



**Law No. 4/2001 of February 27, 2001, Approving Copyright  
and Repealing the Code of Copyright  
Approved by Decree-Law No. 46,980 of April 27, 1966\***

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TITLE I  
COPYRIGHT

Chapter I  
General Provisions

*Object*

1. The object of this Law is to protect literary, artistic and scientific works and the rights of the corresponding authors, performers and producers of phonograms, videograms and original works intended for broadcasting, and to stimulate the creation and production of intellectual work in the fields of literature, art and science.

*Definitions*

2. The meaning of terms used in this Law is as shown in the glossary in the Annex, which forms an integral part of the Law.

*Personal and Territorial Scope*

3.—(1) The provisions of this Law are applicable to:

(a) works the author of which, or any other original owner of copyright in which, is Mozambican or, in the case of a foreign national, is ordinarily resident or has his registered office in Mozambique;

(b) audiovisual works the producer of which is Mozambican or, in the case of a foreign national, is ordinarily resident or has his registered office in Mozambique;

(c) works published in Mozambique or works first published abroad and issued in Mozambique;

(d) works of architecture erected in Mozambique;

(e) works entitled to protection under an international treaty to which Mozambique is party.

(2) All authors shall benefit from the rights provided for in this Law in relation to their literary, artistic or scientific works, and that benefit shall commence on the creation of the work, even if it is incomplete.

### *Material Scope*

4.—(1) This Law shall apply in particular to literary, artistic and scientific works that are original intellectual creations in the literary, artistic and scientific fields, namely:

- (a) written works, including computer programs;
- (b) lectures, addresses, sermons and other works consisting of words and expressed orally;
- (c) musical works, with or without accompanying words;
- (d) dramatic and dramatico-musical works;
- (e) choreographic and mimed works;
- (f) audiovisual works;
- (g) works of fine art, including drawings, paintings, sculptures, engravings and lithographs;
- (h) works of architecture;
- (i) photographic works;
- (j) works of applied art;
- (k) illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science;
- (l) expressions of folklore.

(2) It shall also apply to derived works that by reason of the selection or arrangement of their subject matter constitute intellectual creations, namely:

- (a) compilations of works;
- (b) translations, adaptations, arrangements and other transformations of original works.

### *Exclusions*

5. The protection provided for in this Law shall not apply to:

- (a) official texts of a legislative, administrative or judicial nature, or to official translations thereof;
- (b) news of the day and accounts of events that are purely for information;
- (c) simple facts and data;
- (d) ideas, processes, operational methods or mathematical concepts.



## Chapter II Copyright

### *Content of Copyright*

6. Copyright comprises rights of an economic character and rights of a personal nature, which are known as non-economic rights.

### *Content of Economic Rights*

7.—(1) The author of a work has the exclusive right to authorize the following acts:

- (a) reproduction of his work;
- (b) translation of his work;
- (c) preparation of adaptations, arrangements and other transformations of his work;
- (d) making copies of his work available for sale to the public, for any other form of transfer of ownership, for rental and for public lending;
- (e) presentation or performance of his work in public;
- (f) import or export of copies of his work;
- (g) communication of his work to the public for broadcasting by cable or by any other means.

(2) The rights of rental or lending to the public provided for in paragraph (d) are not applicable to computer programs if the program itself is not the essential purpose of the rental.

### *Content of Non-Economic Rights*

8. The author of a work has the following non-economic rights:

- (a) the right to claim authorship of his work, in particular the right to ensure that, as far as possible, his name is mentioned in the usual way on copies of the work in relation to every public use of his or her work;
- (b) the right to remain anonymous or to use a pseudonym;
- (c) the right to object to any distortion, mutilation or other modification of his work, or any derogatory action, that might be prejudicial to his honor, or reputation, or to the authenticity or integrity of the work.



### Chapter III Limitation of Economic Rights

#### SECTION I FREE USE

##### *Reproduction for Private Purposes*

**9.**—(1) It is permitted to reproduce a lawfully published work exclusively for the user's private purposes without authorization by the author or payment of remuneration.

(2) The provisions of the preceding paragraph shall not apply to:

(a) the reproduction of works of architecture consisting of buildings or other similar constructions;

(b) the reprographic reproduction of limited editions of works of three-dimensional art and the graphic representation of musical works (scores), exercise manuals and other publications, even if they are used only once;

(c) the reproduction of whole databases or large parts thereof;

(d) the reproduction of computer programs, except as provided for in Article 16;

(e) any other reproduction of a work that might prejudice its normal exploitation or cause unjustified harm to the legitimate interests of the author.

##### *Reproduction in the Form of a Quotation*

**10.** It is permitted, without authorization by the author or payment of remuneration, to quote a legitimately published work in another work on condition that the source is mentioned, and also the author's name if it appears in the source, provided that the quotation conforms to normal custom and practice and its extent does not exceed what is necessary to achieve its purpose.

