

POLAND

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ACT of 4 February 1994 ON COPYRIGHT AND RELATED RIGHTS ¹

Chapter 1. The Subject Matter of Copyright

Article 1.

1. The subject matter of copyright shall be any manifestation of the creative activity of individual nature, established in any form, irrespective of its value, designation or manner of expression (work).

2. In particular, the subject matter of copyright shall be:

- 1) works expressed in words, mathematical symbols, graphic signs (literary, journalistic, scientific and cartographic works, and computer programs),
- 2) artistic works,
- 3) photographic works,
- 4) string musical instruments,
- 5) industrial design works,
- 6) architectural works, architectural and town planning works, and town planning works,
- 7) musical works and verbal and musical works,
- 8) stage works, stage and musical works, choreographic and pantomime works,
- 9) audiovisual (including cinematographic) works.

2¹. Only the manner of expression may be subject to protection. Protection shall not be afforded to inventions, ideas, procedures, methods, principles of operation, or mathematical concepts.

3. The work shall be covered by copyright since it has been established, even though its form is incomplete.

4. The author shall enjoy copyright protection irrespective of complying with any formalities.

Article 2.

1. The work derived from another author's work (derivative work), in particular its translation, alteration or adaptation, shall be copyrighted without detriment to the original work.

2. The disposal and use of the derivative work shall depend on the permission of the author of the original work (derivative copyright) unless the author's economic rights to the

¹ Within the scope of its regulation, this Act implements the following directives of the European Communities:

1) Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ. EC L 122 of 17.05.1991),

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 (O.J. EC L 346 z 27.11.1992),

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 (O.J. EC L 248 z 06.10.1993),

4) Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights (O.J. EC L 290 z 24.11.1993),

5) Council Directive 96/9/EC of 11 March 1996 on the legal protection of databases (O.J. EC L 77 z 27.03.1996).

Data concerning the promulgation of the EU legal acts, included in this Act – as of the date of Poland's accession to the European Union – shall refer to the promulgation of these legal acts in the Official Journal of the European Union – special edition.

original work have expired. In the case of a database which has the properties of a work the author shall give his permission to the adaptation of such database.

3. The author of the original work may withdraw his permission if the derivative work has not been disseminated within five years from granting such permission. The remuneration paid to the author shall not be refundable.

4. The work which has been created under the inspiration of another author's work shall not be deemed the derivative work.

5. Copies of the derivative work shall indicate the author and the title of the original work.

Article 3.

Collections, anthologies, selections, and databases which have the properties of a work shall be covered by copyright even if they contain unprotected materials, provided that their selection, arrangement or composition are creative, without detriment to the rights of the used works.

Article 4.

The copyright shall not cover:

- 1) legislative acts and their official drafts,
- 2) official documents, materials, logos and symbols,
- 3) published patent specifications and industrial design specifications,
- 4) simple press information.

Article 5.

The provisions of this Act shall apply to works:

- 1) whose author or coauthor is a Polish citizen, or
- 1¹) whose author is a citizen of a member state of the European Union, or the member states of the European Agreement on Free Trade (EFTA) –parties to the agreement on the European Economic Area;
- 2) which have been published for the first time within the territory of the Republic of Poland or simultaneously within such territory and abroad, or
- 3) which have been published for the first time in Polish, or
- 4) which are protected under international agreements to the extent that their protection arises from such agreements.

Article 6.

In the meaning of this Act:

- 1) the published work shall mean a work which, with a permission of its author, has been reproduced and its copies were made available to the public,
- 2) the simultaneous publication shall mean the publication of a work within the territory of the Republic of Poland and abroad within 30 days from the date of its first publication,
- 3) the disseminated work shall mean a work which, with a permission of its author, has been made available to the public by any means whatsoever,
- 4) the broadcasting of a work shall mean its radio or television transmission carried on by wireless means (terrestrial or satellite) or by wire;
- 5) the rebroadcasting of a work shall mean the transmission of that work by an entity other than the original broadcaster by way of taking over the program service of a radio or television broadcasting organization in entirety and without any changes, as well as by way of a simultaneous and integral transmission of that program service to the public;

- 6) the distribution of a work shall mean the making of the original or copies of that work available to the public by way of the transfer of their ownership made by the rightholder or upon his permission;
- 7) the rental of the copies of a work shall mean their transfer for temporary use aimed at gaining profits directly or indirectly;
- 8) the gratuitous lending of the copies of a work shall mean their transfer for temporary use, which is not aimed at gaining profits, either directly or indirectly; and
- 9) the communication of the work shall mean its communication via sound, image or combined sound and image carriers, on which the work has been stored, or by way of using devices intended for receiving a radio or television program service in which the given work is broadcast;
- 10) technical protection measures shall mean all technologies, devices or their components intended for preventing actions or limiting actions taken for the purpose of using the works or performances contrary to applicable laws,
- 11) effective technical protection measures shall mean technical protection measures, which allow eligible entities to supervise the use of a protected work or performance by way of applying an access code or a security mechanism, including in particular encoding, interfering, or any other transformation of a work or a performance or a mechanism of supervising the reproduction, which fulfill the protective goal;
- 12) rights-management information shall mean information that identifies the work, the author, holder of copyright, or information about the conditions of use of a work, provided that such information has been attached to the copy of the work or is passed in connection with its dissemination, including the identification codes.”

Article 7.

Should the international agreements, to which the Republic of Poland is a party, provide for broader protection than envisaged by this Act for unpublished works of Polish citizens or for works published for the first time within the territory of the Republic of Poland or simultaneously within the territory of the Republic of Poland, or for works published for the first time in Polish, the provisions of such agreements shall apply.

Chapter 2. Owner of the Copyright

Article 8.

1. The author shall be the owner of the copyright unless this Act states otherwise.
2. It shall be presumed that the author is the person whose name has been indicated as the author on copies of the work or whose authorship has been announced to the public in any other manner in connection with the dissemination of the work.
3. In order to exercise his copyright the author, as long as he does not disclose his authorship, shall be represented by the producer or the publisher and in the absence thereof - by the competent organization for collective management of copyright.

Article 9.

1. The coauthors shall enjoy copyright jointly. It shall be presumed that the amounts of shares are equal. Each of the coauthors may claim the amounts of shares to be determined by the court on the basis of his contribution of creative work.
2. Each of the coauthors may exercise his copyright with respect to his autonomous part of the work without detriment to the other coauthors.
3. The consent of all coauthors shall be required in order to exercise copyright with respect to the whole work. In the event of absence of such consent, each of the coauthors may

request a court decision which shall take into account the interests of all the coauthors in its decision.

4. Each of the coauthors may lodge claims for infringement of copyright with respect to the whole work. All coauthors shall have the right to compensation received in proportion to their shares.

5. Economic rights of coauthors shall be governed by the respective provisions of the Civil Code on the co-ownership of fractional parts.

Article 10.

If the authors have combined their separate works in order to disseminate them jointly, each of them may request from the other authors their permissions for the dissemination of the so created whole, unless there are reasonable grounds for withholding such permissions and the contract does not state otherwise. Provisions of Article 9, paragraphs 2 to 4 above shall apply accordingly.

Article 11.

The producer or publisher shall enjoy author's economic rights in a collective work and, in particular, the rights to encyclopedias or periodical publications, and the authors shall have economic rights pertaining to their specific parts which may exist independently. It shall be presumed that the producer or publisher have the right to the title.

Article 12.

1. If this Act or a contract of employment does not state otherwise, the employer, whose employee has created a work within the scope of his duties resulting from the employment relationship, shall, upon acceptance of the work, acquire the author's economic rights within the limits resulting from the purpose of the employment contract and the unanimous intention of the parties.

2. If, within two years from accepting the work, the employer does not start the dissemination of the work to be disseminated under such contract of employment, the author may fix in writing a time limit for the employer to disseminate the work with the effect that upon its expiry, the rights acquired by the employer together with the ownership of the object in which the work has been fixed shall return to the author, unless the contract states otherwise. The parties may agree upon another time limit for starting the dissemination of the work.

3. Unless the contract of employment states otherwise, upon the acceptance of the work, the employer shall acquire the ownership of the object in which the work has been fixed.

Article 13.

If, within six months from delivery of the work, the employer fails to notify the author of its accepting, rejecting or conditioning the acceptance upon making specific changes within an appropriate time for making such changes, it shall be considered that the work has been accepted without objections. The parties may agree on a different time limit.

Article 14.

1. Unless the contract of employment states otherwise, the research institutions shall have the priority in publishing a scientific work when its employee created such work as a result of performing his duties under the employment relationship. The author shall have the right to remuneration. The priority of publication shall expire if within six months from the date of delivery of the work no publication contract has been made with the author or if, within two years from the date of its acceptance, the work has not been published.

2. The research institution may, without separate remuneration, use the scientific materials included in the work specified in paragraph 1 and may make the material work accessible to the third parties if it results from the agreed designation of the work or has been provided for in the contract.

