of the author's concept, even if incomplete.</p> <p>Art. L. 112-4. The title of a work of the mind shall be protected in the same way as the work itself where it is original in character.</p> |
| Database protection | <p>Copyright Protection:</p> <p>Art. L. 112-3. The authors of translations, adaptations, transformations or arrangements of works of the mind shall enjoy the protection afforded by this Code, without prejudice to the rights of the author of the original work. The same shall apply to the authors of anthologies or collections of miscellaneous works or data which, by reason of the selection or arrangement of their contents, constitute creations of the mind.</p> <p>Art- L 122-5 ... an author may not prohibit..</p> <p>5. acts necessary to access the contents of an electronic database for the purposes of and within the limits of the use provided by contract.</p> <p>Sui generis Protection:</p> <p>Article L341-1. The producer of a database, understood as the person who takes the initiative and the risk of the corresponding investments, benefits from protection of the contents of the database when its constitution,</p> |

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| | <p>verification or presentation shows that there has been a substantial financial, technical or human investment.</p> <p>This protection is independent and applies without prejudice to the protection of copyright or any other right over the database or one of its component elements.</p> <p>Article L341-2.: Conflict of Laws/ Eligibility for the benefit of this title</p> <p>Article L342-1.The producer of a database has the right to prohibit:</p> <ol style="list-style-type: none"> 1. The extraction, by the permanent or temporary transfer of all or a substantial part, qualitatively or quantitatively, of the contents of a database to another medium, by any means or in any form; 2. The reuse, by making available to the public all or a substantial part, qualitatively or quantitatively, of the contents of a database, in any form whatsoever. <p>These rights can be transferred, assigned or licensed.</p> <p>Public lending is not an act of extraction or reuse.</p> <p>Article L342-2. The producer may also prohibit the repeated and systematic extraction or reuse of insubstantial parts, qualitatively or quantitatively, of the contents of the database when such operations manifestly go beyond the conditions of normal use of the database.</p> <p>Article L342-3. When a database is made available to the public by the rightholder, he may not prohibit:</p> <ol style="list-style-type: none"> 1. The extraction or the reuse of an insubstantial part, evaluated qualitatively or quantitatively, of the contents of the database, by a person having lawful access; 2. The extraction for private purposes of a qualitatively or quantitatively substantial part of the contents of a non-electronic database, subject to compliance with the copyrights or neighbouring rights over the works or materials incorporated into the database. <p>Any provision that is contrary to item 1° above shall be null and void.</p> <p>Article L342-4.: First sale of a physical copy exhausts the right to control the resale</p> <p>Article L342-5. The rights provided for in Article L. 342-1 shall become effective from the date of completion of the production of the database. They shall expire fifteen years from the 1st of January of the calendar year following that of completion.</p> <p>When a database has been made available to the public before the expiry of the period set forth in the paragraph above, the rights shall expire fifteen years from the 1st of January of the calendar year following the date when the database was first made available to the public.</p> <p>However, in case a protected database is the subject of a new substantial investment, its protection shall expire fifteen years from the 1st of January of the calendar year following that in which this new investment was made.</p> <p>Article L343-1. The infringement of the rights of the producer of a database, as defined in Article L. 342-1, shall be punishable by a two-year prison term and a fine of FRF 1,000,000.</p> <p>Article L343-2.: Liability of Legal Persons</p> <p>Article L343-3. In the event of the repetition of the offences defined in Article L. 343-1, or if the offender is or has been contractually bound to the aggrieved party, the penalties involved shall be doubled.</p> <p>Guilty parties may, in addition, be deprived for a period not exceeding five</p> |
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| | <p>years, of the right to elect and be elected to commercial courts, chamber of commerce and industry and professional chambers and to joint labour dispute conciliation boards.</p> |
| <p>Computer Software</p> | <p>Art. L. 122-6. Subject to the provisions of Article L. 122-6-1, the exploitation right belonging to the author of the software shall include the right to do or to authorize:</p> <ol style="list-style-type: none"> 1. the permanent or temporary reproduction of software by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission or storage of the software necessitate such reproduction, such acts shall be possible only with the authorization of the author; 2. the translation, adaptation, arrangement or any other alteration of software and the reproduction of the results thereof; 3. the placing on the market for consideration or gratuitously, including rental, of the software or of copies thereof by any process. However, the first sale of a copy of software on the territory of a Member State of the European Community or of a State party to the agreement on the European Economic Area by the author or with his consent shall exhaust the right of placing on the market of that copy in all Member States, with the exception of the right to authorize further rental of a copy. <p>Art. L. 122-6-1.</p> <p>I. The acts referred to in items 1 and 2 of Article L. 122-6 shall not require authorization by the author where they are necessary for the use of the software by the person entitled to use it in accordance with its intended purpose, including for error correction.</p> <p>However, an author may by contract reserve the right to correct errors and stipulate any special conditions to which shall be subject the acts referred to in items 1 and 2 of Article L. 122-6, necessary to enable the entitled person to use the software in accordance with its intended purpose.</p> <p>II. A person having the right to use the software may make a backup copy where such is necessary to ensure use of the software.</p> <p>III. A person having the right to use the software shall be entitled, without the authorization of the author, to observe, study or test the functioning of the software in order to determine the ideas and principles which underlie any element of the software if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the software which he is entitled to do.</p> <p>IV. Reproduction of the code of the software or translation of the form of that code shall not require the authorization of the author where reproduction or translation within the meaning of item 1 or 2 of Article L. 122-6 is indispensable for obtaining the information necessary to achieve the interoperability of independently created software with other software, providing that the following conditions are met:</p> <p>(detailed provision restricting the permission to acts that are necessary for the interoperability and restricting the further use of the information)</p> <p>V. This Article may not be interpreted in such a way as to prejudice the normal exploitation of the software or to cause unreasonable prejudice to the author's legitimate interests.</p> <p>Any stipulation contrary to the provisions of paragraphs II, III and IV of this Article shall be null and void.</p> <p>Art. L. 122-6-2. Any publication or user's handbook concerning means of removing or circumventing any technical device protecting software shall state that the unlawful use of such means is liable to the penalties laid down for cases of infringement.</p> |

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| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. L. 122-1. The right of exploitation belonging to the author shall comprise the right of performance and the right of reproduction.</p> <p>Art. L. 122-3. Reproduction shall consist in the physical fixation of a work by any process permitting it to be communicated to the public in an indirect way.</p> <p>It may be carried out, in particular, by printing, drawing, engraving, photography, casting and all processes of the graphical and plastic arts, mechanical, cinematographic or magnetic recording.</p> <p>(...)</p> <p>Art. L. 122-4. Any complete or partial performance or reproduction made without the consent of the author or of his successors in title or assigns shall be unlawful. The same shall apply to translation, adaptation or transformation, arrangement or reproduction by any technique or process whatsoever.</p> |
| Right of communication to the public and right of making available | <p>Art. L. 122-2. Performance shall consist in the communication of the work to the public by any process whatsoever, particularly:</p> <ol style="list-style-type: none"> 1. public recitation, lyrical performance, dramatic performance, public presentation, public projection and transmission in a public place of a telediffused work; 2. telediffusion. <p>Telediffusion shall mean distribution by any telecommunication process of sounds, images, documents, data and messages of any kind.</p> |
| Distribution right | |
| Moral rights | |
| Right of publication | <p>Art. L. 121-2. The author alone shall have the right to divulge his work. He shall determine the method of disclosure and shall fix the conditions thereof, subject to Article L. 132-24.</p> <p>(...) (special provision concerning posthumous works)</p> <p>This right may be exercised even after expiry of the exclusive right of exploitation set out in Article L. 123-1.</p> <p>Art. L. 121-4. Notwithstanding assignment of his right of exploitation, the author shall enjoy a right to reconsider or of withdrawal, even after publication of his work, with respect to the assignee. (...)</p> <p>Art. L. 121-8. The author alone shall have the right to make a collection of his articles and speeches and to publish them or to authorize their publication in such form.</p> <p>Art. L. 121-7. Except for any stipulation more favorable to the author, such author may not:</p> <p>(...)</p> <ol style="list-style-type: none"> 2. exercise his right to reconsider or of withdrawal. |
| Recognition of authorship | <p>Art. L. 121-1. An author shall enjoy the right to respect for his name, his authorship and his work.</p> <p>This right shall attach to his person.</p> <p>It shall be perpetual, inalienable and imprescriptible. It may be transmitted mortis causa to the heirs of the author.</p> <p>Exercise may be conferred on another person under the provisions of a will.</p> |

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| Distortion of the work | <p>Art. L. 121-1. An author shall enjoy the right to respect for his name, his authorship and his work.</p> <p>Art. L. 121-7. Except for any stipulation more favorable to the author, such author may not:</p> <ol style="list-style-type: none"> 1. oppose modification of the software by the assignee of the rights referred to in item 2 of Article L. 122-6 where such modification does not prejudice either his honor or his reputation; 2. exercise his right to reconsider or of withdrawal. |
| Duration of Protection | <p>Art. L. 123-1. The author shall enjoy, during his lifetime, the exclusive right to exploit his work in any form whatsoever and to derive monetary profit therefrom.</p> <p>On the death of the author, that right shall subsist for his successors in title during the current calendar year and the 70 years thereafter.</p> <p>Art. L. 123-2. In the case of works of collaboration, the calendar year taken into account shall be that of the death of the last surviving joint author.</p> <p>[followed by detailed provisions concerning works of collaboration (70 years after death of the last survivor of the joint authors), pseudonymous works (70 years after publication), special rules concerning the rights of heirs and a very remarkable provision:</p> <p>Art. L. 123-10. The rights referred to in the preceding Article shall be further extended for a term of 30 years if the author, the composer or the artist has died for France, as recorded in the death certificate.]</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | <p>Art. L. 122-5. Once a work has been disclosed, the author may not prohibit:</p> <ol style="list-style-type: none"> 1. private and gratuitous performances carried out exclusively within the family circle; 2. copies or reproductions reserved strictly for the private use of the copier (...) 3. on condition that the name of the author and the source are clearly stated: <p>analyses and short quotations justified by the critical, polemic, educational, scientific or informatory nature of the work in which they are incorporated; (...)</p> |
| Scope of exceptions | <p>Art. L. 122-5. Once a work has been disclosed, the author may not prohibit (...)</p> |
| Libraries and archives | |
| Acknowledgement of source | <p>Art. L. 122-5. Once a work has been disclosed, the author may not prohibit (...)</p> <ol style="list-style-type: none"> 3. on condition that the name of the author and the source are clearly stated: <p>(a) analyses and short quotations justified (...)</p> |
| Private use | <p>Article L122-5. Once a work has been disclosed, the author may not prohibit:</p> <ol style="list-style-type: none"> 2. copies or reproductions reserved strictly for the private use of the copier and not intended for collective use, with the exception of copies of works of art to be used for purposes identical with those for which the original work was created and copies of software other than backup copies made in accordance with paragraph II of Article L. 122-6-1, as well as copies or reproductions of an electronic database; |

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| | <p>Article L122-6-1</p> <p>II. A person having the right to use the software may make a backup copy where such is necessary to ensure use of the software.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Article L111-1. The author of a work of the mind shall enjoy in that work, by the mere fact of its creation, an exclusive incorporeal property right which shall be enforceable against all persons</p> <p>Art. L. 113-1. Authorship shall belong, unless proved otherwise, to the person or persons under whose name the work has been disclosed.</p> |
| Joint authors/ compound works/ authors in employment | <p>Art. L. 113-2.: Definitions of work of collaboration, composite work, collective work</p> <p>Art. L. 113-3. A work of collaboration shall be the joint property of its authors. The joint authors shall exercise their rights by common accord. In the event of failure to agree, the civil courts shall decide.</p> <p>Where the contribution of each of the joint authors is of a different kind, each may, unless otherwise agreed, separately exploit his own personal contribution without, however, prejudicing the exploitation of the common work.</p> <p>Art. L. 113-4. A composite work shall be the property of the author who has produced it, subject to the rights of the author of the pre-existing work.</p> <p>Art. L. 113-5. A collective work shall be the property, unless proved otherwise, of the natural or legal person under whose name it has been disclosed. The author's rights shall vest in such person.</p> <p>Art. L. 113-6. The authors of pseudonymous and anonymous works shall enjoy in such works the rights afforded by Article L. 111-1. They shall be represented in the exercise of those rights by the original editor or publisher, until such time as they reveal their true identity and prove their authorship.</p> <p>The declaration referred to in the preceding paragraph may be made by will; however, any rights previously acquired by other persons shall be maintained.</p> <p>The provisions in the second and third paragraphs above shall not apply if the pseudonym adopted by the author leaves no doubt as to his true identity.</p> <p>Art. L. 113-9. Unless otherwise provided by statutory provision or stipulation, the economic rights in the software and its documentation created by one or more employees in the execution of their duties or following the instructions given by their employer shall be the property of the employer and he exclusively shall be entitled to exercise them.</p> <p>Any dispute concerning the application of this Article shall be submitted to the first instance court of the registered place of business of the employer.</p> <p>The first paragraph of this Article shall also apply to servants of the State, of local authorities and of public establishments of an administrative nature.</p> |
| Collecting Societies | <p>Art. L. 122-10. The publication of a work shall imply assignment of the right of reprographic reproduction to a society governed by Title II of Book III and approved to such end by the Minister responsible for culture. Only approved societies may conclude an agreement with users for the purpose of administering the right thus assigned, subject, for the stipulations authorizing copies for the purposes of sale, rental, publicity or promotion, to the agreement of the author or his successors in title. Failing such designation by the author or his successor in title on the date of publication</p> |

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| | <p>of the work, one of the approved societies shall be deemed the assignee of the right.</p> <p>Reprography shall mean reproduction in the form of a copy on paper or an assimilated medium by means of a photographic process or one having equivalent effect permitting direct reading.</p> <p>The provisions of the first paragraph shall not affect the right of the author or his successors in title to make copies for the purposes of sale, rental, publicity or promotion.</p> <p>Notwithstanding any stipulation to the contrary, the provisions of this Article shall apply to all protected works whatever the date of their publication.</p> <p>Art. L. 122-11. The agreements referred to in Article L. 122-10 may provide for lump sum remuneration in the cases defined in items 1 to 3 of Article L. 131-4.</p> <p>Art. L. 122-12 describes the conditions for granting and withdrawing the approval of the collective societies</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. L. 122-7. The right of performance and the right of reproduction may be transferred, for or without payment.</p> <p>Transfer of the right of performance shall not imply transfer of the right of reproduction. Transfer of the right of reproduction shall not imply transfer of the right of performance.</p> <p>Where a contract contains the complete transfer of either of the rights referred to in this Article, its effect shall be limited to the exploitation modes specified in the contract.</p> <p>Art. L. 131-1. Total transfer of future works shall be null and void.</p> <p>Art. L. 131-2. The performance, publishing and audiovisual production contracts defined in this Title shall be in writing. The same shall apply to free performance authorizations.</p> <p>Art. L. 131-3. Transfer of authors' rights shall be subject to each of the assigned rights being separately mentioned in the instrument of assignment and the field of exploitation of the assigned rights being defined as to its scope and purpose, as to place and as to duration.</p> <p>(...)</p> <p>The assignee shall undertake by such contract to endeavor to exploit the assigned right in accordance with trade practice and to pay to the author, in the event of adaptation, a remuneration that is proportional to the revenue obtained.</p> <p>Special provisions for certain contracts, <i>eg</i> Publishing contracts/Performance contracts, Art. 132</p> <p>Waiver of moral rights</p> <p>Article L121-1. (...)</p> <p>It shall be perpetual, inalienable and imprescriptible. It may be transmitted <i>mortis causa</i> to the heirs of the author</p> |
| Remuneration Schemes/ compensation | <p>Art. L. 131-4. Assignment by the author of the rights in his work may be total or partial. Assignment shall comprise a proportional participation by the author in the revenue from sale or exploitation of the work.</p> <p>However, the author's remuneration may be calculated as a lump sum in the following cases: [list of cases in which proportional participation cannot be practically determined]</p> <p>Art. L. 131-5. If the exploitation right has been assigned and the author</p> |

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| | <p>suffers a prejudice of more than seven-twelfths as a result of a burdensome contract or of insufficient advance estimate of the proceeds from the work, he may demand review of the price conditions under the contract.</p> <p>Art. L. 311 et eqq.: Remuneration for private copying</p> |
| Protection of technological measures and rights management information | <p>Art. L. 122-6-2. Any publication or user's handbook concerning means of removing or circumventing any technical device protecting software shall state that the unlawful use of such means is liable to the penalties laid down for cases of infringement.</p> |
| Consequences of copyright infringement | <p>The French Copyright Act does not provide special actions for the infringement of protected works, this is regulated according to the general rules of French civil law.</p> <p>However, according to Art. L. 332-1, illegal copies may be seized, manufacture in progress serving the unlawful reproduction of a work may be suspended and receipts from any action in violation of the author's right may be seized.</p> <p>Criminal liability is dealt in Article L. 335-1 ff</p> <p>According to Art. L. 335-2 any work made in whole or in part contrary to the laws and regulations relating to the property of authors constitutes an infringement which is punishable with a two-year prison term and a fine. Also the sale, exportation and importation of infringing works is subject to the same penalties. Also any reproduction, performance or dissemination of a work of the mind in violation of the author's rights constitutes an infringement, as the violation of any of the rights of an author of software (Art. L. 335-3). Also the infringement of a performance, a phonogram, a videogram or a program is punishable with a two-year prison term and a fine of 1,000,000 francs (Art. L. 335-4). Also legal persons may be declared penally liable (Art. L. 335-8). In the event of repetition of the offences or if the offender is or has been contractually bound to the aggrieved party, the penalties involved shall be doubled (Art. L. 335-9).</p> |

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| <p>Germany</p> <p>Law on Copyright and Neighbouring Rights as last amended by the Law of 13. September 2003</p> <p>Modifications enacted by the Laws of 2002 and 2003 are not available in English yet. These modifications have therefore been subject to unofficial translations from German. For the original German document see table of copyright acts used for the guidelines.</p> | |
| <p>Protected Works</p> | |
| Categories of protected works | <p>§ 1</p> <p>Authors of literary, scientific and artistic works shall enjoy protection for their works in accordance with this Law.</p> <p>§ 2 Protected Works</p> <p>(1) Protected literary, scientific and artistic works shall include, in particular:</p> <ol style="list-style-type: none"> 1. works of language, such as writings, speeches and computer programs; 2. musical works; 3. works of pantomime, including choreographic works; 4. works of fine art, including works of architecture and of applied art and plans for such works; |

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| | <p>5. photographic works, including works produced by processes similar to cinematography;</p> <p>6. illustrations of a scientific or technical nature, such as drawings, plans, maps, <i>sketches</i>, tables and three-dimensional representations.</p> <p>(2) Personal inte</p> <p>llectual creations alone shall constitute works within the meaning of this Law.</p> <p>§ 70 Scientific Editions</p> <p>(1) Editions which consist of non-copyrighted works or texts shall enjoy, <i>mutatis mutandis</i>, the protection afforded by the provisions of Part I if they represent the result of scientific analysis and differ in a significant manner from previously known editions of the works or texts.</p> <p>(2) The right shall be enjoyed by the author of the edition.</p> <p>(3) The right shall expire 25 years after publication of the edition; however, it shall expire 25 years after its production if the edition is not published within that time limit. The time limit shall be calculated in accordance with § 69.</p> |
| Conditions for protection | <p>§ 3 Adaptations</p> <p>Translations and other adaptations of a work which constitute personal intellectual creations of the adapter shall enjoy protection as independent works without prejudice to copyright in the work that has been adapted. Insignificant adaptations of a non-protected musical work shall not enjoy protection as independent works.</p> <p>§ 5 Official Works</p> <p>(1) Laws, ordinances, official decrees and notices as also decisions and official grounds of decisions shall not enjoy copyright protection.</p> <p>(2) The same shall apply to other official works published in the official interest for public information, with the condition that the provisions of § 62(1) to (3) and § 63(1) and (2) concerning prohibited alterations and acknowledgment of sources shall apply <i>mutatis mutandis</i>.</p> <p>(3) The copyright in private regulations shall not be affected by the subsections 1 and 2 where statutes, orders, decrees and official announcements refer to them without repeating their wording .</p> <p>(...)</p> |
| Database protection | <p>§ 4 Collections and Database Works</p> <p>(1) Collections of works, data or other independent elements which, by reason of the selection or arrangement of the elements, constitute a personal intellectual creation (collections) shall enjoy protection as independent works without prejudice to a copyright or neighbouring right existing in the elements included in the collection.</p> <p>(2) Within the meaning of this Act a database work is a collection arranged in a systematic or methodical way, the elements of which are individually accessible either by electronic or by other means. A computer program (§ 69 a) used to create the database work or to render its elements accessible does not constitute a component of the data base work.</p> <p>§ 53</p> <p>(5) Making available to the public for education and research</p> <p>(....) Subsection 3 item 2 (copies of small parts of works for state examinations) shall not apply to database works of which the elements are separately accessible by electronic means. Subsection 2 item 1 (single</p> |

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| | <p>copies for personal scientific use) and subsection 3 item 1 (small parts of printed works for personal use in teaching and education) shall apply to such databases with the proviso that the scientific use as well as the educational use is conducted for non-commercial purposes.</p> <p>§ 55a Use of a Database Work</p> <p>Adaptation or other transformation and the reproduction of a database work by the owner of a copy of the data base work, having been put into circulation with the consent of the creator by way of sale, by a person in other ways entitled to use the copy of the database work or by anyone to whom a database work has been made accessible on the basis of a contract with the creator or with a third party who has the former's consent, shall be permissible if and to the extent that the adaptation or other transformation or copying is necessary for access to the elements of the database work and for its usual use. If, on the basis of a contract described in sentence 1, only a part of the data base work is made accessible, it shall only be permissible to adapt or otherwise transform and to reproduce this portion. Any contractual provisions to the contrary shall be null and void</p> <p>§§ 87a — 87e: special provisions for makers of databases:</p> <p>§ 87b Rights of the Maker of the Database</p> <p>(1) The maker of the database has the exclusive right to reproduce, to distribute and to communicate to the public the whole data base or a qualitatively or quantitatively substantial part thereof. The repeated or systematic reproduction, distribution or communication to the public of qualitatively and quantitatively insubstantial parts of the database shall be deemed as equivalent to the reproduction, distribution or communication of a qualitatively or quantitatively substantial part of the database provided that these acts run counter to a normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database.</p> <p>(2) § 17 (2) and § 27 (2) and (3) shall apply accordingly.</p> <p>§ 87c Limitations on the rights of the Maker of a Database</p> <p>(1) The reproduction of a qualitatively or quantitatively substantial part of a database shall be permissible:</p> <ol style="list-style-type: none"> 1. for private use; this shall not apply to a database the elements of which are individually accessible by electronic means; 2. for the purposes of personal scientific use, if and to the extent that the copying for this purpose is necessary and the scientific use does not serve commercial purposes; 3. for personal use in teaching, in non-commercial institutions of education and further education and in vocational training in a quantity required for one school class. <p>In the cases outlined in items 2 and 3, the source must be clearly acknowledged.</p> <p>(2) The reproduction, distribution and communication to the public of a qualitatively or quantitatively substantial part of a database shall be permissible for use in proceedings before a court, an arbitration tribunal or a public authority as well as for purposes of public security.</p> |
| Computer Software | <p>Section VIII (§§ 69a)-g)): Special Provisions on Computer Programs</p> <p>§ 69a</p> <p>(1) For the purposes of this Law, computer programs shall mean programs in any form, including their design material.</p> <p>(2) The protection afforded shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a</p> |

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| | <p>computer program, including those which underlie its interfaces, shall not be protected.</p> <p>(3) Computer programs shall be protected if they constitute original works in the sense that they are the result of their author's own intellectual creation. No other criteria, particularly of a qualitative or aesthetic nature, shall be applied to determine their eligibility for protection.</p> <p>(4) The provisions on works of language shall apply to computer programs where not otherwise provided in this Section.</p> <p>(5) The provisions of §§ 95a to 95d (protection of technical measures) shall not apply to computer programmes.</p> <p>§ 69b deals with creation of computer programmes in the execution of duties of employment.</p> <p>§ 69c deals with the exclusive rights of the right holder which, above all, include: the right of permanent or temporary reproduction; the right of alteration and the reproduction of the results thereof; the right of distribution including rental subject to the 'exhausting clause'; wire or wireless performance including making available to the public in a way that the program is accessible to members of the public from places and at times of their choice.</p> <p>§ 69d: Abandons the requirement of authorization in certain cases of decompilation.</p> <p>§ 69e: Decompilation</p> <p>§§ 69 ff: Rules applicable in case of right infringement</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| General | <p>§ 15 General</p> <p>(1) The author shall have the exclusive right to exploit his work in material form; his right shall comprise in particular:</p> <ol style="list-style-type: none"> 1. the right of reproduction (§ 16); 2. the right of distribution (§ 17); 3. the right of exhibition (§ 18). <p>(2) The author shall further have the exclusive right to communicate his work to the public in non-material form (right of communication to the public); his right shall comprise in particular:</p> <p>the right of recitation, performance and presentation (§ 19);</p> <p>the right of making available to the public (§ 19a);</p> <p>the right of broadcasting (§ 20);</p> <p>the right of communication by means of video or audio recordings (§ 21);</p> <p>the right of communication of broadcasts and of making available to the public (§ 22).</p> <p>(3) The communication of a work shall be deemed public if it is intended for a plurality of members of the public. Member of the public is any person, who is not connected by personal relationship with the person exploiting the work or other persons the work is made perceivable in an incorporeal form to or being made available to.</p> <p>§§ 73 — 83: Special provisions for performers</p> <p>§§ 85 — 86: Special provisions for producers of audio recordings</p> <p>§ 87: Special provisions for broadcasting organisations</p> <p>§§ 88 — 95: Special provisions on films</p> |

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| Right of reproduction | <p>§ 16 Right of Reproduction</p> <p>(1) The right of reproduction is the right to make copies of the work, temporarily or permanently, by whatever method and in whatever quantity.</p> <p>(2) Reproduction of a work shall also be constituted by the fixation of the work on devices which permit the repeated communication of sequences of images or sounds (video or audio recording mediums) whether by recording a communication of the work on a video or audio medium or by transferring the work from one medium to another.</p> <p>§ 38 Contributions to Collections</p> <p>(1) If an author consents to inclusion of his work in a collection which appears periodically, the publisher or editor shall be deemed in case of doubt to have acquired an exclusive right of reproduction and distribution. However, the author may otherwise reproduce and distribute the work on expiry of one year from the date of release, unless otherwise agreed.</p> <p>(2) The second sentence of paragraph (1) shall also apply to a contribution to a collection which does not appear periodically, if making the contribution available does not entitle the author to remuneration.</p> <p>(3) If a contribution is made available to a newspaper, the publisher or editor shall be deemed to have acquired a non-exclusive exploitation right, unless otherwise agreed. If the author grants an exclusive exploitation right, he shall be entitled, immediately after the appearance of the contribution, to otherwise reproduce and distribute his work, unless otherwise agreed.</p> <p>§ 44a: Temporary acts of reproduction made incidentally without a separate commercial purpose.</p> <p>§ 57 Incidental Works</p> <p>It shall be permissible to reproduce, distribute and publicly communicate works if they may be regarded as insignificant and incidental with regard to the actual subject of the reproduction, distribution or public communication.</p> <p>§ 58 Works at exhibitions, public sale and in premises accessible to the public</p> <p>Permitted is reproduction, distribution and making available to the public of works of fine art and photographs which are exhibited in public or intended for public exhibition or public sale by the organizer for the purpose of advertising as far as this is necessary for the promotion of the event. .</p> <p>(...)</p> <p>Reproduction and distribution of works mentioned in subsection 1 in lists produced by libraries, educational institutions and museums accessible to the public without a commercial purpose.</p> <p>(...)</p> <p>§ 59 Works in Public Places</p> <p>(1) It shall be permissible to reproduce, by painting, drawing, photography or cinematography, works which are permanently located on public ways, streets or places and to distribute and publicly communicate such copies. For works of architecture, this provision shall be applicable only to the external appearance.</p> <p>(2) Reproductions may not be carried out on a work of architecture.</p> <p>§ 60: Portraits</p> |
| Right of communication to the public and right of making available | <p>§ 18 Right of Exhibition</p> <p>The right of exhibition is the right to place on public view the original or copies of an unpublished work of fine art or of an unpublished photographic work.</p> |

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| | <p>§ 19 Right of Recitation, Performance, and Presentation</p> <p>(1) The right of recitation is the right of live delivery to the public of a work of language.</p> <p>(2) The right of performance is the right of live performance to the public of a musical work or of public performance of a work on the stage.</p> <p>(3) The right of recitation and performance encompasses the right to make recitations and performances perceivable to the public by screen, loudspeaker or similar technical device, in a place other than that in which the live rendering takes place.</p> <p>(4) The right of presentation is the right to make a work of fine art, a photographic work, a cinematographic work, or illustrations of a scientific or technical character perceivable to the public by means of technical devices. The right of presentation does not include the right to make the broadcast or the making available to the public of such works perceivable to the public (§ 22).</p> <p>§ 19a Right of making available to the public</p> <p>The right of making available to the public is the right to make the work by wire or wireless means available to the public in a way that members of the public may access the work from a place and at a time individually chosen by them.</p> <p>§ 20 Right of Broadcasting</p> <p>The right of broadcasting is the right to make a work accessible to the public by broadcasting, such as radio or television transmission, or by wire or by other similar technical devices.</p> <p>§ 20a: European Broadcasts Transmitted by Satellite</p> <p>§ 20b: Cable Retransmission</p> <p>§ 21: Right of Communication by Video or Audio Recordings</p> <p>§ 22 Right of Communication of Broadcasts and of Making Available to the Public</p> <p>The right of communication of broadcasts and of the communications of Making available to the public is the right to make broadcasts and communications of a work based on making available to the public publicly perceivable via screen, loudspeaker or similar technical devices. § 19 (3) shall apply accordingly.</p> <p>§ 44 Sale of the Original of a Work</p> <p>(1) If the author sells the original of a work, he shall not be deemed in case of doubt to have thereby granted an exploitation right to the acquirer.</p> <p>(2) The owner of the original of a work of fine art or of a photographic work shall be entitled to exhibit the work in public, even if it has not yet been published, unless expressly excluded by the author when selling the original.</p> <p>The right of non-material communication is limited by § 52 which allows under certain circumstances non-material communication.</p> |
| Distribution right | <p>§ 17 Distribution Right</p> <p>(1) The distribution right is the right to offer to the public or to put into circulation the original work or copies thereof.</p> <p>(2) If the original work or copies thereof have been put into circulation in the territory of the European Union or of another Contracting State of the Convention Concerning the European Economic Area through sale thereof with the consent of the holder of the distribution right, their further distribution shall be permissible with the exception of rental.</p> |

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| | <p>(3) In the meaning of the provisions of this Law, rental shall be the temporary making available for use for the purposes of directly or indirectly making profits. However, making available the following original works or copies thereof shall not be deemed to constitute rental</p> <ol style="list-style-type: none"> 1. edifices and works of applied art, or 2. in the context of a work or service relationship for the exclusive purpose of being used in fulfilling obligations arising out of the work or service relationship. <p>§ 27 Remuneration for Rental and Lending</p> <p>(1) If the author has granted to the producer of an audio recording or a film the rental right (§ 17) with regard to a video or audio recording, the hirer shall nevertheless pay an equitable remuneration to the author for the rental. The claim to remuneration cannot be waived. It may only be assigned in advance to a collecting society.</p> <p>(2) For the lending of originals or copies of a work in respect of which further distribution is permitted under § 17 (2), an equitable remuneration shall be paid to the author if the originals or copies are lent through an institution accessible to the public (library, collection of video or audio recordings or of other originals or copies). Lending in the meaning of the first sentence shall be temporary making available for use, not for the purposes of directly or indirectly making profits; § 17(3), second sentence, shall apply mutatis mutandis.</p> <p>(3) The claims to remuneration under paragraphs (1) and (2) may only be asserted through a collecting society.</p> |
| Moral rights | |
| Right of publication | <p>§ 6 Published Works and Released Works</p> <p>(1) A work shall be deemed published if, with the consent of the copyright owner, it has been made accessible to the public.</p> <p>(2) A work shall be deemed released if, with the consent of the copyright owner, copies of the work have been produced in sufficient quantity and have been publicly offered for sale or put into circulation. A work of fine art shall also be deemed to have been released if, with the consent of the copyright owner, the original or a copy of the work is made permanently accessible to the public.</p> <p>§ 12 Right of Publication</p> <p>(1) The author shall have the right to decide whether and how his work is to be published.</p> <p>(2) The author shall have the exclusive right to publicly communicate or describe the content of his work for as long as neither the work nor its essence nor a description of the work has been published with his consent.</p> <p>§ 23 Adaptations and Transformations</p> <p>Adaptations or other transformations of a work may be published or exploited only with the consent of the author of the adapted or transformed work. In the case of cinematographic adaptations of a work, of the execution of plans and <i>sketches</i> for a work of fine art, or of copies of an architectural work, the author's consent shall be required for the making of such adaptation or transformation.</p> <p>§ 24 Free Use</p> <p>(1) An independent work created by free use of the work of another person may be published and exploited without the consent of the author of the used work.</p> |

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| | <p>(2) Paragraph (1) shall not apply to the use of a musical work where a melody has been recognizably borrowed from the work and used as a basis for a new work.</p> <p>There is further a right of withdrawal under § 42.</p> |
| Recognition of authorship | <p>§ 13 Recognition of Authorship</p> <p>The author shall have the right of recognition of his authorship of the work. He may decide whether the work is to bear an author's designation and what designation is to be used.</p> <p>§ 107: Unlawful Affixing of Designation of Author</p> |
| Distortion of the work | <p>§ 14 Distortion of the Work</p> <p>The author shall have the right to prohibit any distortion or any other mutilation of his work which would jeopardize his legitimate intellectual or personal interests in the work.</p> <p>§ 39 Alteration of Work</p> <p>(1) The holder of an exploitation right may not alter the work, its title or the designation of author (§ 10 (1)), unless otherwise agreed.</p> <p>(2) Alterations to the work and its title which the author cannot reasonably refuse shall be permissible.</p> <p>§62: Prohibition of alteration: concerns cases where use of a work is permitted due to an exception to the copyright</p> |
| Other Rights | <p>§ 25: Access to Works</p> <p>§ 26: Resale Royalty Right</p> |
| Duration of Protection | <p>§ 64 General</p> <p>Copyright shall expire 70 years after the author's death.</p> <p>§ 65 Joint Authors, cinematographic works</p> <p>(1) If copyright is owned by several joint authors (§ 8), it shall expire 70 years after the death of the last surviving author.</p> <p>(2) In the case of cinematographic works and works which are produced in a similar way to cinematographic works, copyright shall expire 70 years after the death of the longest-living of the following persons: the principal director, the author of the screenplay, the author of the dialogues, the composer of the music composed for the cinematographic work in question.</p> <p>§ 66: Anonymous and Pseudonymous Works</p> <p>§ 67: Serial Works</p> <p>§ 69 Calculation of Time Limits</p> <p>The time limits specified in this Section shall begin with the end of the calendar year in which the event which determines the beginning of the time limit has occurred.</p> <p>§ 71 Posthumous Works</p> <p>(1) Any person who causes a work which has not previously been published to be legally published for the first time or performs it in public for the first time after the expiry of the copyright shall have the exclusive right to exploit it. The same shall apply to works which have not been previously published and which were never protected in the territory to which this Law applies, but whose authors have been dead for more than 70 years. §§ 5, 15 to 24, 26, 27 and 45 to 63 shall apply mutatis mutandis.</p> <p>(2) The right shall be transferable.</p> <p>(3) The right shall expire 25 years after the publication of the work or, if its first public communication took place earlier, after the latter.</p> |

| Exceptions and limitations | |
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| Educational and scientific purposes | <p>§ 46 Collections for Religious, School or Instructional Use</p> <p>(1) After the publication reproduction, distribution and making available to the public of parts of works, of works of language and of short musical works, of individual works of fine art or individual photographs incorporated in a collection which assembles the works of a considerable number of authors shall be permissible where the collection is intended, by its nature, exclusively for educational use in schools, non-commercial institutions for further education and training or in institutions for professional training or for religious use. The purpose for which the collection is to be used shall be clearly stated on the copies or when making available to the public.</p> <p>(2) Paragraph (1) shall apply to musical works incorporated in a collection intended for musical instruction only if the collection is intended for musical instruction in schools that are not schools of music.</p> <p>(3) Reproduction and making available to the public may begin only if the intention to exercise the rights afforded by paragraph (1) has been communicated by registered letter to the author or, if his permanent or temporary residence is unknown, to the holder of an exclusive exploitation right, and two weeks have elapsed since dispatch of the letter. If the permanent or temporary address of the holder of the exclusive right is also unknown, the communication can be made by publication in the Official Bulletin [Bundesanzeiger].</p> <p>(4) The author shall be paid equitable remuneration for the use permitted under subsections 1 and 2.</p> <p>(5) An author may prohibit the use permitted under subsections 1 and 2 if the work no longer reflects his conviction and he can therefore no longer be expected to agree to the exploitation of his work and he has for that reason revoked any existing exploitation right (§ 42). The provisions of § 136(1) and (2) shall be applicable mutatis mutandis.</p> <p>§ 47 School Broadcasts</p> <p>(1) Schools and institutions for the training and further training of teachers may make individual copies of works which are included in a school broadcast by recording the works on a video or audio medium. The same shall apply to youth welfare homes and to the official provincial pictorial materials services or comparable publicly owned institutions.</p> <p>(2) The video or audio recordings may be used only for instructional purposes. They must be destroyed not later than the end of the school year following the transmission of the school broadcast, unless equitable remuneration has been paid to the author.</p> <p>§ 51 Quotations</p> <p>Reproduction, distribution and communication to the public shall be permitted, to the extent justified by the purpose, where</p> <ol style="list-style-type: none"> 1. individual works are included after their publication in an independent scientific work to illustrate its contents; 2. passages from a work are quoted after its publication in an independent work of language; <p>(...)</p> <p>§ 52 Public Communication</p> <p>(1) The public communication of a published work shall be permissible if the communication serves no gainful purpose on the part of the organizer, spectators are admitted free of charge and, in the case of recitation or performance of the work, none of the performers (§ 73) receive special</p> |

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| | <p>remuneration. An equitable remuneration shall be paid for the communication. The obligation to pay remuneration shall not apply in respect of events organized by the Youth Welfare Service, the Social Welfare Service, the Old Persons Welfare Service, the Prisoners Welfare Service and for school events, on condition that in accordance with their social or educational purpose they are only accessible for a specifically limited circle of persons. This shall not apply if the event serves the gainful purpose of a third party; in such case, the third party shall be required to pay the remuneration.</p> <p>(...)</p> <p>§ 52 a Making available to the public for teaching and research</p> <p>It is permitted to make available to the public published small parts of a work, small works as well as single contributions from newspapers and periodicals for illustration of the instructions in schools, higher educational institutions, non-commercial institutions for further education and training as well as in professional training institutions exclusively for the definitely limited circle of class members or published parts of a work, small works as well as single contributions from newspapers and periodicals exclusively for a definitely limited circle of persons for their own scientific research as far as this is necessary for the respective purpose and justified by a non-commercial purpose.</p> <p>The making available to the public of a work designated for educational use in schools shall require the consent of the author.</p> <p>(...)</p> <p>In the cases of subsection 1 reproductions necessary for the making available to the public shall also be permitted.</p> <p>For the making available to the public under subsection 1 an equitable remuneration is to be paid. The right to the equitable remuneration can only be claimed via a collective society.</p> <p>§ 137 k: Transitional provision on making available to the public for teaching and research</p> <p>§ 52a is not to be applied after 31 December 2006.</p> <p>§ 53 Reproduction for Private and Other Personal Uses</p> <p>(...)</p> <p>(2) It shall be permissible to make or to cause to be made single copies of a work</p> <ol style="list-style-type: none"> 1. for personal scientific use, if and to the extent that such reproduction is necessary for the purpose, 2. to be included in personal files, if and to the extent that reproduction for this purpose is necessary and if a personal copy of the work is used as the model for reproduction, <p>(...)</p> <p>(3) It shall be permissible to make or to cause to be made copies of small parts of a work, of small works or of individual contributions published or made available to the public in newspapers or periodicals for personal use,</p> <ol style="list-style-type: none"> 1. in teaching, in non-commercial institutions of education and further education or in institutions of vocational education in a quantity required for one school class or 2. for State examinations and examinations in schools, universities, non-commercial institutions of education and further education and in vocational education in the required quantity, if and to the extent that such reproduction is necessary for this purpose. |
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| | <p>(...)</p> <p>(4) Reproduction</p> <p>(...)</p> <p>(b) of a book or a periodical in the case of essentially complete copies, shall only be permissible, where not carried out by manual copying, with the consent of the copyright owner or in accordance with paragraph (2), item 2, or for personal use in the case of a work that has been out of print for at least two years.</p> <p>(...)</p> <p>§ 62</p> <p>(...)</p> <p>(4): Exception from the prohibition of alteration of a work for religious, school or instructional uses. Alterations under this section, however, require the consent of the author or his successor in title.</p> |
| Scope of exceptions | § 84: application of the exceptions mutatis mutandis to performers' rights |
| Libraries and archives | <p>Reproduction for collections of (parts of) works for religious, school and instructional use (§ 46 (1)) and recordings of documentary nature placed in official archives (§ 55 (2)) are exempted.</p> <p>§ 55 Reproduction by Broadcasting Organizations</p> <p>(...)</p> <p>(2) Video or audio recordings of an exceptional documentary nature need not be destroyed if they are placed in an official archive. The author shall be notified without delay of their deposit in such archive.</p> |
| Acknowledgement of source | <p>§ 63 Acknowledgement of Source</p> <p>(1) If a work or part of a work is reproduced pursuant to § 45 (1), §§ 45a to 48, 50, 51, 58, 59 and 59, the source must in all cases be clearly acknowledged. In reproducing complete works of language or complete musical works, the publishing house which published the work must be stated in addition to the author, as also any abridgements or other alterations to the work. There shall be no obligation to acknowledge sources if no source is given either on the copy of the work used or with the reproduction of the work used and if no source is otherwise known to the person entitled to reproduce.</p> <p>(2) Where the provisions of this Section permit the public communication of a work, the source must be clearly acknowledged if and where trade practice so requires. In cases of public performance pursuant to §§ 46, 48, 51 and 52a the source including the name of the author must be clearly acknowledged in all cases, unless this is not possible.</p> <p>(3) If an article from a newspaper or other information journal is reproduced in another newspaper or other such information journal, or is broadcast, under § 49(1), the newspaper or other information journal from which the article was extracted shall also be acknowledged in addition to the author designated in the source; if a further newspaper or other information journal is mentioned there as the source, such other newspaper or other information journal shall be acknowledged. If a broadcast commentary is reproduced in a newspaper or other information journal, or in a broadcast, under § 49 (1), the broadcasting organization which transmitted the commentary shall in all cases be acknowledged in addition to the author.</p> |
| Private use | § 53 contains the right to make single copies of a work for private use; a person authorized to make such copies may also cause such copies to be made by another person; it shall be permissible to make or to cause to be |