##### *Use for Educational Purposes*

**11.** It is permitted, without authorization by the author or payment of remuneration, but without prejudice to the obligation to mention the source and the author's name if it appears in the source:

(a) to use a lawfully published work by way of illustration in publications, broadcasts or audio or video recordings intended for educational purposes;

(b) to reproduce by reprographic means for educational purposes or for examinations within educational establishments whose activities are not directly or indirectly profit-making and to the extent justified by the aim to be achieved, isolated articles lawfully published in a



newspaper or magazine or short extracts from a lawfully published work or short work, provided that such use conforms to normal custom and practice.

*Reprographic Reproduction for Libraries  
and Archive Services*

**12.**—(1) A library or archive service whose activities are not directly or indirectly profit-making may make isolated reprographic reproductions of a work without authorization by the author or any other owner of copyright.

(2) The provisions of the preceding paragraph shall apply also where the work reproduced is an article or short work, or a short extract of a written work that is not a computer program, with or without illustrations, published in a collection of works or in an edition of a newspaper or magazine, provided that the purpose of the reproduction is to respond to a request from a natural person and that:

(a) the library or archive service ensures that the copy will be used solely for purposes of university or private study or research;

(b) the act of reproduction is an isolated case or, if repeated, occurs on separate, unrelated occasions;

(c) no collective license may be obtained that would allow the use of such copies.

(3) The making of such a copy is authorized when it is intended to preserve, or if necessary replace, a work in the permanent collection of a library or archive service, on account of the latter having been lost, destroyed or rendered unusable, provided that:

(a) it is impossible to find such a copy on reasonable terms;

(b) the act of reprographic reproduction is an isolated act or, if repeated, occurs on separate, unrelated occasions.

*Reproduction for Judicial or Administrative Reasons*

**13.** It is permitted, without authorization by the author or payment of remuneration, to reproduce a work for use in judicial or administrative proceedings, provided that such use is justified by the purpose for which it is intended.

*Reproduction for Purposes of Information*

**14.** It is permitted, without authorization by the author or payment of any remuneration, but subject to the obligation to mention the source and the author's name if it appears in the source:

(a) to reproduce and distribute in the press or to broadcast or communicate to the public by cable an article on economics, politics or religion published in newspapers or periodical



reviews, or a broadcast work of similar character, provided that the rights of reproduction, broadcasting or communication to the public are not expressly reserved;

(b) to reproduce or make available to the public for the purposes of reporting current events by means of photography, cinematography or video, or by broadcasting or communication by cable to the public, to the extent justified by the informatory purpose, a work seen or heard during the said event;

(c) to reproduce in the press, broadcast or communicate to the public speeches, lectures, addresses, sermons and other similar works delivered in public, as well as speeches made during legal proceedings, for the purposes of news reporting and to the extent justified by the purpose, with the authors retaining their right to publish collections of the works.

#### *Use of Images of Works Displayed in Public Places*

**15.** It is permitted, without authorization by the author or payment of any remuneration, to reproduce, broadcast or communicate by cable to the public the image of a work of architecture, three-dimensional art, photography or applied art that is permanently located in a place open to the public, except where the image of the work is the principal subject of such reproduction or broadcast or communication and is used for commercial purposes.

#### *Reproduction and Adaptation of Computer Programs*

**16.—(1)** The legitimate owner of a copy of a computer program may, without authorization by the author or payment of separate remuneration, make a copy or adaptation of that program, provided that the copy or adaptation is:

(a) necessary for the use of the computer program according to the purposes for which it was obtained;

(b) necessary for purposes of archiving, and for replacing the lawfully held copy in the event of its being lost, destroyed or rendered unusable.

(2) No copy or adaptation may be made for any purposes other than those provided for in the preceding paragraph, and any copy or adaptation may be destroyed in the event of prolonged possession of the copy of the computer program no longer being peaceable.

#### *Temporary Recording by a Broadcasting Organization*

**17.—(1)** A broadcasting organization may, without authorization by the author or payment of any separate remuneration, make an ephemeral recording for non-commercial purposes, using its own facilities and for its own broadcasts, of a work that it has the right to broadcast.

(2) The broadcasting organization must destroy the recording within six months following its creation, except where a longer period is agreed upon with the author of the work so recorded.



(3) A single copy of the recording may however be retained purely for preservation purposes without such agreement.

#### *Resale and Public Lending*

**18.** It is permitted, without authorization by the author or payment of any remuneration:

(a) to resell or otherwise transfer ownership of the copy of a work, after the first sale or other transfer thereof, to a library or archive service whose activities are not directly or indirectly profit-making;

(b) to lend the copy of a written work to the public solely for consultation, provided that it is not a computer program.

#### *Public Presentation or Performance*

**19.** It is permitted, without authorization by the author or payment of any remuneration, to present or perform a work that has been publicly disclosed and is not restricted:

(a) on the occasion of official or religious ceremonies to the extent justified by the nature of those ceremonies;

(b) in the context of the activities of an educational establishment, when the performance is by the staff and students of the said establishment, and the audience is composed exclusively of its staff and students, parents, tutors, those responsible for the education of children or other persons linked to the activities of the establishment.

#### *Import for Personal Purposes*

**20.** A natural person or legal entity is permitted, without authorization by the author or any other owner of copyright, to import a copy of a work by a natural or legal person for personal and collective purposes.