Article 15.

It shall be presumed that the producer or publisher is the person whose surname or business name has been shown as such on the objects in which the work has been fixed or whose name or business name has been announced to the public in any other manner in connection with the dissemination of the work.

Article 15a.

A university, which nature conservancy is defined by the higher education Act, is given priority to publish a student's dissertation work. If a university has not published the dissertation work within six month from the master's defense, the student, being the author, is entitled to its publication, unless it forms part of a joint work.

Chapter 3. The Content of Copyright

Division 1. Author's Moral Rights

Article 16.

Unless this Act states otherwise, the moral rights shall protect the link between the author and his work, which is unlimited in time and independent of any waiver or transfer, and, in particular, the right:

- 1) to be the author of the work,
- 2) to sign the work with the author's name or pseudonym, or to make it available to the public anonymously,
- 3) to have the contents and form of the author's work inviolable and properly used,
- 4) to decide about making the work available to the public for the first time,
- 5) to control the manner of using the work.

Division 2. Author's Economic Rights

Article 17.

Unless this Act states otherwise, the author shall have an exclusive right to use the work and to dispose of its use in all the fields of exploitation and to receive remuneration for the use of the work.

Article 17 ¹.

The development or reproduction of the database constituting a work, made by a lawful user of the database, or a copy thereof, shall not require the permit of the author of the database, if it is necessary for the access to the content of the database and the regular exploitation of its contents. If the user is authorized to use only a part of the database, this provision shall refer only to that part.

Article 18.

1. The author's economic rights shall not be subject to enforcement as long as they serve the author. The above shall not apply to due and payable receivables.
2. After the author's death his heirs may object to the enforcement of an unpublished work under copyright unless the objection contradicts the expressed will of the author as to the dissemination of the work.
3. The right to remuneration referred to in Article 20 Paragraphs 2-4, Article 20¹, Article 30 Paragraph 2 and Article 70 Paragraph 3 shall not be subject to waiver, alienation or enforcement. This shall not apply to due and payable receivables.

Article 19.

1. The author and his heirs shall have the right to remuneration amounting to 5 % of the price of professionally performed sales of original copies of the artistic work or manuscripts of literary and musical works. The seller shall be liable to pay the remuneration and when he acts on behalf of a third person, he shall be liable jointly and severally with the latter. The remuneration shall be paid through a competent collective management organization.
2. The seller shall be obliged to disclose the third person specified in paragraph 1 above. He may be released from such duty through payment of the due remuneration.
3. The waiver of the remuneration specified in paragraph 1 shall be invalid unless it concerns due and payable receivables.

Article 20.

1. Producers and importers of:
 - 1) tape recorders, video recorders and other similar equipment;
 - 2) photocopying machines, scanners, and other similar reprographic equipment allowing the production of copies of the entire published work or a part thereof;
 - 3) blank carriers used for fixing, within the scope of permitted use, works or objects of related rights with the use of equipment mentioned in Subparagraphs 1 and 2,are obliged to pay fees not exceeding 3% of the amount receivable on account of sale of such equipment and carriers to collective management organizations specified in Paragraph 5, which act for the benefit of authors, performers, producers of phonograms and videograms, and publishers.
2. The amount obtained from the fees paid in respect of the sold tape recorders and other similar equipment as well as blank carriers related thereto shall be distributed as follows:
 - 1) 50% to authors;
 - 2) 25% to performers; and
 - 3) 25% to producers of phonograms.
3. The amount obtained from the fees paid in respect of the sold video recorders and other similar equipment as well as blank carriers related thereto shall be distributed as follows:
 - 1) 35% to authors;
 - 2) 25% to performers; and
 - 3) 40% to producers of videograms.
4. The amount obtained from the fees paid in respect of the sold reprographic equipment as well as blank carriers related thereto shall be distributed as follows:
 - 1) 50% to authors; and
 - 2) 50% to publishers.
5. The minister responsible for the matters of culture and protection of national heritage shall, following the consultation with the organization for collective management of copyright

or related rights, associations of authors, performers, organizations of producers of phonograms, producers of videograms and publishers, as well as organizations of producers or importers of equipment and blank carriers mentioned in Paragraph 1, specify, by regulation, the categories of equipment and carriers and the amount of fees referred to in Paragraph 1, taking into account the work reproduction capacity of the equipment and the carriers, as well as the possibility to use them for purposes other than reproducing the works, the manner of collecting and distributing the fees, and the societies for collective management of copyright or related rights authorized to collect such fees.

Article 20¹

1. Owners of reprographic equipment who carry on business activity within the scope of reproduction of the works for the private use of third parties are obliged to pay, via the organization for collective management of copyright or related rights, the fees amounting up to 3% of proceeds gained on that account, owed to authors and publishers, unless the reproduction takes place on the basis of an agreement with the rightholder. Such fees shall be distributed between the authors and publishers in equal parts.

2. The minister responsible for the matters of culture and protection of national heritage shall, following the consultation with the organization for collective management of copyright or related rights, associations of authors and publishers and the competent chamber of commerce, specify, by regulation, the amount of fees referred to in Paragraph 1, taking into account the percentage share of works reproduced for private use in the entire reproduced material, the manner of their collection and distribution, and indicate the organization or societies for collective management of copyright or related rights authorized to collect such fees.

Article 21.

1. Radio and television organizations shall only be permitted to broadcast minor musical, verbal and combined verbal and musical works, which have already been published, pursuant to the agreement concluded with the organization for the collective management of copyright, unless the right to broadcast the works ordered by the radio or television organization has been granted to it under a separate agreement.

2. In the agreement concluded with the radio or television organization, the author may waive the intermediation of the organization for the collective management of copyright, as referred to in Paragraph 1. This waiver requires written form otherwise shall be null and void.

2¹. The provisions of Paragraph 1 and 2 shall accordingly apply to the communication of the works to the public in a manner allowing every person to have access to such works in a place and at a time of his own choice.

3. (deleted)

4. (deleted)

Article 21¹.

1. Operators of cable networks may rebroadcast in their cable networks the works broadcasted in program services of radio or television organizations only under a contract concluded with the competent organization for collective management of copyright.

2. In the case of disputes related to the conclusion of the agreement referred to in Par.1 the provisions of Article 108.5 shall apply.

Article 22.

1. Radio and television broadcasting organizations shall be allowed, for their own broadcasting purposes, to fix the works by recording for the broadcast of which they have previously received a permission.
2. Fixations referred to in Paragraph 1 should be destroyed within one month after the expiry of the right to broadcast the work.
3. The provision of Paragraph 2 shall not apply to fixations made in connection with the preparation of own programs and program services of an exceptional documentary nature, provided that they are stored in the archives.

Division 3. Permissible Use of Protected Works

Article 23.

1. It shall be permitted to use free of charge the work, which has been already disseminated for purposes of private use without the permission of the author. This provision does not authorize to build constructions according to other authors' works in the field of architecture and architecture and town planning, and to use the electronic databases constituting works unless this refers to one's own use for scientific purposes, which is not related to any profit-gaining activity.
2. The scope of the private use shall cover the use of single copies of the work by a group of persons staying in a personal interrelation with each other, including in particular blood relation, kinship or a social relationship.

Article 23¹

No consent of the author shall be required for a temporary or incidental reproduction of works, in cases when it has no independent economic meaning and constitutes an integral and essential part of the technological process, and is only aimed at allowing:

- 1) a transfer of the work among third parties by an intermediary under the teleinformation system, or
- 2) the lawful use of the work.

Article 24.

1. It shall be permitted to disseminate through a group antenna or a cable network, the works broadcasted by another radio or television organization via satellite or terrestrial network, if it is done within the framework of concurrent, integral and free dissemination of radio and television programs and is designed for a specific group of recipients living in either a single apartment building or single family houses including up to 50 households.
2. Owners of devices used for receiving radio or television program services may receive broadcasted works by means of such devices even if such devices are located in a public place, provided that it is not connected with the gaining of any material benefits.
3. (deleted)
4. (became invalid).

Article 25.

1. It shall be permitted, for informative purposes, to disseminate through the press, radio and television the materials:
 - 1) which have been already disseminated:
 - a) reports on current events,
 - b) updates on political, economic or religious issues, unless further dissemination thereof has been expressly prohibited,
 - c) current statements and reporter's photographs,

- 2) short excerpts from reports, and Articles, specified in subparagraph 1 letters a) and b),
 - 3) reviews of publications and disseminated works,
 - 4) speeches delivered at public meetings and sessions; this, however, shall not authorize to publish collections of speeches of a single person,
 - 5) short summaries of a disseminated work.
2. The author shall have the right to obtain remuneration for the use of the works specified in paragraph 1, subparagraph 1 letters b) and c) above.
 3. Dissemination of the works under paragraph 1 shall be allowed both in the original and in translation thereof.
 4. Provisions of paragraphs 1-3 shall apply accordingly to the communication of the works to the public in a manner allowing every person to have access to such works in a place and at a time of his own choice, however, if the payment of the remuneration referred to in paragraph 2, has not taken place on the basis of an agreement with the rightholder, such remuneration shall be paid through a competent organization for collective management of copyright or related rights.