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| | made single copies of a work for personal scientific use, to be included in personal files, for personal information concerning current events, in the case of a broadcast work and for other personal uses. |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>§ 7 Author</p> <p>The person who creates the work shall be deemed the author.</p> <p>§ 10 Presumption of Authorship</p> <p>(1) In the absence of proof to the contrary, the person designated in the customary manner as the author on copies of a work which has been published or on the original of a work of fine art shall be deemed the author of the work; the same shall apply to a designation which is known as the author's pseudonym or the artist's mark.</p> <p>(2) Where the author is not designated as provided in paragraph (1), it shall be presumed that the person designated as the editor on the copies of the work is entitled to assert the author's rights. Where no editor is designated, it shall be presumed that the publisher is entitled.</p> |
| Joint authors/ compound works/ authors in employment | <p>§ 8 Joint Authors</p> <p>(1) If several persons have created a work jointly, and their respective contributions cannot be separately exploited, they shall be deemed the joint authors of the work.</p> <p>(2) The right of publication and of exploitation of the work shall belong jointly to the joint authors; alterations to the work shall be permissible only with the consent of the joint authors. However, a joint author may not unreasonably refuse his consent to the publication, exploitation or alteration of the work. Each joint author shall be entitled to assert claims arising from infringements of the joint copyright; however, he may demand payment only on behalf of all joint authors.</p> <p>(3) The proceeds resulting from the utilization of the work shall accrue to the joint authors in proportion to the extent of their respective contributions to the work unless otherwise agreed between them.</p> <p>(4) A joint author may renounce his share of the exploitation rights (§ 15). The other joint authors shall be notified of renunciation. Notification shall imply that the share accrues to the other joint authors.</p> <p>§ 9 Authors of Compound Works</p> <p>If several authors have combined their works for exploitation in common, each of them may require from the others their consent to the publication, exploitation or alteration of the compound works, if such consent may be reasonably demanded of them.</p> <p>§ 43 Authors in Employment or Service</p> <p>The provisions of this subsection shall also apply if the author has created the work in execution of his duties under a contract of employment or service provided nothing to the contrary transpires from the terms or nature of the contract of employment or service.</p> <p>§ 69b Authors in Employment or Service (computer programs)</p> <p>(1) Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer, the employer exclusively shall be entitled to exercise all the economic rights in the program, unless otherwise agreed.</p> <p>(2) Paragraph (1) shall apply mutatis mutandis to service relationships.</p> |

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| Collecting Societies | <p>§ 54h Collecting Societies, Handling of Reports</p> <p>(1) Claims under §§ 54, 54a, 54f (3) and 54g may only be asserted through a collecting society.</p> <p>(2) Each copyright owner shall be entitled to an equitable share in the remuneration paid under §§ 54 and 54a.</p> <p>(3) The collecting societies shall designate a joint receiving office in each case for the claims to remuneration under § 54 (1) and those under § 54a(1) to the Patent Office. The Patent Office shall publish them in the Federal Gazette.</p> <p>(4) The Patent Office may publish models for the reports in accordance with § 54b, item 2, and 54f in the Federal Gazette. The use of such models shall be compulsory.</p> <p>(5) The collecting societies and the receiving office may only use the information received in accordance with § 54b, item 2, 54f and 54g for the purpose of asserting claims under paragraph (1).</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>§ 28 Inheritance of Copyright</p> <p>(1) Copyright may be transferred by inheritance.</p> <p>(2) The author may transfer the exercise of copyright to an executor by testamentary disposition. § 2210 of the Civil Code shall not apply.</p> <p>§ 29 Transfer of Copyright</p> <p>Copyright is not transferable except it is transferred in execution of a testamentary disposition or to coheirs as part of the partition of an estate</p> <p>(...)</p> <p>Permitted is granting of exploitation rights (§ 31)</p> <p>(...)</p> <p>§ 30 Successor in Title of Author</p> <p>In the absence of any stipulation to the contrary, the successor in title of the author shall have the rights afforded the author by this Law.</p> <p>§ 31 Granting of Exploitation Rights</p> <p>(1) The author may grant a right to another to use the work in a particular manner or in any manner (exploitation right). An exploitation right may be granted as a non-exclusive right or as an exclusive right.</p> <p>(2) A non-exclusive exploitation right shall entitle the right holder to use the work, concurrently with the author or any other entitled persons, in the manner permitted to him.</p> <p>(3) An exclusive exploitation right shall entitle the right holder to use the work, to the exclusion of all other persons, including the author, in the manner permitted to him, and to grant non-exclusive exploitation rights. It can be agreed that the use by the author be reserved to him. § 35 remains unaffected.</p> <p>(4) The grant of an exploitation right for as yet unknown types of use and any obligations in that respect shall have no legal effect.</p> <p>(5) If the types of use to which the exploitation right extends have not been specifically designated when the right was granted, the scope of the exploitation right shall be determined in accordance with the purpose envisaged in making the grant. (...)</p> <p>§ 32: Fair remuneration</p> |

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| | <p>§ 32a: Further participation of the author</p> <p>§ 32b: Obligatory applicability of §§ 32, 32a</p> <p>§ 33 Continuing Effect of Exploitation Rights</p> <p>Exclusive and non-exclusive exploitation rights shall remain effective with respect to holders exploitation rights granted later. This also applies where the holder of the right who has granted the exploitation right changes or where he waives his right..</p> <p>§ 34 Transfer of Exploitation Rights</p> <p>(1) An exploitation right may be transferred only with the author’s consent. The author may not unreasonably refuse his consent.</p> <p>(2) If exploitation rights in the individual works contained in a collection are transferred together with the exploitation right in the collection (§ 4), the consent of the author of the collection shall be sufficient.</p> <p>(3) An exploitation right may be transferred without the author’s consent if the transfer is comprised in the sale of the whole of an enterprise or the sale of parts of an enterprise. (...)</p> <p>§ 35 Grant of further exploitation rights</p> <p>(1) The holder of an exclusive exploitation right may grant further exploitation rights only with the author’s consent. No consent shall be required if the exclusive exploitation right was granted exclusively for the administration of the author’s interests.</p> <p>(2) The provisions of § 34 (1), second sentence, (2) and (5), second sentence, shall apply mutatis mutandis.</p> <p>§ 36: Collective provisions on remuneration</p> <p>§ 36a: Mediation authority</p> <p>§ 37 Agreements to Grant Exploitation Rights</p> <p>(1) If an author grants to another an exploitation right in his work, he shall be deemed in case of doubt to have retained his right to authorize the publication or exploitation of any adaptation of the work.</p> <p>(2) If an author grants to another the right to reproduce his work, he shall be deemed, in doubt, to have retained his right to record his work on video or audio mediums.</p> <p>(3) If an author grants to another the right to communicate his work to the public, the latter shall not be deemed, in doubt, to be entitled to make the communication perceivable to the public by screen, loudspeaker or other similar technical device other than at the event for which it is intended.</p> <p>§ 38: Contributions to collections</p> <p>§ 39: Alteration of Work</p> <p>§ 40 Agreements as to Future Works</p> <p>(1) Agreements by which an author undertakes to grant exploitation rights in future works which are in no way specified or only referred to by type shall be in writing. They may be terminated by either party after a period of five years from conclusion of the agreement. Six months notice of termination shall be given, if no shorter period has been agreed.</p> <p>(2) The right of termination may not be waived in advance. Other contractual or statutory rights of termination shall remain unaffected.</p> <p>(3) If exploitation rights in future works have been granted in execution of the agreement, that provision shall cease to have effect in respect of works which have not yet been supplied at such time.</p> |
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| | <p>§ 41 Right of Revocation for Non-exercise</p> <p>(1) If the holder of an exclusive exploitation right does not exercise such right or exercises it insufficiently, and if thereby serious injury is caused to the author's legitimate interests, the latter may revoke the exploitation right. This shall not apply if non-exercise or insufficient exercise is mainly due to circumstances which the author can reasonably be expected to remedy.</p> <p>(...)</p> <p>§ 42 Right of Revocation for Changed Conviction</p> <p>(1) An author may revoke an exploitation right if the work no longer reflects his conviction and he therefore can no longer be expected to agree to the exploitation of the work. The author's successor in title (§ 30) may exercise such right of revocation only if he proves that prior to his death the author would have been entitled to revoke and was prevented from so doing or that he has done so by testamentary disposition.</p> <p>(...)</p> <p>§ 43 Authors in Employment or Service</p> <p>The provisions of this subsection shall also apply if the author has created the work in execution of his duties under a contract of employment or service provided nothing to the contrary transpires from the terms or nature of the contract of employment or service.</p> <p>For transitional provisions cf. § 132.</p> |
| Remuneration Schemes/ compensation | <p>§ 54 Obligation to Pay Remuneration for Reproduction by Means of Video and Audio Recording</p> <p>For reproduction in accordance with Section 53 (1) or (2)</p> <p>§ 54a Obligation to Pay Remuneration for Reproduction by Means of Photocopying</p> <p>For reproduction in accordance with Section 53 (1) to (3)</p> <p>(...)</p> <p>(2) Where appliances of such type are operated in schools, universities or vocational training institutions or other educational and further education institutions (educational institutions), research institutions, public libraries or in institutions which have available appliances for the making of photocopies on payment, the author shall also be entitled to payment of equitable remuneration from the operator of the appliance.</p> <p>(...)</p> <p>§ 54b Inapplicability of the Dealer's Obligation to Pay Remuneration</p> <p>§ 54c Inapplicability of the Obligation to Pay Remuneration on Export</p> <p>§ 54d Amount of Remuneration</p> <p>(1) The amounts set out in the Annex shall be deemed equitable remuneration in accordance with § 54(1) and § 54a(1) and (2) where not otherwise agreed.</p> <p>(2) The amount of the total remuneration to be paid by the operator under § 54a (2) shall depend on the type and extent of utilization of the appliance that is to be expected in view of the circumstances, particularly the location and the habitual use.</p> <p>§ 54g Obligation to Provide Information</p> <p>(1) The author may require information from those persons required to pay remuneration under § 54(1) or § 54a(1) as to the nature and quantity of</p> |

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| | <p>appliances and video or audio recording mediums sold or otherwise put into circulation on the territory to which this Law applies. The dealer's obligation to provide information shall also extend to naming his sources of supply, it shall also subsist in the cases under the third sentence of § 54(1), the third sentence of § 54a(1) and of § 54b, item 1. § 26(6) shall apply mutatis mutandis.</p> <p>(...)</p> |
| Protection of technological measures and rights management information | <p>§§ 95a-96: These provisions implement the most stipulations of Art. 6 and 7 of the Copyright Directive.</p> |
| Consequences of copyright infringement | <p>According to § 97 of the German Copyright Act, any person who infringes a copyright or any other right protected by the German Copyright Act is obliged to pay damages if the infringement was intentional or by negligence. Moreover, the infringed party is entitled to injunctive relief to cease the violations. Instead of damages the injured party may require surrender of the profits derived by the infringer from the acts of infringement together with detailed accounting reflecting such profits. Authors may, if the infringement was intentional or the result of negligence, recover, as justice may require, a monetary indemnity for the injury caused to them even if no pecuniary loss has occurred.</p> <p>In addition, an injured party may require the destruction of all copies unlawfully manufactured, unlawfully distributed or intended for unlawful distribution that are in the possession of the infringer or are his property. Instead of the destruction, the injured party may require the surrender of the said objects in return for equitable remuneration. If the destruction or the surrender is disproportionate, the injured party has only a claim for the removal of the infringing nature of the objects (§ 98). These provisions apply also to devices that are the property of the infringer and that are used or intended exclusively or almost exclusively for the unlawful manufacture of copies (§ 99). The measures set out in § 98 and § 99 do not apply to works of architecture and to separable parts of copies and devices whose manufacture or distribution is not unlawful (§ 101 (2)).</p> <p>If an infringement was neither intentional nor negligent, injunctive relief, the destruction or surrender of the copies and devices can be averted by a reasonable indemnification in money, if the said measures are disproportionate. (§ 101 (1)).</p> <p>Claims arising from infringement of copyright or of any other right protected are time barred after three years after the time at which the entitled person gains knowledge of the infringement and of the identity of the infringer or after 30 years (§ 101).</p> <p>Criminal liability is regulated in § 106pp.</p> <p>According to § 106 (1), any person who illegally reproduces, distributes or publicly communicates a work, adaptation or transformation of a work is liable to imprisonment for up to three years or a fine. According to § 107 (1), also a person is liable to imprisonment for up to three years or a fine, if this person affixes a designation of author to an original work of fine art or distributes such a work. Also the infringement of neighbouring rights is according to § 108 punishable with imprisonment for up to three years or a fine. If the acts referred to in §§ 106 to 108 are committed on a commercial basis, the penalty is imprisonment for up to five years or a fine (§ 108a). Consequences of the infringement of technological protection measures and rights management information are regulated in § 108b. A court shall, at the request of the injured party and if it can show a justified interest, order</p> |

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| | publication of the judgement (§ 111). Civil penalty regulations applicable in cases of infringement of technological protection measures or rights management information can be found in § 111a. A non-criminal fine can amount up to 10 and in certain cases up to 50 thousands Euro. |
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| Copyright Law (Consolidation), 03/03/1993, No. 2121 as amended by Law No. 2435 of August 2, 1996 Copyright Law Amendment, Art. 8, 1997, No. 2557, as last amended by Law 3057/2002, Article 81 Implementation of the Directive 2001/29 EC | |
| Protected Works | |
| Categories of protected works | <p>Art. 1 — Copyright</p> <p>(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).</p> <p>(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.</p> <p>Art. — Object of the Right</p> <p>(1) The term 'work' shall designate any original intellectual literary, artistic or scientific creation, expressed in any form, notably written or oral texts, musical compositions with or without words, theatrical works accompanied or unaccompanied by music, choreographies and pantomimes, audiovisual works, works of fine art, including drawings, works of painting and sculpture, engravings and lithographs, works of architecture and photographs, works of applied art, illustrations, maps and three-dimensional works relative to geography, topography, architecture or science.</p> <p>(2) The term 'work' shall, in addition, designate translations, adaptations, arrangements and other alterations of works or of expressions of folklore, as well as collections of works or collections of expressions of folklore or of simple facts and data, such as encyclopaedias, anthologies and databases, provided the selection or the arrangement of their contents is original. Protection afforded to the works listed in this paragraph shall in no way prejudice rights in the pre-existing works, which were used as the object of the alterations or the collections.</p> <p>(...)</p> |
| Conditions for protection | <p>Art. 2. — Object of the Right</p> <p>[(1), (2): originality of works; material creation (see above)]</p> <p>(...)</p> <p>(4) The protection afforded under this Law shall apply regardless of the value of the work and its destination and regardless of the fact that the work is possibly protected under other provisions.</p> <p>(5) The protection afforded under this Law shall not apply to official texts expressive of the authority of the State, notably to legislative, administrative or judicial texts, nor shall it apply to expressions of folklore, news information or simple facts and data.</p> |

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| Database protection | <p>Art. 3 — Economic Rights</p> <p>(...)</p> <p>(4) Reproduction of electronic databases for private use is not permitted</p> <p>[Remark: With Law 2819/2000 implementing the database directive a sui-generis protection was introduced. The Law 2819/2000 was not available]</p> |
| Computer Software | <p>Art. 2. — Object of the Rights</p> <p>(...)</p> <p>(3) Without prejudice to the provisions of Section VII of this Law, computer programs and their preparatory design material shall be deemed to be literary works within the meaning of the provisions on copyright protection. Protection in accordance with this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected under this Law. A computer program shall be protected if it is original in the sense that it is the author's personal intellectual creation.</p> <p>(...)</p> <p>Art. 32 (2) — Percentage Fee (remuneration rules)</p> <p>No obligatory percentage fee for computer programs</p> <p>Section VII — Special Provisions Concerning Computer Programs</p> <p>Art. 40 — Programs Created by Employees</p> <p>The economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his employer, shall be transferred ipso jure to the employer, unless otherwise provided by contract.</p> <p>Art. 41 — Exhaustion of a Right</p> <p>The first sale in the European Community of a copy of a program by the author or with his consent shall exhaust the distribution right within the Community of that copy, with the exception of the right to control further rental of the program or of a copy thereof.</p> <p>Art. 42 — Restrictions</p> <p>(1) In the absence of an agreement to the contrary, the reproduction, translation, adaptation, arrangement or any other alteration of a computer program shall not require authorization by the author or necessitate payment of a fee, where the said acts are necessary for the use of the program by the lawful acquirer in accordance with its intended purpose, including correction of errors.</p> <p>(2) Reproduction which is necessary for the purposes of loading, displaying, running, or storage of the computer program shall not fall under the restriction of the previous paragraph and shall be subject to authorization by the author.</p> <p>(3) The making of backup copy by a person having a right to use the computer program may not be prevented by contract insofar as it is necessary for the use of the program, and shall not necessitate an authorization by the author or the payment of a fee.</p> <p>(4) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the author and without payment of a fee, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program, if he does so while performing any of the acts, which he is entitled to do. Any agreement to the contrary shall be prohibited.</p> <p>(5) Reproduction of a computer program for private use other than in the</p> |

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| | <p>circumstances specified in paragraphs (3) and (4), above, shall be prohibited.</p> <p>Art. 43 — Decompilation</p> <p>(1) The person having the right to use a copy of a computer program shall be entitled to carry out the acts referred to in Article 42(1) and (2) without the authorization of the author and without the payment of a fee when such acts are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the information necessary to achieve interoperability has not previously been easily and readily available to the person having the right to use the computer program, and provided that these acts are confined to the parts of the original program which are necessary to achieve the said interoperability.</p> <p>(2) The provisions of paragraph (1) shall not permit the information obtained through its application:</p> <p>(a) to be used for goals other than to achieve the interoperability of the independently created computer program;</p> <p>(b) to be given to others, except when necessary for the interoperability of the independently created computer program; or</p> <p>(c) to be used for the development, production or marketing of a computer program substantially similar in its expression to the initial program, or for any other act which infringes copyright.</p> <p>(3) The provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner which would conflict with a normal exploitation of the computer program or would unreasonably prejudice the author's legitimate interests.</p> <p>Art. 45 — Validity of Other Provisions and Agreement</p> <p>(1) The provisions of this Section shall be without prejudice to other legal provisions, relating notably to patent rights, trade marks, unfair competition, trade secrets, protection of semi-conductor products or the law of contract.</p> <p>(2) Agreements contrary to the provisions of Article 42(3) and (4) and Article 43 of this Law shall be null and void.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 1 — Copyright</p> <p>(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).</p> <p>(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.</p> <p>Art. 3 — Economic Rights</p> <p>(1) The economic rights shall confer upon the authors notably the right to permit or prohibit:</p> <p>(a) the fixation and direct or indirect, temporary or permanent reproduction of their works by any means and in any form, in whole or in part;</p> <p>(b) the translation of their works;</p> <p>(c) the arrangement, adaptation or other alteration of their works;</p> <p>(d) concerning the original of copies of their works, the distribution to the public in any form by sale or otherwise. The distribution right shall be exhausted within the Community only where the first sale or other transfer of ownership in the Community of the original or copies is made by the rightholder or with his consent</p> |
| Right of communication to the public and right of making available | |

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| | <p>(e) the rental or public lending concerning the original or copies of their works. Such rights are not exhausted by any sale or other act of distribution of the original or copies. Such rights are not applicable to architectural works and works of applied arts. The rental and public lending have the meaning provided by the Council Directive 92/100 of 19 November 1992 (Official Journal of the European Communities No. L 346/61-27.11.1992).</p> <p>(f) the public performance of their works;</p> <p>(g) the broadcasting or rebroadcasting of their works to the public by radio or television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite;</p> <p>(h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision</p> <p>(i) the import of copies of the work produced abroad without the creator's consent or the import of copies from a country outside the European Community when the right over such imports had been retained by the author through contract. (articles 2, 3 par. 1 and 3, 4 of Directive 2001/29)</p> <p>(2) The use, performance or presentation of the work shall be deemed to be 'public' when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author, regardless of whether the persons of this wider circle are at the same or at different locations.</p> <p>(...)</p> <p>(4) Reproduction of electronic databases for private is not permitted.</p> <p>Art. 5: Percent share of selling price of fine art works</p> <p>Art. 28B</p> <p>Exception from the reproduction right</p> <p>'Temporary acts of reproduction which are transient or incidental, which are an integral and essential part of a technological process and whose sole purpose is to enable: a) a transmission in a network between third parties by an intermediary or b) a lawful use, of a work or other protected subject-matter, and which have no independent economic significance, shall be exempted from the reproduction right'.</p> <p>(Article 5, para.1 of Directive 2001/29).</p> <p>Art. 46-53 Copyright Act, Art. 9, 10 Amendment.: Related rights</p> |
| Distribution right | |
| Moral rights | |
| Right of publication | Art. 1 — Copyright |
| Recognition of authorship | (1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right). |
| Distortion of the work | <p>(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.</p> <p>Art. 4 — Moral Rights</p> <p>(1) The moral rights shall confer upon the author notably the following rights:</p> |

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| | <p>(a) to decide on the time, place and manner in which the work shall be made accessible to the public (publication);</p> <p>(b) to demand that his status as the author of the work be acknowledged and, in particular, to the extent that it is possible, that his name be indicated on the copies of his work and noted whenever his work is used publicly, or, on the contrary, if he so wishes, that his work be presented anonymously or under a pseudonym;</p> <p>(c) to prohibit any distortion, mutilation or other modification of his work and any offence to the author due to the circumstances of the presentation of the work in public;</p> <p>(d) to have access to his work, even when the economic right in the work or the physical embodiment of the work belongs to another person; in those latter cases, the access shall be effected with minimum possible nuisance to the right holder;</p> <p>(e) in the case of a literary or scientific work, to rescind a contract transferring the economic right or an exploitation contract or license of which his work is the object, subject to payment of material damages to the other contracting party, for the pecuniary loss he has sustained, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.</p> <p>(2) With reference to the last case of the preceding paragraph, the rescission takes effect after the payment of the damages. If, after the rescission, the author again decides to transfer the economic right, or to permit exploitation of the work or of a like work, he must give, in priority, the former other contracting party the opportunity to reconstitute the old contract with the same terms or with terms similar to those which were in force at the time of the rescission.</p> <p>(3) The moral rights shall be independent from the economic rights and shall remain with the author even after the transfer of the economic rights.</p> <p>Art. 46-53, Art. 9, 10 Amendment.: related rights</p> |
| Duration of Protection | <p>Art. 29 — Duration in General</p> <p>(1) Copyright shall last for the whole of the author's life and for seventy (70) years after his death, calculated from 1st January of the year after the author's death.</p> <p>(2) After the expiry of the period of copyright protection, the State, represented by the Minister of Culture, may exercise the rights relating to the acknowledgement of the author's paternity and the rights relating to the protection of the integrity of the work deriving from the moral rights pursuant to Article 4(1)(b) and (1)(c) of this Law.</p> <p>Art. 30 — Works of Joint Authorship</p> <p>Copyright in works of joint authorship shall last for the lifetime of the last surviving author and seventy (70) years after his death, computed from 1st January of the year after the death of the last surviving author.</p> <p>Art. 31 — Special Commencement of the Duration</p> <p>1. In the case of anonymous or pseudonymous works, the term of copyright shall last for seventy (70) years computed from 1st January of the year after that in which the work is lawfully made available to the public. However if, during the above period, the author discloses his identity or when the pseudonym adopted by the author leaves no doubt as to his identity, then the general rules apply.</p> <p>2. Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for</p> |

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| | <p>each such item separately.</p> <p>3. The term of protection of audiovisual works shall expire seventy years after 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 the music specifically created for use in the audiovisual work.</p> <p>Art. 52 (c)-(h) , Art. 10 Amendment.: related rights</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Art. 20 — School Textbooks and Anthologies</p> <p>(1) The reproduction of lawfully published literary works of one or more writers in educational textbooks approved for use in primary and secondary education by the Ministry of National Education and Religion or another competent ministry, according to the official detailed syllabus, shall be permissible without the consent of the authors and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.</p> <p>The provision is applicable only as it concerns the reproduction by means of printing.</p> <p>(2) After the death of the author it shall be permissible to reproduce his works in a lawfully published anthology of literary works of more than one writer, without the consent of the right holders and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.</p> <p>(3) The reproduction, as specified in paragraphs (1) and (2), above, shall not conflict with the normal exploitation of the work from which the texts are taken and must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear in the source.</p> <p>Art. 21 — Reproduction for Teaching Purposes</p> <p>It shall be permissible, without the consent of the author and without payment, to reproduce articles lawfully published in a newspaper or periodical, short extracts of a work or parts of a short work or a lawfully published work of fine art work exclusively for teaching or examination purposes at an educational establishment, in such measure as is compatible with the aforementioned purpose, provided that the reproduction is effected in accordance with fair practice and does not conflict with the normal exploitation. The reproduction must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear on the source.</p> <p>Art. 27 (b).: Public performance at educational establishments</p> <p>Art. 33: Special remuneration agreements possible for educational and scientific items</p> <p>Art. 52.-Limitations of related rights</p> <p>(...)</p> <p>(b) the limitations applicable to the economic right attaching to copyright shall apply mutatis mutandis</p> <p>(...)</p> |

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| Scope of exceptions | <p>Art. 28C</p> <p>Clause of general application concerning the limitations</p> <p>'The limitations provided for in Section IV of Law 2121/1993 (articles 18-28b), as exists, shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other protected subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder.'</p> |
| Libraries and archives | <p>Article 22 — Reproduction by Libraries and Archives</p> <p>It shall be permissible, without the consent of the author and without payment, for a nonprofit-making library or archive to reproduce one additional copy from a copy of the work already in their permanent collection, for the purpose of retaining that additional copy or of transferring it to another nonprofit-making library or archive. The reproduction shall be permissible only if an additional copy cannot be obtained in the market promptly, and on reasonable terms.</p> |
| Other exceptions | <p>Art. 19. — Quotations</p> <p>Quotation of short extracts of a lawfully published work by an author for the purpose of providing support for a case advanced by the person making the quotation or a critique of the position of the author shall be permissible without the consent of the author and without payment, provided that the quotation is compatible with fair practice and that the extent of the extracts does not exceed that justified by the purpose. The quotation of the extract must be accompanied by an indication of the source of the extract and of the names of the author and of the publisher, provided that the said names appear in the source.</p> <p>Art. 23.: Cinematographic works</p> <p>Art. 24. Judicial and administrative purposes</p> <p>Art. 25.: Information purposes</p> <p>Art. 26.: Images of works in public places</p> <p>Art. 28.: Exhibition and reproduction of fine art works</p> |
| Acknowledgement of source | <p>Art. 19.: Source of Quotations</p> <p>Art. 20 (3).: Acknowledgement in school books and anthologies</p> <p>Art. 21.: Acknowledgement in teaching documents</p> <p>Art. 25 (2).: Source of information</p> |
| Private use | <p>Art. 18 — Reproduction for Private Use</p> <p>(1) Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term 'private use' shall not include use by an enterprise, a service or an organization.</p> <p>(2) The freedom to make a reproduction for private use shall not apply when the act of reproduction is likely to conflict with normal exploitation of the work or to prejudice the author's legitimate interests, and notably:</p> <p>(a) when the reproduction is an architectural work in the form of a building or similar construction;</p> <p>(b) when technical means are used to reproduce a fine art work which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.</p> <p>(3) If for the free reproduction of the work technical means are used, such as visual or sound, or audiovisual recording equipment, magnetic tapes or</p> |

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| | <p>other materials, suitable for the reproduction of sounds or images or of sounds and images, photocopying machines, photocopy paper or computers, an equitable remuneration shall be payable to the author of the work and to any holders of related rights. The remuneration shall be fixed at 6 percent of the value of visual or sound, or visual and sound, recording equipment and of magnetic tapes or other materials, at 4 percent of the value of photocopying machines and of photocopy paper and at 2 percent of the value of computers. In any case, the calculation shall be made at the time of the import, or of the distribution from the factory, or at the time of the wholesale or retail sale. The remuneration shall be paid by the manufacturers or the importers or the vendors of the objects herein specified and shall be noted on the invoice, and collected by the collecting societies, acting for all or part of the concerned category of right holders. The collecting societies shall collect the said remuneration and shall choose the debtor. The remuneration collected from the manufacture, import or sale of photocopying machines, photocopy paper and computers shall be shared equally between the authors and the publishers of printed matter. The remuneration collected from the manufacturer, importer or vendor of visual or sound or audiovisual recordings shall be distributed in the proportion of 55 percent to the authors, 25 percent to the performers and 20 percent to the producers of recorded magnetic tapes or other sound or visual or audiovisual recordings. The necessary details pertaining to the allocation and payment of monies to the various categories, or subcategories of the same category, of right holders can be determined through regulation by the Minister of Culture.</p> <p>(4) Every collecting society is entitled to request at any time any debtor, by written notification, to declare the following by statutory statement of Law 1599/1986 to the Copyright Organization:</p> <p>a) the total value of the sound or visual or audiovisual recording equipment, the sound or visual or audiovisual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which he imported or made available or sold and</p> <p>b) that this is the real total value, without any omissions.</p> <p>Within one month from the notification, the debtor is obliged to submit the said statutory statement to the Copyright Organization which should be signed by the debtor, if a personal enterprise, or the statutory representative, if a company.</p> <p>(5) The collecting societies are not entitled to request the same debtor to submit a new statutory statement before the lapse of at least six months from the submission of the previous one.</p> <p>(6) If the debtor does not comply with the obligation to submit the statutory statement referred to above, the one-member district court, by the procedure of injunction measures, may order the immediate submission of the statutory statement; in case of non compliance, a pecuniary fine of one to ten million drachmas may be imposed in favour of the applicant collecting society.</p> <p>(7) If within twenty days from the publication of the said court order, the debtor does not comply with the obligation to submit the statutory statement, the time limit of six months is lifted regardless of any other sanction, and the collecting society is entitled to request the submission of a statutory statement every month. In this case, the provisions of the previous paragraph apply for every statutory statement.</p> <p>(8) Every collecting society, at its own cost, is entitled to request the investigation of the accuracy of the contents of any statutory statement by a certified accountant appointed by the Copyright Organization. In case the</p> |
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| | <p>debtor refuses to comply with the said investigation, the one-member district court may order it to in accordance with the above. The report of the certified accountant is submitted to the Copyright Organization and each collecting society is entitled to receive a copy. There cannot be carried out a new investigation for the same statement at the request of other collecting societies.</p> <p>(9) All enterprises that import or produce or market or sell technical means and recordings that are subject to the fees of this article have the same rights the ones towards the others as the collecting societies referred to in the previous paragraphs. In case of investigation by a certified accountant, the expenses are incurred by the enterprise that requested the investigation.</p> <p>(10) In the case that the importer is required to pay an equitable remuneration whether it concerns an import or inter-community acquisition of the sound or image or sound and image recordings or other technical means referred to in paragraph (3) of this Article, the remuneration is calculated on the value stated in the invoice of the foreign company, and the invoice note provided for by this article is made on the basis of the disposal invoice of the said recordings and technical means and simply states that the disposal price includes the fee calculated on the said value under paragraph (3) of this Article. The remuneration is payable three months after the import.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 1- Copyright</p> <p>(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).</p> <p>Art. 6 — The Initial Right Holder</p> <p>(1) The initial holder of the economic right and the moral right in a work shall be the author of that work.</p> <p>(2) The above-mentioned rights shall be vested in the author of a work without resort to any formality.</p> <p>Art. 9 — Audiovisual Works</p> <p>The principal director of an audiovisual work shall be considered as its author.</p> <p>Art. 10 — Presumptions</p> <p>(1) The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person's identity.</p> <p>(2) In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the right holder shall be presumed to be the right holder of the copyright in the particular work.</p> <p>(3) The presumption referred to in paragraphs (1) and (2), above, may be rebutted by evidence to the contrary.</p> <p>Art. 11 — Fictitious Initial Right Holders</p> <p>(1) Any person who lawfully makes available to the public anonymous or pseudonymous works is deemed as the initial holder of the economic and moral right towards third parties. When the true author of the work reveals</p> |

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| | <p>his identity, he acquires the above-mentioned rights in the condition they are in as a result of the actions of the fictitious right holder.</p> <p>(2) In the case of the previous paragraph, the moral right shall belong to the fictitious right holder insofar as that is compatible with his status.</p> <p>Art. 34</p> <p>(...)</p> <p>(2) Audiovisual productions</p> <p>(...)Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors. Authors of individual contributions are considered to be the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer and the final prosecutor (editor).</p> <p>(...)</p> |
| <p>Joint authors/ compound works/ authors in employment</p> | <p>Art. 7 — Works of Joint Authorship, Collective and Composite Works</p> <p>(1) The term 'work of joint authorship' shall designate any work which is the result of the direct collaboration of two or more authors. The initial right holders in respect of the economic and moral rights in a joint work shall be the coauthors of that work. Unless otherwise agreed, the rights shall be shared equally by the coauthors.</p> <p>(2) The term 'collective work' shall designate any work created through the independent contribution of several authors acting under the intellectual direction and co-ordination of one natural person. That natural person shall be the initial right holder of the economic right and the moral right in the collective work. Each author of a contribution shall be the initial right holder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation.</p> <p>(3) The term 'composite work' shall designate a work which is composed of parts created separately. The authors of all of the parts shall be the initial co-right holders of the rights in the composite work, and each author shall be the exclusive initial holder of the rights of the part of the composite work that he has created, provided that that part is capable of separate exploitation</p> <p>Art. 8 — Employee-Created Works</p> <p>Where a work is created by an employee in the execution of an employment contract the initial holder of the economic and moral rights in the work shall be the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfilment of the purpose of the contract shall be transferred exclusively to the employer.</p> <p>The economic right on works created by employees under any work relation of the public sector or a legal entity of public law in execution of their duties is ipso jure transferred to the employer, unless provided otherwise by contract</p> <p>Art. 40 — Programs Created by Employees</p> <p>The economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his employer, shall be transferred ipso jure to the employer, unless otherwise provided by contract</p> |

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| Collecting Societies | <p>Art. 5 — Droit de suite</p> <p>(1) Whenever an original work of fine art is resold at a public auction or by an art dealer or through the mediation of an art dealer, the author of the work and his heirs shall have the right to demand a share of 5 per cent of the selling price. This right shall not be transferable between living persons.</p> <p>(2) The amount shall be rendered by the organizer of the public auction or by the art dealer.</p> <p>(3) Each year, when requested, organizers of public auctions and art dealers are obliged to provide the Fine Arts Chamber of Greece and the fine arts collecting societies with exact information regarding the works sold by them, or through their intervention, and on the sale prices of such works, during the preceding calendar year.</p> <p>Section IX — Administration by Collecting Societies Art. 54-58 Copyright Act, 15, 16, 21 Amendment</p> <p>Art. 70 — Collecting societies already functioning</p> <p>Art. 69 Copyright Act, Art. 13, 14 Amendment — -Establishment of a Copyright Organisation (control body)</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. 12 — Transfer</p> <p>(1) The economic right may be transferred between living persons or mortis causa.</p> <p>(2) The moral rights shall not be transferable between living persons. After the death of an author, the moral rights shall pass to his heirs, who shall exercise the rights in compliance with the author's wishes, provided that such wishes have been explicitly expressed.</p> <p>Art. 13 — Exploitation Contracts and Licenses</p> <p>(1) The author of the work may conclude contracts, by which he entrusts economic rights to the other contracting party (exploitation contracts). The other party to the contract undertakes the obligation to exercise the rights thus entrusted.</p> <p>(2) The author of the work may authorize another person to exercise economic rights (exploitation licenses).</p> <p>(3) Exploitation contracts and licenses may be exclusive or non-exclusive. Exclusive exploitation contracts and licenses shall empower the other contracting party to exercise the rights conferred by the contract or license excluding any third person. Non-exclusive exploitation contracts and licenses shall give the right to the other contracting party to exercise the rights conferred by the contract or license in parallel to the author and other contracting parties. In the absence of an agreement to the contrary, the other contracting party shall be entitled in his own name to seek legal protection against illegal infringements by third parties of the rights he exercises.</p> <p>(4) Where doubt exists about the exclusivity of an exploitation contract or license the contract or license shall be deemed to be non-exclusive.</p> <p>(5) The contract or license may in no circumstances confer any total right over the future works of the author, and shall never be deemed to refer also to forms of exploitation which were unknown on the date of the contract.</p> <p>(6) The rights of a person who undertakes to carry out the exploitation of a work or who acquires the possibility of exploitation may not be transferred between living persons without the consent of the author.</p> |

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| | <p>Art. 14 — Form of Legal Acts Acts dealing with the transfer of economic rights, with the assignment or licensing of the right of exploitation and with the exercise of the moral right shall be null and void, unless they are concluded in writing. Nullity may be invoked only by the author.</p> <p>Art. 15 — Extent of Transfer and of Exploitation Contracts and Licenses</p> <p>(1) The transfer of the economic right and exploitation contracts or contracts licensing the exploitation of that right may restrict the rights they confer, their scope and duration, the geographical application and the extent or the means of exploitation.</p> <p>(2) If the duration of the transfer or of the exploitation contract or license is unspecified, its duration shall be deemed to be limited to five years, provided conventional mores do not indicate otherwise.</p> <p>(3) If the geographical application of the transfer or of the exploitation contract or license is unspecified, the said legal acts shall be deemed to apply to the country in which they were concluded.</p> <p>(4) If the extent and the means of exploitation which the transfer concerns or for which the exploitation or the exploitation license is agreed are unspecified, it shall be deemed that the said acts refer to the extent and the means that are necessary for the fulfilment of the purpose of the contract or license.</p> <p>(5) In all cases involving the transfer of the economic right or the granting of an exclusive exploitation license, the person who acquires the right or the license shall ensure that within a reasonable period of time, the work is accessible to the public via an appropriate form of exploitation.</p> <p>Art. 16 — Consent of the Author as Exercise of the Moral Right The granting of consent by an author for an action or an omission which would otherwise constitute an infringement of his moral right shall be deemed to be a form of exercise of his moral right, and shall be binding upon him.</p> <p>Article 17 — Transfer of the Physical Carrier Unless there exists prior agreement to the contrary, in writing, with the initial right holder of the economic right, the transfer of the ownership of the physical carrier into which the work has been incorporated, whether in the original form or in any form of copy, shall not constitute a transfer of the copyright or confer on the new owner any rights to exploit the work.</p> <p>Articles 33-38.: Special provisions for printed editions, audiovisual productions, broadcasting, theatrical performance, musical accompaniment of films, photographers.</p> <p>Waiver of moral rights</p> <p>Art 12 (2) The moral rights shall not be transferable between living persons. After the death of an author, the moral rights shall pass to his heirs, who shall exercise the rights in compliance with the author's wishes, provided that such wishes have been explicitly expressed.</p> <p>Art. 16. The granting of consent by an author for an action or an omission which would otherwise constitute an infringement of his moral right shall be deemed to be a form of exercise of his moral right, and shall be binding upon him.</p> |
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| <p>Remuneration Schemes/ compensation</p> | <p>Art. 32 — Percentage Fee</p> <p>(1) The fee payable to the author by the other contracting party to legal agreements relating to the transfer of all or part of the economic right, the granting of the exploitation or for the exploitation license shall be obligatorily determined as a percentage, agreed freely between the parties. The computation of the percentage shall be based on gross revenues without exception or the gross expenditure or on the combined gross revenues and expenditure realized from the activity of the other contracting party in the course of the exploitation of the work. By way of exception, in the following circumstances, the fee may be agreed as a lump sum:</p> <p>(a) when it is practically impossible to establish the basis for the calculation of a percentage fee or when there are no means of monitoring the implementation of a percentage arrangement;</p> <p>(b) when the expenditure required for the calculation and the monitoring is likely to be out of reasonable proportion to the fee to be collected;</p> <p>(c) when the nature or the conditions of the exploitation make the implementation of a percentage impossible, notably when the author's contribution is not an essential element in the intellectual creation as a whole, or when the use of the work is secondary in relation to the object of the exploitation.</p> <p>(2) The obligatory percentage arrangement of the fee prescribed in paragraph (1), above, shall be implemented in all circumstances provided that this Law does not stipulate otherwise, and provided that it does not concern works created by employees in the execution of the employment contract, computer programs or advertisement in any form.</p> <p>Art. 33.: Remuneration for printed editions and translators' rights</p> <p>Art. 34 Copyright Act, Art. 20 Amendment: Remuneration for audiovisual production contracts</p> <p>Art. 35 Copyright Act, Art. 1 Amendment: Remuneration for broadcasting</p> <p>Art. 36.: Theatrical performance remuneration</p> <p>Art. 37.: Remuneration for musical accompaniment of films</p> <p>Art. 38.: Photographers' remuneration</p> |
| <p>Protection of technological measures and rights management information</p> | <p>Section X — Measures to Prevent Infringements (Articles 59 — 63)</p> <p>Implementation of Articles 6 and 7 of the Directive by the new Articles 66A 'technological measures' and 66B 'rights-management information'</p> |
| <p>Consequences of copyright infringement</p> | <p>According to Article 64 of the Greek Copyright Act seizure as a cautionary measure can be requested, if there is reason to believe that an infringement of copyright or of the related right is occurring or may occur.</p> <p>According to Article 65 (1) a right-holder is entitled to demand the recognition of his right, the suppression of the infringement and the omission in the future. Moreover, according to Article 65 (2), a person who infringes by intent or negligence has to indemnify for the moral damage caused and he is liable for payment of damages of not less than twice the normal remuneration. Instead of seeking damages, the right holder can demand either the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work or the profit gained by the infringing party from such an exploitation (Article 65 (3)).</p> <p>Criminal liability is dealt with in Art. 66 ff. According to Article 66 (1) and (2) several infringements are liable to imprisonment of not less than one year and to a fine. In serious cases, punishment is doubled or even more increased (Article 66 (3)).</p> |