## SECTION II EQUITABLE REMUNERATION

#### *Remuneration for Reproduction for Private Purposes*

**21.—(1)** It is permitted, without authorization by the author but subject to payment of equitable remuneration, to reproduce a legitimately published audiovisual work or the soundtrack of a work exclusively for the private purposes of the user.

(2) Equitable remuneration for reproduction for private purposes, in the cases provided for in the preceding paragraph, means payment made by producers and importers of equipment and physical material used for the reproduction, and received and distributed by the collective copyright management organization.



(3) In the absence of agreement between the representatives of the producers and importers on the one hand and the collective copyright management organization on the other, the amount of equitable remuneration and the conditions of its payment shall be fixed as provided in the implementing regulations under this Law.

(4) Fair remuneration to be paid to performers and to producers of phonograms must be distributed between these groups of rightholders as provided in the implementing regulations under this Law.

(5) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration:

(a) if they are for export;

(b) if they cannot be normally used for reproduction of works intended for private purposes.

## **Chapter IV** **Duration of Protection**

### *Economic Rights and Non-Economic Rights*

**22.**—(1) The protection of economic rights shall expire 70 years after the death of the author, even in the case of a work disclosed or published posthumously.

(2) The protection of non-economic rights is not limited in time.

(3) After the death of the author, the protection of his rights, whether economic or non-economic, may be applied for in court or out of court by the surviving spouse, provided that he or she is not legally separated on the date of death, or by any descendant, sibling, nephew, niece or heir of the deceased.

(4) The State entity responsible for the protection of copyright may also legitimately take judicial or extrajudicial action.

### *Works of Joint Authorship*

**23.** The economic rights in a work of joint authorship are protected during the lifetime of the last surviving author, and for a further 70 years following his death.

### *Anonymous and Pseudonymous Works*

**24.**—(1) The economic rights in a work published anonymously or under a pseudonym are protected for 70 years from the date on which the work is legally published for the first time.

(2) The same rights are also protected under the provisions of the preceding paragraph as from the end of the year in which the work is made accessible or completed.



(3) In the absence of the dates referred to in the preceding paragraphs, the period shall commence at the end of the year of completion.

(4) If before the expiry of the periods referred to in the preceding paragraphs the identity of the author is revealed or left in no doubt, the provisions of the preceding Articles shall apply.

#### *Collective or Audiovisual Works*

**25.** The economic rights in a collective work and in an audiovisual work are protected for 70 years after the work is lawfully made public or after its completion.

#### *Works of Applied Art*

**26.** The economic rights in a work of applied art are protected for 70 years from its completion.

#### *Calculation of Periods*

**27.** For the purposes of this Chapter, the counting of periods starts on the first of January of the calendar year following the event that gave rise to the right in question and ends at the close of the calendar year in which the period would normally reach its conclusion.

### **Chapter V Ownership of Rights**

#### *General Principle*

**28.** The author of a work is the primary owner of the economic and non-economic rights in the work.

#### *Works of Joint Authorship*

**29.—(1)** The co-authors of a work of joint authorship are the primary co-owners of the economic and non-economic rights in the work.

(2) If a work of joint authorship can be divided into independent parts that can be reproduced, performed, presented or used separately, the co-authors may enjoy independent rights in those parts while remaining co-owners of the whole work.

#### *Collective Works*

**30.** The primary owner of the economic and non-economic rights in a collective work is the natural person or legal entity on whose initiative and responsibility the work is created, and in whose name the work is published, disclosed or communicated.



### *Works of Folklore*

**31.**—(1) Ownership of the copyright in works of folklore vests in the State, which shall exercise its rights through the Council of Ministers, without prejudice to the rights of those who collect, transcribe, arrange or translate them, provided that the collections, arrangements or translations are original and respect the authenticity of the works.

(2) Copies of works of folklore, as well as transcriptions, translations, arrangements or other transformations thereof reproduced or executed abroad without authorization by the competent authority may only be imported or distributed on the national territory with the authority of the Government body responsible for culture.

### *Works Created Under a Contract of Employment*

**32.** In the case of a work created by an author for the account of a natural person or corporate entity under a labor contract in the context of employment, provision of services or piecework, the primary owner of the economic and non-economic rights is the author, unless otherwise provided in the contract, but the economic rights in the work shall be considered transferred to the employer to the extent justified by the normal activities under the contract.

### *Audiovisual Works*

**33.**—(1) In the case of an audiovisual work, the primary owners of the economic and non-economic rights are the co-authors of the work, namely the director, the author of the script and the composer of the music.

(2) The authors of pre-existing works adapted or used for audiovisual works shall enjoy equal status with the said co-authors.

(3) Unless otherwise stipulated, the contract concluded between the producer of an audiovisual work and the co-authors of that work who are not the authors of the musical works included therein implies, as regards the contributions of the co-authors to the completion of the work, the assignment to the producer of the economic rights of those co-authors in their contributions.

(4) Unless otherwise stipulated in the contract, the authors retain their economic rights in other uses of their contributions insofar as they may be used separately from the audiovisual work.