Article 26.

In the reports on current events, it shall be permitted to quote fragments of works made available during such events, however, within the limits justified for information purposes.

Article 27.

Research and educational institutions shall be allowed, for teaching purposes or in order to conduct their own research, to use published works in original and in translation, and to make copies of fragments from the disseminated work for the same purpose.

Article 28.

Libraries, archives and schools may:

- 1) provide free access to copies of the disseminated works within the scope of their statutory objectives,
- 2) prepare or order the preparation of single copies of disseminated works in order to supplement, maintain and/or protect their collections.
- 3) make their collections available for research or studying purposes via terminals located in the seats of these institutions.

Article 29.

1. It shall be permitted to quote, in works constituting an independent whole, fragments of disseminated works or minor works in full, within the scope justified by explanation, critical analysis, teaching or the rights governing a given kind of creative activity.
2. For teaching and research reasons it shall be permissible to include disseminated minor works or excerpts from larger works in textbooks and reading books.
- 2¹. It shall be permitted to publish the disseminated minor works or fragments of major works in anthologies for didactic and research purposes.
3. In the cases specified in paragraph 2 and 2¹ above the author shall have the right to receive remuneration.

Article 30.

1. Centers of research and technical information and documentation may prepare and disseminate their own documentation studies and single copies, not larger than one publishing sheet of excerpts of the published works.

2. The author or a competent organization for collective management of copyright or related rights shall be authorized to collect from the centers specified in paragraph 1 above, remuneration for the paid access to copies of fragments of the works.

Article 30¹.

Article 28, 29 Paragraph 2 and 3 and Article 30 shall not apply to databases having the properties of a work.

Article 31.

It shall be permitted to publicly perform, free of charge, the disseminated works during religious ceremonies, school and academic events, or official national ceremonies, except for advertising, promotional, or election events, unless they are organized directly or indirectly for profit-gaining purposes and unless the performers receive remuneration.

Article 32.

1. The owner of a copy of the artistic work may exhibit it publicly if it is not connected with gaining any material benefits.

2. In the event that the owner of an artistic work decides to destroy the original copy of that work found in a place accessible to the public, the owner shall be obliged to submit to the author or his relatives an offer to sell it, if it is possible to contact him in order to make the offer of sale. The highest price limit shall be set by the value of the materials. If the sale is not possible, the owner shall make it possible for the author to make a copy, or depending on the type of the work, a proper documentation thereof.

Article 33.

It shall be permitted to disseminate:

- 1) the works permanently exhibited on commonly accessible public roads, streets, squares or gardens, although not for the same use,
- 2) the works exhibited in commonly accessible public collections such as museums, galleries, and exhibition halls, though only in catalogues and printed publications for promotion of such works and also in the press and television current event reports, however, within the limits justified by information purposes,
- 3) in encyclopedias and atlases - printed artistic and photographic works if the obstacles hampering the contact with the author are difficult to overcome. In such case, the author shall have the right to remuneration.

Article 33¹

It shall be permitted to use the disseminated works for the benefit of disabled persons, provided that such use directly refers to their disability, has no profit-gaining nature and is undertaken within the scope arising from the nature of that disability.

Article 33².

It shall be permitted to use the works for the purposes of public safety or in connection with the needs arising from administrative, court or legislative proceedings, and reports on these proceedings.

Article 33³.

It shall be permitted to use the disseminated works for the purpose of advertising a public exhibition or a public sale of works within the scope justified by the promotion of the exhibition or sale, with exclusion of any other commercial use of such works.

Article 33⁴.

It shall be permitted to use the works in connection with the presentation or repair of equipment.

Article 33⁵.

It shall be permitted to use the work made in the form of a building or structure, its drawing, plan or another arrangement for the purpose of reconstructing or repairing a building or structure.

Article 34.

Works may be used within the scope of the permitted use, provided, that the full name of the author of the work and the source is identified. The identification of the author of the work and the source should take into account the existing possibilities of retrieving such information. The author shall have no right to receive remuneration unless the Act provides otherwise.

Article 35.

The permitted use must not infringe the normal use of the work or violate the rightful interests of the author.

Chapter 4. Term of Author's Economic Rights

Article 36.

Subject to exceptions provided for in this Act, the author's economic rights shall expire after the lapse of seventy years:

- 1) from the death of the author, and in case of joint works - from the death of the coauthor who has survived the others,
- 2) if the author of a work is unknown - from the date of the first dissemination of the work, unless the pseudonym adopted by the author leaves no doubt as to his identity or the author has disclosed his identity,
- 3) if, under this Act, a person other than the author owns the author's economic rights - from the date of the dissemination of the work; and if the work has not been disseminated - from the date of the establishment thereof,
- 4) in the case of an audiovisual work - from the death of the latter of the persons mentioned below: the main director, the screenwriter, the author of dialogues, and the composer of music for that audiovisual work.

Article 37.

If the term of the expiration period of the author's economic rights starts to run from the date of the dissemination of the work and the work has been disseminated in parts, episodes, fragments or insertions, the term shall run separately from the date of dissemination of each of those parts.

Article 38.

[Article 38 has been deleted]

Article 39.

The term of validity of the author's economic rights shall be calculated in full years following the year in which the event giving rise to the run of the terms specified in Articles 36 and Article 37 occurred.

Article 40.

1. The producers or publishers of literary, musical, artistic, photographic and cartographic works that are not subject to protection of author's economic rights, are obliged to pay a contribution amounting to 5 % - 8 % of the gross proceeds from the sale of the copies of such works to the Fund referred to in Article 111. This shall refer to the editions published on the territory of the Republic of Poland.

1¹. Producers and publishers shall make payments referred to in Paragraph 1 for quarterly periods by the end of the month following the last day of the quarter in which proceeds from the sale were gained. If the amount of the payment is not higher than the PLN equivalent of EUR 1,000, it shall be admissible to make settlements at different regular intervals, lasting not longer, however, than one fiscal year.

2. The provision of paragraph 1 shall accordingly apply to copies of protected adaptations of works that are not subject to protection of author's economic rights.

3. The minister competent with respect to culture and protection of national heritage shall, by regulation, specify the percentage referred to in paragraph 1 above.

Chapter 5. Devolution of Author's Economic Rights

Article 41.

1. Unless the Act states otherwise:

- 1) author's economic rights may devolve upon other persons by way of inheritance or by contract,
- 2) the person who acquires author's economic rights may transfer them to other persons, unless the contract provides otherwise.

2. The contract for the transfer of author's economic rights or for the use of the work, hereinafter called "the license", shall cover the fields of exploitation specified expressly therein.

3. Any provisions of an agreement concerning all works or all works of a specific type by the same author to be produced in the future shall be invalid.

4. The contract may only refer to such fields of exploitation which are known at the time of concluding that contract.

5. After the creation of new methods of using the works, the author of a work that has been used or included in an audiovisual work or the author of a work being an element of a collective work, may not unreasonably refuse to permit the use of such work according to the rules pertaining to audiovisual works or collective works in the fields of exploitation, which have not been known at the time of concluding the contract.

Article 42.

Should the author's economic rights of one of the coauthors devolve upon the State Treasury as the statutory heir, that part shall devolve upon the surviving coauthors or their legal successors in proportion to their shares.

Article 43.

1. If the contract does not indicate whether the transfer of author's economic rights or the granting of license was free of charge, the author shall have the right to remuneration.

2. If the contract does not specify the amount of the author's remuneration, such remuneration shall be set taking into account the scope of the right granted and the benefits arising from the use of the work.

Article 44.

In the event of a gross discrepancy between the remuneration of the author and the benefits of the acquirer of author's economic rights or the licensee, the author may request that the court should duly increase his remuneration.

Article 45.

Unless the contract provides otherwise, the author shall have the right to a separate remuneration for the use of the work in each separate field of exploitation.

Article 46.

Unless the contract provides otherwise, the author shall retain his exclusive right to permit the exercise of his derivative copyright even though the contract provides for the transfer of all author's economic rights.

Article 47.

If the remuneration of the author depends on the revenues from the use of his work, the author shall have the right to receive information and to have access, within the necessary scope, to the documentation being essential to determine such remuneration.

Article 48.

1. If the remuneration of the author is set as a percentage of the selling price of a copy of the work and such price is increased, the agreed percentage from copies sold at the higher price shall be due to the author.
2. The unilateral reduction of the selling price before the lapse of one year from the beginning of the dissemination of such work shall not affect the amount of remuneration. The parties may extend such time limit.

Article 49.

1. If the contract does not specify the manner of the use of a work, that manner shall comply with the character and purpose of the work and the accepted practice.
2. Regardless of having acquired all the author's economic rights, a legal successor may not, without consent of the author, alter the work in any way unless it is obviously necessary and the author has no justified reason to object to it. This shall respectively apply to works in the case of which the term of protection of author's economic rights has expired.