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| | The same liability does apply to persons who did not pay the remuneration to a collecting society (Article 66 (4)). |
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I) Ireland

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| Copyright and Related Rights Act 2000 | |
| Protected Works | |
| Categories of protected works | <p>Sec. 17.</p> <p>(1) Copyright is a property right whereby, subject to this Act, the owner of the copyright in any work may undertake or authorise other persons in relation to that work to undertake certain acts in the State, being acts which are designated by this Act as acts restricted by copyright in a work of that description.</p> <p>(2) Copyright subsists, in accordance with this Act, in</p> <p>(a) original literary, dramatic, musical or artistic works,</p> <p>(b) sound recordings, films, broadcasts or cable programmes,</p> <p>(c) the typographical arrangement of published editions, and</p> <p>(d) original databases.</p> <p>(3) Copyright protection shall not extend to the ideas and principles which underlie any element of a work, procedures, methods of operation or mathematical concepts and, in respect of original databases, shall not extend to their contents and is without prejudice to any rights subsisting in those contents.</p> <p>(4) Copyright shall not subsist in a work unless the requirements for copyright protection specified in this Part with respect to qualification are complied with.</p> <p>(5) Copyright shall not subsist in a work which infringes, or to the extent that it infringes, the copyright in another work.</p> <p>(6) Copyright shall not subsist in a work which is, or to the extent that it is, a copy taken from a work which has been previously made available to the public.</p> |
| Conditions for protection | <p>Sec. 18.</p> <p>(1) Copyright shall not subsist in a literary, dramatic or musical work or an original database until that work is recorded in writing or otherwise by or with the consent of the author.</p> <p>(2) References in this Part to the time at which, or the period during which, a work referred to in subsection (1) is made are to the time at which, or the period during which, that work is so recorded.</p> <p>(3) Copyright may subsist in a work that is recorded and may subsist in the recording of a work.</p> <p>Copyright protection requires original literary, dramatic, musical or artistic works.</p> |
| Database protection | <p>Copyright Protection</p> <p>Copyright subsists in original databases (Sec. 17. (2) (d)).</p> |

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| | <p>Definitions:</p> <p>'database' means a collection of independent works, data or other materials, arranged in a systematic or methodical way and individually accessible by any means but excludes computer programs used in the making or operation of a database.</p> <p>'original database' means a database in any form which by reason of the selection or arrangement of its contents constitutes the original intellectual creation of the author.</p> <p>Sui generis protection is regulated in Part V of the Copyright Act, S. 320 ff. Sec. 321.</p> <p>(1) A property right to be known and in this Part referred to as the 'database right' subsists, in accordance with this Part, in a database where there has been a substantial investment in obtaining, verifying or presenting the contents of the database.</p> <p>(2) Subject to this Act, the owner of the database right may undertake or authorise others to undertake certain acts in the State in relation to the database, being acts which are designated by this Act as acts restricted by the database right.</p> <p>(3) For the purposes of this section it is immaterial whether or not the database or any of its contents is a copyright work.</p> <p>(4) The database right shall not subsist in a database unless the requirements specified in this Part with respect to qualification are complied with.</p> <p>Maker and Ownership</p> <p>Sec. 322.</p> <p>(1) Subject to the provisions of this section, the person who takes the initiative in obtaining, verifying or presenting the contents of a database and assumes the risk of investing in that obtaining, verification or presentation shall be regarded as the maker of, and as having made, the database.</p> <p>(2) Where a database is made by an employee in the course of employment, his or her employer shall be regarded as the maker of the database, subject to any agreement to the contrary.</p> <p>Sec. 323.</p> <p>The maker of a database shall be the first owner of the database right in the database.</p> <p>Sec. 324.</p> <p>(1) Subject to the exceptions specified in Chapter 8 of this Part and to the provisions relating to licensing in Chapter 11 of this Part, the owner of the database right has the right to undertake or to authorise others to undertake all or any of the following acts in relation to all or a substantial part of the contents of a database</p> <p>(a) extraction, or</p> <p>(b) re-utilisation,</p> <p>and those acts shall be known and in this Part referred to as 'acts restricted by the database right'.</p> <p>(2) The database right is infringed by a person who, without the licence of the owner of the database right, undertakes, or authorises another to undertake, either of the acts restricted by the database right.</p> <p>(3) For the purposes of this Part, the repeated and systematic extraction or</p> |
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| | <p>re-utilisation of insubstantial parts of the contents of a database which conflicts with the normal exploitation of the database or which prejudices the interests of the maker of the database shall be deemed to be extraction or re-utilisation of a substantial part of those contents.</p> <p>Sec. 325.</p> <p>(1) The database right shall expire 15 years from the end of the calendar year in which the making of the database was completed.</p> <p>Rights and Obligations of Lawful Users</p> <p>Sec. 327.</p> <p>(1) Without prejudice to section 324(3), a lawful user of a database shall be entitled to extract or re-utilise insubstantial parts of the contents of the database for any purpose.</p> <p>(2) Where, under an agreement, a person has a right to use a database, any term or condition in the agreement shall be void in so far as it purports to prevent that person from extracting or re-utilising insubstantial parts of the contents of the database for any purpose.</p> <p>(3) While exercising the entitlement conferred by subsection (1), a lawful user of a database shall not prejudice the owner of any right conferred by this Act in respect of works or other subject matter contained in the database.</p> <p>Acts Permitted in Respect of Database Right</p> <p>Sec. 328.</p> <p>In this Part an act may be exempted under more than one category of exemption and the exemption of an act under one category of exemption shall not preclude its exemption under another category.</p> <p>Sec. 329.</p> <p>(1) The database right in a non-electronic database which has been re-utilised is not infringed by fair dealing with a substantial part of its contents by a lawful user of the database where that part is extracted for the purposes of research or private study.</p> <p>(2) For the purposes of this Part 'fair dealing' means the extraction of the contents of a database by a lawful user to an extent which will not unreasonably prejudice the interests of the rightsowner.</p> <p>Acts for educational purposes</p> <p>Sec. 330.</p> <p>(1) The database right in a database is not infringed by fair dealing with a substantial part of its contents by a lawful user of the. database where that part is extracted for the purposes of illustration in the course of instruction or of preparation for instruction and where—</p> <p>(a) the extraction is done by or on behalf of a person giving or receiving instruction, and</p> <p>(b) the source is indicated.</p> <p>(2) For the purposes of this section 'lawful user' includes an educational establishment.</p> <p>Sec. 333.</p> <p>All or a substantial part of the contents of a database which are comprised in records which are open to public inspection may be extracted or re-utilised without infringing the database right in the database.</p> <p>A more detailed exception concerning 'material open to public inspection or on statutory registers' follows in sec. 334</p> |
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| | <p>Applicability of copyright provisions to database rights (concerning licensing, transfer of rights, legal remedies)</p> <p>Sec. 338.</p> <p>Sections 120, 121, 122, 123, 127, 128, 130, 131, 132, 133, 135 and 136 shall apply in relation to the database right and databases in which that right subsists as they apply in relation to copyright and copyright works.</p> |
| Computer Software | <p>Definitions:</p> <p>'computer program' means a program which is original in that it is the author's own intellectual creation and includes any design materials used for the preparation of the program.</p> <p>'literary work' means a work, including a computer program, but does not include a dramatic or musical work or an original database, which is written, spoken or sung</p> <p>Special exemptions for computer programs in sections 80 ff.:</p> <p>Sec. 80.: Back-up copies of computer programs</p> <p>Sec 81.: Lawful copies of computer programs.</p> <p>Sec. 82.: Exceptions to infringement of copyright in computer programs.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Chapter 4</p> <p>Rights of Copyright Owner</p> <p>Sec. 37.</p> <p>(1) Subject to the exceptions specified in Chapter 6 and to any provisions relating to licensing in this Part, the owner of the copyright in a work has the exclusive right to undertake or authorise others to undertake all or any of the following acts, namely:</p> <p>(a) to copy the work;</p> <p>(b) to make available to the public the work;</p> <p>(c) to make an adaptation of the work or to undertake either of the acts referred to in paragraph (a) or (b) in relation to an adaptation,</p> <p>Definition of 'reproduction':</p> <p>Sec. 39.</p> <p>(1) References in this Part to copying shall be construed as including references to all or any of the following, namely:</p> <p>(a) in relation to any work—</p> <p>(i) storing the work in any medium,</p> <p>(ii) the making of copies which are transient or incidental to some other use of the work;</p> <p>(b) in relation to an artistic work, the making of a copy in three dimensions of a two dimensional work and the making of a copy in two dimensions of a three dimensional work;</p> <p>(c) in relation to a film, television broadcast or cable programme, making a photograph of the whole or a substantial part of any image forming part of the film, broadcast or programme;</p> <p>(d) in relation to a typographical arrangement of a published edition, making a reprographic copy of the arrangement.</p> <p>(2) There shall be a right of the owner of copyright to copy a work or to</p> |

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| | authorise others to do so which shall be known and in this Part referred to as the 'reproduction right'. |
| Right of communication to the public and right of making available | <p>Sec. 37.</p> <p>(1)(b) ... to make available to the public the work;</p> <p>Sec. 40.</p> <p>(1) (a): making available to the public of copies of the work, by wire or wireless means, in such a way that members of the public may access the work from a place and at a time chosen by them (including the making available of copies of works through the Internet);</p> |
| Distribution right | <p>Definition in Sec. 41:</p> <p>Sec. 41.</p> <p>(1) References in this Part to the issue of copies of a work to the public shall be construed as including:</p> <p>(a) the act of putting into circulation in a Member State of the EEA copies not previously put into circulation in a Member State of the EEA by or with the licence of the copyright owner; or</p> <p>(b) the act of putting into circulation outside the Member States of the EEA copies not previously put into circulation in a Member State of the EEA or elsewhere.</p> <p>(2) Without prejudice to the rental right or the lending right, references in this Part to the issue of copies of a work to the public shall not include:</p> <p>(a) any subsequent circulation of copies previously put into circulation;</p> <p>or</p> <p>(b) any subsequent importation of such copies into the State or any other Member State of the EEA, except in so far as subsection (1)(a) applies to putting into circulation in the Member States of the EEA copies previously put into circulation outside the Member States of the EEA.</p> <p>(3) References in this section to 'circulation' shall include sale, rental or loan.</p> <p>(4) There shall be a right of the owner of copyright to issue copies of a work to the public or to authorise others to do so which shall be known and in this Part referred to as the 'distribution right'.</p> |
| Moral rights | |
| Right of publication | |
| Recognition of authorship | <p>Sec. 107.</p> <p>(1) Subject to the exceptions specified in section 108, the author of a work shall have the right to be identified as the author and that right shall also apply in relation to an adaptation of the work.</p> <p>(2) Where an author uses a pseudonym, initials or other form of identification, that form shall be used to identify his or her work.</p> <p>(3) The right conferred by this section shall be known and in this Part referred to as the 'paternity right'.</p> <p>Exceptions to paternity right:</p> <p>Sec. 108.</p> <p>(1) The paternity right is not infringed by anything done under section 52(incidental inclusion of copyright), 53(5) (examination purposes), 71, 72(public administration) or 88 (anonymous works).</p> <p>(2) The paternity right shall not apply to anything done by or with the authority of the copyright owner where the copyright in the work originally</p> |

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| | <p>vested in an employer under section 23.</p> <p>(3) The paternity right shall not apply in relation to a work made for the purpose of reporting current events.</p> <p>(4) The paternity right shall not apply to a work made for the purposes of—</p> <p>(a) a newspaper or periodical, or</p> <p>(b) an encyclopaedia, dictionary, yearbook or other collective work of reference, or in relation to a work made available to the public with the licence of the author for those purposes.</p> <p>(5) The paternity right shall not apply in relation to a work—</p> <p>(a) in which Government or Oireachtas copyright subsists, or</p> <p>(b) in which the copyright originally vested in a prescribed international organisation, unless the author has previously been identified as the author in or on copies of the work which have been lawfully made available to the public.</p> <p>Sec. 113.</p> <p>(1) A person has the right not to have a work falsely attributed to him or her as author.</p> |
| Distortion of the work | <p>Sec. 109.</p> <p>(1) Subject to the exceptions and qualifications specified in sections 110 and 111, the author of a work shall have the right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work which would prejudice his or her reputation and that right shall also apply in relation to an adaptation of the work.</p> <p>(2) The right conferred by this section applies to any addition to, deletion from or alteration to or adaptation of parts of a work resulting from any previous addition to, deletion from or alteration to or adaptation of a work or parts of a work by a person other than the author, where those parts are attributed to, or are likely to be regarded as the work of, the author.</p> <p>(3) The right conferred by this section shall be known and in this Part referred to as the 'integrity right'.</p> <p>Exceptions to the integrity right are listed in sec. 110.</p> |
| Duration of Protection | <p>Sec. 24.</p> <p>(1) The copyright in a literary, dramatic, musical or artistic work, or an original database shall expire 70 years after the death of the author, irrespective of the date on which the work is first lawfully made available to the public.</p> <p>Sec. 29.</p> <p>The copyright in a typographical arrangement of a published edition shall expire 50 years after the date on which it is first lawfully made available to the public.</p> <p>Detailed miscellaneous provision in sec. 24 ff</p> <p>Duration of Database Right</p> <p>Sec. 325.</p> <p>(1) The database right shall expire 15 years from the end of the calendar year in which the making of the database was completed.</p> <p>(2) Where a database is lawfully re-utilised before the expiration of the period referred to in subsection (1), the database right in the database shall expire 15 years from the end of the calendar year in which the database</p> |

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| | <p>was first so re-utilised.</p> <p>(3) Any substantial change to the contents of a database, including a substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment shall qualify the database resulting from that investment for its own term of protection under this section.</p> <p>(4) This section applies notwithstanding paragraph 45 of the First Schedule.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Sec. 50.</p> <p>(1) Fair dealing with a literary, dramatic, musical or artistic work, sound recording, film, broadcast, cable programme, or non-electronic original database, for the purposes of research or private study, shall not infringe any copyright in the work.</p> <p>(2) Fair dealing with a typographical arrangement of a published edition for the purposes of research or private study shall not infringe any copyright in the arrangement.</p> <p>(3) The copying by a person, other than the researcher or private student, is not fair dealing where—</p> <p>(a) in the case of a librarian or archivist, he or she does anything which is not permitted under section 63, or</p> <p>(b) in any other case, the person copying knows or has reason to believe that the copying will result in copies of substantially the same material being provided to more than one person at approximately the same time and for substantially the same purpose.</p> <p>(4) In this Part, 'fair dealing' means the making use of a literary, dramatic, musical or artistic work, film, sound recording, broadcast, cable programme, non-electronic original database or typographical arrangement of a published edition which has already been lawfully made available to the public, for a purpose and to an extent which will not unreasonably prejudice the interests of the owner of the copyright.</p> <p>(5) In this Part, the following acts are not fair dealing—</p> <p>(a) converting a computer program expressed in a low level computer language into a version expressed in a higher level computer language, or</p> <p>(b) copying a computer program in an incidental manner in the course of converting that program.</p> <p>Exceptions for criticism, review, reporting of current events</p> <p>Sec. 51.</p> <p>(1) Fair dealing with a work for the purposes of criticism or Fair dealing: criticism or review. review of that or another work or of a performance of a work shall not infringe any copyright in the work where the criticism or review is accompanied by a sufficient acknowledgement.</p> <p>(2) Fair dealing with a work (other than a photograph) for the purpose of reporting current events shall not infringe copyright in that work, where the report is accompanied by a sufficient acknowledgement.</p> <p>(...)</p> <p>Sec. 52.</p> |

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| | <p>(1) The copyright in a work is not infringed by its inclusion in an incidental manner in another work.</p> <p>(2) The copyright in a work is not infringed by the making available to the public of copies of anything the making of which was not, by virtue of subsection (1), an infringement of the copyright.</p> <p>(3) A work shall not be regarded as included in an incidental manner in another work where it is included in a manner where the interests of the owner of the copyright are unreasonably prejudiced.</p> <p>(4) The copyright in a work which has been lawfully made available to the public is not infringed by the use of quotations or extracts from the work, where such use does not prejudice the interests of the owner of the copyright in that work and such use is accompanied by a sufficient acknowledgement.</p> <p>Sec. 91.</p> <p>Where an article on a scientific or technical subject is lawfully made available to the public in a periodical accompanied by an abstract indicating the contents of the article, it is not an infringement of the copyright in the abstract or in the article to copy the abstract or to make available to the public copies of the abstract or to include the abstract in any other work.</p> |
| | <p>Educational purposes: 'educational establishment' means—</p> <p>(a) any school,</p> <p>(b) any university to which the Universities Act, 1997, applies, and</p> <p>(c) any other educational establishment prescribed by the Minister under section 55;</p> <p>Sec, 53.</p> <p>(1) Subject to subsection (2), the copyright in a literary, dramatic, musical or artistic work or the typographical arrangement of a published edition is not infringed by its being copied in the course of instruction or of preparation for instruction.</p> <p>(2) Subsection (1) shall not apply unless—</p> <p>(a) the copying is done by or on behalf of a person giving or receiving instruction,</p> <p>(b) the copying is not by means of a reprographic process, and</p> <p>(c) the copy is accompanied by a sufficient acknowledgement.</p> <p>Anthologies for educational use</p> <p>Sec. 54.</p> <p>(1) Subject to subsection (2), the inclusion of a short passage from a literary, dramatic or musical work, original database or typographical arrangement of a published edition which has been lawfully made available to the public in a collection that—</p> <p>(a) is intended for use—</p> <p>(i) in educational establishments and is so described in its title, or</p> <p>(ii) in any advertisements issued by or on behalf of the publisher, and</p> <p>(b) consists mainly of material in which no copyright subsists,</p> <p>shall not infringe the copyright in the work where the work itself is not intended for use in those establishments and the inclusion is accompanied by a sufficient acknowledgement.</p> |

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| | <p>Sec. 57.</p> <p>(1) Reprographic copies of passages from literary, dramatic or musical works or typographical arrangements of published editions or original databases which have been lawfully made available to the public may, to the extent permitted under this section, be made by or on behalf of an educational establishment for the educational purposes of that establishment without infringing any copyright in the work, subject to those copies being accompanied by a sufficient acknowledgement.</p> <p>(2) Not more than 5 per cent of any work may be copied by or on behalf of an educational establishment under this section in any calendar year.</p> <p>(3) This section shall not apply where there is a licensing scheme certified under section 173 and the person making the copies knew or ought to have been aware of the existence of the licensing scheme.</p> <p>(4) The terms of a licence granted to an educational establishment authorising the reprographic copying for the educational purposes of that establishment of passages from literary, dramatic or musical works or the typographical arrangements of published editions or original databases, which have been lawfully made available to the public, shall be void in so far as they purport to restrict the proportion of a work which may be copied (whether on payment or free of charge) to less than that which would be permitted under this section.</p> <p>(5) Where a copy which would otherwise be an infringing copy is made under this section but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an infringing copy for those purposes and for all subsequent purposes.</p> |
| Libraries and archives | Sections 59 ff: Extensive and detailed provisions |
| Acknowledgement of source | <p>Sec. 51.</p> <p>(1) Fair dealing with a work for the purposes of criticism or review of that or another work or of a performance of a work shall not infringe any copyright in the work where the criticism or review is accompanied by a sufficient acknowledgement.</p> <p>(2) Fair dealing with a work (other than a photograph) for the purpose of reporting current events shall not infringe copyright in that work, where the report is accompanied by a sufficient acknowledgement.</p> <p>(3) In this Part, 'sufficient acknowledgement' means an acknowledgement identifying the work concerned by its title or other description and identifying the author unless—(certain exceptions).</p> <p>Sec. 52.</p> <p>(4) The copyright in a work which has been lawfully made available to the public is not infringed by the use of quotations or extracts from the work, where such use does not prejudice the interests of the owner of the copyright in that work and such use is accompanied by a sufficient acknowledgement.</p> <p>In the context of copies for educational use, sufficient acknowledgement is required by sec. 53 (2) (c).</p> |
| Private use | No specific exception for private use, but compare in reverse sec. 50 (3) (b). |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | Sec. 21. |

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| | <p>In this Act, 'author' means the person who creates a work</p> <p>(a) in the case of a sound recording, the producer;</p> <p>(b) in the case of a film, the producer and the principal director;</p> <p>(c) in the case of a broadcast, the person making the broadcast or in the case of a broadcast which relays another broadcast by reception and immediate retransmission, without alteration, the person making that other broadcast;</p> <p>d) in the case of a cable programme, the person providing the cable program service in which the program is included;</p> <p>(e) in the case of a typographical arrangement of a published edition, the publisher;</p> <p>(f) in the case of a work which is computer-generated, the person by whom the arrangements necessary for the creation of the work are undertaken;</p> <p>(g) in the case of an original database, the individual or group of individuals who made the database; and</p> <p>(h) in the case of a photograph, the photographer.</p> |
| Joint authors/ compound works/ authors in employment | <p>Sec. 22.</p> <p>(1) In this Act, 'a work of joint authorship' means a work produced by the collaboration of two or more authors in which the contribution of each author is not distinct from that of the other author or authors.</p> <p>Sec. 23.</p> <p>(1) The author of a work shall be the first owner of the copy right unless—</p> <p>(a) the work is made by an employee in the course of employment, in which case the employer is the first owner of any copyright in the work, subject to any agreement to the contrary,</p> <p>(b) the work is the subject of Government or Oireachtas Pt.II S.23 copyright,</p> <p>(c) the work is the subject of the copyright of a prescribed international organisation, or</p> <p>(d) the copyright in the work is conferred on some other person by an enactment.</p> <p>(2) Where a work, other than a computer program, is made by an author in the course of employment by the proprietor of a newspaper or periodical, the author may use the work for any purpose, other than for the purposes of making available that work to newspapers or periodicals, without infringing the copyright in the work.</p> <p>Sec. 3.</p> <p>(3) Where a right conferred by this Act (or any aspect of such right) is owned by more than one person jointly, references in this Act to the rightsowner are to all the owners, and any requirement of the licence of the rightsowner requires the licence of all of the owners.</p> |
| Collecting Societies | <p>Licensing bodies are regulated in 149 ff (copyright) and 340 ff (database rights) see statutory instrument 514/2002 Copyright and Related Rights (Certification of Licensing Scheme for Reprographic Copying by Educational Establishments)(The Irish Copyright Licensing Agency Limited) Order 2002 which will permit unlimited copying by educational establishments upon the payment of a levy, calculated on the basis of the number of students and the number of copies to be made.</p> |
| Contract Law/Licenses | |

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| <p>Transfer of rights</p> | <p>Sec. 120.</p> <p>(1) The copyright in a work is transmissible by assignment, by testamentary disposition or by operation of law, as personal or moveable property.</p> <p>(2) A transmission of the copyright in a work by assignment, by testamentary disposition or by operation of law may be partial, so as to apply—</p> <p>(a) to one or more but not all of the acts the copyright owner has the right to undertake or authorise, and</p> <p>(b) to part but not the whole of the period for which the copyright in the work is to subsist.</p> <p>(3) An assignment of the copyright in a work, whether in whole or in part, is not effective unless it is in writing and signed by or on behalf of the assignor.</p> <p>(4) A licence granted by a copyright owner is binding on every successor in title to his or her interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser and references in this Part to undertaking any act with or without the licence of the copyright owner shall be construed accordingly.</p> <p>Sec. 121.</p> <p>(1) Where, by an agreement made in relation to future copy- right and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright, whether in whole or in part, to another person, then, where, on the copyright coming into existence, the assignee or his or her successor in title, or another person claiming under him or her, would be entitled as against all other persons to require the copyright to be vested in him or her, the copyright shall vest in the assignee or his or her successor in title under this section or any other person claiming under him or her.</p> <p>Sec. 122.</p> <p>(1) In this Part, an 'exclusive licence' means a licence in writing which is signed by or on behalf of an owner or prospective owner of the copyright which authorises the licensee, to the exclusion of all other persons, including the person granting the licence, to exercise a right which would otherwise be exercisable exclusively by the copyright owner and references to an exclusive licensee shall be construed accordingly.</p> <p>(2) An exclusive licensee has the same rights against a successor in title who is bound by the licence as he or she has against the person granting the licence.</p> <p>Waiver of moral rights</p> <p>Sec. 116.</p> <p>(1) Subject to subsection (3), any of the rights conferred by this chapter may be waived.</p> <p>(2) A waiver made under this section shall be in writing and signed by the person waiving the right concerned.</p> <p>(3) A waiver made under subsection (1)—</p> <p>(a) may relate to a specific work, to works of a specified description or to works generally, and may relate to existing or future works, and</p> <p>(b) may be conditional or unconditional, and may be expressed to be</p> |
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| | <p>subject to revocation, and where a waiver is made in favour of the owner or prospective owner of the copyright in the work or works to which it relates, that waiver shall be presumed to extend to his or her licensees, successors in title or other persons claiming under them unless a contrary intention Pt.II S.116 is expressed.</p> |
| Remuneration Schemes/ compensation | Licensing (copyright) sections 149 ff, licensing (databases) sections 340 ff: Extensive and detailed provisions. |
| Protection of technological measures and rights management information | <p>Regulated in Part VII (sections 370 ff)</p> <p>Protection devices: Sec. 370.</p> <p>(1) This section applies where, by or with the licence of the rightsowner</p> <p>(a) copies of copyright works to which rights protection measures have been applied or recordings of performances to which rights protection measures have been applied, are made available to the public, or</p> <p>(b) copies of databases to which rights protection measures have been applied, are re-utilised.</p> <p>(2) A person who makes available to the public or re-utilises the copies referred to in subsection (1) has the same rights and remedies against a person who—</p> <p>(a) (i) makes,</p> <p>(ii) sells, rents or lends, or offers or exposes for sale, rental or loan,</p> <p>(iii) imports into the State, or</p> <p>(iv) has in his or her possession, custody or control,</p> <p>a protection-defeating device, knowing or having reason to believe that it has been or is to be used to circumvent rights protection measures, or</p> <p>(b) provides information, or offers or performs any service, intended to enable or assist persons to circumvent rights protection measures, as a rightsowner has in respect of an infringement of any of his or her rights under this Act.</p> <p>Exception for permitted acts: Sec. 374.</p> <p>Nothing in this Chapter shall be construed as operating to prevent any person from undertaking the acts permitted—</p> <p>(a) in relation to works protected by copyright under Chapter 6 of Part II,</p> <p>(b) in relation to performances, by Chapter 4 of Part III, or</p> <p>(c) in relation to databases, by Chapter 8 of Part V,</p> <p>or from undertaking any act of circumvention required to effect such permitted acts.</p> <p>Rights management information: Sec. 375.</p> <p>(1) A person who provides rights management information has the same rights and remedies against a person who—</p> <p>(a) removes or alters rights management information from copies of copyright works, copies of recordings of performances or copies of databases knowing or having reason to believe that the primary purpose or effect of such removal or alteration is to induce, enable, facilitate or conceal</p> |

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| | <p>an infringement of any right conferred by this Act,</p> <p>(b) makes available to the public copies of copyright works or copies of recordings of performances or re-utilises copies of databases, referred to in paragraph (a), knowing or having reason to believe that rights management information has been removed or altered from those copies, (...)as a rightsowner has in respect of an infringement of any of his or her rights under this Act.</p> <p>(2) References in this section to rights management information include information, or any representation thereof—</p> <p>(a) which identifies a copyright work, recording of a performance or database,</p> <p>(b) which identifies the author in relation to a copyright work, the performer in relation to a recording of a performance or the maker in respect of a database,</p> <p>(c) which identifies the owner of any right in a copyright work, recording of a performance or database, or</p> <p>(d) about the terms and conditions of use of a copyright work, recording of a performance or database,</p> <p>where any of these items of information, or any representations thereof, are attached to or appear in connection with a copy of a copyright work or a copy of a recording of a performance, which is lawfully made available to the public, or a copy of a database which is lawfully re-utilised.</p> <p>Sec 376 makes the removal or interference with rights management information an offence.</p> |
| <p>Consequences of copyright infringement</p> | <p>According to Section 127 of the Irish Copyright an Related Rights Act a copyright infringement is actionable by the copyright owner. In this action all relief by way of damages, injunction, account of profits or otherwise is available to the plaintiff as it is available in respect of the infringement of any other property right.</p> <p>Damages are awarded regarding to all circumstances, also aggravated and exemplary damages may be awarded. However, damages will not be awarded, if the defendant acted in good faith (Section 128).</p> <p>No injunction or other order will be made in respect of the construction of a building, if the construction has begun or has been completed (Section 129).</p> <p>Delivery up of infringing copies, articles adapted for making copies or protection defeating devices is permissible (Section 131), except in the case of articles, if the defendant acted in good faith.</p> <p>Seizure of the said items is permissible, if there are reasonable grounds to believe, that theses items are to be marketed (Section 132).</p> <p>An exclusive licensee has the same rights and remedies as a copyright-holder (Sections 135).</p> <p>The infringement of a moral right is according to Section 137 actionable as a breach of statutory duty and entitles to damages and injunctions, except in the case of the construction of buildings, where no injunction is granted.</p> <p>If the defendant agrees to take a license during the proceedings, no injunction or order for delivery up will be made against him. In this case the amount of damages is limited to the double amount which would have been payable by him as a licensee (Section 130).</p> <p>Criminal liability is dealt with in sections 140 ff, 258 ff, 371 ff.</p> |

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| Italy | |
| Law No. 633 for the Protection of Copyright and Rights Related to its Exercise of April 22, 1941 as last amended by Legislative Decree No. 95 of February 2, 2001 | |
| Protected Works | |
| Categories of protected works | <p>Art. 1. S. 1</p> <p>Works of the mind having a creative character and belonging to literature, music, figurative arts, architecture, theater or cinematography, whatever their mode or form of expression, shall be protected in accordance with this Law.</p> <p>Art. 100.-102.: protection of the title, headings and external appearance of works, and of articles and news — prohibition of certain acts of unfair competition</p> |
| Conditions for protection | <p>Art. 1. S. 1</p> <p>Works of the mind having a creative character and belonging to literature, music, figurative arts, architecture, theater or cinematography (...).</p> <p>Art 2.</p> <p>In particular, protection shall extend to:</p> <p>(1) literary, dramatic, scientific, didactic and religious works, whether in written or oral form;</p> <p>(2) musical works and compositions, with or without words, dramatico-musical works, and musical variations that themselves constitute original works;</p> <p>(3) choreographic works and works of dumb show, the form of which is fixed in writing or otherwise;</p> <p>(4) works of sculpture, painting, drawing, engraving and similar figurative arts, including scenic art, even where such works are applied to industrial products, if their artistic value is distinct from the industrial character of the product with which they are associated;</p> <p>(5) architectural plans and works;</p> <p>(6) works of cinematographic art, whether silent or with sound, provided they are not mere documentaries protected in accordance with the provisions of Chapter V of Part II;</p> <p>(7) works of photographic art and works expressed with processes analogous to photograph provided they are not simple photographs protected in accordance with the provisions of Chapter V of Part II;</p> <p>(8) computer programs, in whatever form they are expressed, provided that they are original and result from the author's own intellectual creation. Ideas and principles which underlie any element of a computer program, including those which underlay its interfaces, shall be excluded from the protection afforded by this Law. The term 'computer program' shall include their preparatory design materials.</p> <p>(9) The databases referred to in the second paragraph of Article 1, understood as being collections of works, data or other independent elements systematically or methodically arranged and individually accessible by electronic means or otherwise. The protection of databases shall not extend to their contents and shall be without prejudice to rights existing in those contents.</p> <p>(10) Industrial design works that have creative character or inherent artistic</p> |

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| | <p>character. (...) Art 3. Collective works formed by the assembling of works, or part of works, and possessing the character of a self-contained creation resulting from selection and co-ordination with a specific literary, scientific, didactic, religious, political or artistic aim, such as encyclopaedias, dictionaries, anthologies, magazines and newspapers, shall be protected as original works, independently of and without prejudice to any copyright subsisting in the constituent works or parts thereof. Art. 4. Without prejudice to the rights subsisting in the original work, works of a creative character derived from any such work, such as translations into another language, transformations into any other literary or artistic form, modifications and additions constituting a substantial remodelling of the original work, adaptations, arrangements, abridgements and variations which do not constitute an original work, shall also be protected. Art. 5. The provisions of this Law shall not apply to the texts of official acts of the State or of public administrations, whether Italian or foreign.</p> |
| Database protection | <p>Copyright protection of databases Art. 1. S. 2 Computer programs shall also be protected as literary works within the meaning of Convention for the Protection of Literary and Artistic Works, ratified and enforceable pursuant to Law No. 399 of June 20, 1978, as shall databases that, by reason of the selection or arrangement of their contents, constitute the author's own intellectual creation.. Art. 2. In particular, protection shall extend to: (...) (9) The databases referred to in the second paragraph of Article 1, understood as being collections of works, data or other independent elements systematically or methodically arranged and individually accessible by electronic means or otherwise. The protection of databases shall not extend to their contents and shall be without prejudice to rights existing in those contents. Art. l2bis. Unless otherwise agreed, the employer shall be the owner of the exclusive right of economic use of the computer program or database created by his employee in the course of his duties or on instructions given by the said employer. 64quinquies. (1) The author of a database has the exclusive right to carry out or authorize the following: (a) permanent or temporary reproduction, in its entirety or in part, by any means and in any form; (b) translation, adaptation, arrangement and any other alteration; (c) any form of distribution to the public of the database or of copies thereof; the first sale of a copy of the database on the territory of the European Union by the owner of the rights or with his consent shall exhaust</p> |

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| | <p>the right to control resale of that copy within the said Union;</p> <p>(d) any display, performance or communication to the public, including transmission effected by any means and in any form;</p> <p>(e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in (b).</p> <p>Art. 64sexies.</p> <p>(1) The following shall not be subject to authorization by the owner of the rights under Article 64quinquies:</p> <p>(a) access to or consultation of the database for purely teaching or scientific research purposes outside the framework of a company, as long as the source is mentioned and to the extent justified by the non-commercial purpose to be achieved; in the case of access or consultation, however, the permanent reproduction of all or a substantial part of the contents on another medium shall be subject to authorization by the owner of the rights;</p> <p>(b) use of a database for public security purposes or for the purposes of an administrative or judicial procedure.</p> <p>(2) Authorization by the author shall not be required for acts mentioned in Article 64quinquies that are performed by the lawful user of the database or a copy thereof where those acts are necessary for access to the contents of the database and for its normal use. Where the lawful user is authorized to use only part of the database, this paragraph shall apply only to that part.</p> <p>(3) Any contractual clause contrary to the provisions of paragraph (2) shall be null and void under Article 1418 of the Civil Code.</p> <p>(4) In accordance with the Berne Convention for the Protection of Literary and Artistic Works, ratified and brought into force by Law No. 399 of June 20, 1978, the provisions of paragraphs (1) and (2) may not be interpreted in such a way as to allow their application to prejudice the owner of the rights unreasonably or to conflict with the normal exploitation of the database.</p> <p>Sui generis protection of databases:</p> <p>Rights of the Maker of a Database</p> <p>Art. 102bis.</p> <p>(1) For the purposes of this Part:</p> <p>(a) 'maker of a database' means the person who invests substantially in the making of a database or in its verification or presentation, devoting financial means, time or effort thereto:</p> <p>(b) 'extraction' means the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form. The loan of the subject matter within the meaning of Article 69(1) does not constitute an act of extraction;</p> <p>(c) 're-utilization' means any form of making available to the public of all or a substantial part of the contents of the database by distribution of copies, by renting or transfer of possession by any means and in any form. The loan of the subject matter within the meaning of Article 69(1) does not constitute an act of re-utilization.</p> <p>(2) The first sale of a copy of the database made or agreed to by the owner in a Member State of the European Union shall exhaust the right to control the resale of that copy on the territory of the European Union.</p> <p>(3) Independently of the possibility of protecting the database under copyright provisions or by virtue of other rights, and without prejudice to</p> |
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| | <p>the rights in all or part of the contents thereof, the maker of a database shall have the right, during the period and on the terms provided for in this Chapter, to prohibit acts of extraction or re-utilization of all or a substantial part thereof.</p> <p>(4) The right mentioned in paragraph (3) shall apply to databases the makers of which or the owners of the rights in which are citizens of a Member State of the European Union or ordinarily resident on the territory of the European Union.</p> <p>(5) The provisions of paragraph (3) shall apply also to businesses and companies incorporated under the legislation of a Member State of the European Union and having their registered office, central administration or principal business activity within the European Union; however, where such a company or business has only its registered office within the European Union, there must be a genuine and permanent link between its activities and the economy of one of the Member States of the European Union.</p> <p>(6) The exclusive right of the maker shall come into being on the completion of the database, and shall expire 15 years from January 1 of the year following the date of the said completion.</p> <p>(7) In the case of databases made available to the public in any manner before expiry of the period provided for in paragraph (6), the right provided for in the same paragraph shall expire 15 years from January 1 of the year following the date when the database was first made available to the public.</p> <p>(8) Where changes or substantial additions are made to the contents of the database that entail considerable new investment within the meaning of paragraph (1)(a), the time of completion of the database so changed or completed and expressly identified as such, and of its being made available to the public, shall start a separate period of protection equal to that provided for in paragraphs (6) and (7).</p> <p>(9) The repeated and systematic extraction or re-utilization of insubstantial parts of the contents of the database shall not be authorized where it presupposes acts that conflict with a normal exploitation of that database, or would unjustifiably prejudice the maker of the database.</p> <p>(10) The right provided for in paragraph (3) may be acquired or transferred in any manner and form authorized by the law.</p> <p>Rights and Obligations of the User</p> <p>Art. 102ter.</p> <p>(1) The lawful user of a database made available to the public may not cause prejudice to the owner of the copyright or related right in the works or performances contained in the said database.</p> <p>(2) The lawful user of a database made available to the public in any manner may not perform acts that conflict with the normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database.</p> <p>(3) The authorization of the maker of the database made available to the public in whatever manner shall not be required for a lawful user of the database to extract or re-utilize insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract or re-utilize a part of the database, this paragraph shall apply only to that part.</p> <p>(4) Contractual clauses contrary to the provisions of paragraphs (1), (2) and (3) shall be null and void.</p> |
| Computer Software | Art. 1. S. 2 |

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| | <p>Computer programs shall also be protected as literary works within the meaning of Convention for the Protection of Literary and Artistic Works, ratified and enforceable pursuant to Law No. 399 of June 20, 1978, as shall databases that, by reason of the selection or arrangement of their contents, constitute the author's own intellectual creation..</p> <p>2.</p> <p>In particular, protection shall extend to:</p> <p>(...)</p> <p>(8) computer programs, in whatever form they are expressed, provided that they are original and result from the author's own intellectual creation. Ideas and principles which underlie any element of a computer program, including those which underlay its interfaces, shall be excluded from the protection afforded by this Law. The term 'computer program' shall include their preparatory design materials.</p> <p>Art. l2bis.</p> <p>Unless otherwise agreed, the employer shall be the owner of the exclusive right of economic use of the computer program or database created by his employee in the course of his duties or on instructions given by the said employer.</p> <p>Art. 64bis.</p> <p>(1) Without prejudice to the provisions of Articles 64ter and 64quater, the exclusive rights afforded by this Law with regard to computer programs shall include the right to do or to authorize:</p> <p>(a) the permanent or temporary reproduction of a computer program by any means or in any form, in part or in whole. In so far as loading, displaying, running, transmission or storage of the computer program necessitates such reproduction, such acts shall be subject to authorization by the right holder;</p> <p>(b) the translation, adaptation, arrangement and any other alteration of a computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the program;</p> <p>(c) any form of distribution to the public, including the rental, of the original computer program or of copies thereof. The first sale in the European Union of a copy of a program by the right holder or with his consent shall exhaust the distribution right within the Union of that copy, with the exception of the right to control further rental of the program or of a copy thereof.</p> <p>Art. 64ter.</p> <p>(1) In the absence of any agreement to the contrary, the acts referred to in Article 64bis(a) and (b) shall not require authorization by the right holder where they are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose, including error correction.</p> <p>(2) The making of a back-up copy by a person having a right to use the computer program may not be prevented by contract in so far as it is necessary for that use.</p> <p>(3) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the right holder, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do. Any contractual clause that is contrary to the provisions of this paragraph and of paragraph (2) shall be null and void.</p> |
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| | <p>Art. 64quater.</p> <p>(1) The authorization of the right holder shall not be required where reproduction of the code and translation of its form within the meaning of Article 64bis(a) and (b) are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:</p> <p>(a) these acts are performed by the licensee or by another person having a right to use a copy of a program, or on their behalf by a person authorized to do so;</p> <p>(b) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in subparagraph (a);</p> <p>(c) these acts are confined to the parts of the original program which are necessary to achieve interoperability.</p> <p>(2) The provisions of paragraph (1) shall not permit the information thus obtained:</p> <p>(a) to be used for goals other than to achieve the interoperability of the independently created computer program;</p> <p>(b) to be given to others, except where necessary for the interoperability of the independently created computer program;</p> <p>(c) to be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.</p> <p>(3) Any contractual clause contrary to paragraphs (1) and (2) shall be null and void.</p> <p>(4) In accordance with the provisions of the Berne Convention for the Protection of Literary and Artistic Works, ratified and enforceable by Law No. 399, of June 20, 1978, the provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner which unreasonably prejudices the right holder's legitimate interests or conflicts with a normal exploitation of the computer program.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 12. S. 2: author's right of exploitation in any form or manner</p> <p>Art. 13.</p> <p>The exclusive right of reproduction concerns the multiplication of copies of a work by any means, such as copying by hand, printing, lithography, engraving, photography, phonography, cinematography, and any other process of reproduction.</p> <p>Art. 14.</p> <p>The exclusive right of transcription concerns the use of means suitable for transforming an oral work into a written work or into a work reproduced by one of the methods referred in the preceding Article.</p> <p>Art. 42.</p> <p>The author of an article or other work reproduced in a collective work shall be entitled to reproduce it as an offprint or to include it in a volume, provided he mentions the collective work from which it has been taken and the date of publication.</p> <p>In the case of articles appearing in magazines or newspapers, the author shall also have the right, in the absence of agreement to the contrary, to</p> |