### *Presumption of Ownership*

**34.**—(1) The author of a work is presumed to be the person whose name appears on the work in the usual manner.

(2) In the case of an anonymous or pseudonymous work, except where the pseudonym leaves no doubt as to the author's identity, the publisher whose name appears on the work is,



in the absence of evidence to the contrary, considered the representative of the author, and in that capacity may protect and ensure the author's rights.

(3) The provisions of the foregoing paragraph shall cease as soon as the author reveals his identity and affirms his ownership rights in the work.

(4) The natural person or corporate entity whose name repeatedly appears in an audiovisual work as being the producer is presumed, in the absence of evidence to the contrary, to be the producer of the said work.

(5) Any evidence relating to an audiovisual work entered in an international register in accordance with an international treaty to which Mozambique is party shall be considered correct except:

- (a) where the evidence cannot be valid under domestic law;
- (b) where the evidence contradicts other evidence entered in the international register.

## **Chapter VI Transfer of Rights**

### *Transfer of Rights*

**35.**—(1) Economic rights are transferable *inter vivos* or *mortis causa*.

(2) Economic rights are subject to seizure and confiscation under the provisions of general law.

(3) Non-economic rights are not transferable *inter vivos*, but may be transferred by succession.

### *Licenses*

**36.**—(1) The author of a work may grant an exclusive or non-exclusive license to a person or persons for the performance of acts covered by his economic rights.

(2) An exclusive license permits its holder, to the exclusion of any other person, including the author himself, to perform in the manner permitted the acts to which the license refers.

(3) A non-exclusive license permits its holder to perform in the manner permitted the acts to which the license refers at the same time as the author and other holders of non-exclusive licenses.

(4) Unless stipulated to the contrary, the license shall be presumed non-exclusive.

(5) If the period of validity is not stipulated, the license is presumed to have been granted for a period of 12 months.



*Forms of Contracts and Licenses*

**37.** Contracts transferring economic rights and the licensing of acts covered by the economic rights must be set down in writing.

*Scope of Transfers and Licenses*

**38.**—(1) The transfer of economic rights and the licensing of acts covered by economic rights may be restricted to certain specific rights, and restrictions may also apply to the objectives, duration, geographical scope, breadth and means of exploitation.

(2) In the absence of any mention of the geographical scope of the economic rights transferred or the license granted, the country in which the act is performed shall be considered the limit of the transfer or license.

(3) The absence of any mention of the scope or means of exploitation for which the economic rights have been transferred or the license granted shall be regarded as limiting the transfer or license to the extent of the means of communication and exploitation necessary for the objectives envisaged at the time of the transfer or the grant of the license.

*Disposal of Originals or Copies of Works*

**39.**—(1) Disposal by the author of the original or a copy of his work for consideration does not constitute transfer of the relevant economic rights unless otherwise provided in the contract.

(2) Without prejudice to the foregoing paragraph, the lawful buyer of an original or copy of a work has the right, unless the contract provides otherwise, to present that original or copy directly to the public.

(3) The right provided for in the preceding paragraph shall not extend to persons who have come into possession of originals or copies of a work through rental, public lending or any other means that does not confer ownership thereof.

TITLE II  
RELATED RIGHTS

Chapter I  
Scope and Ownership

*Scope of Application*

**40.**—(1) This Title applies to performances, productions of phonograms and videograms and broadcast programs.

(2) The provisions of this Title apply equally when the performers, producers of phonograms and videograms or broadcasting organizations are of Mozambican nationality.



*Material and Territorial Scope*

41.—(1) The provisions of this Title apply to:

(a) performances that take place on national territory, where the performer is a foreign national;

(b) performances fixed on a phonogram or videogram, as provided in this Law.

(2) They also apply when the initial fixation of sounds is done in Mozambique by a producer who is a foreign national.

(3) The provisions of this Title also include broadcast programs where:

(a) the registered office of the organization is located on Mozambican territory;

(b) the broadcast program is transmitted from a station situated on Mozambican territory by a foreign broadcasting organization;

(c) translations, adaptations, arrangements and other transformations of works and expressions of folklore are recorded in accordance with this Law;

(4) The provisions of this Title also apply to performances, phonograms, videograms and broadcast programs protected under conventions to which the country is to become party.

(5) The protection of the works mentioned in paragraph (3)(c) of this Article shall be without prejudice to the protection of the pre-existing works used in their creation.

*Powers and Privileges of Owners of Rights*

42. The powers and privileges of performers, producers of phonograms and videograms and broadcasting organizations shall be based on the contract transferring economic rights, on the license granted by the authors or co-authors and on law.

*Right of Authorization of Performers*

43.—(1) The performer has the exclusive right to perform or authorize the following acts:

(a) broadcasting of his performance, except where the broadcast is based on a recording of the performance made under the provisions of Article 49, or where it is a rebroadcast authorized by the broadcasting organization that originally broadcast the performance;

(b) communication to the public of his performance, except where that communication is done using a recording of the performance or a broadcast of the performance;

(c) recording of his as yet unrecorded performance;

(d) reproduction of a recording of his performance where the performance is originally recorded without permission, where the reproduction is done for purposes other than those for which the performers gave their permission or where the performance was originally recorded in accordance with Articles 49 to 53 but the reproduction was done for purposes other than those envisaged in those Articles.