Article 50.

Separate fields of exploitation shall, in particular, comprise:

- 1) within the scope of fixation and reproduction of the work - the production of copies of a work by way of using a specific technique, including the printing, reprographic, magnetic storage and digital technique,
- 2) within the scope of trade in the original work or the copies on which the work was fixed - the distribution, gratuitous lending or rental of the original or copies,
- 3) within the scope of dissemination of the work in a manner other than as specified in Subparagraph 2 - public performance, exhibition, presentation, communication, broadcasting and re-broadcasting, as well as making the work available to the public

in a manner allowing every person to have access to such work in a place and at a time of his own choice.

Article 51.

1. (became invalid)
2. (became invalid)
3. The distribution of the original work or its copy on the territory of the European Economic Area shall annul the right to permit further trade in such copy on the territory of the Republic of Poland, except for its rental or gratuitous lending.

Article 52.

1. Unless the contract provides otherwise, the transfer of the ownership of a copy of work shall not result in the devolution of author's economic rights to such work.
2. Unless the contract provides otherwise, the devolution of author's economic rights shall not result in the transfer of ownership of a copy of the work to the acquirer.
3. The acquirer of an original work is obliged to make it available to the author to the extent necessary for the exercise of copyright. The acquirer of the original may, however, claim due security and remuneration for use to be provided by the author.

Article 53.

A contract for the transfer of author's economic rights shall be made in writing under the pain of nullity.

Article 54.

1. The author is obliged to deliver the work within the time limit specified in the contract, and if such time limit has not been set, immediately after completing the work.
2. If the author has not delivered the work within the set time limit, the ordering party may set a proper additional time limit for the author under the pain of renunciation of the contract, and upon the expiry of such time limit, the ordering party may renounce the contract.

Article 55.

1. If the ordered work is defective, the ordering party may set a relevant additional time limit for the author to correct it, and upon its expiry, may renounce the contract or claim a reduction of the agreed remuneration, unless such defects are a result of circumstances for which the author is not responsible. The author shall, nevertheless, retain his right to receive a part of the remuneration not higher than 25 per cent of the contractual remuneration.
2. If the work has legal defects, the ordering party may renounce the contract and claim the damage to be remedied.
3. The claims specified in paragraph 1 shall expire upon the acceptance of the work.
4. If within six months after the delivery of the work the ordering party does not inform the author about its acceptance, non-acceptance or conditioning the acceptance on making specific changes within the specific time limit set for this purpose, the work shall be deemed as accepted without reservations. The parties may set another time limit.

Article 56.

1. The author may renounce or terminate the contract owing to his own fundamental interests.
2. If within two years from the renunciation or termination specified in paragraph 1 above the author intends to start using the work, he shall be obliged to offer such use to the purchaser or the licensee, and to set a relevant time limit for that purpose.

3. If the renunciation or termination of the contract takes place after the work has been accepted, the other party may make that renunciation or termination dependent upon securing the costs incurred by it as a result of the concluded contract. However, the reimbursement of costs may not be claimed if the discontinuation of dissemination has resulted from circumstances for which the author is not responsible.

4. The provision of paragraph 1 above shall not apply to architectural works and architectural and town planning works, audiovisual works and works ordered within the scope of their exploitation in an audiovisual work.

Article 57.

1. If the acquirer of author's economic rights or the licensee who has undertaken to disseminate the work does not start the dissemination within the agreed time limit or within 2 years of the acceptance of the work if there is no agreed time limit, the author may renounce or terminate the contract within two years from the acceptance of the work and may claim the damage to be repaired after the expiry of an additional time limit, not shorter than six months.

2. If the work has not been made available to the public as a result of circumstances for which the acquirer or the licensee is responsible, the author may claim the double amount of the remuneration specified in the contract for dissemination of the work instead of repairing damages incurred unless the license is nonexclusive.

3. Provisions of paragraphs 1 and 2 above shall not apply to architectural and architectural and town planning works.

Article 58.

If the work is made available to the public in an unsuitable form or with changes to which the author might rightfully object, the author may renounce or terminate the contract after the ineffective demand to cease the infringement. The author shall have the right to remuneration specified in the contract.

Article 59.

If this Act does not provide otherwise, each of the parties renouncing or terminating the contract may request from the other party the return of everything it received under the contract.

Article 60.

1. The user of the work is obliged to allow the author to exercise the author's supervision prior to the dissemination of the work. If the changes in the work made in connection with the supervision are necessary and such changes are a result of circumstances lying beyond the author's control, the costs of their introduction shall be covered by the acquirer of the author's economic rights or the licensee.

2. If the author has not exercised the author's supervision within the specified time limit it shall be presumed that he has consented to the dissemination of the work.

3. Unless this Act or the contract provides otherwise, the author shall not have the right to any separate remuneration for his supervision.

4. The author of an artistic work shall have the right to exercise the author's supervision against consideration.

5. The exercise of the author's supervision over architectural works and architectural and town planning works shall be regulated by separate legal regulations.

Article 61.

Unless the contract provides otherwise, acquisition of a copy of an architectural design or architectural and town planning design from the author shall entitle the acquirer to use it for a single construction only.

Article 62.

1. In a collective publication of his works, the author may include works for the publication of which a separate contract has been concluded.
2. The contract for the collective publication of works shall not include the right to publish particular works unless provided otherwise therein.

Article 63.

If the contract covers the preparation of copies which are to be made available to the public, the author shall receive author's copies thereof, the number of which has been specified in the contract.

Article 64.

Unless provided otherwise, a contract providing for the transfer of the author's economic rights, shall transfer to the acquirer, upon acceptance of the work, the right to the exclusive use of the work within the field of exploitation specified in the contract.

Article 65.

If there is no clear provision regarding the transfer of the right it shall be deemed that the author has granted a license.

Article 66.

1. Unless provided otherwise therein, a license contract shall authorize the use of the work for five years within the territory of the state in which the licensee has its seat.
2. The right obtained under the license contract shall expire after the lapse of the term specified in paragraph 1.

Article 67.

1. The author may grant his authorization to use his work within the fields of exploitation indicated in the contract and specify the scope, territory and time of such use.
2. Unless the contract reserves the exclusive use of the work in a specific manner (exclusive license), the granting of a license shall not preclude the author's authorizing other persons to use the work within the same field of exploitation (nonexclusive license).
3. Unless the contract provides otherwise, the licensee may not authorize any other person to use the work even if it is within the scope of the license obtained.
4. Unless the contract provides otherwise, rightholder under an exclusive license may, within the scope covered by the license contract, lodge claims for the infringement of author's economic rights.
5. The exclusive license contract shall be in writing under the pain of nullity.

Article 68.

1. Unless the contract provides otherwise and the license has been granted for an indefinite time, the author may terminate it subject to the observance of the contractual time limits, and if such have not been agreed, one year in advance as of the end of the calendar year.
2. The license granted for a longer period than five years shall be deemed, after a lapse of that period, as granted for an indefinite time.

Chapter 6. Special Provisions on Audiovisual Works

Article 69.

Coauthors of an audiovisual work shall be persons who have made a creative contribution to its establishment, including, in particular: the director, the cameraman, the author of the adaptation of a literary work, the author of musical or textual and musical works created for the audiovisual work and the author of the screenplay.

Article 70.

1. It shall be presumed that the producer of an audiovisual work acquires, under a contract for the creation of the work or for the use of the existing work, exclusive economic rights to exploit those works within the framework of the audiovisual work as a whole.

2. The main director, the cameraman, the authors of the screenplay, the authors of other literary or musical works, which have been created for an audiovisual work or have been used therein, as well as performers shall be entitled to:

- 1) a remuneration proportional to the revenues obtained from the screening of the audiovisual work in cinemas;
- 2) an appropriate remuneration for the rental of copies of audiovisual works and public playing thereof;
- 3) an appropriate remuneration for the broadcasting of the work in television or other mass media;
- 4) an appropriate remuneration for the reproduction of the audiovisual work on a copy intended for own personal use.

3. The user of the audiovisual work shall pay the remuneration specified in paragraph 2 through the competent organization for collective management of copyright or related rights.

4. The appropriate remuneration for the use of a Polish audiovisual work abroad or a foreign audiovisual work in Poland may be established as a lump sum.

Article 71.

The producer shall be allowed to make translations of the audiovisual work into various language versions without the consent of the authors.

Article 72.

The author of a work ordered as an element of an audiovisual work may, after five years following the acceptance of the ordered work, permit the dissemination of that work in another audiovisual work, if within such time, the original audiovisual work including his own work has not been disseminated. The parties may reduce that time limit.

Article 73.

The right of the author to supervise may be exercised only with respect to the final version of the audiovisual work.

Chapter 7. Special Provisions Concerning Computer Programs

Article 74.