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| | <p>reproduce them in other magazines or newspapers.</p> <p>Art. 49. The authors of the literary or musical parts of a cinematographic work may reproduce them or utilize them separately in any manner, provided no prejudice is caused to the exploitation rights belonging to the producer.</p> <p>Art. 50. If the producer fails to complete the cinematographic work within a period of three years from the delivery of the literary or musical parts, or does not show the completed work within three years from its completion, the authors of those parts shall be entitled to dispose of the work itself without restriction.</p> <p>Art. 51.-60.: Special provisions for broadcast works</p> <p>Art. 61. Works recorded on mechanical devices An author shall have the exclusive right, within the meaning of the provisions of Section I of Chapter III of this Part:</p> <p>(1) to adapt and to record his work on phonograph records, cinematographic films, metal tapes or any similar material or mechanical device for reproducing sounds or voices;</p> <p>(2) to reproduce, to distribute, to rent out or lend out or to authorize the rental or lending of copies of a work thus adapted or recorded;</p> <p>(3) to perform in public and to broadcast his work by means of a record or other mechanical device as mentioned above by cable, and to authorize communication to the public by satellite and retransmission by cable. Assignment of the right of reproduction or the right of distribution shall not include assignment of the right of public performance or of broadcasting, nor the right of communication to the public by satellite or of retransmission by cable unless otherwise agreed. Copyright with respect to broadcasting shall continue to be governed by the provisions of the preceding Section.</p> <p>Art. 64bis.-64quater.: Special provisions for the exploitation of computer programs</p> <p>Art. 72. -78.: Special provisions for rights relating to the production of phonographic records and analogous contrivances including reproduction, distribution, lending, renting and remuneration.</p> <p>Art. 78bis.: Special provisions for producers of cinematographic or audiovisual works or of sequences of moving images including reproduction, distribution, lending, renting and remuneration.</p> <p>Art. 79.: Rights in radio and television broadcasting</p> <p>Art. 87-92.: Special provisions for photographs including reproduction, distribution, remuneration, transfer of rights...</p> <p>Art. 93-98.: Rights in correspondence and portraits</p> |
| <p>Right of communication to the public and right of making available</p> | <p>Art. 12. S. 2: Author's right of exploitation in any form or manner</p> <p>Art. 15. The exclusive right of public performance or recitation concerns the performance or recitation, however carried out, for payment or not, of a musical, dramatic or cinematographic work or of any other work suitable for public showing and of oral works. The performance or recitation of a work within the normal circle of the family, of a community, a school or a retirement home, shall not be deemed a public performance provided that it has not been carried out with gainful intent.</p> |

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| | <p>Art. 18bis.</p> <p>(1) The exclusive right of rental concerns the making available for use of originals, of copies or of carriers of copyright works for a limited period of time and for direct or indirect economic or commercial advantage.</p> <p>(2) The exclusive right of lending concerns the making available for use of originals, of copies or of carriers of copyright works, for a limited period of time and for purposes other than those referred to in paragraph (1) when made through establish marks which are accessible to the public.</p> <p>(3) The author shall have the exclusive right to authorize rental or lending by third parties.</p> <p>(4) The above mentioned rights shall not be exhausted by any sale or other act of distribution of originals, copies or carriers of works.</p> <p>(5) Even where the right of rental is assigned to a producer of phonograms or cinematographic or audiovisual works or of sequences of moving images, the author shall retain his right to fair remuneration for a rental contract concluded by such producer with third parties. Any agreement to the contrary shall be null and void. In the absence of agreement between the categories concerned as defined in the first paragraph of Rule 16 of the Regulations, the said remuneration shall be set according to the procedure provided for in Article 4 of Decree Law No. 440 of July 20, 1945.</p> <p>(6) Paragraphs (1) to (4) shall not apply to plans or designs of buildings or to works of applied art.</p> <p>Art. 33.-37.: Special provisions on exploitation rights in dramatico-musical works, compositions with words choreographic works and works of dumb show</p> <p>Art. 38.</p> <p>In the case of a collective work, the exploitation rights shall belong, in the absence of agreement to the contrary, to the publisher of the work, without prejudice to any right deriving from the application of Article 7.</p> <p>The individual contributors to collective works shall have the right to utilize their own contributions separately, provided they observe existing agreements or, in the absence of agreements, the rules set out below.</p> <p>Art. 39.: Rights of non-editorial staff members in newspaper articles</p> |
| Distribution right | <p>Art. 12. S. 2: Author's right of exploitation in any form or manner</p> <p>Art. 16.</p> <p>The exclusive right of broadcasting concerns the use of any means of diffusion at a distance, such as telegraph, telephone, radio, television and other comparable media, including communication to the public by satellite and cable retransmission, and also encoded transmission subject to special conditions of access.</p> <p>See Art. 16bis for the definitions of 'satellite', 'communication to the public by satellite', 'cable transmission'.</p> <p>Art. 17.</p> <p>(1) The exclusive right of distribution concerns the right to market, place in circulation or make available to the public, by whatever means and for whatever purpose, a work or copies thereof, and includes, in addition, the exclusive right to introduce into the territory of the European Union, for distribution, copies of a work made in countries not members of the European Union.</p> <p>(2) The free delivery of copies of a work for promotional purposes or for teaching or scientific research, when carried out and authorized by the right</p> |

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| | holder, shall not be deemed to be exercise of the exclusive right of distribution. |
| Other economic rights | Art. 144.-155.: Rights in respect of increase in value of works of figurative art |
| Moral rights | |
| Right of publication | <p>Art. 12.</p> <p>An author shall have the exclusive right to publish his work. He shall also have the exclusive right to the exploit his work in any form or manner, whether original or derivative, within the limits laid down by this Law, particularly the exercise of the exclusive rights set out in the following Articles.</p> <p>The first form of exercise of' the right of exploitation shall be deemed to constitute first publication.</p> <p>Art. 18.</p> <p>The exclusive right of translation concerns all forms of modification, adaptation and transformation of a work as referred to in Article 4. An author shall also have the exclusive right to publish his works in a collection.</p> <p>(...)</p> <p>Art. 24.</p> <p>The right to publish unpublished works shall belong to the heirs of the author or to the legatees of such works, unless the author has expressly forbidden publication or has entrusted it to other persons.</p> <p>If the author has fixed a period of time to precede publication, unpublished works shall not be published before the expiration of such period.</p> <p>If more than one person is concerned by the first paragraph and there is disagreement between them, the matter shall be decided by judicial authority after bearing the public prosecutor. The wishes of the deceased person, when expressed in writing, shall in all cases be respected.</p> <p>The provisions of Part III, Chapter II, Section II, shall apply to such works.</p> |

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| Recognition of authorship | <p>Art. 20.</p> <p>Independently of the exclusive rights of exploitation of the work referred to in the provisions of the preceding Section, and even after the transfer of' such rights, the author shall retain the right to claim authorship of his work and to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to, the work, which would be prejudicial to his honor or reputation.</p> <p>However, in the case of works of architecture, the author may not oppose modifications deemed necessary in the course of construction. Further, he may not oppose other modifications which may be necessary in any such completed work. However, if the work is recognized by the competent State authority as having an important artistic character, the author shall be entrusted with the study and execution of such modifications.</p> <p>Art. 21.</p> <p>The author of an anonymous or pseudonymous work shall at all times have the right to reveal his identity and to have his position as author recognized by judicial procedure.</p> <p>Notwithstanding any prior agreement to the contrary, the successors in title of an author who has revealed his identity shall be required to indicate the name of the author in publications, reproductions, transcriptions, performances, recitations and broadcasts, or in any other form of</p> |
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| | <p>manifestation or announcement to the public.</p> <p>Art. 22. The rights referred to in the preceding Articles shall be inalienable. However, if the author was aware of and has accepted modifications to his work, he shall not be entitled to intervene to prevent the performance thereof or to demand its suppression.</p> <p>Art. 23. After the death of the author, the right referred to in Article 20 may be asserted, without limitation of time, by his spouse and children and, in the absence thereof, by his parents and other direct ascendants and descendants, and in the absence of such ascendants and descendants, by his brothers and sisters and their descendants. If the public interest should so require, such action may also be taken by the President of the Council of Ministers after hearing the competent professional association.</p> <p>Art. 40. In the absence of agreement to the contrary, a contributor to a collective work other than a magazine or newspaper shall be entitled to have his name appear in the customary manner in the reproduction of his work. In the absence of agreement to the contrary, this right shall not be enjoyed by the editorial staff of newspapers.</p> <p>Art. 48. The authors of a cinematographic work shall be entitled to have their names, together with their professional capacity and their contributions, mentioned in the showing of a cinematographic work.</p> <p>Art. 62. Copies of a phonograph record or of any like device for reproducing sounds or voices on which an intellectual work has been recorded shall not be commercially distributed unless they bear, in an indelible manner, the following particulars: (1) the title of the work reproduced; (2) the name of the author; (3) the name of the performing artist. Orchestral or choral groups shall be identified by their customary name; (4) the date of production.</p> <p>Art. 63. S. 1 The record or like device shall be made or utilized in such a manner that the moral rights of the author are respected within the terms of Articles 20 and 21 of this Law. (...)</p> |
| Distortion of the work | <p>Art. 18. S. 3 (...) Finally, he (the author) shall have the exclusive right to make any modifications to his work.</p> <p>Art. 20. S. 1: right to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to, the work, which would be prejudicial to his honor or reputation.</p> <p>Art. 41. Without prejudice to the application of Article 20, the director of a newspaper shall be entitled, in the absence of agreement to the contrary, to</p> |

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| | <p>introduce into an article submitted for reproduction such modifications of form as are required by the nature and aims of the newspaper. In articles to be reproduced without mention of the name of the author, this faculty shall extend to the omission or reduction of parts of the said articles.</p> <p>Art. 47.</p> <p>The producer shall have the right to made such modifications to works utilized in a cinematographic work as are necessary for their cinematographic adaptation. In the absence of agreement between the producer and one or more of the authors referred to in Article 44 of this Law, the question whether modifications effected or to be effected in a cinematographic work are necessary shall be decided by a panel of specialists designated by the President of the Council of Ministers in accordance with the applicable Regulations. The findings of the panel shall be final.</p> <p>Art. 63.</p> <p>The record or like device shall be made or utilized in such a manner that the moral rights of the author are respected within the terms of Articles 20 and 21 of this Law. Modifications of a work necessitated by the technical requirements of recording shall be considered lawful.</p> |
| Other moral rights | Art. 142.-143.: Withdrawal of works from the market. |
| Duration of Protection | <p>Art. 25.</p> <p>The exploitation rights in a work shall subsist for the life time of the author and until the end of the seventieth calendar year after his death.</p> <p>Art. 26.</p> <p>In the case of works referred to in Article 10 and of dramatico-musical and choreographic works and works of dumb show, the duration of the exploitation rights of each joint author and contributor shall he determined by the life time of the last surviving joint author. In the case of collective works, the duration of the exploitation rights of each contributor shall he determined by the respective lifetimes of each contributor. The duration of the exploitation rights in the work as a whole shall be 70 years from the date of first publication, whatever the form in which publication was effected, except in the case of magazines, newspapers and other periodical works to which the provisions of Article 30 shall apply.</p> <p>Art. 27.</p> <p>In the case of anonymous or pseudonymous works other than those referred to in the second paragraph of Article 8, the duration of the exploitation rights shall be 70 years from the date of first publication, whatever the form in which publication was effected. If, before expiry of such term, the author has revealed his identity or his identity has been revealed by the persons referred to in Article 23 or by persons authorized by the author, and in the manner established by the following Article, Article 25 shall apply.</p> <p>Art. 28.</p> <p>In order to enjoy the normal duration of the exploitation rights, the person concerned must reveal his identity by means of a declaration made to the Office of Literary, Scientific and Artistic Property (Ufficio della proprietà letteraria, scientifica ed artistica) of the Office of the President of the Council of Miniteras in accordance with the applicable regulations. The declaration shall be published in the form required by the regulations and shall have effect, as regards third parties who have acquired rights in</p> |

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| | <p>the anonymous or pseudonymous work, as from the date of filing.</p> <p>Art. 29.</p> <p>The duration of the exploitation rights belonging, under Article 11, to the State, the provinces, the communes, the academics or public cultural organizations, or to private legal entities of a non-profit making character, shall be twenty years as from first publication, whatever the form in which publication was effected. In the case of communications and memoranda published by academies and other public cultural organizations, the term shall be reduced to two years, after which the author shall wholly recover his right to the unrestricted disposal of his writings.</p> <p>Art. 30.</p> <p>When parts or volumes of a given work are published separately and at different times, the duration of the exploitation rights, when fixed in years, shall run from the year of publication of each part or volume. The author shall enjoy the benefit of fractions of years.</p> <p>In the case of a collective periodical work, such as a magazine or newspaper, the rights shall also be calculated from the end of the year of publication of the individual parts or issues.</p> <p>Art. 31.</p> <p>In the case of works first published after the author's death that are not governed by the provisions of Art. 85ter, the duration of the exclusive exploitation rights shall be 70 years from the author's death.</p> <p>Art. 32.</p> <p>Without prejudice to the provisions of Article 44, the exploitation rights in the cinematographic or assimilated work shall lapse at the end of the 70th year following the death of the last survivor of the following persons: the artistic director, the authors of the scenario, including the author of the dialogue, and the composer of the music specially created for use in the cinematographic or assimilated work.</p> <p>Art. 32bis.</p> <p>The exploitation rights in photographic works shall lapse at the end of the 70th year following the author's death.</p> <p>Art. 32ter.</p> <p>The duration of the exploitation rights provided for in the provisions of this Section shall be counted in every case from the first of January of the year following that of the author's death or that in which any other event provided for in this Law has occurred.</p> <p>Art 75.: for phonographic records: 50 years from the time of fixation</p> <p>Art. 78bis: for cinematographic or audiovisual works: 50 years from the time of fixation</p> <p>Art. 79.: for radio and television broadcasting: 50 years from the first transmission of a broadcast</p> <p>Art. 85ter: Works first published or communicated after the expiry of the economic rights</p> <p>Art. 92.</p> <p>The exclusive right in respect of photographs shall subsist for 20 years as from the making of the photograph.</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | <p>Art. 17.</p> <p>(...)</p> |

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| | <p>(2) The free delivery of copies of a work for promotional purposes or for teaching or scientific research, when carried out and authorized by the right holder, shall not be deemed to be exercise of the exclusive right of distribution.</p> <p>Art. 70.</p> <p>The abridgment, quotation or reproduction of fragments or parts of a work for the purpose of criticism or discussion, or for instructional purposes, shall be permitted within the limits justified for such purposes, provided such acts do not conflict with the commercial exploitation of the work. In anthologies for school use, reproduction shall not exceed the extent specified in the regulations, that shall also lay down the manner for determining the equitable remuneration for such reproduction.</p> <p>The abridgement, quotation or reproduction must always be accompanied by a mention of the title of the work and of the names of the author, the publisher and, in the case of a translation, the translator, whenever such mentions appear on the work that has been reproduced.</p> <p>Art. 73.: no remuneration for utilization of phonographic records for educative or informative purposes by the state administration or institutions</p> <p>Art. 85quater.</p> <p>(1) Without prejudice to the author’s moral rights, any person who in any way or by any means publishes critical and scientific editions of works in the public domain shall enjoy exclusive exploitation rights in the work resulting from the critical and analytical assessment.</p> <p>(2) Without prejudice to the contractual relations binding him to the owner of the economic exploitation rights referred to in paragraph (1), the person responsible for the critical and scientific edition shall have the right to be named.</p> <p>(3) The duration of the exclusive rights referred to in paragraph (1) above is 20 years from the first lawful publication in any form or by any means.</p> <p>Art. 85quinquies. The term of the rights provided for in Chapters I, Ibis,II, III, IIIbis and this Chapter of Part II shall be counted in every case from the first of January of the year following that in which the event provided for in the Law occurred.</p> <p>Art. 91.</p> <p>The reproduction of photographs in anthologies intended for school use and, in general, in scientific or didactic works, shall be lawful, subject to the payment of equitable remuneration which shall be determined in the manner provided in the regulations.</p> <p>(...)The name of the photographer and the year of production of the photograph shall be given on the reproduction if they are given on the original photograph.</p> <p>Art. 97.</p> <p>The consent of the person portrayed shall not be necessary if the reproduction of the portrait is justified by his notoriety or his holding of public office, or by the needs of justice or the police, or for scientific, didactic or cultural reasons, or when reproduction is associated with facts, events and ceremonies which are of public interest or which have taken place in public.</p> <p>However, the portrait may not be displayed or commercially distributed if its display or commercial distribution would prejudice the honor, reputation or dignity of the person portrayed.</p> <p>Art. 158.</p> |
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| | <p>Any person injured in the exercise of an exploitation right belonging to him may institute legal proceedings for the destruction or removal of the material constituting the infringement or for payment of damages.</p> <p>Art. 159.</p> <p>The removal or destruction referred to in the foregoing Article may be effected only in respect of specimens or copies illegally reproduced or disseminated, and devices employed for reproduction or dissemination which, by their nature, are not capable of use for the reproduction or dissemination of other matter.</p> <p>(...)</p> <p>S. 3: If the specimen, copy or device of which the removal or destruction is requested has special artistic or scientific value, the court may order ex officio that it be deposited in a public museum.</p> <p>(...)</p> |
| Scope of exceptions | |
| Libraries and archives | <p>Art. 68.</p> <p>The reproduction of single works or of portions of works for the personal use of the reader, when made by hand or by a means of reproduction unsuitable for marketing or disseminating the work in public, shall be permitted.</p> <p>The photocopying of works available in libraries shall be free when done for the services of the library or, within the limits and according to the procedures set out in the fourth and fifth paragraphs below, for personal use.</p> <p>The distribution of such copies in public and, in general, any use of them that infringes the exploitation rights of the author shall be prohibited.</p> <p>In accordance with the Berne Convention for the Protection of Literary and Artistic Works, ratified and brought into force by Law No. 399 of June 20, 1978, the reproduction of intellectual works for personal use, when done by photocopying, xerocopying or a comparable medium, is permitted up to a limit of 15% of each volume or issue of a periodical, excluding pages of advertising. Persons in charge of copycorners or <i>centres</i>, who may use photocopying or xerocopying apparatus or comparable means of reproduction for their own purposes or make them available to third parties, including free of charge, shall pay remuneration to the authors and publishers of intellectual works published by printing that are reproduced by means of such apparatus for the uses specified in the first sentence of this paragraph. The amount of such remuneration and the procedures for its collection and distribution shall be determined according to the criteria set forth in Article 181ter of this Law. Unless otherwise agreed by the SIAE and the trade associations concerned, such remuneration shall not be less per reproduced page than the average price per page set annually for books by the National Statistical Institute [Istituto Nazionale di Statistica] (hereinafter 'ISTAT'). Articles 1 and 2 of Law No. 159 of May 22, 1993, are repealed.</p> <p>Reproductions of works available in public libraries, made on their premises and using the means described in the fourth paragraph above, may be made freely within the limits specified in the same paragraph, except in the case of a rare work not featuring in publishers' catalogues, subject to payment of a lump sum to the right holders in accordance with paragraph (2) of Article 181ter, as determined by the second sentence in paragraph (1) of Article 181ter. Such remuneration shall be paid directly by the libraries every year within the limits of the income derived by the service, and without any additional financial burdens falling on the State budget or the agencies on which the libraries depend.</p> |

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| | <p>Art. 69.</p> <p>(1) Loans from libraries and record libraries belonging to the State or to public authorities, made exclusively for purposes of cultural promotion and personal study, shall not require authorization by the right holder, to whom no remuneration shall be due, and shall exclusively concern:</p> <p>(a) printed copies of the works, except for music scores;</p> <p>(b) phonograms and videograms containing cinematographic or audiovisual works or sequences of moving images, with or without sound, provided that at least 18 months have elapsed since the first exercise of the right of distribution or, where the right of distribution has not been exercised, provided that at least 24 months have elapsed since the making of the said works and sequences of moving images.</p> <p>(1bis) The departments of the libraries and record libraries belonging to the State or to public authorities shall be permitted to reproduce a single copy of the phonograms and videograms containing cinematographic or audiovisual works or sequences of moving images, with or without sound, which are held by those same State libraries and record libraries and by the public authorities.</p> <p>Art. 70.</p> <p>The abridgement, quotation or reproduction of fragments or parts of a work for the purpose of criticism or discussion, or for instructional purposes, shall be permitted within the limits justified for such purposes, provided such acts do not conflict with the commercial exploitation of the work.</p> <p>In anthologies for school use, reproduction shall not exceed the extent specified in the regulations, that shall also lay down the manner for determining the equitable remuneration for such reproduction.</p> <p>The abridgement, quotation or reproduction must always be accompanied by a mention of the title of the work and of the names of the author, the publisher and, in the case of a translation, the translator, whenever such mentions appear on the work that has been reproduced.</p> |
| <p>Acknowledgement of source</p> | <p>Art. 70. (3) (Concerns uses for instructional, school and critic purposes)</p> <p>(...)</p> <p>The abridgement, quotation or reproduction must always be accompanied by a mention of the title of the work and of the names of the author, the publisher and, in the case of a translation, the translator, whenever such mentions appear on the work that has been reproduced.</p> <p>Art. 85quater (2)</p> <p>(...)</p> <p>Without prejudice to the contractual relations binding him to the owner of the economic exploitation rights referred to in paragraph (1), the person responsible for the critical and scientific edition shall have the right to be named.</p> <p>Art. 91. S. 2</p> <p>The name of the photographer and the year of production of the photograph shall be given on the reproduction if they are given on the original photograph.</p> <p>(...)</p> |
| <p>Private use</p> | <p>Art. 68.</p> <p>The reproduction of single works or of portions of works for the personal use of the reader, when made by hand or by a means of reproduction unsuitable for marketing or disseminating the work in public, shall be permitted.</p> |

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| | <p>The photocopying of works available in libraries shall be free when done for the services of the library or, within the limits and according to the procedures set out in the fourth and fifth paragraphs below, for personal use. The distribution of such copies in public and, in general, any use of them that infringes the exploitation rights of the author shall be prohibited.</p> <p>Art. 69.</p> <p>(1) Loans from libraries and record libraries belonging to the State or to public authorities, made exclusively for purposes of cultural promotion and personal study, shall not require authorization by the right holder, to whom no remuneration shall be due, and shall exclusively concern:</p> <p>(a) printed copies of the works, except for music scores;</p> <p>(b) phonograms and videograms containing cinematographic or audiovisual works or sequences of moving images, with or without sound, provided that at least 18 months have elapsed since the first exercise of the right of distribution or, where the right of distribution has not been exercised, provided that at least 24 months have elapsed since the making of the said works and sequences of moving images.</p> <p>(...)</p> |
| Other exceptions | Art. 65.-67.: Works of economic or political interest |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 6.</p> <p>Copyright shall be acquired on the creation of a work that constitutes the particular expression of an intellectual effort.</p> <p>Art. 7.</p> <p>In the case of a collective work, the person who organizes and directs its creation shall be deemed the author.</p> <p>A person who has created a derivative work shall be deemed the author of that work within the limits of his own effort.</p> <p>Art. 8.</p> <p>A person who is shown, in the customary manner, as the author or is announced as such in the course of the recitation, performance or broadcasting of a work shall, in the absence of proof to the contrary, be deemed the author of the work.</p> <p>Any pseudonym, professional name, initials or customary sign, well-known as being equivalent to a true name, shall be deemed to have the same value as such true name.</p> <p>Art. 9.</p> <p>Any person who has performed or published in any manner an anonymous or pseudonymous work shall be entitled to assert the rights of the author until such time as the author reveals his identity.</p> <p>This provision shall not apply in the case of pseudonymous as referred to in the second paragraph of the preceding Article.</p> |
| Rightholder after the expiry of copyright protection | <p>Art. 85quater.</p> <p>(1) Without prejudice to the author's moral rights, any person who in any way or by any means publishes critical and scientific editions of works in the public domain shall enjoy exclusive exploitation rights in the work resulting from the critical and analytical assessment.</p> <p>(2) Without prejudice to the contractual relations binding him to the owner of the economic exploitation rights referred to in paragraph (1), the person responsible for the critical and scientific edition shall have the right to be</p> |

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| | <p>named.</p> <p>(3) The duration of the exclusive rights referred to in paragraph (1) above is 20 years from the first lawful publication in any form or by any means.</p> <p>Art. 85quinquies. The term of the rights provided for in Chapters I, Ibis,II, III, IIIbis and this Chapter of Title II shall be counted in every case from the first of January of the year following that in which the event provided for in the Law occurred.</p> |
| <p>Joint authors/ compound works/ authors in employment</p> | <p>Art. 10.</p> <p>If the work has been created by the indistinguishable and inseparable contributions of two or more persons, the copyright shall belong to all the joint authors in common.</p> <p>In the absence of proof of written agreement to the contrary, the indivisible shares shall be presumed to be of equal value.</p> <p>The provisions that regulate property owned in common shall be applicable. Furthermore, moral rights may be asserted at any time by any one joint author; and the work, if unpublished, may not be published nor be modified or utilized in a form differing from that of first publication, without the consent of all the joint authors. However, in the event of unjustified refusal by one or more joint authors, publication, modification or new utilization of the work may be authorized by the judicial authority upon such conditions and terms as that authority may order.</p> <p>Art. 11.</p> <p>Copyright in works created and published under the name and at the expense of the State, the provinces or the communes shall belong to them. In the absence of agreement to the contrary with the authors of the works published, the same right shall also belong to private legal entities of a non-profit-making character, as well as to academies and other public cultural organizations, in respect of records of their proceedings and their publications.</p> <p>Art. 12bis.</p> <p>Unless otherwise agreed, the employer shall be the owner of the exclusive right of economic use of the computer program or database created by his employee in the course of his duties or on instructions given by the said employer.</p> <p>Art. 12ter.</p> <p>Unless otherwise agreed, where an industrial design has been created by the employee in the course of his duties, the employer shall be the owner of the exclusive rights of economic exploitation of the work.</p> <p>Art. 44.</p> <p>The author of the subject-matter, the author of the scenario, the composer of the music and the artistic director shall be considered joint-authors of a cinematographic work.</p> <p>Art. 45.</p> <p>Within the limits set out in the following Articles (46.-50.), the exercise of the exploitation rights in a cinematographic work shall belong to the person who has organized the production of the work.</p> <p>The person who is mentioned in the cinematographic film as the producer shall be deemed to be the producer of the cinematographic work. If the work is registered in accordance with the second paragraph of Article 103, the presumption established by that Article shall prevail.</p> <p>Art. 88.</p> <p>The exclusive right of reproduction, dissemination and marketing of a</p> |

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| | <p>photograph shall belong to the photographer, subject to the provisions of Section II of Chapter VI of this Part insofar as portraits are concerned, and without prejudice to any copyright in works of figurative art reproduced in photographs.</p> <p>However, if the work has been produced in the execution of a contract of employment or of service, the exclusive right shall belong to the employer within the limits of the object and purpose of the contract.</p> <p>(...)</p> |
| Collecting Societies | Part V: Public law entities for the protection and exercise of author's rights |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. 6.</p> <p>Copyright shall be acquired on the creation of a work that constitutes the particular expression of an intellectual effort.</p> <p>Art. 107.-114.: transfer of exploitation rights — conditions</p> <p>Art. 115.-117.: transmission mortis causa</p> <p>Art. 118.-135.: publishing contracts — conditions</p> <p>Art. 137.-141.: contracts for public performances</p> <p>Waiver of moral rights</p> <p>Art. 22.</p> <p>The rights referred to in the preceding Articles shall be inalienable. However, if the author was aware of and has accepted modifications to his work, he shall not be entitled to intervene to prevent the performance thereof or to demand its suppression.</p> |
| Remuneration Schemes/ compensation | <p>Art. 46bis: Remuneration for authors of cinematographic or assimilated works.</p> <p>Art. 64.</p> <p>Any authorization given to a national phonogram publishing house to utilize the masters of the State Record Library (Discoteca di Stato) for the purpose of making records to be distributed for sale, whether in Italy or abroad, within the terms of Article 5 of Law No. 467, of February 2, 1939, containing provisions for the reorganization of the State Record Library, shall be subject, insofar as the works recorded are protected works, to the payment of royalties in accordance with the applicable regulations.</p> <p>Art. 130.</p> <p>The author's remuneration shall consist of a share of the proceeds, calculated, in the absence of agreement to the contrary, as a percentage of the retail price of the copies sold. However, his remuneration may be represented by a lump sum for editions of:</p> <ul style="list-style-type: none"> - dictionaries, encyclopaedias, anthologies and other works produced in collaboration; - translations, newspaper and magazine articles; - speeches or lectures; - scientific works; - cartographical works; - musical or dramatico-musical works; - works of figurative art. <p>In contracts providing for the sharing of proceeds, the publisher shall be required to render an annual account of copies sold.</p> |
| Protection of technological measures and rights | <p>Art. 161.</p> <p>For the purposes of the proceedings referred to in the preceding Articles, the judicial authority may order an inventory, a report, an expert appraisal</p> |

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| <p>management information</p> | <p>or the seizure of all matter thought to constitute an infringement of the exploitation right.</p> <p>Seizure may not be effected in the case of works resulting from the collaboration of two or more persons, except in particularly serious cases or where the infringement is imputable to all joint authors.</p> <p>In particularly serious cases, the judicial authority may also order the seizure of profits due to the author of the disputed work or product.</p> <p>The provisions of this Section shall also apply to any person putting into circulation, in whatever manner, or possessing for commercial purposes, unauthorized copies of computer programs and any means the sole intended purpose of which is to facilitate the unauthorized removal or circumvention of any device applied to protect a computer program.</p> <p>For penal liability for acts concerning any means the sole intended purpose of which is to facilitate the unauthorized removal or circumvention of any technical device applied to protect a computer program see Article 171bis.</p> |
| <p>Consequences of copyright infringement</p> | <p>Article 156 of the Italian Law for the Protection of Copyright and Neighbouring Rights gives the right to forbid any person the infringement of an exploitation right and the right to be recognised as the author.</p> <p>Moreover, according to Article 158, any person injured in the exercise of an exploitation right, is entitled to the destruction or removal of the infringing material or to payment of damages.</p> <p>Instead of the destruction, an injured party may also demand delivery up of the infringing material. In this case the estimated value will be set off against the damages due to him (Article 159). However, destruction and delivery up is not available, if the material was acquired in good faith for personal use. Article 163 provides for a possibility of placing a restraining order on violating activities.</p> <p>The aforementioned provisions are according to Article 168 also applicable concerning the exercise of moral rights, insofar as the nature of such rights permits the application.</p> <p>Criminal liability is dealt with in Articles 171 ff</p> <p>According to Article 171 a person who infringes certain economic rights is liable to a fine. If the infringement relates to certain moral rights, the person is liable to imprisonment up to one year or an increased fine.</p> <p>Article 171bis governs liability in regards to the protection of computer programs. Any person who unlawfully duplicates computer programs for profit-making purposes or who imports, distributes, sells, holds for commercial or business purposes or rents programs embodied in media not bearing the mark of the SIAE shall be liable to a prison term of between six months and three years and to a fine of between 5,000,000 and 30,000,000 lire. The same penalty shall apply if the act involves any means intended solely to permit or facilitate the unauthorized removal or circumvention of any technical device applied to protect a computer program. The penalty is imprisonment of not less than two years and a fine of 30,000,000 lire if the offence is serious. A similar regime applies, among others, to the protection of cinematographic and audio-visual works (Article 171ter). If the acts referred to in Article 171 are committed by negligence, the penalty is a lesser fine (Article 172). A reduction of a penalty is possible for persons facilitating the identification of other persons violating the copyright act provisions or facilitating the seizure of materials used for offences (Article 171novies).</p> |

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| <p>Luxembourg</p> <p>Loi du 18 avril 2001</p> <p>sur les droits d'auteur, les droits voisins et les bases de données</p> <p>Modifications enacted by the Law of 2001 are not available in English yet. These table have therefore been subject to the original document. For the original Luxembourg document see table of copyright acts used for the guidelines.</p> | |
| Protected Works | |
| Categories of protected works | <p>Art. 1. er.</p> <p>1. Les droits d'auteur protègent les œuvres littéraires et artistiques originales, quels qu'en soient le genre et la forme ou l'expression, y compris les photographies, les bases de données et les programmes d'ordinateur. Ils ne protègent pas les idées, les méthodes de fonctionnement, les concepts ou les informations, en tant que tels.</p> <p>2. Sont des bases de données au sens du paragraphe précédent, les recueils ou compilations d'œuvres ou d'autres éléments indépendants, disposés de manière structurée ayant nécessité un investissement substantiel. Sont protégées les bases de données originales dont la structure, par le choix ou la disposition des éléments qu'elles contiennent, constituent une création propre à leur auteur, qu'elles soient accessibles par des moyens électroniques ou par d'autres moyens, à l'exclusion des phonogrammes et des œuvres audiovisuelles. La protection des bases de données ne s'étend pas à leur contenu ni aux programmes d'ordinateur utilisés le cas échéant pour leur création, leur fonctionnement ou leur consultation, sans préjudice de la protection propre de ces éléments.</p> |
| Conditions for protection | <p>Art. 1. er.</p> <p>1. Les droits d'auteur protègent les œuvres littéraires et artistiques originales, quels qu'en soient le genre et la forme ou l'expression, y compris les photographies, les bases de données et les programmes d'ordinateur.</p> <p>(...)</p> |
| Database protection | <p>Protection des droits sui generis sur des bases de données</p> <p>Art. 67.</p> <p>1. Le producteur d'une base de données peut interdire le transfert, permanent ou temporaire, sur un autre support et toute forme de mise à disposition du public, de tout ou partie substantielle de cette base de données, de manière permanente ou temporaire, par quelque moyen et sous quelque forme que ce soit.</p> <p>Il peut aussi interdire l'utilisation répétée et systématique de partie non substantielle du contenu d'une base de données, qui serait contraire à l'exploitation normale de cette base de données ou qui causerait un préjudice injustifié</p> <p>à ses intérêts légitimes. Est considérée comme mise à la disposition du public d'une base de données, la distribution de copies, la location, la transmission en ligne ou sous d'autres formes de tout ou partie substantielle du contenu, permanent ou temporaire, d'une base de données, à l'exception du prêt public.</p> <p>La première vente d'une copie de base de données dans la Communauté par le titulaire du droit, ou avec son consentement, épuise le droit de contrôler la revente de cette copie dans la Communauté.</p> <p>2. Est producteur de base de données la personne physique ou morale qui</p> |

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| | <p>prend l'initiative et assume à titre principal le risque d'effectuer les investissements nécessaires à la création d'une base de données.</p> <p>3. Est considérée comme une base de données visée par la présente section, celle dont l'obtention, la vérification ou la présentation du contenu atteste d'un investissement qualitatif ou quantitatif substantiel.</p> <p>Est également considérée comme une base de données protégée en vertu de la présente section, celle dont le contenu a fait l'objet d'une modification substantielle qui atteste d'un investissement qualitatif ou quantitatif substantiel.</p> <p>Les bases de données au sens du présent article qui appartiennent à l'Etat, et pour autant qu'elles sont mises à la disposition du public, peuvent être copiées dans leur intégralité dans les conditions fixées par règlement grand-ducal.</p> <p>Art. 68.</p> <p>Sans préjudice des dispositions relatives aux droits d'auteur et aux droits voisins, tout utilisateur légitime d'une base de données mise à la disposition du public peut, sans autorisation du producteur de base de données, extraire et réutiliser une partie substantielle du contenu de celle-ci:</p> <p>a) lorsqu'il s'agit d'une extraction à des fins privées du contenu d'une base de données non électronique;</p> <p>b) lorsqu'il s'agit d'une extraction à des fins d'illustration de l'enseignement ou de recherche scientifique, pour autant qu'il indique la source et dans la mesure justifiée par le but non commercial à atteindre;</p> <p>c) lorsqu'il s'agit d'une extraction et/ou d'une réutilisation à des fins de sécurité publique ou aux fins d'une procédure administrative ou juridictionnelle.</p> <p>Art. 69.</p> <p>La protection prévue par la présente section expire 15 ans après le 1er janvier de l'année qui suit la date de l'achèvement de la base de données ou de l'année qui suit la date à laquelle la base a été mise à la disposition du public pour la première fois. Toute modification substantielle du contenu d'une base de données permet d'attribuer à la base qui résulte de cet investissement une durée de protection nouvelle.</p> <p>Art. 70.</p> <p>Les producteurs ressortissants de pays tiers et qui n'ont pas leur principal établissement ou leur résidence habituelle dans un Etat de l'Union européenne, ne bénéficient de la protection accordée par la présente section que si ce pays tiers accorde une protection comparable aux bases de données produites par un ressortissant de l'Union européenne ou y ayant son principal établissement ou sa résidence habituelle</p> |
| Computer Software | <p>Detailed regulation in 1ere Partie Section 7 — Les programmes d'ordinateur</p> <p>Art. 31. Objet de la protection</p> <p>Les programmes d'ordinateur sont protégés par la présente loi en tant qu'œuvres littéraires au sens de la Convention de Berne pour la protection des œuvres littéraires et artistiques. La protection d'un programme d'ordinateur comprend celle du matériel de conception préparatoire concernant ce programme.</p> <p>Art. 32. Bénéficiaires de la protection</p> <p>1. La protection est accordée à toute personne admise à bénéficier des dispositions de la présente loi applicables aux œuvres littéraires.</p> <p>2. Lorsqu'un programme d'ordinateur est créé par un employé dans l'exercice</p> |

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| | <p>de ses fonctions ou d'après les instructions de son employeur, seul l'employeur est habilité à exercer tous les droits patrimoniaux afférents au program d'ordinateur ainsi créé, sauf dispositions contractuelles contraires.</p> <p>Art. 33. Actes soumis à restrictions</p> <p>Sous réserve des articles 34, 35 et 36, les droits exclusifs de l'auteur d'un program d'ordinateur comportent le droit de faire et d'autoriser:</p> <p>a) la reproduction permanente ou provisoire d'un program d'ordinateur, en tout ou en partie, par quelque moyen et sous quelque forme que ce soit, y compris le chargement, l'affichage, le passage, la transmission ou le stockage d'un program d'ordinateur, lorsque ces opérations nécessitent une telle reproduction;</p> <p>b) la traduction, l'adaptation, l'arrangement et toute autre transformation d'un program d'ordinateur et la reproduction du program en résultant, sans préjudice des droits de la personne ayant transformé le program d'ordinateur;</p> <p>c) toute forme de distribution au public de l'original ou de copies d'un program d'ordinateur, y compris notamment la vente, le leasing, la concession sous licence et la location. Toutefois, la première transaction de ce genre effectuée dans la Communauté économique européenne par le titulaire des droits exclusifs ou avec son consentement, épuise le droit de distribution dans la Communauté des exemplaires du program d'ordinateur faisant l'objet de la transaction, à l'exception du droit de contrôler les locations ultérieures de ces exemplaires.</p> <p>Art. 34. Exceptions aux actes soumis à restrictions</p> <p>Sauf dispositions contractuelles spécifiques, ne sont pas soumis à l'autorisation du titulaire les actes prévus à l'article 33 lorsque ces actes sont nécessaires pour permettre à l'acquéreur légitime d'utiliser le program d'ordinateur d'une manière conforme à sa destination, y compris pour corriger des erreurs et l'intégrer dans une base de données qu'il est appelé à faire fonctionner.</p> <p>Art. 35. Autres exceptions</p> <p>Une personne ayant le droit d'utiliser le program d'ordinateur ne peut être empêchée par contrat</p> <p>a) d'en faire une copie de sauvegarde dans la mesure où celle-ci est nécessaire pour cette utilisation;</p> <p>b) d'observer, d'étudier ou de tester le fonctionnement de ce program afin de déterminer les idées et les principes qui sont à la base de n'importe quel élément du programme, lorsqu'elle effectue toute opération de chargement, d'affichage, de passage, de transmission ou de stockage du program d'ordinateur qu'elle est en droit d'effectuer.</p> <p>Art. 36, 37: Decompilation, Special Protection Measures</p> <p>Art. 38. Durée de la protection 'est la même que celle qui s'appliquerait dans les mêmes conditions à une œuvre littéraire'.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 3.</p> <ol style="list-style-type: none"> 1. L'auteur jouit du droit exclusif d'autoriser la reproduction de son œuvre, de quelque manière et sous quelque forme que ce soit. 2. Le droit de reproduction comporte pour l'auteur le droit exclusif d'autoriser l'adaptation, l'arrangement ou la traduction de son œuvre. 3. Le droit de reproduction comprend le droit exclusif pour l'auteur |