(2) In the absence of agreement to the contrary:

(a) permission to broadcast does not imply permission to allow other broadcasting organizations to broadcast the performance;

(b) permission to broadcast does not imply permission to record the performance;

(c) permission to broadcast and record the performance does not imply permission to reproduce the recording;

(d) permission to broadcast and record the performance and to reproduce the recording does not imply permission to broadcast the performance using that recording or reproductions thereof.

#### *Right of Authorization of Producers of Phonograms*

**44.** A producer of phonograms has the exclusive right to perform and authorize the following acts:

(a) direct or indirect reproduction of copies of his phonogram;

(b) recording of his broadcast programs;

(c) reproduction of a recording of his broadcast programs where the recording from which the reproduction is made was not authorized, or where the broadcast program is initially recorded.

## **Chapter II Remuneration and Free Use**

### *Remuneration for Broadcasting or Communication to the Public*

**45.**—(1) Provided that a phonogram published for commercial purposes or a reproduction thereof is used directly for broadcasting or communication to the public, a single amount of equitable remuneration, destined simultaneously for the performers and for the producer of the phonogram, shall be paid to the said producer by the user.

(2) Payment made for use of the phonogram is shared, in the absence of agreement to the contrary, 50% by the producer and 50% by the performers. The latter shall share the sum received from the producer or use it in accordance with agreements existing between them.

(3) Moneys shall be shared between the performers in accordance with contractual provisions.



### *Remuneration for Private Reproduction*

**46.**—(1) The reproduction of a phonogram solely for the purposes of the user is permitted, without authorization by the performer whose performance is recorded on the phonogram and without authorization by the producer of the phonogram, subject to the payment of equitable remuneration to the said party.

(2) The provisions of Article 21(2), (3) and (4) also apply to the equitable remuneration mentioned in the foregoing paragraph.

### *Free Use*

**47.** The following acts are permitted without authorization by the holders of the rights mentioned in Articles 42 and 45 and without payment of remuneration:

- (a) private use;
- (b) the reporting of current events, provided that only short extracts from a performance, phonogram or broadcast program are used;
- (c) use intended exclusively for education and scientific research;
- (d) quotations, in the form of short extracts, from a performance, a phonogram or a broadcast program, provided that such quotations conform to custom and practice and are justified by their informatory purpose;
- (e) any other uses that by virtue of this Law constitute exceptions in relation to works protected by copyright.

### *Use of Performances*

**48.** From the moment that the performers give permission for their performances to be included in a recording of images and sounds, the provisions of Article 43 are not applicable.

### *Use for Broadcast Programs*

**49.** Recording or reproduction done by a broadcasting organization using its own facilities and for its own broadcasts is permitted without authorization by the rightholders mentioned in Articles 43 and 45, and without payment of remuneration, provided that:

- (a) in every broadcast of a recording or performance or reproduction thereof done in accordance with this Article, the broadcasting organization has the right to broadcast the performance in question;
- (b) in every broadcast of a recording, broadcast or reproduction of such a recording done in accordance with this Article, the broadcasting organization has the right to broadcast the program;



(c) in the case of any recording or reproduction thereof done in accordance with this Article, the recording and its reproductions are destroyed within a period equal to that applicable to recordings and reproductions of works protected by copyright under Article 17(2) of this Law, with the exception of a single copy which may be kept exclusively for archiving purposes.

### **Chapter III** **Duration of Protection and Identification**

#### SECTION I DURATION OF PROTECTION

##### *Protection of Works of Folklore*

**50.** The protection of works of folklore is not limited in time.

##### *Protection of Performances*

**51.** The term of the protection to be granted to performances provided for in this Chapter is 50 years from:

(a) the end of the year of recording in the case of performances recorded on a phonogram;

(b) the end of the year in which the performance takes place in the case of performances that are not recorded on a phonogram.

##### *Protection of Phonograms*

**52.** The term of the protection to be granted to the phonograms provided for in this Chapter is 50 years from the end of the year of recording.

##### *Protection of Broadcast Programs*

**53.** The term of the protection to be granted to broadcast programs is 25 years from the end of the year in which the broadcast took place.

#### SECTION II IDENTIFICATION OF PHONOGRAMS

##### *Notice of Protection of Phonograms*

**54.—(1)** All copies of published and marketed phonograms, or the packaging containing them, must bear a reference consisting of a symbol, accompanied by a mention of



the year of first publication, affixed in such a way as to show that the protection thereof is reserved.

(2) Where the copies or their packaging do not allow the producer to be identified by means of a brand name or any other appropriate designation, the reference must also include the name of the owner of the producer's rights.

(3) Where the copies or their packaging do not allow the principal performers to be identified, the reference must also include the name of the person who, in the country in which the recording takes place, owns the rights of those performers.

### TITLE III REGISTRATION AND PUBLICITY

#### *Acquisition of Rights*

**55.** The rights of the author, performer or producer are acquired by virtue of the creation of a work, by contract or by license.