1. Computer program shall be subject to protection as literary works, unless the provisions of this Chapter provide otherwise.

2. Protection afforded to a computer program shall cover all the forms of its expression. Ideas and principles which underline any element of a computer program, including those which underline its interfaces, shall not be subject to protection.
3. Unless the contract of employment provides otherwise, author's economic rights to a computer program created by an employee while performing his duties under the employment relationship shall be owned by the employer.
4. Subject to the provisions of Article 75, paragraphs 2 and 3, the author's economic rights to a computer program shall include the right to perform:
 - 1) the permanent or temporary reproduction of a computer program in full or in part, by any means and in any form; where it is necessary to reproduce a computer program for its loading, displaying, running, transmitting and storing, the consent of the rightholder shall be required for such acts;
 - 2) the translation, adaptation, re-arrangement or any other alteration of a computer program, subject to the rights of the person who made such alterations,
 - 3) dissemination, including gratuitous lending or rental of a computer program or a copy thereof.

Article 75.

1. Unless the contract provides otherwise, the acts specified in Article 74, paragraph 4, subparagraphs 1 and 2 shall not require the consent of the rightholder if they are required for the use of the computer program in accordance with its purpose, including the correction of errors by a person who has lawfully acquired it.
2. The consent of the rightholder shall not be required:
 - 1) to make a back-up copy if it is necessary for using such computer program. Unless the contract provides otherwise, such copy may not be used concurrently with the computer program,
 - 2) to observe, study and test the functioning of the computer program in order to learn about its ideas and principles, by a person who has the right to use the copy of the computer program, if such a person is entitled to do the same and does it while loading, displaying, using, transmitting or storing the computer program,
 - 3) to reproduce a code or translate its form within the meaning of Article 74, paragraph 4, subparagraphs 1 and 2, if that is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other computer programs, provided that the following conditions are met:
 - a) the acts are performed by the licensee or another person authorized to use a copy of the computer program or by another person acting on their behalf,
 - b) information necessary for achieving interoperability has not been previously readily available to persons mentioned under letter a),
 - c) such acts apply only to the parts of the original computer program, which are necessary for achieving interoperability.
3. Information specified in paragraph 2, subparagraph 3, may not be:
 - 1) used for purposes other than achieving interoperability with an independently created computer program;
 - 2) passed to other persons, unless it is necessary for achieving interoperability with an independently created computer program;
 - 3) used for developing, manufacturing or distributing a computer program substantially similar in form of expression, or applied to other acts infringing the copyright.

Article 76.

Provisions of contracts, which are contradictory to Article 75, paragraphs 2 and 3 shall be null and void.

Article 77.

Provisions of Article 16 subparagraphs 3-5, Articles 20, 23, 23¹, 27, 28, 30, 33¹-33⁵, 49, paragraph 2, Articles 56, 60 and 62 shall not apply to computer programs.

Article 77¹.

The rightholder may demand that the user of a computer program should destroy the technical means he owns (including computer programs), used only to facilitate illegal removal or circumvention of the technical protection measures.

Article 77².

Protection extended to databases having the properties of a work shall not cover computer programs used to produce or operate the databases accessible by electronic means.

Chapter 8. Protection of Author's Moral Rights

Article 78.

1. The author whose moral rights have been threatened by actions of others, may request such actions to be ceased. Where an infringement is committed, the author may also request that the person who committed the infringement should perform all the actions necessary for the elimination of its effects, and in particular to make a public statement of appropriate contents and form. If the infringement was culpable, the court may award a certain amount of money to the author to repair the suffered damage or - at the request of the author, to oblige the perpetrator to pay a relevant amount of money for a social purpose as indicated by the author.

2. Unless the author stated otherwise, upon his death, the suit for the protection of moral rights of the deceased may be brought by the spouse, and if such does not exist, by descendants, parents, siblings, and descendants of siblings, in that order.

3. Unless the author stated otherwise, persons mentioned in paragraph 2 above shall be authorized in the same order to exercise the moral rights of the deceased author.

4. Unless the author stated otherwise, the suit referred to in paragraph 2 above may also be brought by the relevant association of authors according to the type of creative activity, or the organization for collective management of copyright and related rights which had been administering copyright of the deceased author.

Chapter 9. Protection of Author's Economic Rights

Article 79.

1. The author may request from the person who infringed his economic rights to cease such infringement, to render the acquired benefits or to pay double or, where the infringement is culpable, triple the amount of the respective remuneration as of the time of claiming it. The author may also claim the remedy of the inflicted damage if the action of the infringing party was culpable.

2. Irrespective of the claims specified in paragraph 1, the rightholder may demand that the perpetrator of the culpable infringement committed within the framework of economic activity and undertaken either in his own name or in the name of another person, even if on other persons' account, should pay an appropriate sum to the Fund referred to in Article 111.

Such sum may not be lower than twice the value of the probable benefits gained by the perpetrator as a result of the committed infringement which was culpable.

3. The provision of Paragraph 1 shall respectively apply in the event of eliminating or circumventing technical protection measures safeguarding against the access to, reproduction or dissemination of the work if such actions are aimed at using the work illegally.

4. The provisions of paragraphs 1 and 2 shall apply accordingly in the event of unauthorized removal or modification of any electronic information concerning the management of copyright or related rights, and in the event of a conscious dissemination of works with such information being illegally removed or modified.

Article 80.

1. The court competent to hear the case for infringement of author's economic rights in the locality where the perpetrator conducts its activity or where his property is located, shall also consider, before the suit is brought, the motion of the party with legal interest therein within 3 days from the date of filing such motion in the court for:

- 1) securing evidence, without the need to demonstrate any concern that their examination would be impossible or too difficult,
- 2) obliging the party infringing author's economic rights to provide information and access to documentation, as indicated by the court, which is substantial for the claims referred to in Article 79, paragraph 1,
- 3) *annulled*

2. The court may make the issuance of an order for securing evidence referred to in paragraph 1, subparagraphs 1 and 3 above, conditional upon making an appropriate deposit

3. The court shall order the seizure, for the benefit of the State Treasury, of illegally produced copies of the works.

4. The court may order the seizure, for the benefit of the State Treasury, of objects used for the illegal production of copies of the works or the objects by means of which the infringement was committed.

5. At the request of the injured party, the court may order that the injured party be awarded the objects referred to in paragraph 4 as part of due damages.

6. It shall be presumed that the objects referred to in paragraph 4 above are owned by the person infringing the author's economic rights.

7. The appeals against the court order in cases referred to in paragraph 1, subparagraphs 1 and 2 above shall be considered by the court within 7 days.

Chapter 10. Protection of Image, Addressee of Correspondence and Confidentiality of Sources of Information

Article 81.

1. The dissemination of an image shall require the permission of the person presented in that image. Unless there is a clear reservation, such permission shall not be required if such person has received the agreed price for posing.

2. The permission shall not be required for the dissemination of the image:

- 1) of a commonly known person, if such image has been made in connection with his/her performance of public functions and, in particular, political, social or professional functions,
- 2) of a person constituting only a detail of a whole, such as a meeting, a landscape, or a public event.

Article 82.

Unless the person, to whom correspondence is addressed, has not declared his will otherwise, the dissemination of the correspondence within twenty years after his/her death shall require the permission of the spouse, or in absence thereof, the permission of descendants, parents or siblings, in that order.

Article 83.

The provisions of Article 78, paragraph 1 shall apply respectively to claims brought due to the dissemination of the image of the person presented in it and the dissemination of correspondence without the required permission of the person to whom it was addressed; such claims may not be asserted after the lapse of twenty years from the death of that person.

Article 84.

1. At the request of the author, the publisher or producer shall keep the sources of information used in the work as confidential and shall not disclose any documents connected therewith.
2. The disclosure of confidential information shall be permissible upon the consent of the person who entrusted such confidential information or by virtue of the decision of the competent court.

Chapter 11. Related Rights

Division 1. Rights to Performances

Article 85.

1. Any performance of a work or product of the folk art shall be protected irrespective of its value, purpose or way of expression.
2. Performances, within the meaning of paragraph 1, shall include, in particular, the actions of: actors, reciters, conductors, instrumentalists, singers, dancers, mimes and other persons making a creative contribution to the creation of a performance.

Article 86.

1. The performer shall enjoy, to the extent specified in the provisions of the Act, an exclusive right to:
 - 1) have his personal interests protected, especially within the scope of:
 - a) identifying him as the performer, except for the cases where omitting his name is customarily accepted,
 - b) deciding on the manner of designation of the performer, including the maintenance of anonymity or use of a pseudonym,
 - c) objecting to any distortions, misrepresentations, and other changes in the performance, which could damage his reputation.
 - 2) use the performance and exercise the rights attached thereto in the following fields of exploitation:
 - a) within the scope of fixation and reproduction - the right to produce the copies of the performance by means of a specific technique, including the magnetic storage and digital technique,
 - b) within the scope of trade in copies on which the said performance was fixed - the right to distribute, lend gratuitously or rent the copies,
 - c) within the scope of dissemination of the performance in a manner other than specified in Subparagraph b) - the right to broadcast, rebroadcast and communicate the performance, unless made by way of using the copy already distributed, and the right to make the artistic performance available to the

public so that every person can have access to such performance in a place and at a time of his own choice.