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| | <p>d'autoriser l'intégration et l'extraction de son œuvre dans ou à partir d'une base de données.</p> <p>4. L'auteur d'une œuvre jouit du droit exclusif d'autoriser la location et le prêt de l'original et des copies de son œuvre.</p> |
| Right of communication to the public and right of making available | <p>Art. 4.</p> <p>L'auteur d'une œuvre jouit du droit exclusif d'autoriser sa communication au public par un procédé quelconque, y compris sa transmission par fil ou sans fil, par le moyen de la radiodiffusion, par satellite, par câble ou par réseau.</p> <p>Constitue également une communication au public la mise à la disposition d'œuvres protégées de manière que le public puisse y avoir accès de l'endroit et au moment qu'il choisit individuellement.</p> |
| Distribution right | No special provisions found. |
| Moral rights | |
| Right of publication | <p>Art. 2.</p> <p>Indépendamment des droits patrimoniaux, et même après la cession desdits droits, l'auteur jouit du droit de revendiquer la paternité de son œuvre et du droit de s'opposer à toute déformation, mutilation ou autre modification de celle-ci ou à toute autre atteinte à son œuvre, préjudiciables à son honneur ou à sa réputation.</p> <p>L'auteur a seul le droit de divulguer son œuvre.</p> |
| Recognition of authorship | <p>Art. 11. Indépendamment des droits patrimoniaux d'auteur, et même après la cession desdits droits, l'auteur jouit du droit de revendiquer la paternité de son œuvre et de s'opposer à toute déformation, mutilation ou autre modification de celle-ci ou à toute autre atteinte à la même œuvre, préjudiciables à son honneur ou à sa réputation.</p> |
| Distortion of the work | See above. |
| Duration of Protection | <p>Art. 9.</p> <p>1. Les droits d'auteur se prolongent pendant 70 ans après le décès de l'auteur au profit de ses héritiers et de ses ayants droit.</p> <p>2. Lorsque l'œuvre est le produit d'une collaboration telle que les apports des collaborateurs sont inséparables, les droits d'auteurs existent au profit de tous les ayants droit jusque 70 ans après la mort du survivant des collaborateurs.</p> <p>La protection d'une œuvre audiovisuelle prend fin 70 ans après le décès du dernier survivant parmi les personnes suivantes: le réalisateur principal, les auteurs du scénario, des dialogues et des compositions musicales, avec ou sans paroles, spécialement créées pour être utilisées dans l'œuvre, qu'ils soient coauteurs ou non.</p> <p>3. La durée des droits d'auteur sur les œuvres anonymes, pseudonymes et dirigées est de 70 ans à compter du jour où l'œuvre a été licitement rendue accessible au public. Cette durée court pour chaque élément séparément si l'œuvre est publiée par volumes, parties, fascicules, numéros ou épisodes.</p> <p>Si l'identité de l'auteur de l'œuvre anonyme ou pseudonyme est établie, l'auteur ou ses ayants droit peuvent revendiquer la protection pendant toute la durée visée au paragraphe 1.</p> <p>4. Toute personne qui, après l'expiration de la protection par les droits d'auteur, publie ou communique licitement au public, pour la première fois, une œuvre non publiée auparavant, est investie de droits patrimoniaux équivalant à ceux dont bénéficie l'auteur, pendant une durée de 25 ans à compter du moment où l'œuvre a été pour la première fois publiée ou</p> |

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| | <p>communiquée au public.</p> <p>5. Les durées indiquées dans le présent article sont calculées à partir du 1er janvier qui suit le fait générateur.</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | <p>Art. 10.</p> <p>Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut interdire:</p> <p>1° les courtes citations en original ou en traduction, justifiées par le caractère critique, polémique, pédagogique, scientifique ou d'information de l'œuvre à laquelle elles sont incorporées.</p> <p>Les utilisations visées à l'alinéa ci-avant ne peuvent être faites sans l'autorisation de l'auteur que pour autant qu'elles soient conformes aux bons usages, qu'elles ne poursuivent pas un but de lucre et qu'elles ne portent atteinte ni à l'œuvre ni à son exploitation.</p> <p>Le nom de l'auteur et le titre de l'œuvre reproduite ou citée doivent être mentionnés s'ils figurent dans la source.</p> <p>2° la reproduction et la communication au public d'œuvres à titre d'illustration de l'enseignement ou de la recherche scientifique et dans la mesure justifiée par le but à atteindre et sous réserve qu'une telle utilisation soit conforme aux bons usages.</p> <p>Additional exceptions which might be relevant:</p> <p>5° le stockage temporaire, y compris le téléchargement sur un support électronique, d'une œuvre protégée acquise licitement, si cette opération n'a pas d'autre but que de rendre l'œuvre perceptible par celui qui la pratique ou qu'elle est accessoire à un processus technologique.</p> |
| Scope of exceptions | <p>Art. 10.</p> <p>(...) dans la mesure justifiée (...)</p> |
| Libraries and archives | <p>Art. 10.</p> <p>Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut interdire:</p> <p>(...)</p> <p>10° les enregistrements éphémères effectués par un organisme de radiodiffusion par ses propres moyens et pour ses émissions, à condition qu'ils ne soient utilisés aux fins d'émissions que pendant les trois mois qui suivent la communication enregistrée et qu'ils soient ensuite détruits ou rendus impropres à l'usage.</p> <p>Les enregistrements visés à l'alinéa précédent peuvent cependant être conservés dans des archives officielles s'ils possèdent un caractère exceptionnel de documentation. Les modalités de cette conservation seront fixées par un règlement grand-ducal.</p> <p>11° la reproduction d'une œuvre licitement accessible au public, réalisée par une bibliothèque, une cinémathèque, un centre de documentation ou une autre institution scientifique ou culturelle non commerciale dans le seul but de préserver le patrimoine et d'effectuer tous travaux raisonnablement utiles à la sauvegarde de cette œuvre, à condition de ne pas porter atteinte à l'exploitation normale desdites œuvres et de ne pas causer de préjudice aux intérêts légitimes des auteurs, ainsi que la communication publique des œuvres audiovisuelles par ces institutions dans le but de faire connaître le patrimoine culturel, à condition que cette communication se fasse dans</p> |

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| | l'enceinte de l'institution et que celle-ci soit reconnue par le ministre qui a la culture dans ses attributions, par voie de règlement grand-ducal. |
| Acknowledgement of source | <p>Art. 10.</p> <p>Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut interdire:</p> <p>1° les courtes citations en original ou en traduction, justifiées par le caractère critique, polémique, pédagogique, scientifique ou d'information de l'œuvre à laquelle elles sont incorporées.</p> <p>Les utilisations visées à l'alinéa ci-avant ne peuvent être faites sans l'autorisation de l'auteur que pour autant qu'elles soient conformes aux bons usages, qu'elles ne poursuivent pas un but de lucre et qu'elles ne portent atteinte ni à l'œuvre ni à son exploitation.</p> <p>Le nom de l'auteur et le titre de l'œuvre reproduite ou citée doivent être mentionnés s'ils figurent dans la source.</p> |
| Private use | <p>Art. 10.</p> <p>Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut interdire:</p> <p>(...)</p> <p>4° la reproduction d'une œuvre effectuée à titre gratuit par le copiste et pour son usage strictement privé, non destinée à une utilisation ou à une communication publiques, et à condition que cette reproduction ne porte pas préjudice à l'édition de l'œuvre originale.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 1er.</p> <p>1. Les droits d'auteur protègent les œuvres littéraires et artistiques originales, quels qu'en soient le genre et la forme ou l'expression, y compris les photographies, les bases de données et les programmes d'ordinateur.</p> <p>Ils ne protègent pas les idées, les méthodes de fonctionnement, les concepts ou les informations, en tant que tels.</p> <p>(...)</p> |
| Joint authors/ compound works/ authors in employment | <p>Art. 5.</p> <p>1. Lorsque les droits d'auteur sont indivis, leur exercice est réglé par convention. A défaut de convention, aucun des coauteurs ne peut les exercer isolément, sauf aux tribunaux à se prononcer en cas de désaccord.</p> <p>2. Toutefois, chacun des coauteurs reste libre de poursuivre en son nom et sans l'intervention des autres, l'atteinte qui serait portée aux droits d'auteur et de réclamer des dommages et intérêts pour sa part à condition de mettre en cause les autres coauteurs.</p> <p>3. Lorsque la contribution des coauteurs dans l'œuvre de collaboration peut être individualisée, chacun d'eux pourra, sauf convention contraire, exploiter isolément sa contribution personnelle pour autant que cette exploitation ne se fasse pas avec celle d'un autre coauteur et qu'elle ne porte pas préjudice à l'œuvre commune.</p> <p>Art. 6.</p> <p>Est dite «œuvre dirigée», l'œuvre créée par plusieurs auteurs à l'initiative et sous la direction d'une personne physique ou morale qui l'édite ou la produit et la divulgue sous son nom, et dans laquelle la contribution des auteurs participant à son élaboration est conçue pour s'intégrer dans cet</p> |

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| | <p>ensemble.</p> <p>Sauf disposition contractuelle contraire, la personne physique ou morale sous le nom de laquelle l'œuvre dirigée a été divulguée est investie à titre originaire des droits patrimoniaux et moraux d'auteur sur l'œuvre.</p> |
| Collecting Societies | <p>Organismes de gestion et de répartition des droits</p> <p>Art. 66.</p> <p>1. Tout organisme dont le seul but ou l'un des buts principaux consiste à gérer ou à administrer des droits d'auteur ou des droits voisins des droits d'auteur sur le territoire luxembourgeois pour le compte de plus d'un auteur ou ayant droit, doit obtenir une autorisation.</p> <p>Si l'organisme est établi à l'étranger, il est tenu en outre d'avoir un mandataire général ayant son domicile dans le Grand-Duché qui le représente tant judiciairement qu'extrajudiciairement. Le mandataire général doit être agréé.</p> <p>L'autorisation et l'agrément, qui sont prescrits sous peine de forclusion de toute action, sont délivrés par le ministre ayant les droits d'auteur dans ses attributions.</p> <p>(...)</p> <p>4. Les organismes visés sub 1 doivent dresser et garder à jour une liste des auteurs d'œuvres qu'ils représentent et des droits correspondants dont la gestion leur a été confiée.</p> <p>Cette liste pourra être consultée par les entrepreneurs de spectacles, les organismes de radiodiffusion et, plus généralement, par tous les usagers et par tous ceux qui y auront intérêt. S'il s'agit d'organismes établis à l'étranger, la liste est déposée chez le mandataire général.</p> <p>7. Un règlement grand-ducal précisera les conditions de l'autorisation et de l'agrément prévus sub 1 et les conditions dans lesquelles les organismes y visés pourront exercer leur activité prévus sub 2 à 9. Ce règlement sera pris sur avis obligatoire du Conseil d'État et déterminera la date de l'entrée en vigueur des dispositions du présent article.</p> <p>8. Il est institué un commissaire aux droits d'auteur et droits voisins, désigné par le ministre ayant dans ses attributions l'Economie.</p> <p>(...)</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. 11.</p> <p>Indépendamment des droits patrimoniaux d'auteur, et même après la cession desdits droits, l'auteur jouit du droit de revendiquer la paternité de son œuvre et de s'opposer à toute déformation, mutilation ou autre modification de celle-ci ou à toute autre atteinte à la même œuvre, préjudiciables à son honneur ou à sa réputation.</p> <p>L'auteur peut céder et transmettre tout ou partie de ses droits moraux, pour autant qu'il ne soit pas porté atteinte à son honneur ou à sa réputation.</p> <p>Art. 12.</p> <p>A l'égard de l'auteur, la cession et la transmission de ses droits patrimoniaux se prouvent par écrit et s'interprètent restrictivement en sa faveur.</p> <p>La cession des droits patrimoniaux peut faire l'objet notamment d'une aliénation ou de licences.</p> |
| Remuneration Schemes/ Compensation | <p>Art. 13.</p> <p>La cession des modes d'exploitation inconnus au jour du contrat n'est autorisée que si elle fait l'objet d'une rémunération particulière.</p> |

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| Protection of technological measures and rights management information | No provisions found. |
| Consequences of copyright infringement | <p>Art. 72.ff: Actions civiles</p> <p>Art. 72.</p> <p>Les titulaires de droits d’auteur, de droits voisins et de droits sui generis sur des bases de données, ou toute autre partie intéressée, pourront, avec l’autorisation du président du tribunal d’arrondissement du lieu de la contrefaçon, obtenue sur requête, faire procéder par un ou plusieurs experts, que désignera ce magistrat, à la</p> <p>description des objets prétendus contrefaisants ou des faits de la contrefaçon et des ustensiles qui ont directement servi à les accomplir.</p> <p>Le président pourra, par la même ordonnance, faire défense au détenteur des objets contrefaisants de s’en dessaisir, permettre de constituer gardien ou ordonner de mettre lesdits objets sous scellés. Cette ordonnance sera signifiée par un huissier à ce commis.</p> <p>S’il s’agit de faits qui donnent lieu à recette, le président pourra autoriser la saisie conservatoire des deniers par un huissier qu’il commettra.</p> <p>Art. 80.</p> <p>Les recettes et les objets confisqués pourront être alloués à la partie civile, à compte ou à concurrence du préjudice souffert.</p> <p>Art. 82.ff: Sanctions pénales</p> <p>Art. 82.</p> <p>Toute atteinte méchante ou frauduleuse portée aux droits protégés au titre de la présente loi de l’auteur, des titulaires de droits voisins et des producteurs de bases de données constitue le délit de contrefaçon. Est coupable du même délit, quiconque, sciemment, vend, offre en vente, importe, exporte, fixe, reproduit,</p> <p>communique, transmet par fil ou sans fil, met à la disposition du public et de manière générale, met ou remet en circulation, à titre onéreux ou gratuit, une œuvre, une prestation ou une base de données sans autorisation de l’auteur,</p> <p>du titulaire des droits voisins ou du producteur de base de données.</p> <p>Est ainsi notamment coupable de ce délit, quiconque, sciemment, met à la disposition du public des phonogrammes, vidéogrammes, CD-ROM, multimédias ou tous autres supports, programmes ou bases de données réalisés sans</p> <p>l’autorisation des titulaires de droits d’auteur ou de droits voisins ou des producteurs de bases de données, ainsi que ceux qui reproduisent des œuvres, des prestations ou des bases de données protégées pour les numériser, les</p> <p>mémoriser, les stocker, les distribuer, les injecter, et de façon générale, rendre possible leur accès par le public, ou leur communication au public.</p> <p>Art. 84.</p> <p>L’application méchante ou frauduleuse sur une œuvre ou une base de données protégée du nom d’un auteur ou d’un titulaire de droits voisins ou d’un droit sui generis du producteur de base de données ou de tout autre signe distinctif adopté par lui pour désigner son œuvre, sa prestation ou sa production sera punie d’un emprisonnement de 3 mois à 2 ans et d’une</p> |

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| | <p>amende de 10.001 à 10 millions de francs ou de l'une de ces peines seulement. Il en est de même pour l'application méchante ou frauduleuse à l'occasion de l'exploitation de la prestation d'un titulaire de droits voisins ou d'un producteur de bases de données ou sur le support qui contient cette prestation du nom d'un titulaire de droits voisins ou d'un droit «sui generis» des producteurs de bases de données ou de tout autre signe distinctif adopté par lui.</p> <p>La confiscation des objets contrefaits sera prononcée dans tous les cas. Le juge pourra de même ordonner leur destruction.</p> <p>Ceux qui, sciemment, vendent, offrent en vente, importent, exportent, fixent, reproduisent, communiquent, transmettent par fil ou sans fil, mettent à la disposition du public et de manière générale, mettent ou remettent en circulation à titre onéreux ou gratuit, les objets ou prestations désignés au premier alinéa du présent article seront punis des mêmes peines.</p> |
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| <p>Netherlands</p> <p>Copyright Act 1912, consolidated version of 20 July 1999, published in Staatsblad 1999, 303;</p> <p>Neighbouring Rights Act 1993 (NRA 1993)</p> | |
| <p>Protected Works</p> | |
| <p>Categories of protected works</p> | <p>Art. 10.</p> <p>1. For the purposes of this Act, literary, scientific or artistic works includes:</p> <p>1° . books, pamphlets, newspapers, periodicals and all other writings;</p> <p>2° . dramatic and dramatico-musical works;</p> <p>3° . recitations;</p> <p>4° . choreographic works and entertainments in dumb show;</p> <p>5° . musical works, with or without words;</p> <p>6° . drawings, paintings, works of architecture and sculpture, lithographs, engravings and the like;</p> <p>7° . geographical maps;</p> <p>8° . drafts, <i>sketches</i> and three-dimensional works relating to architecture, geography, topography or other sciences;</p> <p>9° . photographic works;</p> <p>10° . cinematographic works;</p> <p>11° . works of applied art and industrial designs and models;</p> <p>12° . computer programs and the preparatory material;</p> <p>and generally any creation in the literary, scientific or artistic areas, whatever the mode or form of its expression. Computer programs do not fall within the category of works referred to in the first sentence sub 1° .</p> <p>2. Reproductions of a literary, scientific or artistic work in a modified form, such as translations, arrangements of music, cinematographic and other adaptations and collections of different works shall be protected as separate works, without prejudice to the copyright in the original work.</p> <p>Art. 11.</p> |

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| | No copyright subsists in laws, decrees or ordinances issued by public authorities, or in judicial or administrative decisions. |
| Conditions for protection | <p>Art. 1. Copyright is the exclusive right of the author of a literary, scientific or artistic work or his successors in title to communicate that work to the public and to reproduce it, subject to the limitations laid down by law.</p> <p>Art. 12.: Definition of communication to the public of a literary, scientific or artistic work</p> <p>Art. 13.-14.: Definition of reproduction of a literary, scientific or artistic work</p> <p>Art. 47. 1. This Act shall apply to all literary, scientific or artistic works published in the Netherlands for the first time or during the 30 days following first publication in another country, either before or after its entry into force, and to all such works not published, or not thus published, of which the authors are Dutch nationals.</p> <p>Art. 47b. 1. This Act shall apply to the broadcasting by satellite of a work incorporated in a radio or television program if the act referred to in article 12, paragraph 7, takes place in the Netherlands. 2. This Act shall also apply to the broadcasting by satellite of a work incorporated in a radio or television program if (...).</p> |
| Database protection | Database Act 1999 |
| Computer Software | <p>Art. 10. 1. For the purposes of this Act, literary, scientific or artistic works includes: (...) 12° . computer programs and the preparatory material;.....</p> <p>Art. 10. S. 1, S. 12°, Art. 15c S. 1.: Data carrier exception</p> <p>Art. 45h.-45n.: Special provisions for computer programs</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Exploitation rights | |
| Right of reproduction | Art. 1., 13., 14.: Definition and scope of reproduction |
| Right of communication to the public and right of making available | <p>Art 1., 12.: Definition and scope of communication to the public</p> <p>Art. 17b.: Scope of communicating right by broadcasting</p> <p>Art. 18.: Reproduction of permanently displayed works</p> <p>Art. 19.-21.: Reproduction of portraits</p> <p>Art. 45g. Each author shall, unless otherwise agreed in writing, retain copyright in his contribution where the latter constitutes a work that can be separated from the cinematographic work. After the moment referred to in article 45c (completion of work), each author may, unless otherwise agreed in writing, communicate his contribution to the public and reproduce it separately, provided that he does not thereby prejudice the exploitation of the cinematographic work.</p> |
| Distribution right | Art. 1., 12, S. 1., S. 2: Definition of distribution as part of communication to the public |

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| Moral rights | |
| Right of publication | The right of publication is not explicitly mentioned in Art. 25 where the other moral rights are listed. Rather it is considered in Dutch Jurisprudence as a very important interest (not a right) of the author which is to seriously balance against other interests in every case of publication. The basis for this balance is provided by Art. 6:162 of the Dutch Civil Code and is subject to interpretation by the Judiciary. |
| Recognition of authorship | <p>Art. 25.</p> <p>1. Even after assignment of his copyright, the author of a work has the following rights:</p> <p>a. the right to oppose the communication to the public of the work without acknowledgement of his name or other indication as author, unless such opposition would be unreasonable;</p> <p>b. the right to oppose the communication to the public of the work under a name other than his own, and any alteration in the name of the work or the indication of the author, in so far as it appears on or in the work or has been communicated to the public in connection with the work;</p> <p>(...)</p> <p>Art. 45e.</p> <p>In addition to the rights referred to in article 25, paragraph 1, sub b, c and d, each author shall be entitled, in relation to a cinematographic work to:</p> <p>a. have his name appear in the usual place in the work in question, together with his capacity or the nature of his contribution to the cinematographic work;</p> <p>b. require that the part of the film referred to sub b is shown;</p> <p>c. oppose to indication of his name in the cinematographic work, unless such objection would be unreasonable.</p> |
| Distortion of the work | <p>Art. 25.</p> <p>1. Even after assignment of his copyright, the author of a work has the following rights:</p> <p>(...)</p> <p>c. the right to oppose any other alteration of the work, unless the nature of the alteration is such that opposition would be unreasonable;</p> <p>d. the right to oppose any distortion, mutilation or other impairment of the work that could be prejudicial to the name or reputation of the author or to his dignity as such.</p> <p>2. Upon the death of the author, the rights referred to in paragraph 1 shall belong, until the expiry of the copyright, to the person designated by the author in his last will and testament or in a codicil thereto.</p> <p>3. The right referred to in paragraph 1, sub a, may be waived. The rights referred to sub b and c may be waived in so far as alterations to the work or its title are concerned.</p> <p>4. If the author of the work has assigned his copyright, he shall continue to be entitled to make such alterations to the work as he may make in good faith in accordance with social custom. As long as copyright subsists, the same right shall belong to the person designated by the author in his last will and testament or in a codicil thereto, if it may reasonably be assumed that the author would have approved such alterations.</p> |
| Duration of Protection | <p>Art. 37.</p> <p>1. Copyright shall expire 70 years after 1 January of the year following the</p> |

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| | <p>year of the death of the author.</p> <p>2. The duration of the copyright belonging jointly to two or more persons in their capacity as co-authors of a work shall be calculated from 1 January of the year following the year of the death of the last surviving co-author.</p> <p>Art. 38</p> <p>1. The copyright in a work of which the author has not been indicated or has not been indicated in such a way that his identity is beyond doubt shall expire 70 years after 1 January of the year following that in which the work was first lawfully communicated to the public.</p> <p>2. The same shall apply to works of which a public institution, association, foundation or company is deemed the author, unless the natural person who created the work is indicated as the author on or in copies of the work which have been communicated to the public.</p> <p>3. If the author discloses his identity prior to the end of the term referred to in paragraph 1, the duration of the copyright in the work concerned shall be calculated in accordance with the provisions of article 37.</p> <p>Art. 39.</p> <p>Copyright in works for which the duration of copyright is not calculated in accordance with article 37 and which have not been lawfully communicated to the public within 70 years from their creation shall expire.</p> <p>Art. 40.</p> <p>The copyright in a cinematographic work shall expire 70 years after 1 January of the year following the year of 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 the music created for use in the work.</p> <p>Art. 41.</p> <p>For the purposes of article 38, where a work is published in volumes, parts, instalments, issues or episodes, each volume, part, instalment, issue or episode shall be deemed a separate work.</p> <p>Art. 42.</p> <p>Notwithstanding the provisions of this chapter, the term of copyright which has already expired in the country of origin of the work may not be invoked in the Netherlands. The first sentence shall not apply to works whose author is a national of a Member State of the European Union or a State party to the Agreement on the European Economic Area of May 1992.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Art. 12.: Definition of communication to the public:</p> <p>S. 5: A recitation, performance or presentation which is exclusively for the purposes of education provided on behalf of the public authorities or a non-profit-making legal person, in so far as such a recitation, performance or presentation forms part of the school work plan or curriculum where applicable, or which exclusively serves a scientific purpose, shall not be deemed public.</p> <p>Art. 15.</p> <p>1. Quotations in an announcement, criticism, polemic or scientific treatise shall not be deemed an infringement of copyright in a literary, scientific or artistic work where:</p> <p>1° . the work from which the quotation is taken has been lawfully communicated to the public;</p> |

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| | <p>2° . the quotation is in conformity with that which may be reasonably accepted in accordance with social custom and the number and length of the quoted passages are justified by the purpose to be achieved;</p> <p>3° . the provisions of article 25 have been taken into account;</p> <p>4° . the source is clearly indicated, together with the indication of the author if it appears in the source.</p> <p>2. In the case of a short work or a work as referred to in article 10, paragraph 1, sub 6° ., 9° . or 11° ., the entire work may be reproduced for the purpose and under the conditions stated in paragraph 1, if done in such a way that the reproduction differs appreciably in size or process of manufacture from the original work.</p> <p>3. For the purposes of this article quotations includes quotations from articles that have appeared in daily or weekly newspapers, weeklies or other periodicals in the form of press reviews.</p> <p>4. The provisions of this article shall also apply to quotations in a language other than the original.</p> <p>5. We reserve the right to determine, by order in council, what is to be understood in paragraph 1 sub 2° . by 'reasonably accepted in accordance with social custom'.</p> <p>Art. 16.</p> <p>1. The following shall not be deemed an infringement of copyright in a literary, scientific or artistic work:</p> <p>(...)</p> <p>b. communication to the public of parts of works by broadcasting a radio or television program made to serve as an illustration for teaching purposes, provided:</p> <p>1° . the work from which is taken over has been lawfully communicated to the public;</p> <p>2° . the communication to the public is in conformity with that which may be reasonably accepted in accordance with social custom;</p> <p>3° . the provisions of article 25 have been taken into account;</p> <p>4° . the source is clearly indicated, together with the indication of the author if it appears in the source; and</p> <p>5° . an equitable remuneration be paid to the author or his successors in title.</p> <p>Art. 16b.</p> <p>1. It shall not be deemed an infringement of the copyright in a literary, scientific or artistic work to reproduce it in a limited number of copies for the sole purpose of private practice, study or use of the person who makes the copies or orders the copies to be made exclusively for himself.</p> <p>(...)</p> <p>Art. 17.</p> <p>1. Without prejudice to the provisions of the preceding article, it shall not be deemed an infringement of the copyright in the works referred to in article 10, paragraph 1, sub 1° , to reproduce, on behalf of an enterprise, organization or other establishment, individual articles, reports or other texts which have appeared in a daily or weekly newspaper or weekly or other periodical, or short passages from books, pamphlets or other writings, in so far as they are scientific works, provided the reproduction is limited to the number of copies which the enterprise, organization or establishment</p> |
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| | <p>may reasonably need. Copies may only be given to persons employed by the enterprise, organization or establishment.</p> <p>(...)</p> <p>Art. 2. 4. NRA 1993: no lending remuneration for performers by educational and research establishments;</p> <p>Art. 2. 8. NRA 1993: no performance if performed for educational purposes</p> <p>Art. 6.4. NRA 1993: no lending remuneration for phonogram producers by educational and research establishments;</p> <p>Art. 7a.4. NRA 1993: no lending remuneration for film fixations producers by educational and research establishments;</p> <p>Art. 8.4. NRA 1993: no lending remuneration for broadcasting organizations by educational and research establishments;</p> <p>Art. 10. a., d. NRA 1993: No copyright infringement by private study, quotations in scientific treatises <i>etc...</i></p> <p>Art. 11. NRA 1993: no infringement for teaching purposes</p> |
| Scope of exceptions | |
| Libraries and archives | <p>Art. 15c.</p> <p>1. The lending as referred to in article 12, paragraph 1, sub 3°., of the whole or part of a work or a reproduction thereof brought into circulation by or with the consent of the rightholder shall not be deemed an infringement of copyright, provided the person doing or arranging the lending pays an equitable remuneration....</p> <p>2. Educational establishments and research institutes, the libraries attached to them, and the Koninklijke Bibliotheek are exempt from payment of a lending remuneration as referred to in paragraph 1.</p> <p>3. Libraries funded by the Libraries for the Blind and Visually Impaired Fund are exempt from payment of a remuneration as referred to in paragraph 1 in respect of items lent to blind and visually impaired persons registered with the libraries in question...</p> <p>Art. 2. 5. NRA 1993: no lending remuneration for performers by Libraries funded by the Libraries for the Blind and Visually Impaired Fund</p> <p>Art. 6. 5.:NRA 1993: no lending remuneration for phonogram producers by Libraries funded by the Libraries for the Blind and Visually Impaired Fund</p> <p>Art. 7a. 5.:NRA 1993: no lending remuneration for film fixations producers by Libraries funded by the Libraries for the Blind and Visually Impaired Fund</p> <p>Art. 8. 5.:NRA 1993: no lending remuneration for broadcasting organizations by Libraries funded by the Libraries for the Blind and Visually Impaired Fund</p> |
| Acknowledgement of source | Art. 15b. S. 2: even if communicated by public authorities |
| Other exceptions | Art. 15.-15a: news, short quotations |
| Private use | <p>Art. 16b.</p> <p>1. It shall not be deemed an infringement of the copyright in a literary, scientific or artistic work to reproduce it in a limited number of copies for the sole purpose of private practice, study or use of the person who makes the copies or orders the copies to be made exclusively for himself.</p> <p>Art. 10 NRA 1993:</p> <p>The acts referred to in articles 2, 6, 7a and 8 do not constitute an infringement of the rights referred to in those articles, if they are carried out for the purpose of:</p> |

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| | a. private practice, study or use by a person who records or reproduces a few copies; article 16b, paragraph 5, and articles 16c up to and included 16g of the Copyright Act 1912 shall apply mutatis mutandis |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 1. Copyright is the exclusive right of the author of a literary, scientific or artistic work (...)</p> <p>Art. 4. 1. Unless there is proof to the contrary, the person who is named as author in or on the work or, where there is no such indication, the person who, when the work is communicated to the public, is named as the author by the party who communicates the work to the public, shall be deemed the author of the work. 2. If the author is not named, the person who delivers a recitation which has not appeared in print shall be deemed the author thereof, unless there is proof to the contrary.</p> <p>Art. 8. A public institution, association, foundation or company which communicates a work to the public as its own, without naming any natural person as the author thereof, shall be regarded as the author of that work, unless it is proved that the communication to the public in such manner was unlawful.</p> <p>Art. 9. If a work appearing in print does not indicate the name of the author or does not indicate his true name, the person indicated in that work as the publisher or, where there is no such indication, the person whose name appears as the printer thereof may, on behalf of the copyright owner, exercise the copyright in the work against third parties.</p> <p>Art. 45a (...) 2. Without prejudice to the provisions of articles 7 and 8, the natural persons who have made a contribution of a creative nature to the making of a cinematographic work shall be considered the authors of said work</p> |
| Right-holder after the expiry of copyright protection term | <p>Art. 45 . 1. Any person who, after the expiry of the term of copyright protection, for the first time lawfully communicates to the public a previously unpublished work shall enjoy the exclusive right referred to in article 1. 2. The right referred to in paragraph 1 shall expire 25 years after 1 January of the year following that in which the work concerned was lawfully communicated to the public for the first time. 3. The provisions of paragraphs 1 and 2 shall also apply to previously unpublished works which have never been protected by copyright, the author of which died more than 70 years ago.</p> |
| Joint authors/ compound works/ authors in employment | <p>Art. 5. 1. If a literary, scientific or artistic work consists of separate works by two or more persons, the person under whose guidance and supervision the work as a whole has been made or, if there is no such person, the compiler of the various works, shall be deemed the author of the whole work, without prejudice to the copyright in each of the works separately.</p> |

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| | <p>2. Where a separate work in which copyright subsists is incorporated in a whole work, the reproduction or communication to the public of each separate work by any person other than the author thereof or his successor in title shall be deemed an infringement of the copyright in the whole work.</p> <p>3. Where such a separate work has not previously been communicated to the public, the reproduction or communication to the public of that separate work by the author thereof or his successors in title without mention of the whole work of which it is a part, shall be deemed an infringement of the copyright in the whole work, unless otherwise agreed between the parties.</p> <p>Art. 6.</p> <p>If a work has been made according to the draft and under the guidance and supervision of another person, that person shall be deemed the author of the work.</p> <p>Art. 7.</p> <p>Where labour carried out by an employee consists in the making of certain literary, scientific or artistic works, the employer shall be deemed the author thereof, unless otherwise agreed between the parties.</p> <p>Art. 26.</p> <p>Where the copyright in a work belongs jointly to two or more persons, it may be enforced by any one of them, unless otherwise agreed.</p> |
| Collecting Societies | <p>Art. 26a.</p> <p>1. The right to authorise the simultaneous, unaltered and unabridged broadcasting by a closed-circuit system, as referred to in article 1 sub g of the Wet op de Telecommunicatievoorzieningen, of a work incorporated in a radio or television program may be exercised exclusively by legal persons whose aim in accordance with their bylaws is to protect the interests of rightholders through the exercise of the right belonging to them as referred to above.</p> <p>(...)</p> <p>Art. 30a.: commercial agents in matters of copyright in musical works</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. 2.</p> <p>1. Copyright passes by succession and is assignable wholly or in part.</p> <p>2. The delivery required by whole or partial assignment shall be effected by means of a deed of assignment. The assignment shall comprise only such rights as are recorded in the deed or necessarily derive from the nature or purpose of the title.</p> <p>3. The copyright belonging to the author of a work and, after his death, to the person having acquired any unpublished work as successor or legatee of the author, shall not be liable to seizure.</p> <p>Waiver of moral rights</p> <p>Art. 25.</p> <p>1. Even after assignment of his copyright, the author of a work has the following rights:</p> <p>a. the right to oppose the communication to the public of the work without acknowledgement of his name or other indication as author, unless such opposition would be unreasonable;</p> <p>b. the right to oppose the communication to the public of the work under a name other than his own, and any alteration in the name of the work or the indication of the author, in so far as it appears on or in the work or has</p> |

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| | <p>been communicated to the public in connection with the work;</p> <p>c. the right to oppose any other alteration of the work, unless the nature of the alteration is such that opposition would be unreasonable;</p> <p>d. the right to oppose any distortion, mutilation or other impairment of the work that could be prejudicial to the name or reputation of the author or to his dignity as such.</p> <p>2. (...)</p> <p>3. The right referred to in paragraph 1, sub a, may be waived. The rights referred to sub b and c may be waived in so far as alterations to the work or its title are concerned</p> |
| Remuneration Schemes/ compensation | <p>Art. 12a.</p> <p>1. If the author assigns the rental right referred to in article 12, paragraph 1, sub 3° ., in respect of a literary, scientific or artistic work fixed on a phonogram to the producer thereof, the latter is indebted an equitable remuneration to the author for the rental.</p> <p>2. The right to an equitable remuneration as referred to in paragraph 1 may not be waived.</p> <p>Art. 15c.-15g.: remuneration for lending</p> |
| Protection of technological measures and rights management information | |
| Consequences of copyright infringement | <p>Under Article 27 of the Dutch Copyright Act, the author or his successor has the right to bring an action for damages against a persons who infringe copyright, notwithstanding the assignment of his copyright. He is also entitled to demand the profits originating from an infringement and to render account therefor (Article 27a (1)).</p> <p>A licensee is entitled to compensation for the damage he has suffered or to a proportionate share of the profits to be surrendered by the defendant. However a licensee may only file such a claim, if he has obtained the authority to do so from the author or his successor in title(Article 27a(2)).</p> <p>Moreover, the rightholder is entitled to demand any goods that are not filed in the public records and which have been communicated to the public in violation of copyright or are unauthorised reproductions, or to apply for them to be destroyed or rendered useless(Article 28 (1,3)). He is also entitled to obtain money that has been obtained by or as a result of an infringement of copyright (Article 28 (2)). In addition, the rightholder has the right to apply for the destruction or rendering unusable of goods which have been used to effect an infringement of copyright (Article 28 (3)). The handing over can be ordered conditional on payment by the plaintiff of a compensation (Article 28(5)).</p> <p>In the case of immovable property, ships or aircraft which infringe copyright, the rightholder can demand alterations which are necessary to end the infringement (Article 28 (7)). A licensee has the aforementioned rights in so far as their purpose is to protect the rights he is entitled to exercise, unless otherwise agreed (Article 28(7)).</p> <p>Criminal liability is regulated in Article 31pp. According to Article 31 a person who intentionally infringes another person's copyright is liable to a term of imprisonment of not more than six months or a fine. Also the intentional public offer, possession for the purpose of distribution/ reproduction, keeping for profit of an object infringing another personas copyright is liable to imprisonment up to 6 months or a fine(Article 31a). If the latter criminal</p> |

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| | <p>offences are committed as a person's profession or business, this person is liable to a term of imprisonment up to four years or a higher fine(Article 31b). Moreover, the offer for public distribution/ possession for the purpose of reproduction/ keeping for profit of an object is punishable with a fine, if the person had reasonable grounds that the object contains a copyright infringing work (Article 32). Also the intentional offering/dealing/ keeping for profit of means designed exclusively to facilitate the removal or overriding of a technical device for the protection of a work is punishable with imprisonment up to six months or a fine Article 32a). Also the intentional unlawful alterations of a work is punishable with imprisonment up to six months or a fine. (Article 33). In addition, the Dutch copyright constitutes several lesser offences in regards to the public exhibition of portraits (Article 35), to the acting as a commercial agent without having state permission (Article 35a) and to the deception of a commercial agent and legal persons concerned with the determining of amounts due (Articles 35b, 35c and 35d).</p> |
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p) Portugal

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| <p>Portugal Code of Copyright and Related Rights (No. 45/85 of September 17, 1985, as last amended by Law No. 114/91 of September 3, 1991)</p> | |
| <p>Protected Works</p> | |
| <p>Categories of protected works</p> | <p>Original works Article 2.</p> <p>(1) Intellectual works in the literary, scientific and artistic fields, whatever their type, form of expression, merits, mode of communication or objective, include, in particular:</p> <p>(a) books, pamphlets, magazines, newspapers and other writings;</p> <p>(b) lectures, lessons, addresses and sermons;</p> <p>(c) dramatic and dramatico-musical works and their production;</p> <p>(d) works of choreography or mime which are expressed in written or any other form;</p> <p>(e) musical compositions, with or without words;</p> <p>(f) cinematographic, television, phonographic, video and radiophonic works;</p> <p>(g) works of drawing, tapestry, painting, sculpture, pottery, glazed tiles, engraving, lithography and architecture;</p> <p>(h) photographic works and works produced by processes analogous to photography;</p> <p>(i) works of applied art, industrial designs, and works of design that constitute artistic creations, whether or not protected as industrial property;</p> <p>(j) illustrations and geographical maps;</p> <p>(1) plans, <i>sketches</i> and three-dimensional works concerning architecture, town planning, geography or other sciences;</p> <p>(m) emblems or slogans, even if used for advertising, provided that they show originality;</p> <p>(n) parodies and other literary or musical compositions, even if inspired by the theme or subject of another work.</p> |

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| | <p>(2) Subsequent editions of a work, even though they are corrected, enlarged, revised, or their titles or format are changed, shall not constitute works distinct from the original work, nor shall reproductions of works of art, even though their dimensions may have been changed.</p> <p>Works deemed to be original</p> <p>Article 3.</p> <p>(1) The following shall be deemed to be original works:</p> <p>(a) translations, arrangements, instrumentation, dramatization, cinematographic and other transformations of a work, even if it has not been the subject of protection;</p> <p>(b) summaries and collections of works, whether protected or not, such as selections, encyclopaedias and anthologies which, by reason of the selection or arrangement of their contents, constitute intellectual creations;</p> <p>(c) systematic or annotated collections of texts of conventions, laws, regulations, decrees, administrative or legal decisions, or decisions by any body or authority of the State or administration.</p> <p>(2) The protection granted to these works shall not prejudice the rights recognized to the authors of the corresponding original work.</p> <p>Titles of works</p> <p>Article 4.</p> <p>(1) The protection granted to a work shall extend to its title, whether or not it is registered, provided that it is original and that it cannot be confused with the title of any other work of the same nature by another author which has previously been disclosed or published.</p> <p>(...) [list of certain exceptions]</p> |
| Conditions for protection | <p>Article 1.</p> <p>(1) Works shall mean intellectual creations in the literary, scientific and artistic fields, in whatever form, and as such they shall be protected under the present Code, as shall the rights of their authors.</p> <p>(2) Ideas, processes, systems, operational methods, concepts, principles or discoveries alone and as such may not be protected under the present Code.</p> <p>(3) For the purposes of the present Code, a work shall be independent of its disclosure, publication, use or exploitation.</p> <p>Protection requires originality</p> <p>Recognition of copyright</p> <p>Article 12.</p> <p>Copyright shall be recognized independently of registration, filing, or any other formality.</p> <p>Special provisions in Articles 213 ff: Unpublished titles and transfer and modification of copyright requires registration.</p> |
| Database protection | <p>Copyright protection:</p> <p>Article 3.</p> <p>(1) The following shall be deemed to be original works:</p> <p>(...)</p> <p>(b) summaries and collections of works, whether protected or not, such as selections, encyclopaedias and anthologies which, by reason of the selection or arrangement of their contents, constitute intellectual creations;</p> |

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| | <p>(...)</p> <p>[Remark: Portugal has created a sui generis protection with the Database Directive implementation Decree Law 122/2000 which was unavailable in English]</p> |
| Computer Software | The Directive has been implemented by Decreto-Lei No. 122/2000, 4 July 2000 |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Article 9.</p> <p>(1) Copyright shall include economic rights and personal rights, termed moral rights.</p> <p>(2) In the exercise of economic rights, the author shall have the exclusive right to dispose of his work, to exploit it and to use it, or to authorize its total or partial exploitation or use by a third party.</p> <p>(...)</p> <p>Article 67.</p> <p>(1) An author shall have the exclusive right to enjoy and use his work, either in whole or in part, including, in particular, the right to disclose, publish and exploit it economically in any direct or indirect form within the limitations of the law.</p> <p>(2) From the economic point of view, the guarantee of the pecuniary benefits resulting from such exploitation shall constitute the basic objective of legal protection.</p> <p>Forms of use</p> <p>Article 68.</p> <p>(1) Exploitation and, in general, use of the work, can be implemented, according to its type and nature, in any form whether currently known or not.</p> <p>(2) The author shall, inter alia, have the exclusive right to carry out or to authorize the following, either by himself or by his representatives:</p> <p>(a) publication, either by printing or by any other method of graphic reproduction;</p> <p>(b) performance, recitation, execution, exhibition or display to the public;</p> <p>(...)</p> <p>(g) translation, adaptation, arrangement, instrumentation or any other transformation of the work;</p> <p>(h) use in another work;</p> <p>(i) total or partial reproduction by any means;</p> <p>(3) The owner of the copyright shall have the exclusive right to decide freely upon the procedures and conditions of the work's use and exploitation.</p> <p>(4) The various forms of the work's use shall be independent one from another and adoption of one of them by the author or the person entitled shall not prejudice the adoption of the remaining forms by the author or by third parties.</p> |
| Right of communication to the public and right of | See above, Art. 68 (2) (b) |