#### *Function and Purpose of Registration*

**56.**—(1) The function of registration is to publicize the work and the protected rights.

(2) The following are subject to registration:

- (a) acts that establish, transfer, modify or extinguish copyright;
- (b) encumbrances on copyright;
- (c) the literary or artistic name;
- (d) the title of the work and its author;
- (e) seizure and confiscation of copyright.

#### *Clear Evidence*

**57.** The registration certificate constitutes clear evidence in a court of law and may only be limited where the law so provides.

#### *Reference*

**58.** The rules on registration of works protected under this Law are defined in the specific implementing provisions.



TITLE IV  
INFRINGEMENT AND PROTECTION  
OF COPYRIGHT AND RELATED RIGHTS

**Chapter I**  
**Legitimacy**

*Institution of Legal Proceedings*

**59.**—(1) It is for the injured party or his legal representative to institute legal proceedings in defense of his infringed rights.

(2) Where the owner of the rights is deceased, action may be brought by any of the persons mentioned in Article 22(3), in the order therein specified, provided that the infringement took place within the period of protection by law.

(3) Where the owner of the rights dies while the action is in progress, it shall be prosecuted by any of the persons referred to in the foregoing paragraph and according to the conditions set out there.

**Chapter II**  
**Infringements of Economic Rights and Sanctions**

*General Principle*

**60.** Infringement of the rights provided for in this Law is punishable under civil and criminal law.

*Usurpation*

**61.**—(1) The crime of usurpation is committed by a person who, without due authorization by the author, performer, phonogram producer or broadcasting organization concerned, uses or exploits the work of another in any of the forms provided for in this Law.

(2) The crime of usurpation is also committed by a person who, without due authorization by the author, wrongfully discloses or publishes a work not yet disclosed or published by the author or the owner of the relevant copyright, or not intended to be disclosed or published, even where it is presented as being by the true author and even where the disclosure is not done for economic purposes.

(3) Where persons authorized to use or exploit a given work, performance, phonogram or broadcast program exceed the limits of their authorization, they are guilty of usurpation to the extent of the excess.

(4) The following are also considered usurpation:

(a) transcriptions of works of others that exceed the limits of unrestricted use;



(b) the compilation or collection of various of an author's works, whether published by him or unpublished, without due authorization.

#### *Infringement*

**62.**—(1) The crime of infringement is committed by a person who fraudulently uses as being his own creation or performance a work, performance, phonogram or broadcast program that is a total or partial reproduction of another's work or performance, whether disclosed or not, or so similar to it as to have no distinctive character of its own.

(2) Where the reproduction referred to in the foregoing paragraph represents a part or fraction of the work produced, only that part of the work shall be considered infringed.

(3) For there to be infringement it is not essential that reproduction be made by the same process or in the same format as the original.

#### *Exclusion*

**63.** The following do not constitute the crime of infringement:

(a) the similarity of duly authorized translations of the same work, or of photographs, drawings or other forms of representation of the same object where, despite the similarities due to the identity of the object, each of the works has its own distinctive character;

(b) reproduction by photography, engraving or other technological process, done solely for the purpose of documenting artistic criticism.

#### *Presumption of Fraud*

**64.** Failure to present the written authority of the author shall be a ground for presumption of fraud, which however may be refuted by any means permissible in law.

#### *Criminal Sanctions*

**65.**—(1) The crimes of usurpation and infringement referred to in the foregoing Articles are misdemeanors and punishable in law by imprisonment and corresponding fine.

(2) In the event of a repeat offense, the penalty shall be increased in accordance with the general provisions of criminal law.

(3) Where the object of economic exploitation is a work not intended to be made public, and the work is so infringed or modified without authorization by the author that it loses its essence or offends the honor or reputation of the author, the penalty shall be increased in accordance with the general provisions of the law.

(4) An author faces imprisonment and a corresponding fine if, having wholly or partly disposed of the relevant right or having authorized the use of his work by any of the means



provided for in this Law, he uses or exploits the said work directly and in a manner prejudicial to third-party rights, except where the parties have agreed thereto.

(5) The sanction provided for in the foregoing paragraph extends to those who sell the usurped or infringing works or offer them for sale or by any means place them on the market in Mozambique, knowing them to be so, whether the copies in question were produced in the country or abroad.

#### *Independence of Action*

**66.**—(1) Action seeking indemnity for losses and damage resulting from any infringement of copyright is independent of any criminal action and judicial application for confiscation or for suspension of a show or entertainment provided for below.

(2) A judicial application for confiscation or for suspension of the show or entertainment may be made jointly with the criminal action.

### **Chapter III Infringements of Non-Economic Rights and Sanctions**

#### *Violation of Non-Economic Rights*

**67.** The following are liable to the penalties provided for in Article 65:

(a) persons who claim authorship of a work or performance which they know does not belong to them;

(b) persons who seek to detract from the genuineness or integrity of the work or performance by committing acts that discredit it and might adversely affect the honor and reputation of the author or performer;

(c) persons who, being authorized to use another's work, make alterations, deletions or additions in that work without the authority of the author or performer that discredit the work itself or the honor of the said author or performer.