2. The performer shall have the right to receive remuneration for the use of his performance or the exercise of the rights attached to such performance, such remuneration being specified in the agreement or granted pursuant to the statutory provisions.

3. In the event of broadcasting, rebroadcasting or communicating a performance with the use of a copy already distributed, the performer shall have the right to receive appropriate remuneration.

Article 87.

The contract concluded by a performer with the producer of an audiovisual work for the joint participation in the production of an audiovisual work shall, unless it states otherwise provide for the transfer to the producer of the rights to dispose of and to use the performance, within the framework of such audiovisual work, in all fields of exploitation known on the date of concluding the contract.

Article 88.

The right of the performer shall not infringe upon the copyright covering the performed work.

Article 89.

The right referred to in Article 86, paragraph 1, subparagraph 2, and paragraph 2 shall expire after fifty years following the year in which the performance was established. However, if the fixing of the performance is published or communicated to the public during that time, the term of protection shall run starting from such an event or, when both of them take place, from the earlier one.

Article 90.

Provisions of this Act shall apply to performances which:

1) have been made by a Polish citizen or a person residing within the territory of the Republic of Poland, or

1¹) were made by a citizen of a member state of the European Union, or the member states of the European Agreement on Free Trade (EFTA) – parties to the agreement on the European Economic Area, or

2) have been established for the first time within the territory of the Republic of Poland, or

3) have been published for the first time within the territory of the Republic of Poland, or

4) are protected under international agreements to the extent that their protection arises from such agreements.

Article 91.

It shall be presumed that the manager of a team is authorized to represent the rights to group performances. Such presumption shall apply respectively to parts of performances, which have autonomous character.

Article 92.

The provisions of Articles 8-10, 12, 18, 21, 41-45, 47-49, 52-55, 57-59, 62-68, 71 and 78 shall apply to performances respectively.

Article 93.

The provision of Article 15 a and 33, subparagraph 10 of the Family and Guardianship Code shall apply respectively to the right to the performance.

Division 2. Rights to Phonograms and Videograms

Article 94.

1. The phonogram shall mean the first fixation of the sound layer of a work performance or other acoustic phenomena;
2. The videogram shall mean the first fixation of a sequence of moving images, whether accompanied by sound or not, irrespective of whether it constitutes an audiovisual work;
3. It shall be presumed that the person under whose name (or business name) the phonogram or the videogram was produced for the first time is the producer of the phonogram or the videogram;
4. Without prejudice to the rights of authors or performers, the producer of a phonogram or a videogram shall enjoy an exclusive right to manage and use a phonogram or a videogram within the scope of:
 - 1) reproduction by means of a specific technique;
 - 2) distribution;
 - 3) rental or gratuitous lending of copies; and
 - 4) making a phonogram or a videogram available to the public so that every person can have access to it in a place and at a time of his own choice.
5. In the event of broadcasting, rebroadcasting or communicating a phonogram or a videogram that has been already distributed, the producer shall have the right to receive appropriate remuneration.

Article 95.

The right specified in Article 94, paragraphs 4 and 5 shall expire after fifty years following the year in which the phonogram or videogram was made.

Article 95¹.

1. The provision of Article 21 Paragraph 1 shall respectively apply to phonograms unless the broadcasting takes place on the basis of an agreement with the rightholder.
2. The provisions of Article 21¹ shall apply to phonograms and videograms respectively.

Article 96.

Provisions of this Act shall apply to phonograms and videograms:

- 1) whose producer has its seat or domicile on the territory of the Republic of Poland, or
1¹) whose producer has its seat or domicile on the territory of the European Economic Area, or
- 2) which are protected under international agreements to the extent that their protection arises from such agreements.

Division 3. Rights to Broadcast Program Services

Article 97.

Without prejudice to the rights of authors, performers, producers of phonograms and videograms, the radio or television organization shall have an exclusive right to manage and use its program service broadcasts within the scope of:

- 1) fixation;

- 2) reproduction by means of a specific technique;
- 3) broadcasting by another radio or television organization;
- 4) rebroadcasting;
- 5) distribution of their fixations;
- 6) communication in public places accessible against entrance fee; and
- 7) making their fixations available so that every person can have access to such broadcasts in a place and at a time of his own choice.

Article 98.

The right specified in Article 97 shall expire after fifty years following the year of the first broadcasting of the program service.

Article 99.

The provisions of the Act shall apply to the broadcasts of program services:

- 1) of a radio and television organization that has its seat on the territory of the Republic of Poland; or
- 2) of a radio and television organization that has its seat on the territory of the European Economic Area;
- 3) which are protected under international agreements to the extent that their protection arises from such agreements.

Division 3¹. Rights to First Publications and Scientific and Critical Publications

Article 99¹

The publisher who, after the expiry of the copyright protection term, for the first time legally publishes or otherwise disseminates the work, the copies of which have not been provided to the public, shall have an exclusive right to dispose and use the work in all the fields of exploitation for the period of 25 years after the date of the first publication or dissemination.

Article 99²

The person who after expiry of the term of protection of the copyright to the work prepares a critical or scientific publication thereof, which is not a work, shall have the exclusive right to dispose of and use such publication within the scope specified in Article 50, subparagraphs 1 and 2, for 30 years after the date of publication.

Article 99³

The provisions of Articles 99¹ and 99² shall apply accordingly to the works and texts, which have never been covered by a copyright protection because of their nature or time of creation.

Article 99⁴

The period of protection provided in Articles 99¹ and 99² shall be set in accordance with the provisions of Articles 37 and 39.

Article 99⁵

1. The provisions of the Act shall apply to the first publications:

- 1) whose publisher has the seat or the domicile on the territory of the Republic of Poland; or
- 2) whose publisher has the seat or the domicile on the territory of the European Economic Area; or
- 3) which are protected under international agreements to the extent that their protection arises from such agreements.

2. The provisions of the Act shall apply to scientific and critical publications that:
- 1) were produced by a Polish citizen or a person domiciled on the territory of the Republic of Poland; or
 - 2) were established for the first time on the territory of the Republic of Poland; or
 - 3) were published for the first time on the territory of the Republic of Poland; or
 - 4) are protected under international agreements to the extent that their protection arises from such agreements.

Division 4. Common Provisions on Related Rights

Article 100.

The exercise of the rights to performances, phonograms, videograms, broadcasts of program services, first publications and scientific or critical publications shall be subject to respective restrictions arising from the provisions of Articles 23 to 35.

Article 101.

Provisions of Article 1 Paragraph 4, Article 6, Article 22, Article 39, Article 51, Article 79 Paragraph 1 and Paragraphs 3 and 4, as well as Article 80 shall respectively apply to performances, phonograms, videograms, program service broadcasts, first publications, and scientific and critical publications.

Article 102.

1. Each copy of a phonogram or videogram shall carry, apart from the indication of the authors and performers, the titles of works and the date of manufacture, the surname or business name of the producer, and in the event of fixation of a broadcast, the name of the radio or television organization.
2. It is presumed that copies which do not meet the requirements specified in paragraph 1 have been made illegally.

Article 103.

Disputes concerning the related rights shall lay within the competence of district courts.

Chapter 12. Organizations for the Collective Management of Copyright or Related Rights

Article 104.

1. Organizations for collective management of copyright or related rights, hereinafter referred to as the "collective management organizations", within the meaning of this Act, shall be associations grouping authors, performers, producers or radio and television broadcasting organizations whose statutory objective is the collective management and protection of copyright or related rights entrusted to them, and the exercise of the powers resulting from this Act.
2. Provisions of the law on associations shall apply to the organizations referred to in paragraph 1 above, provided that:
 - 1) a legal person may also be the member of the organization;
 - 2) the undertaking of the activities specified in this Act by the organization shall require a permit of the minister responsible for the matters of culture and protection of national heritage,
 - 3) the minister responsible for the matters of culture and protection of national heritage shall exercise supervision over the said organizations.

3. The minister responsible for the matters of culture and protection of national heritage shall grant the permit referred to in paragraph 2, subparagraph 2 to organizations capable of giving a guarantee of the proper management of the entrusted rights.

4. In the event of exceeding the scope of the granted permit, the minister responsible for the matters of culture and protection of national heritage shall summon the organization to discontinue the infringement within a fixed time limit, under the threat of revoking the permit.

5. The permit referred to in paragraph 2, subparagraph 2 may be revoked if the organization:

- 1) fails to duly perform its duties within the scope of the management of copyright or related rights entrusted to it and their protection,
- 2) infringes upon the provisions of law within the scope of the granted permit.