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| making available | |
| Distribution right | |
| Moral rights | |
| Right of publication | <p>Article 9.</p> <p>(1) Copyright shall include economic rights and personal rights, termed moral rights.</p> <p>(2) [economic rights]</p> <p>(3) Independently of economic rights, and even after their transfer or lapse, the author shall enjoy moral rights in his work, in particular the right to claim authorship and to ensure its authenticity and integrity.</p> <p>Article 56.</p> <p>(1) Independently of rights of an economic nature, and even if they have been assigned or transferred for payment, the author shall enjoy for his lifetime the right to claim authorship of his work and to ensure its authenticity and integrity by opposing the destruction, mutilation, distortion or other modification thereof and, in general, opposing any act which denatures the work and is liable to be prejudicial to his honor and reputation.</p> <p>(2) This right shall be perpetual, inalienable and imprescriptible and shall continue after the death of the author in accordance with the provisions of the following Article.</p> <p>Exercise</p> <p>Article 57.</p> <p>(1) Upon the death of the author, provided that the work does not fall within the public domain, the exercise of these rights shall belong to his successors.</p> <p>(2) The State shall be responsible for the defence of the authenticity and integrity of works within the public domain and this right shall be exercised by the Ministry of Culture.</p> <p>(...)</p> <p>Right of withdrawal</p> <p>Article 62.</p> <p>The author of a disclosed or published work may at any time withdraw it from circulation and may terminate its use in any form, provided that he has justifiable moral reasons, but he shall compensate the interested parties for the prejudice caused.</p> |
| Recognition of authorship | See above, Art. 9 (3) and Art. 56 |
| Distortion of the work | <p>See above, Art. 9 (3) and Art. 56</p> <p>Modification of works</p> <p>Article 59.</p> <p>(1) Modification of works without the author's consent shall not be permitted, even where use of the work without such consent is lawful.</p> <p>(2) In the case of anthologies to be used for educational purposes, the necessary modifications may be made provided that the author does not object to them according to the provisions of the following paragraph.</p> <p>(...)</p> |
| Duration of Protection | Article 31. |

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| | <p>In the absence of any special provision, copyright shall lapse 50 years after the death of the creator of the work, even in the case of works disclosed or published posthumously.</p> <p>Special provisions in Art. 32 ff concerning duration of protection for collective works, joint authorship and specific types of works.</p> <p>Article 39.</p> <p>A work shall fall into the public domain upon expiry of the periods of protection of copyright referred to in Articles 31 et seq. of the present Code.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Article 75.</p> <p>The following uses of a work without the consent of the author shall be lawful:</p> <p>(...)</p> <p>(d) partial or total reproduction by photography or by an analogous process of a work that has previously been made available to the public, provided that such reproduction is carried out by a public library, a non-commercial documentation <i>centre</i> or a scientific institution, and that such reproduction and the corresponding number of copies are not for public use and are limited to the requirements of such institutions' activities;</p> <p>(e) partial reproduction by the processes referred to in the preceding subparagraph, by educational establishments, provided that such reproduction and the number of copies made are for use exclusively for educational purposes in such establishments and that their use is not profit-making;</p> <p>(f) inclusion of quotations or summaries from another author's work, whatever their type or nature, in support of one's own opinions or for purposes of criticism, discussion or teaching;</p> <p>(g) inclusion of short excerpts or parts of another author's work in works used for teaching;</p> <p>(...)</p> <p>Article 81.</p> <p>The following reproduction shall be permitted:</p> <p>(a) one copy, for purposes of exclusively scientific or humanitarian interest, of works not commercially available or impossible to obtain, for the period necessary for their use;</p> <p>(...)</p> |
| <p>Scope of exceptions</p> | <p>Article 76.</p> <p>(1) The free use referred to in the preceding Article shall be subject to:</p> <p>(a) mention, wherever possible, of the name of the author and of the publisher, of the title of the work and other elements enabling it to be identified;</p> <p>(b) in the case referred to in subparagraph (d) of the preceding Article, equitable remuneration to be paid to the author and to the publisher by the body that has carried out the reproduction (scientific institutions);</p> <p>(c) in the case referred to in subparagraph (g) of the preceding Article, remuneration to be paid to the author and to the publisher.</p> <p>(2) In respect of subparagraphs (a), (e), (f) and (g) of the preceding Article, the works reproduced or quoted shall not be liable to confusion with the works in which they are being used and the reproduction or quotations shall</p> |

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| | <p>not be so extensive that they prejudice interest in such works.</p> <p>Comments, annotations and discussions</p> <p>Article 77.</p> <p>(1) Reproduction of another author's work without his permission under the pretext of commenting on or annotating it shall not be permitted. Comments or annotations may be published separately with references to chapters, paragraphs or pages in the other author's work.</p> <p>(2) (...)</p> <p>Compensation for the reproduction or recording of works</p> <p>Article 82.</p> <p>(1) The public selling price of any mechanical, chemical, electric, electronic or other apparatus enabling works to be fixed and reproduced or of any physical medium for fixations and reproductions obtained by any such method, shall include a sum to be paid to the authors, performers, publishers and producers of phonograms and videograms.</p> <p>(2) The amount of the sum referred to in the preceding paragraph, its collection and distribution shall be defined by legislative decree.</p> |
| Libraries and archives | See above, Art. 75 (d) |
| Acknowledgement of source | <p>Article 76.</p> <p>(1) The free use referred to in the preceding Article shall be subject to:</p> <p>(a) mention, wherever possible, of the name of the author and of the publisher, of the title of the work and other elements enabling it to be identified;</p> <p>(...)</p> |
| Private use | <p>Other uses</p> <p>Article 81.</p> <p>The following reproduction shall be permitted:</p> <p>(...)</p> <p>(b) for exclusive private use, provided that it does not harm normal exploitation of the work nor cause unjustified prejudice to the author's legitimate interests, and that the reproduction is not used for any purposes of public communication or commercialization whatsoever.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Ownership</p> <p>Article 11.</p> <p>Unless otherwise specified, copyright shall belong to the intellectual creator of the work.</p> <p>Subsidized works</p> <p>Article 13.</p> <p>Any person who has in any way either totally or partially subsidized or financed the preparation, conclusion, disclosure, or publication of a work shall not thereby obtain any of the powers derived from the copyright, unless there is written agreement to the contrary.</p> <p>Authorship of works</p> |

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| | <p>Article 27.</p> <p>(1) Unless otherwise provided, the intellectual creator of the works shall be the author.</p> <p>(2) The author shall be deemed to be the person whose name is indicated in the work as being such, in conformity with customary usage, or who is in any way declared or communicated to the public as the author.</p> <p>(3) Unless otherwise provided, reference to the author shall extend to his successor and to the transferee of the relevant rights.</p> <p>Works by anonymous authors</p> <p>Article 30.</p> <p>(1) Any person who discloses or publishes a work with the consent of the author using a name which does not reveal the author's identity or anonymously shall be deemed to be the author's representative and shall be responsible for defending the relevant rights against third parties, unless the author has specified otherwise.</p> <p>(2) The author may at any time reveal his identity and authorship of his work and thereafter the powers of representation referred to in the preceding paragraph shall cease.</p> |
| <p>Joint authors/ compound works/ authors in employment</p> | <p>Article 14.</p> <p>(1) Without prejudice to the provisions of Article 174, (special provision on journalistic work on behalf of third parties) ownership of copyright in a work carried out on commission or on behalf of another person, either in fulfilment of official duties or under an employment contract, shall be determined in accordance with the relevant agreement.</p> <p>(2) In the absence of any agreement, it shall be deemed that ownership of copyright in a work carried out on behalf of another person belongs to the intellectual creator.</p> <p>(3) Where the name of the creator is not mentioned in the work or is not shown in the customary place, it shall be deemed that the copyright remains the property of the person or entity on whose behalf the work is carried out.</p> <p>(4) Where ownership of the economic rights belongs to the person on whose behalf the work was carried out, the intellectual creator shall be entitled to special remuneration, in addition to the agreed remuneration and whether or not the work is disclosed or published, in the following cases.</p> <p>(a) when the intellectual creation has been carried out with all due care but clearly goes beyond the responsibility or task entrusted;</p> <p>(b) when benefits or uses not foreseen in the agreement on remuneration arise.</p> <p>Works of joint authorship</p> <p>[Definition of Joint authorship/collective work in Art. 16]</p> <p>Article 17.</p> <p>(1) Copyright in a work of joint authorship as a whole shall belong to all those who collaborated therein and the joint exercise of this right shall be subject to the regulations governing joint ownership.</p> <p>(2) Unless otherwise stipulated, and always in writing, the indivisible parts belonging to the coauthors of the work shall be deemed to be of equal value.</p> <p>(3) Where a work of joint authorship is disclosed or published solely in the name of one or several of the authors, in the absence of any explicit</p> |

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| | <p>indication by the remaining authors in some part of the work, it shall be presumed that the authors not mentioned have assigned their rights to the author or authors in whose name the work has been disclosed or published.</p> <p>(4) Any person who has simply helped the author to produce, disclose or publish the work in any way shall not be deemed to be a co-author and consequently shall not participate in the copyright.</p> <p>Individual rights of authors of a work of joint authorship</p> <p>Article 18.</p> <p>(1) Any of the authors may request the disclosure, publication, exploitation or modification of the work of joint authorship; any disagreements shall be settled according to the principles of good faith.</p> <p>(2) Without prejudice to exploitation in common of the work of joint authorship, any of the authors may individually exercise his rights related to his individual contribution provided that the latter can be distinguished.</p> <p>Collective works</p> <p>Article 19.</p> <p>(1) Copyright in a collective work shall belong to the single or collective entity that has organized and directed its creation and in whose name the work has been disclosed or published.</p> <p>(2) Where it is possible to distinguish the individual contributions of some or all of the authors in a collective work, the provisions on individual contributions to works of joint authorship cited above shall apply.</p> <p>(3) Newspapers and other periodicals shall be deemed to be collective works and copyright therein shall belong to the respective enterprises.</p> <p>Composite works</p> <p>Article 20.</p> <p>(1) A work incorporating all or part of a pre-existing work with the consent, but without the collaboration, of its author shall be deemed to be a composite work.</p> <p>(2) The rights pertaining to a composite work shall belong exclusively to its author, without prejudice to the rights of the author of the pre-existing work.</p> <p>Employment:</p> <p>Decreto-Lei No. 252/94, 20 October 1994 Article 3 (3) => Employer is owner of all rights in a computer program created by an employee in the course of employment</p> <p>Decreto-Lei No. 122/2000, 4 July 2000, Artiche 5 (3)=> Employer is owner of all rights in a database created by an employee in the course of employment</p> <p>Article 165.</p> <p>(...)</p> <p>(2) Where a photograph has been made under an employment contract or on commission, the right referred to in this Article shall be deemed to belong to the employer or the commissioner.</p> |
| Collecting Societies | <p>Article 72.</p> <p>Powers related to the administration of copyright may be exercised by the owner of the copyright himself or through his duly authorized representative.</p> <p>Authors' representatives</p> |

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| | <p>Article 73.</p> <p>(1) The national and foreign associations and bodies set up to administer copyright shall carry out that function as the representatives of the respective owners of copyright by reason of the fact that such owners are associates or members or are registered as beneficiaries of the services concerned.</p> <p>(2) The associations and bodies referred to in paragraph (1) shall be entitled to institute civil or criminal proceedings to defend the legitimate interests and rights, with regard to copyright, of those they represent, notwithstanding any action by an expressly appointed representative of the parties concerned.</p> <p>Register of representatives</p> <p>Article 74.</p> <p>(1) Exercise of the representation referred to in the preceding Article, whether as the result of specific appointment or of one of the capacities referred to in that Article, shall be subject to registration with the Directorate General of Entertainments and Copyright.</p> <p>(...)</p> <p>[followed by detailed provisions concerning the procedure]</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Article 40.</p> <p>The original owner of the copyright, as well as his successors or transferees, may:</p> <p>(a) authorize use of the work by a third party;</p> <p>(b) transfer or assign all or part of the economic content of the work's copyright.</p> <p>Article 41.</p> <p>(1) Simple authorization granted to a third party to disclose, publish, use or exploit a work in any way shall not imply transfer of copyright in the work.</p> <p>(2) The authorization referred to in the preceding paragraph shall only be granted in writing and shall be considered nonexclusive and subject to payment.</p> <p>(3) The written authorization must show specifically the authorized form of disclosure, publication and use, as well as the relevant conditions governing duration, place and remuneration.</p> <p>Limitations of transfer and assignment</p> <p>Article 42.</p> <p>Powers granted for the guardianship of moral rights and other rights excluded by the law may not be the subject of either voluntary or compulsory transfer or assignment.</p> <p>Partial transfer or assignment</p> <p>Article 43.</p> <p>(1) The sole object of partial transfer or assignment shall be the forms of use designated in the relevant agreement.</p> <p>(2) Under penalty of nullity, contracts whose object is the partial transfer or assignment of copyright shall consist of a written document bearing signatures witnessed by a notary.</p> <p>(3) The transfer deed shall show the rights that are the subject of the</p> |

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| | <p>provisions and conditions for their exercise, namely, the duration and place of exercise and, where payment is involved, the amount of the remuneration.</p> <p>(4) Where the transfer or assignment is temporary and no duration has been laid down, it shall be considered that the maximum duration shall be 25 years in general and 10 years in the case of works of photography or applied art.</p> <p>(5) The exclusive right granted may lapse after a period of seven years if the work has not been used.</p> <p>Total transfer</p> <p>Article 44.</p> <p>Under penalty of nullity, the total and permanent transfer of the economic content of copyright may only be effected by public deed identifying the work and indicating the relevant remuneration.</p> <p>Article 45.</p> <p>(1) Copyright may be the subject of legal or voluntary usufruct.</p> <p>(2) Unless otherwise specified, the usufructuary may only use the work subject of usufruct for any purpose involving its transformation or modification with the authorization of the owner of the copyright.</p> <p>Advance payment of copyright</p> <p>Article 48.</p> <p>(1) Transfer or assignment of copyright in future works may only apply to works to be produced by the author within a maximum period of 10 years.</p> <p>(2) Where a contract concerns works produced over a longer period, its effects shall be limited to the period mentioned in the preceding paragraph and the remuneration provided for shall be reduced accordingly.</p> <p>(3) Any contract providing for transfer or assignment of future works without any time limit shall be null and void.</p> <p>Waiver of moral rights</p> <p>Article 56.</p> <p>(...)</p> <p>(2) This right shall be perpetual, inalienable and imprescriptible (...)</p> |
| Remuneration Schemes/ compensation | <p>Additional compensation</p> <p>Article 49.</p> <p>(1) Where the intellectual creator or his successors in title, having transferred or assigned their right to exploit their work financially, suffer grave economic prejudice as a result of evident disproportion between their revenue and the profits earned by the beneficiary of the rights, they may claim additional compensation to be reflected in the results of the exploitation.</p> <p>(2) In the absence of agreement, the additional compensation referred to in the preceding paragraph shall be fixed taking into account the normal results of exploitation of all the author's similar works.</p> <p>(3) Where the payment for transfer or assignment of copyright is fixed in the form of participation in the income derived by the beneficiary from exploitation, the right to additional compensation shall only apply where the percentage established is evidently lower than that customarily paid in transactions of the same nature.</p> <p>(4) The right to compensation shall lapse if it is not exercised within a period of two years from the date of becoming aware of the grave economic</p> |

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| | prejudice suffered. |
| Protection of technological measures and rights management information | Not yet addressed |
| Consequences of copyright infringement | <p>There is no general claim for damages due to the infringement of copyright or related rights. This area is regulated by general Portuguese civil law. However, under Article 209 of the Portuguese Code of Copyright and Related Rights the author is entitled to the immediate suspension of any performance, recitation, presentation or any other form of exhibition of the protected work that is being carried out without his due authorisation and he may also request the attachment of all the receipts.</p> <p>There is only one special civil claim under the Act. Under Article 210, the author is entitled to compensation for damages and to the cessation of the use, if a literary or artistic name or of any other form of identification of the author is unlawfully used. When calculating the compensation, the amount of the receipts derived from the unlawful performance or performances will be taken into account (Article 211).</p> <p>Criminal liability is regulated in the Articles 195 pp. Article 195 constitutes the offence of illegal exercise of rights. Any person, who uses unlawfully a work or performance for exploitation, is guilty of this offence. Article 196 constitutes the offence of infringement, which applies if a person unlawfully represents a performance as his own creation. According to Article 197, the latter offences are punishable with imprisonment up to three years and a fine of between 150 and 250 days. In the event of a repeated offence, the punishment is doubled and there is no opportunity of a suspended sentence. The same liability arises in the event of the infringement of moral rights (Article 198) or in the event of the distribution of unlawfully appropriated works (Article 199).</p> |

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| Spain | |
| Copyright Law, Consolidated Text of the Law of Intellectual Property, 06/03/1998 (as amended in 2000 without any relevant modification for our task) | |
| Protected Works | |
| Categories of protected works | <p>Art. 10.— (1) The subject matter of intellectual property shall be all original literary, artistic or scientific creations expressed in any manner or medium, whether tangible or intangible, that is known at present or may be invented in the future, including the following:</p> <p>(a) books, pamphlets, printed matter, correspondence, writings, speeches and addresses, lectures, court pleadings, academic treatises and any other works of the same nature</p> <p>(...)</p> <p>(g) graphs, maps and figures relating to topography, geography and science in general</p> <p>(...)</p> <p>(i) computer programs</p> <p>(...)</p> <p>[and various other categories not relevant for our task]</p> <p>Art.11.</p> |

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| | <p>The following shall also be the subject of intellectual property, without prejudice to the copyright in the original work</p> <p>1 translations and adaptations</p> <p>2 revisions, updated editions and annotations</p> <p>3 compendia, summaries and extracts</p> <p>5 all kinds of transformation of a literary, artistic or scientific work</p> |
| Conditions for protection | <p>Art 10.— (1) The subject matter of intellectual property shall be all original literary, artistic or scientific creations expressed in any manner or medium, whether tangible or intangible, that is known at present or may be invented in the future, including the following:</p> <p>(...)</p> <p>(2) The title of a work shall be protected as part of the work when it is original</p> |
| Database protection | <p>Copyright protection of databases:</p> <p>Art. 12.— (1) Intellectual property shall likewise subsist, as provided in Book I of this Law, in collections of the works of others, or of data or other independent elements, such as anthologies and databases, which, by reason of the selection or arrangement of their contents, constitute intellectual creations, without prejudice to any rights that might subsist in the said contents.</p> <p>The protection accorded to such collections under this Article shall relate solely to their structure, meaning the form of expression of the selection or arrangement of their contents, but shall not extend to those contents.</p> <p>(2) For the purposes of this Law and without prejudice to the provisions of the foregoing paragraph, collections of works, data or other independent elements systematically or methodically arranged and individually accessible by electronic or other means shall be considered databases.</p> <p>(3) The protection accorded to databases under this Article shall not apply to the computer programs used for the making or operation of electronically-accessible databases.</p> <p>Exceptions to copyright protection of databases:</p> <p>34.—(1) The legitimate user of a database protected under Article 12 of this Law, or copies thereof, may, without authorization from the author of the database, engage in whatever acts may be necessary for access to be had to the contents of the database and for its normal use by the user himself, even where they are subject to an exclusive right of the author.</p> <p>Insofar as the lawful user is authorized to use only a part of the database, this provision shall be applicable only to that part.</p> <p>(2) Without prejudice to the provisions of Article 31, authorization from the author of a database that is protected under Article 12 of this Law and has been disclosed is not necessary.</p> <p>(...)</p> <p>(b) where the use is made for the purposes of illustration in teaching or scientific research, provided that it is made to the extent justified by the non-commercial purpose pursued, and that in all cases the source is mentioned</p> <p>Sui generis protection of databases: Book II Title VIII (Articles 133 ff)</p> <p>Art. 133.—(1) Sui generis rights in a database protect the substantial investment, assessed either qualitatively or quantitatively, made by its manufacturer in the form of finance, time, effort or energy or other means</p> |

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| | <p>of similar nature expended in either the obtaining, the verification or the presentation of its contents.</p> <p>By virtue of the rights referred to in the foregoing Article, the manufacturer of a database, defined in Article 12 (2) of this revised text of the Intellectual Property Law, may prohibit the extraction and/or re-utilization of all or a substantial part of the contents thereof, evaluated qualitatively or quantitatively, provided that the obtaining, verification or presentation of the said contents represents a substantial investment in terms of quantity or quality.</p> <p>Those rights may be transferred, assigned or licensed by contract.</p> <p>(2) Notwithstanding the provisions of the second paragraph of paragraph (1) above, the repeated or systematic extraction and/or re-utilization of insubstantial parts of the contents of a database implying acts that conflict with a normal exploitation of that database or unreasonably prejudice the legitimate interests of the maker of the database shall not be permitted.</p> <p>Exceptions to Sui Generis Rights</p> <p>Art. 135.—(1) The lawful user of a database, regardless of the form in which the database has been made available to the public, may, without authorization from the maker, extract and/or re-utilize a substantial part of the contents thereof in the following cases:</p> <p>(...)</p> <p>b) extraction for the purposes of illustration for teaching or scientific research, to the extent justified by the non-commercial objective to be achieved and provided that the source is mentioned.</p> <p>(2) The provisions of the foregoing paragraph may not be so interpreted that they could be applied in a manner capable of unreasonably prejudicing the legitimate interests of the owner of the rights or adversely affecting the normal exploitation of the protected subject matter.</p> <p>Art. 136.—Term of sui generis protection: 15 years [new term of protection starts again in case of 'any substantial change', see article 136 subsection 3]</p> |
| Computer Software | <p>Book I Title VII Computer Programs (Articles 95 ff)</p> <p>Art. 96.—(1) For the purposes of this Law, 'computer program' means any sequence of instructions or data intended for either direct or indirect use in a data processing system to perform a function or task or to obtain a specific result, regardless of its form of expression and recording</p> <p>For the same purposes, the expression 'computer programs' shall cover also the preparatory documentation thereof. The technical literature and manuals for the use of a program shall enjoy the same protection as is afforded to computer programs themselves under this Title.</p> <p>(2) The computer program shall be protected only if it is original in the sense that it is the author's own intellectual creation.</p> <p>(...)</p> <p>(4) The ideas and principles underlying any of the elements of a computer program, including those underlying its interfaces, shall not be protected by copyright in terms of this Law.</p> <p>Art. 97.—(1) The natural person or group of natural persons that has created a computer program, or the legal entity considered the owner of the copyright in the cases expressly provided for in this Law, shall be considered the author thereof.</p> <p>(2) In the case of a collective work, unless otherwise agreed, the person, whether natural person or legal entity, who edits and discloses it under his</p> |

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| | <p>name shall have the status of author.</p> <p>(...)</p> <p>(4) Where a salaried worker creates a computer program in the course of duties entrusted to him or on instructions from his employer, the ownership of the corresponding exploitation rights in the computer program so created, including both the source program and the object program, shall belong exclusively to the employer, unless otherwise agreed.</p> <p>Art. 98.—(1) Where the author is a natural person, the term of the exploitation rights in a computer program shall, depending on the circumstances, be that provided for in Chapter I of Title III of this Book (70 years after death of author)</p> <p>(2) Where the author is a legal entity, the term of the copyright referred to in the foregoing paragraph shall be 70 years, counted from January 1 of the year following that of the lawful disclosure of the program or that of its creation if it has not been disclosed.</p> |
| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 17. The author is invested with the exclusive exercise of the rights pertaining to the exploitation of his work in whatever form and especially the rights of reproduction, distribution, communication to the public and alteration, which may not be exercised without his authorization, except where this Law so provides.</p> <p>Art. 18. Reproduction means the incorporation of the work in a medium that enables it to be communicated and copies of all or part of it to be made.</p> |
| Right of communication to the public and right of making available | <p>20.—(1) Communication to the public means any act whereby two or more persons are afforded access to the work without prior distribution of copies to each of them.</p> <p>Communication shall not be considered public where it takes place in a strictly domestic environment that is not an integral part of or connected to a dissemination network of any kind.</p> <p>(...)</p> |
| Distribution right | <p>Art. 19.—(1) Distribution means the making available to the public of the original or of copies of the work by means of sale, rental or lending or in any other manner.</p> <p>(...)</p> |
| Moral rights | |
| Right of publication | <p>Content and characteristics of moral rights are defined in Article 14:.</p> <p>Art. 14. The author is invested with the following unrenounceable and inalienable rights:</p> <p>1 the right to decide whether his work is to be disclosed, and if so in what form;</p> <p>(...)</p> <p>6 the right to withdraw the work from circulation for reasons of changed intellectual or moral convictions, after indemnification of the holders of exploitation rights for damages and prejudice</p> <p>If the author later decides to resume exploitation of his work, he shall give preference, when offering the corresponding rights, to the previous holder thereof, and shall offer terms reasonably similar to the original terms.</p> |

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| Recognition of authorship | <p>Art. 14. The author is invested with the following unrenounceable and inalienable rights:</p> <p>1 the right to decide whether his work is to be disclosed, and if so in what form;</p> <p>2 the right to determine whether such disclosure should be effected in his name, under a pseudonym or sign or anonymously;</p> <p>3 the right to demand recognition of his authorship of the work;</p> <p>(...)</p> |
| Distortion of the work | <p>Art. 14. The author is invested with the following unrenounceable and inalienable rights:</p> <p>(...)</p> <p>4 the right to demand respect for the integrity of the work and to object to any distortion, modification or alteration of it or any act in relation to it that is liable to prejudice his legitimate interests or threaten his reputation;</p> <p>5 the right to alter the work subject to respect for the acquired rights of third parties and the protection requirements of goods of cultural interest;</p> <p>(...)</p> |
| Duration of Protection | <p>Art. 26. The exploitation rights in the work shall last for the lifetime of the author and 70 years following his natural or declared death.</p> <p>Art. 27: Special provisions for works of joint authorship and collective works</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | <p>Quotations and Summaries for scientific/educational purposes:</p> <p>Art. 32. It shall be lawful to include in one's own work fragments of the works of others, whether of written, sound or audiovisual character, and also to include isolated works of three-dimensional, photographic, figurative or comparable art character, provided that the works concerned have already been disclosed and that they are included by way of quotation or for analysis, comment or critical assessment. Such use may only be made for teaching or research purposes and to the extent justified by the purpose of the inclusion, and the source and the name of the author of the work shall be stated.</p> <p>Periodical compilations made in the form of press summaries or reviews shall be treated as quotations.</p> <p>Free Reproduction and Lending in Specific Establishments</p> <p>Art. 37.—(1) The owners of copyright may not object to reproductions of works where they are made without gainful intent by museums, libraries, record libraries, film libraries, newspaper libraries or archives which are in public ownership or form part of institutions of cultural or scientific character, and where the reproduction is effected solely for research purposes.</p> <p>(2) Museums, archives, libraries, newspaper libraries, record libraries or film libraries in public ownership or belonging to institutions of general cultural, scientific or educational interest without gainful intent, or to teaching institutions integrated in the Spanish educational system, shall not require the authorization of the owners of copyright or pay remuneration to them for the loans that they make.</p> <p>For exceptions to databases copyright and sui generis protection, see above.</p> |
| Scope of exceptions | <p>Art. 40bis. The Articles of this Chapter (referring to the exceptions above) may not be so interpreted that they could be applied in a manner capable of unreasonably prejudicing the legitimate interests of the author or adversely affecting the normal exploitation of the works to which they refer.</p> |

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| Libraries and archives | See above under educational and scientific purposes. |
| Acknowledgement of source | <p>Art. 32: Source and name of the author have to be stated in case of quotations.</p> <p>[Art 37 does not mention the acknowledgement of source as a requirement for the exceptions for specific establishments; Exception from a copyright database protection requires that the source is mentioned (Art. 34 II b, see above); the same is true for exceptions from sui generis database (Art. 135 I b, see above)]</p> |
| Private use | <p>Reproduction Without Authorization</p> <p>Art. 31.—(1) Works already disclosed may be reproduced without authorization from the author and without prejudice, where applicable, to the provisions of http://clea.wipo.int/lpbin/lpext.dll?l=jump&iid=10.1048%2f%5bNFOID%5d1ffe20fe.1e2be25a.0.0&f=link%5bdocument.htm%5d&nid=59a91 - JD_59a91 Article 34 of this Law in the following cases:</p> <p>(...)</p> <p>2 for the private use of the copier, without prejudice to the provisions of http://clea.wipo.int/lpbin/lpext.dll?l=jump&iid=10.1048%2f%5bNFOID%5d1ffe20fe.1e2be25a.0.0&f=link%5bdocument.htm%5d&nid=59a7f - JD_59a7f Articles 25 and http://clea.wipo.int/lpbin/lpext.dll?l=jump&iid=10.1048%2f%5bNFOID%5d1ffe20fe.1e2be25a.0.0&f=link%5bdocument.htm%5d&nid=59d47 - JD_59d4799 (a) of this Law, provided that the copy is not put to either collective or profit-making use;</p> <p>3 for the private use of the blind, provided that the reproduction is done using the Braille system or another specific method, and that the copies are not put to profit-making use.</p> |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 5.—(1) The natural person who creates any literary, artistic or scientific work shall be considered the author thereof.</p> <p>(2) Nevertheless, the protection that this Law confers on the author may be enjoyed by legal entities under the circumstances expressly provided for therein.</p> <p>Art. 6.—(1) In the absence of proof to the contrary, that person shall be presumed the author who is identified as such on the work by the inclusion of his name, signature or identification mark.</p> |
| Joint authors/ compound works/ authors in employment | <p>Art. 7.—(1) The rights in a work that is the unitary result of the collaboration of two or more authors shall belong to all of them.</p> <p>(2) Disclosure and alteration of the work shall require the consent of all the co-authors. In the absence of agreement, the court shall decide.</p> <p>Once the work has been disclosed, none of the co-authors may without justification withhold his consent to its exploitation in the manner in which it has been disclosed.</p> <p>(3) Subject to the terms of the agreement between the co-authors of the work of joint authorship, they may exploit their contribution separately insofar as the joint exploitation is not thereby prejudiced.</p> <p>(4) The intellectual property rights in a work of joint authorship shall belong to all the authors in proportions determined by them. In the absence of provisions in this Law, the rules laid down in the Civil Code on joint ownership shall apply to such works.</p> <p>Art. 8. A work shall be considered a collective work where it is created on</p> |

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| | <p>the initiative and under the direction of a person, whether natural person or legal entity, who edits it and publishes it under his name, and where it consists of the combination of contributions by various authors whose personal contributions are so integrated in the single, autonomous creation for which they have been made that it is not possible to ascribe to any one of them a separate right in the whole work so made.</p> <p>In the absence of agreement to the contrary, the rights in the collective work shall vest in the person who publishes it and discloses it in his name.</p> <p>Art. 9.—(1) A new work that incorporates a pre-existing work without the collaboration of the author of the latter shall be considered a composite work, subject to the rights accruing to that author and subject also to the requirement of his authorization.</p> <p>(2) A work that constitutes an autonomous creation, even if published in conjunction with other works, shall be considered an independent work.</p> <p>Art 51.—(1) The transfer to the producer of the exploitation rights in a work created by virtue of employment relations shall be governed by the terms agreed upon in the contract, which shall be made in writing.</p> <p>(2) In the absence of an agreement in writing, it shall be presumed that the exploitation rights have been granted exclusively and with the scope necessary for the exercise of the customary activity of the producer at the time of the delivery of the work made by virtue of the said employment relations.</p> <p>(3) In no event may the producer exploit the work in a manner or for purposes different from those deriving from the purposes specified in the preceding two paragraphs.</p> <p>Art. 97</p> <p>(...)</p> <p>(4) Where a salaried worker creates a computer program in the course of duties entrusted to him or on instructions from his employer, the ownership of the corresponding exploitation rights in the computer program so created, including both the source program and the object program, shall belong exclusively to the employer, unless otherwise agreed.</p> |
| Collecting Societies | <p>Title IV Entities for the Administration of the Rights Recognized in this Law (Articles 147 ff): State numerous conditions and requirements for the authorization of collective societies</p> <p>Art. 153.—(1) The owners of rights shall entrust the entity with the administration of their rights by means of a contract having a term not exceeding five years which may be renewed indefinitely; neither the administration of all forms of exploitation nor the global administration of all future works or productions may be imposed as obligations.</p> <p>(...)</p> <p>Art. 154.—(1) The distribution of sums collected shall be effected equitably among the owners of the works or productions used, according to a system laid down in the statutes which rules out any arbitrary action.</p> <p>(2) Administration entities shall reserve to the owners of rights a share in the sums collected that is proportionate to the use of their works.</p> <p>Art. 157.—(1) Administration entities shall be obliged</p> <p>(a) to enter into a contract with any person who so requests, unless there is justification for not doing so, for the grant of non-exclusive authorizations in respect of the rights under administration, on reasonable terms and subject to remuneration</p> |

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| | <p>(b) to lay down general tariffs to determine the remuneration payable for the use of its repertoire, which shall include reductions for the benefit of cultural bodies without gainful intent</p> <p>(c) to enter into general contracts with associations of users of its repertoire whenever such associations request and are representative of the sector concerned.</p> <p>(2) Insofar as the parties fail to reach agreement, the corresponding authorization shall be considered granted if the applicant pays subject to reservations, or lodges with a judicial officer, the amount charged by the administration entity in conformity with the general tariffs.</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Art. 43.—(1) The exploitation rights in the work may be transferred by inter vivos transaction, the transfer being limited to the right or rights transferred, to the means of exploitation expressly provided for and the time and territorial scope specified.</p> <p>(2) Failure to mention the time shall limit the transfer for five years, and failure to mention the territorial scope shall limit it to the country in which it is effected. Where the conditions governing the exploitation of the work are not mentioned specifically and categorically, the transfer shall be limited to such exploitation as is necessarily deduced from the contract itself and is essential to the fulfilment of the purpose of the contract.</p> <p>(3) Any global transfer of exploitation rights in all the works that the author may create in the future shall be null and void.</p> <p>(...)</p> <p>(5) The transfer of exploitation rights shall not apply to methods of use or means of dissemination that do not exist or are unknown at the time of the transfer.</p> <p>Art. 45. Any transfer shall be evidenced in writing. If, after having been formally called upon to do so, the transferee fails to meet this requirement, the author may choose to terminate the contract.</p> <p>Further detailed provisions in Articles 46 –57 <i>eg</i> concerning either proportional or lump sum remuneration (Art. 46), action for the review of inequitable remuneration (Art. 47), transfer of exclusive or nonexclusive rights (Articles 48-50)</p> <p>Waiver of moral rights</p> <p>Art. 14. The author is invested with the following unrenounceable and inalienable rights (...).</p> |
| Remuneration Schemes/ compensation | Remuneration for private copying, detailed provision in Art. 25. |
| Protection of technological measures and rights management information | No provisions found in the 1998 version |
| Consequences of copyright infringement | Article 139 of the Spanish Copyright Act grants measures for the restraining of an unlawful activity, <i>eg</i> the destruction of unlawful copies. Under Article 140, an aggrieved rightholder is entitled to indemnification. This party may choose between the profits that he would presumably have made had the unlawful use not occurred and the remuneration that he would have collected through having authorised exploitation. Moreover, an author is also entitled to indemnification for moral prejudice only. The amount of |

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| | <p>indemnification depends on the circumstances of the infringement, the seriousness of the harm done and the extent of unlawful dissemination of the work. These claims are time barred after five years.</p> <p>Under Article 141, a right-holder is entitled to precautionary measures.</p> <p>The issue of criminal offences is not dealt with in the Act.</p> |
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| <p>Sweden</p> <p>Act on Copyright in Literary and Artistic Works (Law No. 729, of December 30, 1960, as amended up to April 1, 2000)</p> | |
| <p>Protected Works</p> | |
| <p>Categories of protected works</p> | <p>Art. 1.</p> <p>Anyone who has created a literary or artistic work shall have copyright in that work, regardless of whether it is</p> <ol style="list-style-type: none"> 1. a fictional or descriptive representation in writing or speech, 2. a computer program, 3. a musical or dramatic work, 4. a cinematographic work, 5. a photographic work or another work of fine art, 6. a work of architecture or applied art, 7. a work expressed in some other manner. <p>Maps and other works of a descriptive nature executed as drawings, engravings, or in a three-dimensional form, shall be considered as literary works.</p> <p>What is prescribed in this Act concerning computer programs shall apply mutatis mutandis also to preparatory design material for computer programs.</p> |
| <p>Conditions for protection</p> | <p>Art. 1.</p> <p>Anyone who has created a literary or artistic work shall have copyright in that work, (...)</p> <p>[No further express conditions (such as 'originality')]</p> |
| <p>Database protection</p> | <p>Copyright Protection:</p> <p>Art. 5.</p> <p>A person who, by combining works or parts of works, creates a composite literary or artistic work shall have copyright therein, but his right shall be without prejudice to the rights in the individual works.</p> <p>Sui generis Protection: Chapter 5, Certain Rights Neighbouring to Copyright Producers of Catalogs, <i>etc...</i></p> <p>Art. 49.</p> <p>Anyone who has produced a catalogue, a table or another similar product in which a large number of information items have been compiled, or which is the result of a substantial investment, has an exclusive right to make copies of the product and to make it available to the public.</p> <p>The right under the first paragraph lasts until fifteen years have elapsed from the year in which the production was completed. Where the product has been made available to the public within fifteen years from the completion of the production, the right shall, however, last until fifteen years have elapsed from the year in which the production was first made</p> |

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| | <p>available to the public.</p> <p>The provisions of Articles 2, second and third paragraphs, 6 — 9, 11, second paragraph, 12, first and second paragraphs, 13 — 22 (limitations, <i>eg</i> for educational activities), 25, 26 — 26 b, 26 d — 26 f, 26 g, fifth and sixth paragraphs, and 26 i shall apply also to product referred to in this Article. If a product of this kind, or a part thereof, is subject to copyright, also copyright protection may be claimed.</p> <p>Contractual stipulations extending the producer's rights under the first paragraph in respect of a product which has been made public are null and void.</p> |
| Computer Software | <p>Special Provisions on Computer Programs</p> <p>Art. 26g.</p> <p>Anyone who has acquired the right to use a computer program is entitled to make such copies of the program and to make such adaptations as are necessary in order for him to use the program for its intended purpose. This also applies to the correction of errors.</p> <p>Anyone who has the right to use a computer program is entitled to make back-up copies of the program if this is necessary for the intended use of the program.</p> <p>Copies which have been made on the basis of the provisions of the first and second paragraphs may not be used for other purposes and may, furthermore, not be used when the right to use the program has expired.</p> <p>Anyone who has the right to use a computer program is entitled to observe, study or test the function of the program in order to ascertain the ideas and principles which lie behind the various details of the program. This applies provided that the act is performed in connection with such loading, display on a screen, processing, transmission or storing of the program that he is entitled to make.</p> <p>Anyone who has a right to use a compilation is entitled to dispose of it in any way that is necessary in order for him to be able to use the compilation for its intended purpose.</p> <p>Contractual clauses which limit the right of the user under the second and fourth paragraphs are null and void.</p> <p>Art. 26h.</p> <p>The reproduction of the code of a computer program or translation of its code is permitted if those acts are required in order to obtain interoperability between the program and another program, provided, however, that the following conditions are met:</p> <ol style="list-style-type: none"> 1. the acts are performed by a person who has the right to use the program or, on his behalf, by a person who is authorized to perform those acts; 2. the information necessary to achieve interoperability has not previously been readily available to the persons referred to in item 1; 3. the acts are confined to those parts of the original program which are necessary to achieve interoperability. <p>The provisions of the first paragraph do not permit the information</p> <ol style="list-style-type: none"> 1. to be used for goals other than to achieve the intended interoperability, 2. to be given to other persons except when necessary for obtaining the intended interoperability, 3. to be used for the development, production or marketing of a computer program substantially similar in its expression to the protected program, or 4. to be used for other acts which imply an infringement of the copyright. <p>Contractual provisions restricting the rights of the user according to this paragraph are null and void.</p> |

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| Scope/Form of Protection | |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Art. 2.</p> <p>With the limitations stated hereinafter, copyright shall include the exclusive right to control the work by reproducing it 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.</p> <p>As a production of copies shall also be considered the recording of a work on a material support by means of which it can be reproduced.</p> <p>(...)</p> |
| Right of communication to the public and right of making available | <p>Art. 2.</p> <p>(...)</p> <p>A work is made available to the public by public performance, or by having copies of it placed on sale, leased, lent, or otherwise distributed to the public or publicly exhibited. As a public performance shall also be deemed a performance which takes place within the framework of commercial activities for a comparatively large closed group of persons.</p> |
| Distribution right | See above, Art. 2: '(...) or by having copies of it placed on sale, leased, lent or otherwise distributed to the public or publicly exhibited'. |
| Moral rights | |
| Right of publication | |
| Recognition of authorship | <p>Art. 3.</p> <p>When a work is reproduced or when it is made available to the public, the name of the author shall be stated to the extent and in the manner required by proper usage.</p> <p>(...)</p> |
| Distortion of the work | <p>Art. 3</p> <p>(...)</p> <p>A work may not be changed in a manner which is prejudicial to the author's literary or artistic reputation or to his individuality, nor may it be made available to the public in the manner stated.</p> <p>The author may, with binding effect, waive his right under this Article only in relation to uses which are limited as to their character and scope.</p> |
| Duration of Protection | <p>Art. 43.</p> <p>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.</p> <p>(...)</p> <p>Art. 44.</p> <p>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.</p> <p>If the author reveals his identity within the term mentioned in the first paragraph, the provisions of Article 43 shall apply.</p> <p>For works which have not been made public and whose author is not</p> |