#### *Destruction of a Work*

**68.**—(1) In the event of the author claiming authorship of a work, destruction of the work shall only be allowed if the infringement committed cannot be remedied by means of addition or deletion of references in the work to its authorship, or by any other means of making the facts public.

(2) Where the author defends the integrity of his work, the destruction of copies distorted or modified in any other way is admissible only where it is impossible to restore them to their original form at the expense of the person who adulterated them.

## Chapter IV Special Guarantees for Protecting Infringed Rights

### *Precautionary Measures*

**69.**—(1) The owner of the copyright in a usurped or infringing work and anybody who is in any way injured by third parties in the exercise of his rights of use and exploitation of the intellectual work has the right to resort to the courts to demand that the person responsible for the damage be prevented from continuing with the unlawful activity, or repeating the violations committed.

(2) To this end, the court may adopt such measures as it deems necessary to put an end to the situation that is the *de facto* cause of the violation and order the confiscation of the objects by means of which the violation was committed.

### *Confiscation and Destruction*

**70.**—(1) The owner of the rights provided for in this Law may apply to the court for confiscation and destruction of the copies of the usurped or infringing work, regardless of the nature of the work and the manner in which the violation occurred.

(2) Copies or unlawful reproductions shall be confiscated, as shall any equipment or instruments used for reproducing or disseminating them which, by their nature, could be used for other unlawful reproduction or dissemination.

(3) The equipment and instruments referred to in the preceding paragraph shall revert to the State.

### *Ownership of Confiscated Copies*

**71.**—(1) Copies of the work confiscated under the preceding Article shall remain the property of the party applying for confiscation.

(2) In the case of a literary or scientific work published by the usurper or infringer, the applicant has the right to demand from that party the value of the whole edition, less the confiscated copies, at the price at which the regularly published copies are on sale or at which they are valued.

(3) If the number of copies fraudulently printed and distributed is unknown, the usurper or infringer shall pay the equivalent of the cover price of up to 10 times the number of copies of the print run.

### *Location of Application for and Execution of Confiscation*

**72.** Confiscation may be applied for in any court in the place where the copies of the usurped or infringing work were found or put on sale and confiscation shall subsequently be



effected in any other courts, should it become necessary, by order of the judge who ordered the original confiscation.

## Chapter V Final Provisions

### *Management Powers*

**73.** Powers regarding the management of copyright and related rights may be exercised by the owner thereof or through a duly authorized and legally mandated representative.

### *Society of Authors*

**74.**—(1) The owners of copyright and related rights may create non-profit-making societies for the following purposes:

- (a) collective management of copyright and related rights;
- (b) promotion and defense of the interests of members;
- (c) promotion of cultural goods.

(2) The societies referred to in this Article may be designated corporate entities operating in the public interest.

### *Settlement of Disputes*

**75.** The settlement of any dispute arising from implementation of the provisions of this Law that does not affect inalienable rights may be submitted by the parties for arbitration, mediation and conciliation, as provided in ordinary legislation.

### *Prevalence of International Law*

**76.** In the event of conflict between the provisions of this Law and those of any international treaty to which the Republic of Mozambique is party, the provisions of the international treaty shall be applicable provided that they have been incorporated in domestic legislation and that they provide for better treatment of the author, producer or performer than this Law.

### *Regulatory Competence*

**77.** The Council of Ministers is competent to regulate the implementation of the subject matter provided for in this Law.



*Revocation*

78. The Code of Copyright, approved by Decree-Law No. 46,980 of April 27, 1966, enacted in Mozambique by Governmental Decree No. 679/71 of December 7, and all legislation that contradicts this Law, is hereby repealed.

*Entry into Force*

79. This Law shall enter into force 90 days after its publication.

ANNEX  
GLOSSARY

For the purposes of this Law:

1. “author” means the natural person who created the work;
2. “performers” means the actors, singers, musicians, dancers and other persons who present, sing, recite, declaim, play or in any other way perform literary or artistic works;
3. “communication of a work to the public” means the fact of making the work accessible to the public by means of its presentation, performance or broadcast otherwise than through the distribution of copies. Any process necessary and sufficient to make a work accessible to the public is a communication, even if no member of the public intended to receive, see or hear the work actually does so;
4. “public communication by cable” means transmission of a work to the public by wire or by any other physical means;
5. “communication to the public” means transmission by wire or by electromagnetic waves of sounds and images, or sounds and images of a work, in such a way that they may be seen or heard by persons outside the confines of a community and its immediate vicinity;
6. “copy” means the result of any act of reproduction or transcription of a work on to another carrier, whether identical or not;
7. “copy of a phonogram” means a physical medium containing sounds taken directly or indirectly from a phonogram and incorporating all or a substantial part of the sounds fixed thereon;
8. “copyright” means the exclusive right of the creator of a literary, artistic or scientific work to dispose of, enjoy and use the work exclusively or to authorize such enjoyment in whole or in part. This right comprises economic and non-economic rights;
9. “related rights” or “neighboring rights” means rights for the protection of the interests of performers, producers of phonograms and broadcasting organizations, with respect to their activities in relation to the public use of the works of authors, the work of performing artists of any kind or the transmission to the public of events, information and any sounds and images;