6. Decisions of the minister responsible for the matters of culture and protection of national heritage to grant or to revoke the permit for the exercise of the powers specified in paragraph 1 above by collective management organizations, shall be announced in the official gazette "*Dziennik Urzędowy Rzeczypospolitej Polskiej Monitor Polski*".

Article 105.

1. It is presumed that the collective management organization shall be authorized to manage and protect the rights within the fields of exploitation covered by the collective management and that it shall be authorized within this scope to participate in court proceedings. Such presumption may not be referred to if more than one collective management organization claims to have a title to the same work or performance.

2. Within the scope of its activities the collective management organization may demand the provision of information and access to documents necessary to determine remuneration and fees claimed.

Article 106.

1. The collective management organization shall be obliged to provide equal treatment of the rights of its members and other persons it represents within the scope of managing such rights or enforcing their protection.

2. The collective management organization may not, without important reasons, refuse to grant its consent for the use of works or performances within the scope of the management thereof.

3. The collective management organization may not, without important reasons, refuse to undertake the management of copyright or related rights. Such management shall be exercised in accordance with its statute.

Article 107.

If more than one collective management organization carries on its activity in a given field of exploitation, the competent organization within the meaning of this Act shall be the one to which the author or the performer belongs, and if the author or performer does not belong to any organization or has not disclosed his authorship - the organization indicated by the Copyright Commission referred to in Article 108, paragraph 1.

Article 108.

1. The Minister responsible for the matters of culture and protection of national heritage shall appoint a copyright commission, hereinafter called "the Commission", composed of forty arbiters appointed in due proportion from among the candidates referred to in paragraph 2.

2. Candidates for members of the Commission shall be proposed by the collective management organizations, associations of authors, performers and producers, organizations grouping entities whose professional activity is based on the use of works, as well as radio and television broadcasting organizations, within the time limit set by the minister responsible for the matters of culture and protection of national heritage. The time limit shall be announced in printed daily press.

3. The Commission consisting of six arbiters and a chairman as the superarbiter, appointed by the minister responsible for the matters of culture and protection of national heritage from among the said group of arbiters, shall approve or refuse the approval of the remuneration tables presented by the collective management organizations for the use of works or performances covered by the collective management, and shall indicate the competent organization within the meaning of Article 107.

4. Provisions of the Code of Administrative Procedure shall respectively apply to the proceedings before the Commission in the matters referred to in paragraph 3. Decisions of the Commission made issued under such procedure may be appealed against with the minister responsible for the matters of culture and protection of national heritage.

5. A commission composed of three members appointed from among the arbiters, one by each of the parties and a superarbiter elected by the so appointed arbiters, shall settle disputes concerning the use of tables referred to in paragraph 3 and the disputes related to the conclusion of the agreement referred to in Article 21¹ paragraph 1. If one of the parties fails to appoint its arbiter or the arbiters fail to appoint a superarbiter, they shall be appointed by the minister responsible for the matters of culture and protection of national heritage.

6. Provisions of the Code of Civil Procedure concerning the proceedings before a court of arbitration shall respectively apply to proceedings conducted before the Commission in matters referred to in paragraph 5.

7. The party which is not satisfied with the decision of the Commission, referred to in paragraph 5, may file a suit to a regional court of the competent jurisdiction within 14 days from the date of being served with the decision.

8. The arbiters shall have the right to remuneration for the participation in the meetings of the Commission.

9. The minister responsible for the matters of culture and protection of national heritage shall, by regulation, specify the detailed rules and procedures of the Commission's activity, the amount of remuneration specified in paragraph 8, the fees for the proceedings before the Commission, and the rules of their payment.

Article 109.

Contractual provisions which are less beneficial to the authors than they would be according to the tables specified in Article 108, paragraph 3 shall be invalid and they shall be replaced by respective provisions from such tables.

Article 110.

The amount of the remuneration claimed within the scope of collective management by a collective management organization shall take into account the sum of revenues received from the use of works and performances and the nature and scope of the use of such works and performances.

Chapter 12¹ . Supervision of the Production Of Optical Carriers

Article 110¹.

The minister competent with respect to the matters of culture and protection of national heritage shall exercise supervision over the production and reproduction of optical carriers, in particular for the purpose of ensuring their conformity with the authorizations given under this Act by the rightholders.

Article 110².

An entrepreneur that conducts business activity within the scope referred to in Article 110¹, is obliged to apply identification codes in all devices and their elements during the process of production of the optical carriers.

Article 110³.

1. An entrepreneur that conducts business activity within the scope referred to in Article 110¹, shall inform the minister competent with respect to the matters of culture and protection of national heritage about the subject matter and scope of the conducted activity within the period of thirty days from the date of commencement of that activity.

2. An entrepreneur shall provide the minister competent with respect to the matters of culture and protection of national heritage with information relating to the following matters:

- 1) the full name, place of residence, address or name, registered seat and address, names of persons authorized to its representation, and the principal place of business;
- 2) owned equipment and devices for the optical carrier production and reproduction; and
- 3) identification codes applied in all devices and their elements during the production process.

3. By the tenth day of each month, the entrepreneur shall submit information for the preceding month concerning:

- 1) the aggregate volume of production and its type;
- 2) the execution of orders outside the principal place of business; and
- 3) any disposal of equipment for the production and reproduction of the optical carriers.

4. The entrepreneur shall for the first time submit information referred to in paragraph 3 above by the tenth day of the month following the month in which entrepreneur submitted information referred to in paragraph 1, for the period starting from the date of commencement of business activity, within the scope specified in Article 110¹, not longer, however, than two preceding months.

5. The entrepreneur shall promptly inform the minister competent with respect to the matters of culture and protection of national heritage about all changes in the information referred to in paragraph 2.

6. The information shall be submitted on special forms.

7. The entrepreneur shall store the documents that constitute the basis for preparing the information referred to in paragraph 2 and 3, for the period of five years.

Article 110⁴.

1. The minister competent with respect to the matters of culture and protection of national heritage shall keep the records containing information referred to in Article 110³.

2. The minister competent with respect to the matters of culture and protection of national heritage shall reveal information contained in the records to anyone who can have legal interest therein, if there is a justified suspicion of infringement of copyright or related rights, within the scope necessary for asserting their protection.

3. The minister competent with respect to the matters of culture and protection of national heritage shall specify, by regulation:

- 1) the manner of keeping the records of information, the procedure of passing information by the entrepreneur and model forms;
 - 2) the types of identification codes conforming to relevant international standards;
- taking into account the necessity of ensuring the transparency of information stored in the records and making efforts not to impose excessive burden on the entrepreneur within the scope of the conducted activity.

Article 110⁵.

1. As part of the exercised supervision, the minister competent with respect to the matters of culture and protection of national heritage may at any time, taking into account the regulations concerning the freedom of business activity, order an inspection of the entrepreneur's activity to check whether the information referred to in Article 110³ is true and accurate.

2. Such inspection shall be carried out by an inspection officer on the basis of a written authorization, which identifies that officer by name and indicates a given entrepreneur as well as the object, scope and date of commencement and completion of the inspection, and on the basis of his identity card.

3. At the request of the inspection officer, the entrepreneur shall provide access to all documents and materials, which are necessary for the purpose of carrying out the inspection.

4. The inspection officer shall have the right to:

- 1) enter the real property, facility, premises, or a part thereof, belonging to the entrepreneur that conducts business activity within the scope mentioned in Article 110¹;
- 2) check the documents related to the conduct of business activity, subject to the observance of regulations concerning the protection of secrets protected by statute;
- 3) demand oral and written explanations from the employees; and
- 4) secure the evidence.

Article 110⁶.

1. The inspection officer shall present the results of the completed inspection in the inspection report.

2. The inspection report shall be drawn up in two copies; one copy shall be given to the entrepreneur.

3. The entrepreneur and the inspection officer shall sign the inspection report.

4. In the event of the entrepreneur's refusal to sign the inspection report or its inability to sign it, only the inspection officer shall sign the report and make a special annotation therein regarding such refusal or reasons of the entrepreneur's inability to sign the inspection report.

Article 110⁷.

1. The minister competent with respect to the matters of culture and protection of national heritage shall prepare the post-inspection statement within thirty days from the date of signing the inspection report and submit it promptly to the entrepreneur.

2. Within the period of fourteen days from the receipt of the post-inspection statement, the entrepreneur may notify in writing its objections to the decisions and motions contained in the post-inspection statement.”;

Chapter 13. Fund for the Promotion of Creative Activity

Article 111.

1. A Fund for Promotion of Creative Activity, hereinafter called "the Fund", is hereby established.

2. The Fund shall be administered by the minister responsible for the matters of culture and protection of national heritage.

3. The Fund shall be a state earmarked fund having no legal personality.

Article 111¹

1. The financial management of the Fund shall be based on the annual financial plan prepared for every budgetary year and approved by the entity authorized to manage the Fund.