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| | <p>known, the copyright subsists until the end of the seventieth year after the year in which the work was created.</p> <p>Art. 44a.</p> <p>Where a work has not been published within the term referred to in Article 43 or 44, the person who thereafter for the first time publishes or makes public the work shall benefit from such right in the work as 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.</p> |
| <p>Exceptions and limitations</p> | |
| <p>Educational and scientific purposes</p> | <p>Reproduction in the Course of Educational Activities</p> <p>Article 13.</p> <p>Where an extended collective license applies under Article 26 i, copies of published works may, for the purpose of educational activities, be prepared by means of reprographic reproduction and recordings be made of works broadcast by sound radio or television. The copies and recordings thus made may be used only in such educational activities which are covered by the agreement forming the basis for the extended collective license.</p> <p>The first paragraph does not apply if the author has filed a prohibition against such reproduction with any of the contracting parties.</p> <p>Art. 18.</p> <p>Anyone who, for use in educational activities, prepares a composite work consisting of works by a comparatively large number of authors may, in that work, use minor portions of literary and musical works or short works of any of those categories, provided that five years have elapsed from the publication of those works. Artistic works may be used in connection with the text, provided that five years have elapsed from their being made available to the public. The authors are entitled to remuneration.</p> <p>The provisions of the first paragraph do not apply to works which have been created for use in educational activities.</p> <p>Quotations</p> <p>Art. 22.</p> <p>Anyone may, in accordance with proper usage and to the extent necessary for the purpose, quote from works which have been made available to the public.</p> |
| <p>Scope of exceptions</p> | <p>General Provisions on Limitations</p> <p>Art. 11.</p> <p>The provisions of this Chapter do not limit the author's right under Article 3, (moral rights, see above) except as provided in Article 26c.</p> <p>When a work is used publicly on the basis of the provisions in this Chapter, the source shall be stated to the extent and in the manner required by proper usage, and the work may not be altered more than necessary for the permitted use.</p> |
| <p>Libraries and archives</p> | <p>Reproduction Within Certain Archives and Libraries</p> <p>Art. 16.</p> <p>Those archives and libraries which are mentioned in the third and fourth paragraphs may make copies of works, with the exception of computer programs,</p> |

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| | <p>1. for purposes of preservation, completion or research, 2. of single articles or short extracts of works or of material which, for reasons of security, must not be given away in the original, for delivery to users, or 3. for use in reading devices.</p> <p>Reproduction as mentioned in the first paragraph, items 2 and 3, may be carried out only by means of reprography.</p> <p>The following have the right to make copies according to this Article:</p> <ol style="list-style-type: none"> 1. government and municipal archival authorities, 2. the National Archive for Recorded Sound and Moving Images, 3. those scientific and research libraries that are run by public authorities, and 4. public libraries. <p>The Government may in specific cases also grant certain archives and libraries, other than those mentioned in the third paragraph, the right to make copies under this Article.</p> <p>In addition Art. 2 of the Swedish Copyright regulation:</p> <p>Art. 2.</p> <p>Reproduction for complementary purposes under Article 16, first paragraph, item 1, of the Copyright Act may take place when</p> <ol style="list-style-type: none"> 1. a copy of a work is incomplete; if a work has been published in parts, however, only in case the missing part can not be acquired on the market, or 2. copies of a work can not be acquired on the market and the reproduction takes place at an archive or in a library which is entitled to receive statutory deposit copies of the actual type of products. <p>The first paragraph also applies protected subject matter mentioned in Articles 45, 46 and 48 to 49 a of the Copyright Act.</p> |
| Acknowledgement of source | <p>Art. 11:</p> <p>(...)</p> <p>When a work is used publicly on the basis of the provisions in this Chapter, the source shall be stated to the extent and in the manner required by proper usage, and the work may not be altered more than necessary for the permitted use.</p> <p>Art. 3.</p> <p>When a work is reproduced or when it is made available to the public, the name of the author shall be stated to the extent and in the manner required by proper usage.</p> <p>(...)</p> |
| Private use | <p>Reproduction for Private Purposes</p> <p>Art 12.</p> <p>Anyone is entitled to make, for private purposes, single copies of works which have been made public. Such copies may not be used for other purposes.</p> <p>The provisions in the first paragraph do not confer a right to</p> <ol style="list-style-type: none"> 1. construct works of architecture 2. make copies of computer programs, or |

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| | <p>3. make copies in digital form of compilations in digital form.</p> <p>The provisions in the first paragraph do not confer a right to engage, for private purposes, another person to</p> <ol style="list-style-type: none"> 1. make copies of musical works or cinematographic works, 2. make utility goods articles or sculptures, 3. copy another person's artistic work by means of artistic reproduction. |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Art. 1.</p> <p>Anyone who has created a literary or artistic work shall have copyright in that work, regardless of whether it is (...).</p> <p>Art. 7.</p> <p>A person whose name or generally known pseudonym or signature appears in the usual manner on copies of the work or when it is made available to the public shall, in the absence of proof to the contrary, be deemed to be its author.</p> <p>If a work is published without the name of the author being stated in the manner prescribed in the first paragraph, the editor, if he is named, or otherwise the publisher, shall represent the author until his name is stated in a new edition or in a notification to the Ministry of Justice.</p> |
| Joint authors/ compound works/ authors in employment | <p>Art. 6.</p> <p>If a work has two or more authors whose contributions do not constitute independent works, the copyright shall belong to the authors jointly. However, each one of them is entitled to bring an action for infringement.</p> <p>Art. 4. A person who has made a translation or an adaptation of a work or converted it into another literary or artistic form shall have copyright in the work in the new form, but his right to control it shall be subject to the copyright in the original work.</p> <p>If a person, in free connection with another work, has created a new and independent work, his copyright shall not be subject to the right in the original work.</p> <p>Computer Programs Created in Employment Relations</p> <p>Art. 40a.</p> <p>The copyright in a computer program created by an employee as a part of his tasks or following instructions by the employer is transferred to the employer unless otherwise agreed by contract.</p> |
| Collecting Societies | Collecting Societies in connection to extended remuneration schemes are addressed in Art. 26i, see below under Remuneration Schemes/Compensation. |
| Contract Law/Licenses | |
| Transfer of rights | <p>General Provisions on Assignments</p> <p>Art. 27.</p> <p>Subject to the limitation which follows from Article 3 (moral rights), copyright may be transferred entirely or partially.</p> <p>The transfer of a copy does not include the transfer of the copyright. (...)</p> <p>Provisions governing the transfer of copyright in certain specific cases are included in Articles 30 to 40a. Those provisions apply, however, only in the</p> |

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| | <p>absence of an agreement to the contrary.</p> <p>Art. 28.</p> <p>In the absence of an agreement to the contrary, the person to whom a copyright has been transferred may not alter the work or transfer the copyright to others. If the copyright forms part of a business, it may be transferred together with the business or of part thereof; the transferor remains liable for the fulfilment of the agreement.</p> <p>Art. 31 — 38: Special provisions on publishing contracts</p> <p>Waiver of moral rights</p> <p>Art. 3.</p> <p>(...) The author may, with binding effect, waive his right under this Article only in relation to uses which are limited as to their character and scope.</p> |
| Remuneration Schemes/ compensation | <p>Common Provisions Concerning Extended Collective Agreement Licenses</p> <p>Art. 26i.</p> <p>An extended collective agreement license referred to in Articles 13 (reproduction for educational purposes), 26d and 26f applies to the use of works in a specific manner, when an agreement has been concluded concerning such a use with an organization which represents a substantial number of Swedish authors in the field concerned. The extended collective agreement license gives the user the right to use works of the type referred to in the agreement despite the fact that the authors of those works are not represented by the organization.</p> <p>In order for a work to be used on the basis of Article 13, the agreement must have been concluded with someone who pursues educational activities in organized forms.</p> <p>The author has the right to remuneration when a work is used on the basis of Article 26d.</p> <p>When a work is used on the basis of Articles 13 or 26f, the following applies. The conditions concerning the use of the works which follow from the agreement apply. As regards remuneration deriving from the agreement and as regards other benefits from the organization which are essentially paid for out of the remuneration, the author shall be treated in the same way as those authors who are members of the organization. Without prejudice to the foregoing provisions, the author shall, however, always have the right to remuneration in respect of the utilization, provided that he claims such remuneration within three years from the year in which the use took place. Claims for remuneration may be directed only towards the organization.</p> <p>Only the contracting organizations are entitled to claim remuneration from the one who uses a work on the basis of Article 26f. All such claims shall be submitted at the same time.</p> |
| Protection of technological measures and rights management information | <p>No provisions found in the 2000 version</p> |
| Consequences of copyright infringement | <p>Under Article 53a of the Swedish Copyright Act, a right-holder is entitled to an injunction to prohibit a person to continue a copyright infringing act.</p> <p>Under Article 54, a right-holder is entitled to reasonable remuneration, if a work is exploited unlawfully. If the exploitation is carried out wilfully or with negligence, a compensation will be paid also for losses other than lost remuneration as well as for mental suffering and for other injury. If another infringement of a copyright is carried out wilfully or negligently commits, the</p> |

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| | <p>rightholder is entitled to a compensation for losses, mental suffering or other injury caused by the act.</p> <p>If it is considered reasonable, the property involved in the infringement can be surrendered under Article 55 to the right-holder for a compensation. Instead of the surrender, a court can order, if it is considered reasonable, that such property is to be destroyed or altered to prevent further unauthorised use. Article 55 does not apply to persons who acted in good faith or to cases involving the construction of a work of architecture.</p> <p>Penal liability is dealt with in Article 53. Anyone who commits a copyright infringing act will be punished by fines or imprisonment up to two years, if the act is committed wilfully or with gross negligence. However, this does mostly not apply if the act was committed for private use (Article 53 (2)).</p> |
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| <p>United Kingdom</p> <p>Copyright, Designs and Patents</p> <p>Act 1988 as amended at 1/2/2000</p> <p>As amended by the Copyright, <i>etc...</i> and Trade Marks (Offences and Enforcement) Act 2002</p> <p>As amended by the Copyright (Visually Impaired Persons) Act 2002 coming into force 31st October 2003</p> <p>As amended by Statutory Instrument 2003 No. 2498 The Copyright and Related Rights Regulations 2003 coming into force 31st October 2003</p> <p>As modified by Statutory Instrument 2003 No. 2500 The Electronic Commerce (EC Directive) (Extension) (No. 2) Regulations 2003</p> | |
| Protected Works | |
| Categories of protected works | <p>Section 1: Copyright and copyright works.</p> <p>1.—(1) Copyright is a property right which subsists in accordance with this Part in the following descriptions of work—</p> <p>(a) original literary, dramatic, musical or artistic works,</p> <p>(b) sound recordings, films or broadcasts, and</p> <p>(c) the typographical arrangement of published editions.</p> <p>(2) In this Part 'copyright work' means a work of any of those descriptions in which copyright subsists.</p> <p>(...)</p> <p>Section 3: Literary, dramatic and musical works.</p> <p>3.—(1) In this Part—</p> <p>'literary work' means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—</p> <p>(a) a table or compilation other than a database,</p> <p>(b) a computer program; and</p> <p>(c) preparatory design material for a computer program; and</p> <p>(d) a database</p> <p>'dramatic work' includes a work of dance or mime; and 'musical work' means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music.</p> |

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| | <p>(2) Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise; and references in this Part to the time at which such a work is made are to the time at which it is so recorded.</p> <p>(3) It is immaterial for the purposes of subsection (2) whether the work is recorded by or with the permission of the author; and where it is not recorded by the author, nothing in that subsection affects the question whether copyright subsists in the record as distinct from the work recorded.</p> <p>Section 4: Artistic works.</p> <p>Section 5A: Sound recordings</p> <p>Section 6: Broadcasts.</p> <p>(amended by Statutory Instrument 2003 No. 2498: The Copyright and Related Rights Regulations 2003)</p> |
| Conditions for protection | <p>Section 1</p> <p>(...)</p> <p>(3) Copyright does not subsist in a work unless the requirements of this Part with respect to qualification for copyright protection are met (see section 153 and the provisions referred to there).</p> <p>Section 153: Qualification for copyright protection.</p> <p>153.—(1) Copyright does not subsist in a work unless the qualification requirements of this Chapter are satisfied as regards—</p> <p>(a) the author (see section 154), or</p> <p>(b) the country in which the work was first published (see section 155), or</p> <p>(c) in the case of a broadcast or cable programme, the country from which the broadcast was made or the cable program was sent (see section 156).</p> <p>(2) Subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright (see sections 163 to 166B) or to copyright subsisting by virtue of section 168 (copyright of certain international organisations).</p> <p>(3) If the qualification requirements of this Chapter, or section 163 (crown copyright), 165 (parliamentary copyright) or 168 (Houses of Parliament), are once satisfied in respect of a work, copyright does not cease to subsist by reason of any subsequent event.</p> |
| Database protection | <p>Section 3 (1) (d): databases protected as literary works</p> <p>Section 3A: Databases</p> <p>3A.—(1) In this Part 'database' means a collection of independent works, data or other materials which -</p> <p>(a) are arranged in a systematic or methodical way, and</p> <p>(b) are individually accessible by electronic or other means.</p> <p>(2) For the purposes of this Part a literary work consisting of a database is original if, and only if, by reason of the selection or arrangement of the contents of the database the database constitutes the author's own intellectual creation.</p> <p>Databases: permitted acts</p> <p>Section 50D: Acts permitted in relation to databases</p> <p>50D.—(1) It is not an infringement of copyright in a database for a person who has a right to use the database or any part of the database, (whether under a licence to do any of the acts restricted by the copyright in the</p> |

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| | <p>database or otherwise) to do, in the exercise of that right, anything which is necessary for the purposes of access to and use of the contents of the database or of that of the database.</p> <p>(2) Where an act which would otherwise infringe copyright in a database is permitted under this section, it is irrelevant whether or not there exists any term or condition in any agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296B, void).</p> <p>Statutory Instrument 1997 No. 3032</p> <p>The Copyright and Rights in Databases Regulations 1997:</p> <p>Database right</p> <p>13. — (1) A property right ('database right') subsists, in accordance with this Part, in a database if there has been a substantial investment in obtaining, verifying or presenting the contents of the database</p> <p>16. — (1) Subject to the provisions of this Part, a person infringes database right in a database if, without the consent of the owner of the right, he extracts or re-utilises (=makes available to the public by any means) all or a substantial part of the contents of the database.</p> <p>(2) For the purposes of this Part, the repeated and systematic extraction or re-utilisation of insubstantial parts of the contents of a database may amount to the extraction or re-utilisation of a substantial part of those contents.</p> <p>Exceptions to database right</p> <p>20. — (1) Database right in a database which has been made available to the public in any manner is not infringed by fair dealing with a substantial part of its contents if -</p> <p>(a) that part is extracted from the database by a person who is apart from this paragraph a lawful user of the database,</p> <p>(b) it is extracted for the purpose of illustration for teaching or research and not for any commercial purpose, and</p> <p>(c) the source is indicated.</p> <p>(2) The provisions of Schedule 1 specify other acts which may be done in relation to a database notwithstanding the existence of database right</p> |
| Computer Software | <p>literary works</p> <p>Computer programs: lawful users</p> <p>Section 50A: Back up copies</p> <p>50A.—(1) It is not an infringement of copyright for a lawful user of a copy of a computer program to make any back up copy of it which it is necessary for him to have for the purposes of his lawful use.</p> <p>(2) For the purposes of this section and sections 50B, 50BA and 50C a person is a lawful user of a computer program if (whether under a licence to do any acts restricted by the copyright in the program or otherwise), he has a right to use the program.</p> <p>(3) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).</p> <p>Section 50B: Decompilation</p> <p>50B.—(1) It is not an infringement of copyright for a lawful user of a copy of a computer program expressed in a low level language-</p> <p>(a) to convert it into a version expressed in a higher level language, or</p> |

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| | <p>(b) incidentally in the course of so converting the program, to copy it, (that is, to 'decompile' it), provided that the conditions in subsection (2) are met.</p> <p>(2) The conditions are that-</p> <p>(a) it is necessary to decompile the program to obtain the information necessary to create an independent program which can be operated with the program decompiled or with another program ('the permitted objective'); and</p> <p>(b) the information so obtained is not used for any purpose other than the permitted objective.</p> <p>(3) In particular, the conditions in subsection (2) are not met if the lawful user-</p> <p>(a) has readily available to him the information necessary to achieve the permitted objective;</p> <p>(b) does not confine the decompiling to such acts as are necessary to achieve the permitted objective;</p> <p>(c) supplies the information obtained by the decompiling to any person to whom it is not necessary to supply it in order to achieve the permitted objective; or</p> <p>(d) uses the information to create a program which is substantially similar in its expression to the program decompiled or to do any act restricted by copyright.</p> <p>(4) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).</p> <p>Section 50BA Observing, studying and testing of computer programs</p> <p>50BA (1) It is not an infringement of copyright for a lawful user of a copy of a computer program to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.</p> <p>(2) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).</p> <p>Section 50C: Other acts permitted to lawful users</p> <p>50C.—(1) It is not an infringement of copyright for a lawful user of a copy of a computer program to copy or adapt it, provided that the copying or adapting-</p> <p>(a) is necessary for his lawful use; and</p> <p>(b) is not prohibited under any term or condition of an agreement regulating the circumstances in which his use is lawful.</p> <p>(2) It may, in particular, be necessary for the lawful use of a computer program to copy it or adapt it for the purpose of correcting errors in it.</p> <p>(3) This section does not apply to any copying or adapting permitted under section 50A, 50B or 50BA.</p> |
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| Scope/Form of Protection | |
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| General provisions | <p>Section 2: Rights subsisting in copyright works.</p> <p>2.—(1) The owner of the copyright in a work of any description has the exclusive right to do the acts specified in Chapter II as the acts restricted by the copyright in a work of that description.</p> <p>(2) In relation to certain descriptions of copyright work the following rights conferred by Chapter IV (moral rights) subsist in favour of the author, director or commissioner of the work, whether or not he is the owner of the copyright—</p> <p>(a) section 77 (right to be identified as author or director),</p> <p>(b) section 80 (right to object to derogatory treatment of work), and</p> <p>(c) section 85 (right to privacy of certain photographs and films).</p> <p>Section 16: The acts restricted by copyright in a work.</p> <p>16.—(1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom—</p> <p>(a) to copy the work (see section 17);</p> <p>(b) to issue copies of the work to the public (see section 18);</p> <p>(ba) to rent or lend the work to the public (see section 18A);</p> <p>(c) to perform, show or play the work in public (see section 19);</p> <p>(d) to communicate the work to the public (see section 20);</p> <p>(e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);</p> <p>and those acts are referred to in this Part as the 'acts restricted by the copyright'.</p> <p>(2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.</p> <p>(3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it—</p> <p>(a) in relation to the work as a whole or any substantial part of it, and</p> <p>(b) either directly or indirectly;</p> <p>and it is immaterial whether any intervening acts themselves infringe copyright.</p> <p>(4) This Chapter has effect subject to—</p> <p>(a) the provisions of Chapter III (acts permitted in relation to copyright works), and</p> <p>(b) the provisions of Chapter VII (provisions with respect to copyright licensing).</p> <p>Sec. 22.-27.: secondary infringement (importing infringing copies <i>etc.</i>)</p> <p>Section 56: Transfers of copies of works in electronic form.</p> <p>56.—(1) This section applies where a copy of a work in electronic form has been purchased on terms which, expressly or impliedly or by virtue of any rule of law, allow the purchaser to copy the work, or to adapt it or make copies of an adaptation, in connection with his use of it.</p> <p>(2) If there are no express terms—</p> |

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| | <p>(a) prohibiting the transfer of the copy by the purchaser, imposing obligations which continue after a transfer, prohibiting the assignment of any licence or terminating any licence on a transfer, or</p> <p>(b) providing for the terms on which a transferee may do the things which the purchaser was permitted to do,</p> <p>anything which the purchaser was allowed to do may also be done without infringement of copyright by a transferee; but any copy, adaptation or copy of an adaptation made by the purchaser which is not also transferred shall be treated as an infringing copy for all purposes after the transfer.</p> <p>(3) The same applies where the original purchased copy is no longer usable and what is transferred is a further copy used in its place.</p> <p>(4) The above provisions also apply on a subsequent transfer, with the substitution for references in subsection (2) to the purchaser of references to the subsequent transferor.</p> |
| Economic/Exploitation Rights | |
| Right of reproduction | <p>Section 17: Infringement of copyright by copying.</p> <p>17.—(1) The copying of the work is an act restricted by the copyright in every description of copyright work; and references in this Part to copying and copies shall be construed as follows.</p> <p>(2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form.</p> <p>This includes storing the work in any medium by electronic means.</p> <p>(3) In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work and the making of a copy in two dimensions of a three-dimensional work.</p> <p>(4) Copying in relation to a film or broadcast includes making a photograph of the whole or any substantial part of any image forming part of the film or broadcast</p> <p>(5) Copying in relation to the typographical arrangement of a published edition means making a facsimile copy of the arrangement.</p> <p>(6) Copying in relation to any description of work includes the making of copies which are transient or are incidental to some other use of the work.</p> |
| Right of communication to the public and right of making available | <p>Section 19: Infringement by performance, showing or playing of work in public.</p> <p>19.—(1) The performance of the work in public is an act restricted by the copyright in a literary, dramatic or musical work.</p> <p>(2) In this Part 'performance', in relation to a work—</p> <p>(a) includes delivery in the case of lectures, addresses, speeches and sermons, and</p> <p>(b) in general, includes any mode of visual or acoustic presentation, including presentation by means of a sound recording, film, broadcast or cable program of the work.</p> <p>(3) The playing or showing of the work in public is an act restricted by the copyright in a sound recording, film, broadcast or cable programme.</p> <p>(4) Where copyright in a work is infringed by its being performed, played or shown in public by means of apparatus for receiving visual images or sounds conveyed by electronic means, the person by whom the visual images or sounds are sent, and in the case of a performance the performers, shall not be regarded as responsible for the infringement.</p> |

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| | <p>Section 20 Infringement by communication to the public</p> <p>20.— (1) The communication to the public of the work is an act restricted by the copyright in —</p> <ul style="list-style-type: none"> (a) a literary, dramatic, musical or artistic work, (b) a sound recording or film, or (c) a broadcast. <p>20.— (2) References in this Part to communication to the public are to communication to the public by electronic transmission, and in relation to a work include -</p> <ul style="list-style-type: none"> (a) the broadcasting of the work; (b) the making available to the public of the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them. |
| Distribution right | <p>Section 18: Infringement by issue of copies to the public.</p> <p>18.— (1) The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.</p> <p>(2) References in this Part to the issue to the public of copies of a work are to—</p> <ul style="list-style-type: none"> (a) the act of putting into circulation in the EEA copies not previously put into circulation in the EEA by or with the consent of the copyright owner, or (b) the act of putting into circulation outside the EEA copies not previously put into circulation in the EEA or elsewhere. <p>(3) References in this Part to the issue to the public of copies of a work do not include—</p> <ul style="list-style-type: none"> (a) any subsequent distribution, sale, hiring or loan of copies previously put into circulation (but see section 18A: infringement by rental or lending), or (b) any subsequent importation of such copies into the United Kingdom or another EEA state, <p>except so far as paragraph (a) of subsection (2) applies to putting into circulation in the EEA copies previously put into circulation outside the EEA.</p> <p>(4) References in this Part to the issue of copies of a work include the issue of the original.</p> <p>Section 18A: Infringement by rental or lending of work to the public</p> <p>18A.—(1) The rental or lending of copies of the work to the public is an act restricted by the copyright in—</p> <ul style="list-style-type: none"> (a) a literary, dramatic or musical work, (b) an artistic work, other than— <ul style="list-style-type: none"> (i) a work of architecture in the form of a building or a model for a building, or (ii) a work of applied art, or (c) a film or a sound recording. <p>(2) In this Part, subject to the following provisions of this section—</p> <ul style="list-style-type: none"> (a) 'rental' means making a copy of the work available for use, on terms that it will or may be returned, for direct or indirect economic or commercial advantage, and (b) 'lending' means making a copy of the work available for use, on terms that it will or may be returned, otherwise than for direct or indirect |

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| | <p>economic or commercial advantage, through an establishment which is accessible to the public.</p> <p>(3) The expressions 'rental' and 'lending' do not include—</p> <p>(a) making available for the purpose of public performance, playing or showing in public, broadcasting or inclusion in a cable program service;</p> <p>(b) making available for the purpose of exhibition in public; or</p> <p>(c) making available for on-the-spot reference use.</p> <p>(4) The expression 'lending' does not include making available between establishments which are accessible to the public.</p> <p>(5) Where lending by an establishment accessible to the public gives rise to a payment the amount of which does not go beyond what is necessary to cover the operating costs of the establishment, there is no direct or indirect economic or commercial advantage for the purposes of this section.</p> <p>(6) References in this Part to the rental or lending of copies of a work include the rental or lending of the original.</p> |
| Adaptation rights | <p>Section 21: Infringement by making adaptation or act done in relation to adaptation.</p> <p>21.—(1) The making of an adaptation of the work is an act restricted by the copyright in a literary, dramatic or musical work.</p> <p>For this purpose an adaptation is made when it is recorded, in writing or otherwise.</p> <p>(2) The doing of any of the acts specified in sections 17 to 20, or subsection (1) above, in relation to an adaptation of the work is also an act restricted by the copyright in a literary, dramatic or musical work.</p> <p>For this purpose it is immaterial whether the adaptation has been recorded, in writing or otherwise, at the time the act is done.</p> <p>(3) In this Part 'adaptation'—</p> <p>(a) in relation to a literary work, other than a computer program or a database, or in relation to a dramatic work, means—</p> <p>(i) a translation of the work;</p> <p>(ii) a version of a dramatic work in which it is converted into a non-dramatic work or, as the case may be, of a non-dramatic work in which it is converted into a dramatic work;</p> <p>(iii) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical;</p> <p>(ab) in relation to a computer program, means an arrangement or altered version of the program or a translation of it;</p> <p>(ac) in relation to a database, means an arrangement or altered version of the database or a translation of it;</p> <p>(b) in relation to a musical work, means an arrangement or transcription of the work.</p> <p>(4) In relation to a computer program a 'translation' includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code.</p> <p>(5) No inference shall be drawn from this section as to what does or does not amount to copying a work.</p> <p>Section 76: Adaptations.</p> |

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| | 76. An act which by virtue of this Chapter may be done without infringing copyright in a literary, dramatic or musical work does not, where that work is an adaptation, infringe any copyright in the work from which the adaptation was made. |
| Moral rights | |
| Right of publication | <p>Section 18: Infringement by issue of copies to the public.</p> <p>18.— (1) The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.</p> <p>(...)</p> <p>Section 175: Meaning of publication and commercial publication.</p> <p>175.—(1) In this Part 'publication', in relation to a work—</p> <p>(a) means the issue of copies to the public, and</p> <p>(b) includes, in the case of a literary, dramatic, musical or artistic work, making it available to the public by means of an electronic retrieval system; and related expressions shall be construed accordingly.</p> <p>(...)</p> <p>[Not recognized as a moral right in the UK]</p> |
| Recognition of authorship | <p>Right to be identified as author or director</p> <p>Section 77: Right to be identified as author or director.</p> <p>77.—(1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right to be identified as the author or director of the work in the circumstances mentioned in this section; but the right is not infringed unless it has been asserted in accordance with section 78.</p> <p>(2) The author of a literary work (other than words intended to be sung or spoken with music) or a dramatic work has the right to be identified whenever—</p> <p>(a) the work is published commercially, performed in public, broadcast or included in a cable program service; or</p> <p>(b) copies of a film or sound recording including the work are issued to the public;</p> <p>and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.</p> <p>(3) The author of a musical work, or a literary work consisting of words intended to be sung or spoken with music, has the right to be identified whenever—</p> <p>(...)</p> <p>(4) The author of an artistic work has the right to be identified whenever—</p> <p>(...)</p> <p>(5) The author of a work of architecture in the form of a building (...)</p> <p>(6) The director of a film (...)</p> <p>(...)</p> <p>(8) If the author or director in asserting his right to be identified specifies a pseudonym, initials or some other particular form of identification, that form shall be used; otherwise any reasonable form of identification may be used.</p> |

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| | <p>(9) This section has effect subject to section 79 (exceptions to right).</p> <p>Section 78: Requirement that right be asserted.</p> <p>78.—(1) A person does not infringe the right conferred by section 77 (right to be identified as author or director) by doing any of the acts mentioned in that section unless the right has been asserted in accordance with the following provisions so as to bind him in relation to that act.</p> <p>(2) The right may be asserted generally, or in relation to any specified act or description of acts—</p> <p>(a) on an assignment of copyright in the work, by including in the instrument effecting the assignment a statement that the author or director asserts in relation to that work his right to be identified, or</p> <p>(b) by instrument in writing signed by the author or director.</p> <p>(3) The right may also be asserted in relation to the public exhibition of an artistic work—</p> <p>(a) by securing that when the author or other first owner of copyright parts with possession of the original, or of a copy made by him or under his direction or control, the author is identified on the original or copy, or on a frame, mount or other thing to which it is attached, or</p> <p>(b) by including in a licence by which the author or other first owner of copyright authorises the making of copies of the work a statement signed by or on behalf of the person granting the licence that the author asserts his right to be identified in the event of the public exhibition of a copy made in pursuance of the licence.</p> <p>(4) The persons bound by an assertion of the right under subsection (2) or (3) are—</p> <p>(a) in the case of an assertion under subsection (2)(a), the assignee and anyone claiming through him, whether or not he has notice of the assertion;</p> <p>(b) in the case of an assertion under subsection (2)(b), anyone to whose notice the assertion is brought;</p> <p>(c) in the case of an assertion under subsection (3)(a), anyone into whose hands that original or copy comes, whether or not the identification is still present or visible;</p> <p>(d) in the case of an assertion under subsection (3)(b), the licensee and anyone into whose hands a copy made in pursuance of the licence comes, whether or not he has notice of the assertion.</p> <p>(5) In an action for infringement of the right the court shall, in considering remedies, take into account any delay in asserting the right.</p> <p>Section 79: Exceptions to right.</p> <p>79.—(1) The right conferred by section 77 (right to be identified as author or director) is subject to the following exceptions.</p> <p>(2) The right does not apply in relation to the following descriptions of work—</p> <p>(a) a computer program;</p> <p>(b) the design of a typeface;</p> <p>(c) any computer-generated work.</p> <p>(3) The right does not apply to anything done by or with the authority of the copyright owner where copyright in the work originally vested—</p> <p>(a) in the author's employer by virtue of section 11(2) (works produced in</p> |
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| | <p>course of employment), or</p> <p>(b) in the director's employer by virtue of section 9(2)(a) (person to be treated as author of film).</p> <p>(4) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—</p> <p>(a) section 30 (fair dealing for certain purposes), so far as it relates to the reporting of current events by means of a sound recording, film, broadcast or cable programme;</p> <p>(b) section 31 (incidental inclusion of work in an artistic work, sound recording, film, broadcast or cable programme);</p> <p>(c) section 32(3) (examination questions);</p> <p>(d) section 45 (parliamentary and judicial proceedings);</p> <p>(e) section 46(1) or (2) (Royal Commissions and statutory inquiries);</p> <p>(f) section 51 (use of design documents and models);</p> <p>(g) section 52 (effect of exploitation of design derived from artistic work);</p> <p>(h) section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.).</p> <p>(5) The right does not apply in relation to any work made for the purpose of reporting current events.</p> <p>(6) The right does not apply in relation to the publication in—</p> <p>(a) a newspaper, magazine or similar periodical, or</p> <p>(b) an encyclopaedia, dictionary, yearbook or other collective work of reference,</p> <p>of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.</p> <p>(7) The right does not apply in relation to—</p> <p>(a) a work in which Crown copyright or Parliamentary copyright subsists, or</p> <p>(b) a work in which copyright originally vested in an international organisation by virtue of section 168, unless the author or director has previously been identified as such in or on published copies of the work.</p> <p>False attribution of work</p> <p>Section 84: False attribution of work.</p> <p>84.—(1) A person has the right in the circumstances mentioned in this section—</p> <p>(a) not to have a literary, dramatic, musical or artistic work falsely attributed to him as author, and</p> <p>(b) not to have a film falsely attributed to him as director;</p> <p>and in this section an 'attribution', in relation to such a work, means a statement (express or implied) as to who is the author or director.</p> <p>(2) The right is infringed by a person who—</p> <p>(...)</p> |
| Distortion of the work | <p>Right to object to derogatory treatment of work</p> <p>Section 80: Right to object to derogatory treatment of work.</p> <p>80.—(1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right in the circumstances mentioned in this section not to have his work subjected to derogatory</p> |

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| | <p>treatment.</p> <p>(2) For the purposes of this section—</p> <p>(a) ‘treatment’ of a work means any addition to, deletion from or alteration to or adaptation of the work, other than—</p> <p>(i) a translation of a literary or dramatic work, or</p> <p>(ii) an arrangement or transcription of a musical work involving no more than a change of key or register; and</p> <p>(b) the treatment of a work is derogatory if it amounts to distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of the author or director;</p> <p>and in the following provisions of this section references to a derogatory treatment of a work shall be construed accordingly.</p> <p>(3) In the case of a literary, dramatic or musical work the right is infringed by a person who—</p> <p>(a) publishes commercially, performs in public, broadcasts or includes in a cable program service a derogatory treatment of the work; or</p> <p>(b) issues to the public copies of a film or sound recording of, or including, a derogatory treatment of the work.</p> <p>(4) In the case of an artistic work the right is infringed by a person who—</p> <p>(...)</p> <p>(6) In the case of a film, the right is infringed by a person who—</p> <p>(...)</p> <p>(7) The right conferred by this section extends to the treatment of parts of a work resulting from a previous treatment by a person other than the author or director, if those parts are attributed to, or are likely to be regarded as the work of, the author or director.</p> <p>(8) This section has effect subject to sections 81 and 82 (exceptions to and qualifications of right).</p> <p>Section 81: Exceptions to right.</p> <p>81.—(1) The right conferred by section 80 (right to object to derogatory treatment of work) is subject to the following exceptions.</p> <p>(2) The right does not apply to a computer program or to any computer-generated work.</p> <p>(3) The right does not apply in relation to any work made for the purpose of reporting current events.</p> <p>(4) The right does not apply in relation to the publication in—</p> <p>(a) a newspaper, magazine or similar periodical, or</p> <p>(b) an encyclopaedia, dictionary, yearbook or other collective work of reference,</p> <p>of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.</p> <p>Nor does the right apply in relation to any subsequent exploitation elsewhere of such a work without any modification of the published version.</p> <p>(5) The right is not infringed by an act which by virtue of section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.) would not infringe copyright.</p> |
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| | <p>(6) The right is not infringed by anything done for the purpose of—</p> <p>(a) avoiding the commission of an offence,</p> <p>(b) complying with a duty imposed by or under an enactment, or</p> <p>(c) in the case of the British Broadcasting Corporation, avoiding the inclusion in a program broadcast by them of anything which offends against good taste or decency or which is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling,</p> <p>provided, where the author or director is identified at the time of the relevant act or has previously been identified in or on published copies of the work, that there is a sufficient disclaimer.</p> <p>Section 82: Qualification of right in certain cases.</p> <p>82.—(1) This section applies to—</p> <p>(a) works in which copyright originally vested in the author’s employer by virtue of section 11(2) (works produced in course of employment) or in the director’s employer by virtue of section 9(2)(a) (person to be treated as author of film),</p> <p>(b) works in which Crown copyright or Parliamentary copyright subsists, and</p> <p>(c) works in which copyright originally vested in an international organisation by virtue of section 168.</p> <p>(2) The right conferred by section 80 (right to object to derogatory treatment of work) does not apply to anything done in relation to such a work by or with the authority of the copyright owner unless the author or director—</p> <p>(a) is identified at the time of the relevant act, or</p> <p>(b) has previously been identified in or on published copies of the work;</p> <p>and where in such a case the right does apply, it is not infringed if there is a sufficient disclaimer.</p> <p>Section 83: Infringement of right by possessing or dealing with infringing article.</p> <p>83.—(1) The right conferred by section 80 (right to object to derogatory treatment of work) is also infringed by a person who—</p> <p>(a) possesses in the course of a business, or</p> <p>(b) sells or lets for hire, or offers or exposes for sale or hire, or</p> <p>(c) in the course of a business exhibits in public or distributes, or</p> <p>(d) distributes otherwise than in the course of a business so as to affect prejudicially the honour or reputation of the author or director,</p> <p>an article which is, and which he knows or has reason to believe is, an infringing article.</p> <p>(2) An ‘infringing article’ means a work or a copy of a work which—</p> <p>(a) has been subjected to derogatory treatment within the meaning of section 80, and</p> <p>(b) has been or is likely to be the subject of any of the acts mentioned in that section in circumstances infringing that right.</p> |
| Duration of Protection | <p>Duration of copyright</p> <p>Section 12: Duration of copyright in literary, dramatic, musical or artistic works</p> <p>12.—(1) The following provisions have effect with respect to the duration of</p> |

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| | <p>copyright in a literary, dramatic, musical or artistic work.</p> <p>(2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the author dies, subject as follows.</p> <p>(3) If the work is of unknown authorship, copyright expires—</p> <p>(a) at the end of the period of 70 years from the end of the calendar year in which the work was made, or</p> <p>(b) if during that period the work is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available,</p> <p>subject as follows.</p> <p>(4) Subsection (2) applies if the identity of the author becomes known before the end of the period specified in paragraph (a) or (b) of subsection (3).</p> <p>(5) For the purposes of subsection (3) making available to the public includes:</p> <p>(a) in the case of a literary, dramatic or musical work—</p> <p>(i) performance in public, or</p> <p>(ii) being broadcast or included in a cable program service;</p> <p>(b) in the case of an artistic work—</p> <p>(i) exhibition in public,</p> <p>(ii) a film including the work being shown in public, or</p> <p>(iii) being included in a broadcast or cable program service;</p> <p>but in determining generally for the purposes of that subsection whether a work has been made available to the public no account shall be taken of any unauthorised act.</p> <p>(6) Where the country of origin of the work is not an EEA state and the author of the work is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (5).</p> <p>(7) If the work is computer-generated the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the work was made.</p> <p>(8) The provisions of this section are adapted as follows in relation to a work of joint authorship—</p> <p>(a) the reference in subsection (2) to the death of the author shall be construed—</p> <p>(i) if the identity of all the authors is known, as a reference to the death of the last of them to die, and</p> <p>(ii) if the identity of one or more of the authors is known and the identity of one or more others is not, as a reference to the death of the last whose identity is known;</p> <p>(b) the reference in subsection (4) to the identity of the author becoming known shall be construed as a reference to the identity of any of the authors becoming known;</p> <p>(c) the reference in subsection (6) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.</p> <p>(9) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 to 166B) or to copyright which subsists by</p> |
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| | <p>virtue of section 168 (copyright of certain international organisations).</p> <p>Section 13A: Duration of copyright in sound recordings</p> <p>Section 13B: Duration of copyright in films</p> <p>Section 14: Duration of copyright in broadcasts and cable programmes</p> <p>Section 15: Duration of copyright in typographical arrangement of published editions.</p> <p>Section 57: Anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author.</p> <p>57.—(1) Copyright in a literary, dramatic, musical or artistic work is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—</p> <p>(a) it is not possible by reasonable inquiry to ascertain the identity of the author, and</p> <p>(b) it is reasonable to assume</p> <p>(i) that copyright has expired, or</p> <p>(ii) that the author died 70 years or more before the beginning of the calendar year in which the act is done or the arrangements are made.</p> <p>(2) Subsection (1)(b)(ii) does not apply in relation to—</p> <p>(a) a work in which Crown copyright subsists, or</p> <p>(b) a work in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than 70 years.</p> <p>(3) In relation to a work of joint authorship—</p> <p>(a) the reference in subsection (1) to its being possible to ascertain the identity of the author shall be construed as a reference to its being possible to ascertain the identity of any of the authors, and</p> <p>(b) the reference in subsection (1)(b)(ii) to the author having died shall be construed as a reference to all the authors having died.</p> <p>Section 66A: Films: acts permitted on assumptions as to expiry of copyright, &c.</p> <p>66A.—(1) Copyright in a film is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when--</p> <p>(...)</p> <p>Section 86: Duration of (moral) rights.</p> <p>86.—(1) The rights conferred by section 77 (right to be identified as author or director), section 80 (right to object to derogatory treatment of work) and section 85 (right to privacy of certain photographs and films) continue to subsist so long as copyright subsists in the work.</p> <p>(2) The right conferred by section 84 (false attribution) continues to subsist until 20 years after a person's death.</p> <p>Section 191: Duration of performers' rights.</p> |
| Exceptions and limitations | |
| Educational and scientific purposes | |
| Scope of exceptions | <p>Section 28: Introductory provisions (to exceptions)</p> <p>28.—(1) The provisions of this Chapter specify acts which may be done in relation to copyright works notwithstanding the subsistence of copyright;</p> |