10. “economic rights of the author” means the power of the author to dispose of, enjoy and use the work, including the exclusive facility to exploit it economically and authorize its enjoyment by third parties in whole or in part;

11. “non-economic rights” or “moral rights” include the right to claim authorship of the work, to decide on its disclosure, to remain anonymous, to choose a pseudonym, oppose any unauthorized mutilation or modification of the work, and are inalienable, unrenounceable and imprescriptible or lifelong in character;

12. “lending” means the transfer of possession of the original or a copy of the work for a limited time, for non-profit-making purposes, to a public service institution;

13. “expressions of folklore” means productions of elements characteristic of the traditional artistic heritage, developed and perpetuated by a community or by individuals and recognized as responding to the wishes of that community, including popular songs, dances and shows, as well as the artistic expression of rituals and productions of folk art;

14. “recording” means the incorporation of sounds, images or sounds and images in a physical carrier that is sufficiently permanent or stable to allow them to be seen, heard, reproduced or in any other way communicated for a reasonable period;

15. “folklore” means works created on the national territory by anonymous authors or an unknown group, transmitted by successive generations and constituting one of the fundamental elements of the traditional cultural heritage;

16. “phonogram” means an exclusively audio fixation of sounds created by a performance, or of other sounds;

17. “rental” means the transfer of possession of the original work or a copy thereof to a third party for a limited period and for profit-making purposes;

18. “work” means an original intellectual creation in the literary, scientific or artistic field, however manifested, which is protected as such under the provisions of this Law;

19. “audiovisual work” consists of a sequence of images so connected between themselves as to give an impression of movement, with or without accompanying sound, and, when accompanied by sound, capable of being heard;

20. “collective work” means a work created by two or more authors on the initiative or responsibility of a natural or legal person, who publishes it in his name, in which the contributions of the authors who participate in its creation are so merged in the whole work on account of the large number of contributions or their indirect nature that it is not possible to identify the individual contributions or their authors;

21. “work of applied art” means a two-dimensional or three-dimensional artistic creation with a utilitarian function or incorporated in a utilitarian article, whether a work of handicraft or produced by industrial processes;



22. “work of joint authorship” means a work in the creation of which two or more authors cooperate, and which is disclosed or published in the name of all or some of the co-authors;

23. “photographic work” means the fixation of light or other radiation on any medium on which an image is produced, whatever the nature of the chemical, electronic or other technology by which the recording is done, with the exception of images extracted from an audiovisual work;

24. “producer of an audiovisual work” means the natural or legal person who takes the initiative and responsibility for completing the work;

25. “producer of a phonogram” means the natural or legal person who first fixes the sound or sounds produced by the performance of another sound or other sounds;

26. “computer program” means a set of instructions expressed in words, codes, diagrams or any other form capable, when incorporated in a machine-readable medium, of making a computer, or electronic process with data processing capability, perform a task or achieve a particular result;

27. “published” means that copies of the work have been made available to the public with the author’s consent, on condition that, due account being taken of the nature of the work, the number of copies published is sufficient to meet the normal requirements of the public. A work may also be considered “published” if it is recorded in the memory of a computer system and made available to the public by any means of retrieval;

28. “broadcasting” means the communication of a work, including presentation, representation or performance to the public by wireless transmission; “rebroadcast” means the transmission of a work already broadcast. “Broadcasting” includes transmission by satellite, which is “broadcasting” after a work is sent to the satellite, including the upward and downward links, until the work is communicated or made available to the public, even if not necessarily received by it;

29. “presenting a work” or “performing a work” means reciting, playing, dancing or interpreting the work, either directly or by means of any device or process, or even in the case of an audiovisual work showing images in whatever sequence or making the accompanying sounds audible;

30. “public performance” means the act of reciting, playing, representing or in some other way interpreting a work, either directly or by means of any device or process, or even, in the case of an audiovisual work, showing images of the work in sequence or making the accompanying sounds audible, in one or more places where persons outside the confines of a community and its immediate vicinity are or may be present, regardless of whether they are or may be present in the same place and at the same time or in different places and at different times at which the performance may be perceived, without there necessarily being communication to the public within the meaning defined above;



31. “reproduction” means the production of one or more copies of a work or part thereof in a material form of whatever kind, including audio and video recording. The production of one or more three-dimensional copies of a work or part thereof in a computer system, whether in the internal memory of the computer or in an external memory, also constitutes reproduction;

32. “reprographic reproduction of a work” means the production of facsimile copies of originals or of copies of the work by means other than painting. The production of reduced or enlarged facsimile copies is also considered “reprographic reproduction”.

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\* *Portuguese title:* Lei n.º 4/2001: Aprova os Direitos de Autor e revoga o Código dos Direitos de Autor aprovado pelo Decreto-Lei n.º 46 980, de 27 de Abril de 1966.

*Entry into force:* May 28, 2001.

*Source:* *Boletim da República*, 2<sup>nd</sup> Supplement, February 27, 2001, I<sup>st</sup> Series, No. 8, p. 9 *et seq.*

*Note:* Translation by the International Bureau of WIPO.

\*\* Added by the International Bureau of WIPO.