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| | <p>they relate only to the question of infringement of copyright and do not affect any other right or obligation restricting the doing of any of the specified acts.</p> <p>(2) Where it is provided by this Chapter that an act does not infringe copyright, or may be done without infringing copyright, and no particular description of copyright work is mentioned, the act in question does not infringe the copyright in a work of any description.</p> <p>(3) No inference shall be drawn from the description of any act which may by virtue of this Chapter be done without infringing copyright as to the scope of the acts restricted by the copyright in any description of work.</p> <p>(4) The provisions of this Chapter are to be construed independently of each other, so that the fact that an act does not fall within one provision does not mean that it is not covered by another provision.</p> <p>Section 189: Exceptions to rights conferred Acts permitted notwithstanding rights conferred by this Part. (performers' rights)</p> <p>189. The provisions of Schedule 2 specify acts which may be done notwithstanding the rights conferred by this Part, being acts which correspond broadly to certain of those specified in Chapter III of Part I (acts permitted notwithstanding copyright).</p> |
| Libraries and archives | <p>Libraries and archives</p> <p>Section 37: Libraries and archives: introductory.</p> <p>37.—(1) In sections 38 to 43 (copying by librarians and archivists)—</p> <p>(a) references in any provision to a prescribed library or archive are to a library or archive of a description prescribed for the purposes of that provision by regulations made by the Secretary of State; and</p> <p>(b) references in any provision to the prescribed conditions are to the conditions so prescribed.</p> <p>(2) The regulations may provide that, where a librarian or archivist is required to be satisfied as to any matter before making or supplying a copy of a work—</p> <p>(a) he may rely on a signed declaration as to that matter by the person requesting the copy, unless he is aware that it is false in a material particular, and</p> <p>(b) in such cases as may be prescribed, he shall not make or supply a copy in the absence of a signed declaration in such form as may be prescribed.</p> <p>(3) Where a person requesting a copy makes a declaration which is false in a material particular and is supplied with a copy which would have been an infringing copy if made by him—</p> <p>(a) he is liable for infringement of copyright as if he had made the copy himself, and</p> <p>(b) the copy shall be treated as an infringing copy.</p> <p>(4) The regulations may make different provision for different descriptions of libraries or archives and for different purposes.</p> <p>(5) Regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.</p> <p>(6) References in this section, and in sections 38 to 43, to the librarian or archivist include a person acting on his behalf.</p> <p>Section 38: Copying by librarians: articles in periodicals.</p> <p>38.—(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply a copy of an article in a</p> |

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| | <p>periodical without infringing any copyright in the text, in any illustrations accompanying the text or in the typographical arrangement.</p> <p>(2) The prescribed conditions shall include the following—</p> <p>(a) that copies are supplied only to persons satisfying the librarian that they require them for the purposes of -</p> <p>(i) research for a non-commercial purpose, or</p> <p>(ii) private study,</p> <p>and will not use them for any other purpose;</p> <p>((a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose; old version)</p> <p>(b) that no person is furnished with more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical; and</p> <p>(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.</p> <p>Section 39: Copying by librarians: part of published works.</p> <p>39.—(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply from a published edition a copy of part of a literary, dramatic or musical work (other than an article in a periodical) without infringing any copyright in the work, in any illustrations accompanying the work or in the typographical arrangement.</p> <p>(2) The prescribed conditions shall include the following—</p> <p>(a) that copies are supplied only to persons satisfying the librarian that they require them for the purposes of -</p> <p>(i) research for a non-commercial purpose, or</p> <p>(ii) private study,</p> <p>and will not use them for any other purpose;</p> <p>((a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose; old version)</p> <p>(b) that no person is furnished with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and</p> <p>(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.</p> <p>Section 40: Restriction on production of multiple copies of the same material.</p> <p>40.—(1) Regulations for the purposes of sections 38 and 39 (copying by librarian of article or part of published work) shall contain provision to the effect that a copy shall be supplied only to a person satisfying the librarian that his requirement is not related to any similar requirement of another person.</p> <p>(2) The regulations may provide—</p> <p>(a) that requirements shall be regarded as similar if the requirements are for copies of substantially the same material at substantially the same time and for substantially the same purpose; and</p> <p>(b) that requirements of persons shall be regarded as related if those persons receive instruction to which the material is relevant at the same</p> |
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| | <p>time and place.</p> <p>Section 40A: Lending of copies by libraries or archives</p> <p>40A.—(1) Copyright in a work of any description is not infringed by the lending of a book by a public library if the book is within the public lending right scheme.</p> <p>For this purpose--</p> <p>(a) 'the public lending right scheme' means the scheme in force under section 1 of the Public Lending Right Act 1979, and</p> <p>(b) a book is within the public lending right scheme if it is a book within the meaning of the provisions of the scheme relating to eligibility whether or not it is in fact eligible.</p> <p>(2) Copyright in a work is not infringed by the lending of copies of the work by a prescribed library or archive (other than a public library) which is not conducted for profit.</p> <p>Section 41: Copying by librarians: supply of copies to other libraries.</p> <p>41.—(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply to another prescribed library a copy of—</p> <p>(a) an article in a periodical, or</p> <p>(b) the whole or part of a published edition of a literary, dramatic or musical work,</p> <p>without infringing any copyright in the text of the article or, as the case may be, in the work, in any illustrations accompanying it or in the typographical arrangement.</p> <p>(2) Subsection (1)(b) does not apply if at the time the copy is made the librarian making it knows, or could by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy.</p> <p>Section 42: Copying by librarians or archivists: replacement copies of works.</p> <p>42.—(1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make a copy from any item in the permanent collection of the library or archive—</p> <p>(a) in order to preserve or replace that item by placing the copy in its permanent collection in addition to or in place of it, or</p> <p>(b) in order to replace in the permanent collection of another prescribed library or archive an item which has been lost, destroyed or damaged,</p> <p>without infringing the copyright in any literary, dramatic or musical work, in any illustrations accompanying such a work or, in the case of a published edition, in the typographical arrangement.</p> <p>(2) The prescribed conditions shall include provision for restricting the making of copies to cases where it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose.</p> <p>Section 43: Copying by librarians or archivists: certain unpublished works.</p> <p>43.—(1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make and supply a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive without infringing any copyright in the work or any illustrations accompanying it.</p> <p>(2) This section does not apply if—</p> <p>(a) the work had been published before the document was deposited in the</p> |
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| | <p>library or archive, or</p> <p>(b) the copyright owner has prohibited copying of the work, and at the time the copy is made the librarian or archivist making it is, or ought to be, aware of that fact.</p> <p>(3) The prescribed conditions shall include the following—</p> <p>(a) that copies are supplied only to persons satisfying the librarian or archivist that they require them for the purposes of -</p> <p>(i) research for a non-commercial purpose, or</p> <p>(ii) private study,</p> <p>and will not use them for any other purpose;</p> <p>((a) that copies are supplied only to persons satisfying the librarian or archivist that they require them for purposes of research or private study and will not use them for any other purpose; old version)</p> <p>(b) that no person is furnished with more than one copy of the same material; and</p> <p>(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.</p> <p>Section 44: Copy of work required to be made as condition of export.</p> <p>44. If an article of cultural or historical importance or interest cannot lawfully be exported from the United Kingdom unless a copy of it is made and deposited in an appropriate library or archive, it is not an infringement of copyright to make that copy.</p> <p>Section 75: Recording for archival purposes.</p> <p>75.—(1) A recording of a broadcast or cable program of a designated class, or a copy of such a recording, may be made for the purpose of being placed in an archive maintained by a designated body without thereby infringing any copyright in the broadcast or cable program or in any work included in it.</p> <p>(2) In subsection (1) 'designated' means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.</p> <p>(3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.</p> |
| <p>Acknowledgement of source</p> | <p>Sec. 29 (1) (research and private study), sec. 30 (1) (criticism and review); sections 32 (3) and 36 (education) demand sufficient acknowledgement; except , where this would be impossible for reasons of practicality or otherwise or in certain other cases(see the above mentioned sections for details)</p> <p>Section 178: 'sufficient acknowledgement' means an acknowledgement identifying the work in question by its title or other description, and identifying the author unless</p> <p>(a) in the case of a published work, it is published anonymously;</p> <p>(b) in the case of an unpublished work, it is not possible for a person to ascertain the identity of the author by reasonable inquiry.</p> <p>In addition there is the general moral right to be identified as author in sec. 77; while sec. 79 states several exceptions to this right to be identified in case that exceptions from copyright protection apply (<i>eg.</i> reporting of</p> |

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| | current events or examination questions), there is no reference to the copyright protection exception for research activities; therefore, acknowledgement of source seems to be necessary in those cases. |
| Private use | Subject to the fair use concept |
| How to acquire rights if necessary? | |
| Right-holder | |
| Authorship | <p>Section 9: Authorship of work.</p> <p>9.—(1) In this Part 'author', in relation to a work, means the person who creates it.</p> <p>(2) That person shall be taken to be—</p> <p>(aa) in the case of a sound recording, the producer;</p> <p>(ab) in the case of a film, the producer and the principal director;</p> <p>(b) in the case of a broadcast, the person making the broadcast (see section 6(3)) or, in the case of a broadcast which relays another broadcast by reception and immediate re-transmission, the person making that other broadcast;</p> <p>(d) in the case of the typographical arrangement of a published edition, the publisher.</p> <p>(3) In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken.</p> <p>(4) For the purposes of this Part a work is of 'unknown authorship' if the identity of the author is unknown or, in the case of a work of joint authorship, if the identity of none of the authors is known.</p> <p>(5) For the purposes of this Part the identity of an author shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if his identity is once known it shall not subsequently be regarded as unknown.</p> <p>Section 11: First ownership of copyright.</p> <p>11.—(1) The author of a work is the first owner of any copyright in it, subject to the following provisions.</p> <p>(2) Where a literary, dramatic, musical or artistic work, or a film, is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.</p> <p>(3) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 and 165) or to copyright which subsists by virtue of section 168 (copyright of certain international organisations).</p> |
| Joint authors/ compound works/ authors in employment | <p>Section 10: Works of joint authorship.</p> <p>10.—(1) In this Part a 'work of joint authorship' means a work produced by the collaboration of two or more authors in which the contribution of each author is not distinct from that of the other author or authors.</p> <p>(1A) A film shall be treated as a work of joint authorship unless the producer and the principal director are the same person.</p> <p>(2) A broadcast shall be treated as a work of joint authorship in any case where more than one person is to be taken as making the broadcast (see section 6(3)).</p> <p>(3) References in this Part to the author of a work shall, except as otherwise provided, be construed in relation to a work of joint authorship as references to all the authors of the work.</p> |

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| | <p>Section 88: Application of provisions to joint works.</p> <p>88.—(1) The right conferred by section 77 (right to be identified as author or director) is, in the case of a work of joint authorship, a right of each joint author to be identified as a joint author and must be asserted in accordance with section 78 by each joint author in relation to himself.</p> <p>(2) The right conferred by section 80 (right to object to derogatory treatment of work) is, in the case of a work of joint authorship, a right of each joint author and his right is satisfied if he consents to the treatment in question.</p> <p>(3) A waiver under section 87 of those rights by one joint author does not affect the rights of the other joint authors.</p> <p>(4) The right conferred by section 84 (false attribution) is infringed, in the circumstances mentioned in that section—</p> <p>(a) by any false statement as to the authorship of a work of joint authorship, and</p> <p>(b) by the false attribution of joint authorship in relation to a work of sole authorship;</p> <p>and such a false attribution infringes the right of every person to whom authorship of any description is, whether rightly or wrongly, attributed.</p> <p>(5) The above provisions also apply (with any necessary adaptations) in relation to a film which was, or is alleged to have been, jointly directed, as they apply to a work which is, or is alleged to be, a work of joint authorship.</p> <p>A film is 'jointly directed' if it is made by the collaboration of two or more directors and the contribution of each director is not distinct from that of the other director or directors.</p> <p>(6) The right conferred by section 85 (right to privacy of certain photographs and films) is, in the case of a work made in pursuance of a joint commission, a right of each person who commissioned the making of the work, so that—</p> <p>(a) the right of each is satisfied if he consents to the act in question, and</p> <p>(b) a waiver under section 87 by one of them does not affect the rights of the others.</p> <p>Section 89: Application of provisions to parts of works.</p> <p>89.—(1) The rights conferred by section 77 (right to be identified as author or director) and section 85 (right to privacy of certain photographs and films) apply in relation to the whole or any substantial part of a work.</p> <p>(2) The rights conferred by section 80 (right to object to derogatory treatment of work) and section 84 (false attribution) apply in relation to the whole or any part of a work.</p> <p>Sec. 104.-106.: presumptions of authorship/ownership of copyright</p> <p>Section 11: First ownership of copyright</p> <p>(...)</p> <p>(2) Where a literary, dramatic, musical or artistic work, or a film, is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.</p> <p>(...)</p> |
| Collecting Societies | <p>Section 93B: Right to equitable remuneration where rental right transferred</p> <p>(...)</p> |

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| | <p>(7) In this section a 'collecting society' means a society or other organisation which has as its main object, or one of its main objects, the exercise of the right to equitable remuneration under this section on behalf of more than one author.</p> <p>(...)</p> <p>Section 191G: Right to equitable remuneration where rental right transferred</p> <p>(...)</p> <p>(6) In this section a 'collecting society' means a society or other organisation which has as its main object, or one of its main objects, the exercise of the right to equitable remuneration on behalf of more than one performer.</p> <p>(...)</p> <p>Sections 124-128.: licensing bodies</p> |
| Contract Law/Licenses | |
| Transfer of rights | <p>Section 87: Consent and waiver of rights.</p> <p>87.—(1) It is not an infringement of any of the rights conferred by this Chapter to do any act to which the person entitled to the right has consented.</p> <p>(2) Any of those rights may be waived by instrument in writing signed by the person giving up the right.</p> <p>(3) A waiver—</p> <p>(a) may relate to a specific work, to works of a specified description or to works generally, and may relate to existing or future works, and</p> <p>(b) may be conditional or unconditional and may be expressed to be subject to revocation;</p> <p>and if made in favour of the owner or prospective owner of the copyright in the work or works to which it relates, it shall be presumed to extend to his licensees and successors in title unless a contrary intention is expressed.</p> <p>(4) Nothing in this Chapter shall be construed as excluding the operation of the general law of contract or estoppel in relation to an informal waiver or other transaction in relation to any of the rights mentioned in subsection (1).</p> <p>Sections. 90.-93A: detailed regulations on the transfer of (economic) rights</p> <p>Waiver of moral rights: Section 94. The rights conferred by Chapter IV (moral rights) are not assignable.</p> <p>Sec. 116-123: Licensing schemes</p> |
| Remuneration Schemes/ compensation | <p>Sec. 93B, 93C: Right to equitable remuneration where rental right transferred</p> <p>Royalty or other sum payable for lending of certain works</p> <p>Section 142: Royalty or other sum payable for lending of certain works</p> <p>142.—(1) An application to settle the royalty or other sum payable in pursuance of section 66 (lending of copies of certain copyright works) may be made to the Copyright Tribunal by the copyright owner or the person claiming to be treated as licensed by him.</p> <p>(2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.</p> <p>(3) Either party may subsequently apply to the Tribunal to vary the order,</p> |

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| | <p>and the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.</p> <p>(4) An application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.</p> <p>(5) An order under subsection (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.</p> <p>Section 143: Certification of licensing schemes</p> <p>143.—(1) A person operating or proposing to operate a licensing scheme may apply to the Secretary of State to certify the scheme for the purposes of—</p> <p>(a) section 35 (educational recording of broadcasts or cable programmes),</p> <p>(b) section 60 (abstracts of scientific or technical articles),</p> <p>(c) section 66 (lending to public of copies of certain works),</p> <p>(d) section 74 (sub-titled copies of broadcasts or cable programmes for people who are deaf or hard of hearing), or</p> <p>(e) section 141 (reprographic copying of published works by educational establishments).</p> <p>(...)</p> |
| <p>Protection of technological measures and rights management information</p> | <p>Circumvention of protection measures</p> <p>Section 296: Circumvention of technical devices applied to computer programs</p> <p>(1) This section applies where -</p> <p>(a) a technical device has been applied to a computer program; and</p> <p>(b) a person (A) knowing or having reason to believe that it will be used to make infringing copies -</p> <p>(i) manufactures for sale or hire, imports, distributes, sells or lets for hire, offers or exposes for sale or hire, advertises for sale or hire or has in his possession for commercial purposes any means the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of the technical device; or</p> <p>(ii) publishes information intended to enable or assist persons to remove or circumvent the technical device.</p> <p>(2) The following persons have the same rights against A as a copyright owner has in respect of an infringement of copyright -</p> <p>(a) a person -</p> <p>(i) issuing to the public copies of, or</p> <p>(ii) communicating to the public,</p> <p>the computer program to which the technical device has been applied;</p> <p>(b) the copyright owner or his exclusive licensee, if he is not the person specified in paragraph (a);</p> <p>(c) the owner or exclusive licensee of any intellectual property right in the technical device applied to the computer program.</p> <p>(3) The rights conferred by subsection (2) are concurrent, and sections 101(3) and 102(1) to (4) apply, in proceedings under this section, in relation to persons with concurrent rights as they apply, in proceedings</p> |

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| | <p>mentioned in those provisions, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(4) Further, the persons in subsection (2) have the same rights under section 99 or 100 (delivery up or seizure of certain articles) in relation to any such means as is referred to in subsection (1) which a person has in his possession, custody or control with the intention that it should be used to facilitate the unauthorised removal or circumvention of any technical device which has been applied to a computer program, as a copyright owner has in relation to an infringing copy.</p> <p>(5) The rights conferred by subsection (4) are concurrent, and section 102(5) shall apply, as respects anything done under section 99 or 100 by virtue of subsection (4), in relation to persons with concurrent rights as it applies, as respects anything done under section 99 or 100, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(6) In this section references to a technical device in relation to a computer program are to any device intended to prevent or restrict acts that are not authorised by the copyright owner of that computer program and are restricted by copyright.</p> <p>(7) The following provisions apply in relation to proceedings under this section as in relation to proceedings under Part 1 (copyright) -</p> <p>(a) sections 104 to 106 of this Act (presumptions as to certain matters relating to copyright); and</p> <p>(b) section 72 of the Supreme Court Act 1981, section 15 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property);</p> <p>and section 114 of this Act applies, with the necessary modifications, in relation to the disposal of anything delivered up or seized by virtue of subsection (4).</p> <p>(8) Expressions used in this section which are defined for the purposes of Part 1 of this Act (copyright) have the same meaning as in that Part.</p> <p>Section 296ZA: Circumvention of technological measures</p> <p>(1) This section applies where -</p> <p>(a) effective technological measures have been applied to a copyright work other than a computer program; and</p> <p>(b) a person (B) does anything which circumvents those measures knowing, or with reasonable grounds to know, that he is pursuing that objective.</p> <p>(2) This section does not apply where a person, for the purposes of research into cryptography, does anything which circumvents effective technological measures unless in so doing, or in issuing information derived from that research, he affects prejudicially the rights of the copyright owner.</p> <p>(3) The following persons have the same rights against B as a copyright owner has in respect of an infringement of copyright -</p> <p>(a) a person -</p> <p>(i) issuing to the public copies of, or</p> <p>(ii) communicating to the public,</p> <p>the work to which effective technological measures have been applied; and</p> <p>(b) the copyright owner or his exclusive licensee, if he is not the person specified in paragraph (a).</p> |
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| | <p>(4) The rights conferred by subsection (3) are concurrent, and sections 101(3) and 102(1) to (4) apply, in proceedings under this section, in relation to persons with concurrent rights as they apply, in proceedings mentioned in those provisions, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(5) The following provisions apply in relation to proceedings under this section as in relation to proceedings under Part 1 (copyright) -</p> <p>(a) sections 104 to 106 of this Act (presumptions as to certain matters relating to copyright); and</p> <p>(b) section 72 of the Supreme Court Act 1981, section 15 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property).</p> <p>(6) Subsections (1) to (4) and (5)(b) and any other provision of this Act as it has effect for the purposes of those subsections apply, with any necessary adaptations, to rights in performances, publication right and database right.</p> <p>(7) The provisions of regulation 22 (presumptions relevant to database right) of the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032) apply in proceedings brought by virtue of this section in relation to database right.</p> <p>Section 296ZB: Devices and services designed to circumvent technological measures</p> <p>(1) A person commits an offence if he -</p> <p>(a) manufactures for sale or hire, or</p> <p>(b) imports otherwise than for his private and domestic use, or</p> <p>(c) in the course of a business -</p> <p>(i) sells or lets for hire, or</p> <p>(ii) offers or exposes for sale or hire, or</p> <p>(iii) advertises for sale or hire, or</p> <p>(iv) possesses, or</p> <p>(v) distributes, or</p> <p>(d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the copyright owner,</p> <p>any device, product or component which is primarily designed, produced, or adapted for the purpose of enabling or facilitating the circumvention of effective technological measures.</p> <p>(2) A person commits an offence if he provides, promotes, advertises or markets -</p> <p>(a) in the course of a business, or</p> <p>(b) otherwise than in the course of a business to such an extent as to affect prejudicially the copyright owner,</p> <p>a service the purpose of which is to enable or facilitate the circumvention of effective technological measures.</p> <p>(3) Subsections (1) and (2) do not make unlawful anything done by, or on behalf of, law enforcement agencies or any of the intelligence services -</p> <p>(a) in the interests of national security; or</p> <p>(b) for the purpose of the prevention or detection of crime, the investigation of an offence, or the conduct of a prosecution,</p> |
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| | <p>and in this subsection 'intelligence services' has the meaning given in section 81 of the Regulation of Investigatory Powers Act 2000.</p> <p>(4) A person guilty of an offence under subsection (1) or (2) is liable -</p> <p>(a) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum, or both;</p> <p>(b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.</p> <p>(5) It is a defence to any prosecution for an offence under this section for the defendant to prove that he did not know, and had no reasonable ground for believing, that -</p> <p>(a) the device, product or component; or</p> <p>(b) the service,</p> <p>enabled or facilitated the circumvention of effective technological measures.</p> <p>Section 296ZC: Devices and services designed to circumvent technological measures: search warrants and forfeiture</p> <p>(1) The provisions of sections 297B (search warrants), 297C (forfeiture of unauthorised decoders: England and Wales or Northern Ireland) and 297D (forfeiture of unauthorised decoders: Scotland) apply to offences under section 296ZB with the following modifications.</p> <p>(2) In section 297B the reference to an offence under section 297A(1) shall be construed as a reference to an offence under section 296ZB(1) or (2).</p> <p>(3) In sections 297C(2)(a) and 297D(15) the references to an offence under section 297A(1) shall be construed as a reference to an offence under section 296ZB(1).</p> <p>(4) In sections 297C and 297D references to unauthorised decoders shall be construed as references to devices, products or components for the purpose of circumventing effective technological measures.</p> <p>Section 296ZD: Rights and remedies in respect of devices and services designed to circumvent technological measures</p> <p>(1) This section applies where -</p> <p>(a) effective technological measures have been applied to a copyright work other than a computer program; and</p> <p>(b) a person (C) manufactures, imports, distributes, sells or lets for hire, offers or exposes for sale or hire, advertises for sale or hire, or has in his possession for commercial purposes any device, product or component, or provides services which</p> <p>(i) are promoted, advertised or marketed for the purpose of the circumvention of, or</p> <p>(ii) have only a limited commercially significant purpose or use other than to circumvent, or</p> <p>(iii) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of,</p> <p>those measures.</p> <p>(2) The following persons have the same rights against C as a copyright owner has in respect of an infringement of copyright -</p> <p>(a) a person -</p> <p>(i) issuing to the public copies of, or</p> <p>(ii) communicating to the public,</p> |
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| | <p>the work to which effective technological measures have been applied;</p> <p>(b) the copyright owner or his exclusive licensee, if he is not the person specified in paragraph (a); and</p> <p>(c) the owner or exclusive licensee of any intellectual property right in the effective technological measures applied to the work.</p> <p>(3) The rights conferred by subsection (2) are concurrent, and sections 101(3) and 102(1) to (4) apply, in proceedings under this section, in relation to persons with concurrent rights as they apply, in proceedings mentioned in those provisions, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(4) Further, the persons in subsection (2) have the same rights under section 99 or 100 (delivery up or seizure of certain articles) in relation to any such device, product or component which a person has in his possession, custody or control with the intention that it should be used to circumvent effective technological measures, as a copyright owner has in relation to any infringing copy.</p> <p>(5) The rights conferred by subsection (4) are concurrent, and section 102(5) shall apply, as respects anything done under section 99 or 100 by virtue of subsection (4), in relation to persons with concurrent rights as it applies, as respects anything done under section 99 or 100, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(6) The following provisions apply in relation to proceedings under this section as in relation to proceedings under Part 1 (copyright) -</p> <p>(a) sections 104 to 106 of this Act (presumptions as to certain matters relating to copyright); and</p> <p>(b) section 72 of the Supreme Court Act 1981, section 15 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property);</p> <p>and section 114 of this Act applies, with the necessary modifications, in relation to the disposal of anything delivered up or seized by virtue of subsection (4).</p> <p>(7) In section 97(1) (innocent infringement of copyright) as it applies to proceedings for infringement of the rights conferred by this section, the reference to the defendant not knowing or having reason to believe that copyright subsisted in the work shall be construed as a reference to his not knowing or having reason to believe that his acts enabled or facilitated an infringement of copyright.</p> <p>(8) Subsections (1) to (5), (6)(b) and (7) and any other provision of this Act as it has effect for the purposes of those subsections apply, with any necessary adaptations, to rights in performances, publication right and database right.</p> <p>(9) The provisions of regulation 22 (presumptions relevant to database right) of the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032) apply in proceedings brought by virtue of this section in relation to database right.</p> <p>Section 296ZE: Remedy where effective technological measures prevent permitted acts</p> <p>Section 296ZF: Interpretation of sections 296ZA to 296ZE</p> <p>Rights management information</p> <p>Section 296ZG: Electronic rights management information</p> |
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| | <p>(1) This section applies where a person (D), knowingly and without authority, removes or alters electronic rights management information which -</p> <p>(a) is associated with a copy of a copyright work, or</p> <p>(b) appears in connection with the communication to the public of a copyright work, and</p> <p>where D knows, or has reason to believe, that by so doing he is inducing, enabling, facilitating or concealing an infringement of copyright.</p> <p>(2) This section also applies where a person (E), knowingly and without authority, distributes, imports for distribution or communicates to the public copies of a copyright work from which electronic rights management information -</p> <p>(a) associated with the copies, or</p> <p>(b) appearing in connection with the communication to the public of the work,</p> <p>has been removed or altered without authority and where E knows, or has reason to believe, that by so doing he is inducing, enabling, facilitating or concealing an infringement of copyright.</p> <p>(3) A person issuing to the public copies of, or communicating, the work to the public, has the same rights against D and E as a copyright owner has in respect of an infringement of copyright.</p> <p>(4) The copyright owner or his exclusive licensee, if he is not the person issuing to the public copies of, or communicating, the work to the public, also has the same rights against D and E as he has in respect of an infringement of copyright.</p> <p>(5) The rights conferred by subsections (3) and (4) are concurrent, and sections 101(3) and 102(1) to (4) apply, in proceedings under this section, in relation to persons with concurrent rights as they apply, in proceedings mentioned in those provisions, in relation to a copyright owner and exclusive licensee with concurrent rights.</p> <p>(6) The following provisions apply in relation to proceedings under this section as in relation to proceedings under Part 1 (copyright) -</p> <p>(a) sections 104 to 106 of this Act (presumptions as to certain matters relating to copyright); and</p> <p>(b) section 72 of the Supreme Court Act 1981, section 15 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property).</p> <p>(7) In this section -</p> <p>(a) expressions which are defined for the purposes of Part 1 of this Act (copyright) have the same meaning as in that Part; and</p> <p>(b) 'rights management information' means any information provided by the copyright owner or the holder of any right under copyright which identifies the work, the author, the copyright owner or the holder of any intellectual property rights, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information.</p> <p>(8) Subsections (1) to (5) and (6)(b), and any other provision of this Act as it has effect for the purposes of those subsections, apply, with any necessary adaptations, to rights in performances, publication right and database right.</p> <p>(9) The provisions of regulation 22 (presumptions relevant to database</p> |
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| | <p>right) of the Copyright and Rights in Databases Regulations 1997 (SI 1997/3032) apply in proceedings brought by virtue of this section in relation to database right.</p> <p>Section 6A: Safeguards in relation to certain satellite broadcasts</p> |
| <p>Consequences of copyright infringement</p> | <p>Civil consequences</p> <p>Section 96: Infringement actionable by copyright owner.</p> <p>96.—(1) An infringement of copyright is actionable by the copyright owner.</p> <p>(2) In an action for infringement of copyright all such relief by way of damages, injunctions, accounts or otherwise is available to the plaintiff as is available in respect of the infringement of any other property right.</p> <p>(3) This section has effect subject to the following provisions of this Chapter.</p> <p>Section 97: Provisions as to damages in infringement action.</p> <p>97.—(1) Where in an action for infringement of copyright it is shown that at the time of the infringement the defendant did not know, and had no reason to believe, that copyright subsisted in the work to which the action relates, the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.</p> <p>(2) The court may in an action for infringement of copyright having regard to all the circumstances, and in particular to—</p> <p>(a) the flagrancy of the infringement, and</p> <p>(b) any benefit accruing to the defendant by reason of the infringement, award such additional damages as the justice of the case may require.</p> <p>Section 97A Injunctions against service providers</p> <p>(1) The High Court (in Scotland, the Court of Session) shall have power to grant an injunction against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright.</p> <p>(2) In determining whether a service provider has actual knowledge for the purpose of this section, a court shall take into account all matters which appear to it in the particular circumstances to be relevant and, amongst other things, shall have regard to -</p> <p>(a) whether a service provider has received a notice through a means of contact made available in accordance with regulation 6(1)(c) of the Electronic Commerce (EC Directive) Regulations 2002 (SI 2002/2013); and</p> <p>(b) the extent to which any notice includes -</p> <p>(i) the full name and address of the sender of the notice;</p> <p>(ii) details of the infringement in question.</p> <p>(3) In this section 'service provider' has the meaning given to it by regulation 2 of the Electronic Commerce (EC Directive) Regulations 2002.</p> <p>Section 98: Undertaking to take licence of right in infringement proceedings.</p> <p>98.—(1) If in proceedings for infringement of copyright in respect of which a licence is available as of right under section 144 (powers exercisable in consequence of report of Competition Commission) the defendant undertakes to take a licence on such terms as may be agreed or, in default of agreement, settled by the Copyright Tribunal under that section—</p> <p>(a) no injunction shall be granted against him,</p> <p>(b) no order for delivery up shall be made under section 99, and</p> <p>(c) the amount recoverable against him by way of damages or on an</p> |

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| | <p>account of profits shall not exceed double the amount which would have been payable by him as licensee if such a licence on those terms had been granted before the earliest infringement.</p> <p>(2) An undertaking may be given at any time before final order in the proceedings, without any admission of liability.</p> <p>(3) Nothing in this section affects the remedies available in respect of an infringement committed before licences of right were available.</p> <p>Section 99: Order for delivery up.</p> <p>99.—(1) Where a person—</p> <p>(a) has an infringing copy of a work in his possession, custody or control in the course of a business, or</p> <p>(b) has in his possession, custody or control an article specifically designed or adapted for making copies of a particular copyright work, knowing or having reason to believe that it has been or is to be used to make infringing copies,</p> <p>the owner of the copyright in the work may apply to the court for an order that the infringing copy or article be delivered up to him or to such other person as the court may direct.</p> <p>(2) An application shall not be made after the end of the period specified in section 113 (period after which remedy of delivery up not available); and no order shall be made unless the court also makes, or it appears to the court that there are grounds for making, an order under section 114 (order as to disposal of infringing copy or other article).</p> <p>(3) A person to whom an infringing copy or other article is delivered up in pursuance of an order under this section shall, if an order under section 114 is not made, retain it pending the making of an order, or the decision not to make an order, under that section.</p> <p>(4) Nothing in this section affects any other power of the court.</p> <p>Section 100: Right to seize infringing copies and other articles.</p> <p>100.—(1) An infringing copy of a work which is found exposed or otherwise immediately available for sale or hire, and in respect of which the copyright owner would be entitled to apply for an order under section 99, may be seized and detained by him or a person authorised by him.</p> <p>The right to seize and detain is exercisable subject to the following conditions and is subject to any decision of the court under section 114.</p> <p>(2) Before anything is seized under this section notice of the time and place of the proposed seizure must be given to a local police station.</p> <p>(3) A person may for the purpose of exercising the right conferred by this section enter premises to which the public have access but may not seize anything in the possession, custody or control of a person at a permanent or regular place of business of his, and may not use any force.</p> <p>(4) At the time when anything is seized under this section there shall be left at the place where it was seized a notice in the prescribed form containing the prescribed particulars as to the person by whom or on whose authority the seizure is made and the grounds on which it is made.</p> <p>(5) In this section—</p> <p>‘premises’ includes land, buildings, moveable structures, vehicles, vessels, aircraft and hovercraft; and</p> <p>‘prescribed’ means prescribed by order of the Secretary of State.</p> <p>(6) An order of the Secretary of State under this section shall be made by</p> |
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| | <p>statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.</p> <p>Section 101: Rights and remedies of exclusive licensee Rights and remedies or exclusive licensee.</p> <p>101.—(1) An exclusive licensee has, except against the copyright owner, the same rights and remedies in respect of matters occurring after the grant of the licence as if the licence had been an assignment.</p> <p>(2) His rights and remedies are concurrent with those of the copyright owner; and references in the relevant provisions of this Part to the copyright owner shall be construed accordingly.</p> <p>(3) In an action brought by an exclusive licensee by virtue of this section a defendant may avail himself of any defence which would have been available to him if the action had been brought by the copyright owner.</p> <p>Section 101A: Certain infringements actionable by a non-exclusive licensee</p> <p>(1) A non-exclusive licensee may bring an action for infringement of copyright if -</p> <p>(a) the infringing act was directly connected to a prior licensed act of the licensee; and</p> <p>(b) the licence -</p> <p>(i) is in writing and is signed by or on behalf of the copyright owner; and</p> <p>(ii) expressly grants the non-exclusive licensee a right of action under this section.</p> <p>(2) In an action brought under this section, the non-exclusive licensee shall have the same rights and remedies available to him as the copyright owner would have had if he had brought the action.</p> <p>(3) The rights granted under this section are concurrent with those of the copyright owner and references in the relevant provisions of this Part to the copyright owner shall be construed accordingly.</p> <p>(4) In an action brought by a non-exclusive licensee by virtue of this section a defendant may avail himself of any defence which would have been available to him if the action had been brought by the copyright owner.</p> <p>(5) Subsections (1) to (4) of section 102 shall apply to a non-exclusive licensee who has a right of action by virtue of this section as it applies to an exclusive licensee.</p> <p>(6) In this section a 'non-exclusive licensee' means the holder of a licence authorising the licensee to exercise a right which remains exercisable by the copyright owner.</p> <p>Section 101A: Certain infringements actionable by a non-exclusive licensee</p> <p>(1) A non-exclusive licensee may bring an action for infringement of copyright if -</p> <p>(a) the infringing act was directly connected to a prior licensed act of the licensee; and</p> <p>(b) the licence -</p> <p>(i) is in writing and is signed by or on behalf of the copyright owner; and</p> <p>(ii) expressly grants the non-exclusive licensee a right of action under this section.</p> <p>(2) In an action brought under this section, the non-exclusive licensee shall have the same rights and remedies available to him as the copyright owner would have had if he had brought the action.</p> |
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| | <p>(3) The rights granted under this section are concurrent with those of the copyright owner and references in the relevant provisions of this Part to the copyright owner shall be construed accordingly.</p> <p>(4) In an action brought by a non-exclusive licensee by virtue of this section a defendant may avail himself of any defence which would have been available to him if the action had been brought by the copyright owner.</p> <p>(5) Subsections (1) to (4) of section 102 shall apply to a non-exclusive licensee who has a right of action by virtue of this section as it applies to an exclusive licensee.</p> <p>(6) In this section a 'non-exclusive licensee' means the holder of a licence authorising the licensee to exercise a right which remains exercisable by the copyright owner.'</p> <p>Section 102: Exercise of concurrent rights.</p> <p>102.—(1) Where an action for infringement of copyright brought by the copyright owner or an exclusive licensee relates (wholly or partly) to an infringement in respect of which they have concurrent rights of action, the copyright owner or, as the case may be, the exclusive licensee may not, without the leave of the court, proceed with the action unless the other is either joined as a plaintiff or added as a defendant.</p> <p>(2) A copyright owner or exclusive licensee who is added as a defendant in pursuance of subsection (1) is not liable for any costs in the action unless he takes part in the proceedings.</p> <p>(3) The above provisions do not affect the granting of interlocutory relief on an application by a copyright owner or exclusive licensee alone.</p> <p>(4) Where an action for infringement of copyright is brought which relates (wholly or partly) to an infringement in respect of which the copyright owner and an exclusive licensee have or had concurrent rights of action—</p> <p>(a) the court shall in assessing damages take into account—</p> <p>(i) the terms of the licence, and</p> <p>(ii) any pecuniary remedy already awarded or available to either of them in respect of the infringement;</p> <p>(b) no account of profits shall be directed if an award of damages has been made, or an account of profits has been directed, in favour of the other of them in respect of the infringement; and</p> <p>(c) the court shall if an account of profits is directed apportion the profits between them as the court considers just, subject to any agreement between them;</p> <p>and these provisions apply whether or not the copyright owner and the exclusive licensee are both parties to the action.</p> <p>(5) The copyright owner shall notify any exclusive licensee having concurrent rights before applying for an order under section 99 (order for delivery up) or exercising the right conferred by section 100 (right of seizure); and the court may on the application of the licensee make such order under section 99 or, as the case may be, prohibiting or permitting the exercise by the copyright owner of the right conferred by section 100, as it thinks fit having regard to the terms of the licence.</p> <p>Section 103: Remedies for infringement of moral rights Remedies for infringement of moral rights.</p> <p>103.—(1) An infringement of a right conferred by Chapter IV (moral rights) is actionable as a breach of statutory duty owed to the person entitled to the right.</p> |
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| | <p>(...)</p> <p>Section 107: Offences Criminal liability for making or dealing with infringing articles, <i>etc...</i></p> <p>107.— (1) A person commits an offence who, without the licence of the copyright owner—</p> <p>(a) makes for sale or hire, or</p> <p>(b) imports into the United Kingdom otherwise than for his private and domestic use, or</p> <p>(c) possesses in the course of a business with a view to committing any act infringing the copyright, or</p> <p>(d) in the course of a business—</p> <p>(i) sells or lets for hire, or</p> <p>(ii) offers or exposes for sale or hire, or</p> <p>(iii) exhibits in public, or</p> <p>(iv) distributes, or</p> <p>(e) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,</p> <p>an article which is, and which he knows or has reason to believe is, an infringing copy of a copyright work.</p> <p>(2) A person commits an offence who—</p> <p>(a) makes an article specifically designed or adapted for making copies of a particular copyright work, or</p> <p>(b) has such an article in his possession,</p> <p>knowing or having reason to believe that it is to be used to make infringing copies for sale or hire or for use in the course of a business.</p> <p>(2A) A person who infringes copyright in a work by communicating the work to the public -</p> <p>(a) in the course of a business, or</p> <p>(b) otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,</p> <p>commits an offence if he knows or has reason to believe that, by doing so, he is infringing copyright in that work.</p> <p>(3) Where copyright is infringed (otherwise than by reception of a broadcast or cable programme)—</p> <p>(a) by the public performance of a literary, dramatic or musical work, or</p> <p>(b) by the playing or showing in public of a sound recording or film,</p> <p>any person who caused the work to be so performed, played or shown is guilty of an offence if he knew or had reason to believe that copyright would be infringed.</p> <p>(4) A person guilty of an offence under subsection (1) (a), (b), (d) (iv) or (e) is liable—</p> <p>(a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;</p> <p>(b) on conviction on indictment to a fine or imprisonment for a term not exceeding 10 years, or both.</p> <p>(4A) A person guilty of an offence under subsection (2A) is liable -</p> |
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| | <p>(a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;</p> <p>(b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.</p> <p>(5) A person guilty of any other offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.</p> <p>(6) Sections 104 to 106 (presumptions as to various matters connected with copyright) do not apply to proceedings for an offence under this section; but without prejudice to their application in proceedings for an order under section 108 below.</p> <p>Section 108: Order for delivery up in criminal proceedings.</p> <p>Section 109: Search warrants.</p> <p>(amended 2002 and 2003)</p> <p>Section 110: Offence by body corporate: liability of officers.</p> <p>110—(1) Where an offence under section 107 committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.</p> <p>(...)</p> <p>Section 111: Provision for preventing importation of infringing copies Infringing copies may be treated as prohibited goods.</p> <p>Section 114: Order as to disposal of infringing copy or other article.</p> <p>114.—(1) An application may be made to the court for an order that an infringing copy or other article delivered up in pursuance of an order under section 99 or 108, or seized and detained in pursuance of the right conferred by section 100, shall be—</p> <p>(a) forfeited to the copyright owner, or</p> <p>(b) destroyed or otherwise dealt with as the court may think fit, or for a decision that no such order should be made.</p> <p>(...)</p> <p>(amended 2003)</p> <p>Section 114a pp. Forfeiture of infringing copies (inserted by Copyright, <i>etc...</i> and Trade Marks (Offences and Enforcement) Act 2002)</p> <p>Section 198: Offences Criminal liability for making, dealing with or using illicit recordings</p> <p>Sections 297ff: Offences in the context of fraudulent receptions of transmissions</p> |
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3. EU and international legislation

The following is a non-conclusive list of links related to intellectual property legislation.

a) relevant EU-Directives

1. Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31991L0250&model=guichett
2. Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31992L0100&model=guichett
3. Council Directive 93/83/EEC of 27 September 1993 on the co-ordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31993L0083&model=guichett
4. Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31993L0098&model=guichett
5. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31996L0009&model=guichett
6. Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001L0084&model=guichett
7. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32001L0029&model=guichett
8. Proposal for a Directive of the European Parliament and of the on measures and procedures to ensure the enforcement of intellectual property rights
http://europa.eu.int/lex/en/com/pdf/2003/com2003_0046en01.pdf

b) Other international agreements

1. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

http://www.wto.org/english/tratop_e/trips_e/trips_e.htm
Berne Convention for the Protection of Literary and Artistic Works www.wipo.int/clea/docs/en/wo/wo001en.htm

2. WIPO-copyright treaty (WCT)

<http://europa.eu.int/comm/trade/pdf/wipo1996.pdf>
www.wipo.int/clea/docs/en/wo/wo033en.htm

3. WIPO Performances and Phonogram Treaty (WPPT)

www.iop.org/treaties/ip/wppt/index.html