2. The annual financial plan shall specify, in particular:

a) the receipts and expenditures;

b) the current assets of the Fund as of the beginning and the end of the budgetary year;

c) the receivables and liabilities.

3. Budgetary reports concerning the execution of the annual financial plan of the Fund shall be prepared on the dates and according to the principles specified in separate regulations.

Article 112.

The revenues of the Fund shall come from:

- 1) proceeds specified in Article 40,
- 2) proceeds specified in Article 79, paragraph 2,
- 3) voluntary payments, bequests and donations,
- 4) other proceeds.

Article 113.

The resources of the Fund shall be allocated for:

- 1) the scholarships for authors,
- 2) for the purpose of covering the costs, in whole or in part, of the publications of works having a special importance for the Polish culture, and publications for the blind;
- 3) the social allowances for authors.

Article 113¹.

The provisions of the Division III of the Act dated August 29, 1997 - Tax Code (Journal of Laws No. 137, Subparagraph 926 and No. 160, Subparagraph 1083 and of 1998, No. 106,

Subparagraph 668, of 1999 No. 11, Subparagraph 95, of 2000, No. 94, Subparagraph 1037, No. 116, Subparagraph 1216, No. 120, Subparagraph 1268, No. 122, Subparagraph 1315 of 2001, No. 16, Subparagraph 166, No. 39, Subparagraph 459, No. 42, Subparagraph 475, No. 125, Subparagraph 1368 and No. 130, Subparagraph 1452 and of 2002, No. 89, Subparagraph 804, and No. 113 Subparagraph 984, No. 153, Item 1271 and No. 169, Item 1387) shall apply to the contributions referred to in Article 40, however, the powers of tax authorities specified in that act shall be vested with the minister responsible for the matters of culture and protection of national heritage.

Article 114.

1. After consulting relevant associations of authors, the minister responsible for the matters of culture and protection of national heritage shall appoint a committee responsible for rendering opinions on the provision of additional funds for publications of great importance for the Polish culture and science, publications for the blind, and the scholarships, as well as social allowances for authors .
2. The minister responsible for the matters of culture and protection of national heritage shall identify, by regulation, the entities entitled to file requests for granting financial resources from the Fund, and formal requirements that should be met by the request, taking into account the necessity of implementing the Fund's tasks properly.

Chapter 14. Criminal Liability

Article 115.

1. Whoever claims the authorship or misleads others as to the authorship of a whole or part of another person's work or performance, shall be liable to a fine, restriction of liberty or imprisonment up to 3 years.
2. The same penalty shall be imposed on anyone who disseminates, without indicating the name or the pseudonym of the author, someone else's work in the original or derivative version, or performance, or publicly distorts such work, performance, phonogram, videogram or broadcast.
3. Whoever, in order to gain material benefits in a manner other than specified in paragraph 1 or 2, infringes upon another person's copyright or related rights specified in Articles 16, 17, 18, 19 paragraph 1 or 2 , Article 20 paragraphs 1-4, Article 40 paragraph 1 or 2, Article 86, Article 94, paragraph 4, and Article 97, shall be liable to a fine, restriction of liberty or imprisonment up to 1 year.

Article 116.

1. Whoever, without authorization or against its terms and conditions, disseminates someone else's work, in the original or derivative version, performance, phonogram, videogram or broadcast shall be liable to a fine, restriction of liberty or imprisonment for the period of up to 2 years.
2. If the perpetrator commits the act specified in paragraph 1 above in order to gain material benefits, he shall be liable to imprisonment for the period of up to 3 years.
3. If the perpetrator makes the offence specified in paragraph 1 above a regular source of income or organizes or manages a criminal activity, as specified in paragraph 1, he shall be liable to imprisonment from 6 months up to 5 years.
4. If the perpetrator of the act specified in paragraph 1 above acts unintentionally, he shall be liable to a fine, restriction of liberty or imprisonment for the period of up to one year.

Article 117.

1. Whoever, without authorization or against its conditions, fixes or reproduces another person's work in the original or derivative version, performance, phonogram, videogram or broadcast, for the purpose of its dissemination, shall be liable to a fine, restriction of liberty or imprisonment for the period of up to 2 years.

2. If the perpetrator makes the offence specified in paragraph 1 a regular source of income or organizes or manages a criminal activity, as specified in paragraph 1 above, he shall be liable to imprisonment for the period of up to 3 years.

Article 118.

1. Whoever, in order to gain material benefits, purchases or assists in selling or accepts or assists in concealing objects, which are carriers of a work, performance, phonogram or videogram being disseminated or reproduced without authorization or against its conditions, shall be liable to imprisonment for the period from 3 months to 5 years.

2. If the perpetrator makes the offence specified in paragraph 1 a regular source of income or organizes or manages criminal activity, as specified in paragraph 1, shall be liable imprisonment from 1 to 5 years.

3. Where on the basis of circumstances the perpetrator of the act specified in paragraph 1 or 2 should and could presume that the object has been obtained through an illegal act, he shall be liable to a fine, restriction of liberty or imprisonment for the period of up to 2 years.

Article 118¹

1. Whoever produces devices or their components intended for an illegal removal or circumvention of effective technical protection measures against communication, recording or reproducing works or objects of related rights, or carries on trade in such devices or their components or advertises them for the purpose of sale or rental, shall be liable to a fine, restriction of liberty, or imprisonment for the period up to 3 years.

2. Whoever owns, keeps or uses devices or their components referred to in paragraph 1, shall be liable to a fine, restriction of liberty or imprisonment for the period up to one year.

Article 119.

Whoever prevents or hinders the exercise of the right to supervise the use of a work, performance, phonogram or videogram or refuses to provide information stipulated in Article 47, shall be liable to a fine, restriction of liberty or imprisonment up to 1 year.

[Article 120 has been deleted.]

Article 121.

1. In the event of sentencing for the offence specified in Articles 115, 116, 117, 118 or 118¹, the court shall order the seizure of objects coming from the offence, even if they were not owned by the perpetrator.

2. In the event of sentencing for the offence specified in Articles 115, 116, 117 or 118, the court may order seizure of objects used to commit the offence, even if they were not owned by the perpetrator.

Article 122.

Offences specified in Articles 115, 116, paragraphs 1, 2 and 4, Article 117, paragraph 1, Article 118, paragraph 1, Article 118¹ and Article 119 shall be prosecuted upon a motion of the injured person.

Article 122¹

In the cases conducted with respect to offences specified in Articles 115 to 119, the injured person shall also be the competent organization for collective management of copyright or related rights.

Article 123.

The Minister of Justice may, by a regulation, appoint district courts competent to hear the cases for offences specified in Articles 115 – 119, within the area of jurisdiction of a given regional court.

Chapter 15. Interim and Final Provisions

Article 124.

1. Provisions of this Act shall apply to the works:
 - 1) established for the first time after this Act came into force,
 - 2) whose copyright has not expired under the provisions hitherto in force,
 - 3) whose copyright has expired under the provisions hitherto in force and which, under this Act, continue to enjoy protection, except for the period between the expiry of protection under the previous Act and the date of this Act coming into force. This Act shall not infringe upon the ownership of copies of works disseminated prior to the day when it came into force.
2. The provision of paragraph 1, subparagraph 3 above shall apply to works of foreign citizens permanently residing abroad on the condition of reciprocity.
[Paragraph 3 has been deleted.]
4. Provisions of contracts concluded prior to this Act coming into force, which are contrary to the provisions of Article 75, paragraphs 2 and 3, shall be null and void.

Article 125.

1. The provisions of this Act shall apply to performances:
 - 1) established for the first time after this Act came into force,
 - 2) within the scope of their use after this Act comes into force, if they still enjoy protection under the provisions of this Act.
2. This Act shall not infringe upon the ownership of the copies on which such performance had been fixed prior to its coming into force.

Article 126.

1. Provisions of this Act shall apply to:
 - 1) phonograms and videograms which were produced after this Act came into force,
 - 2) radio and television program services, which were broadcast after this Act came into force,
 - 3) phonograms and videograms and radio and television programs which still enjoy protection under this Act.
2. The rules referred to in paragraph 1, subparagraph 3 shall not apply to use by schools, for teaching purposes, of broadcasts, phonograms and videograms, which are not feature films or theatre performances, made prior to this Act coming into force, as well as to use performances fixed on phonograms and videograms.

Article 127.

1. If the use of a work, performance, phonogram, videogram or a radio or television program service, which started prior to this Act coming into force, was permissible under the previously applicable provisions but requires a permission after this Act came into force, it may be completed, provided that the rightholder receives an appropriate remuneration.
2. Subject to paragraph 3, legal acts performed prior to this Act coming into force and referring to copyright shall be effective and shall be subject to evaluation under provisions of the law hitherto in force; it shall also apply to events other than legal acts.
3. This Act shall apply to long-term contracts which were concluded prior to this Act coming into force with respect to the period following the date of this Act coming into force, and to obligations which were assumed prior to this Act coming into force with respect to the legal effects of events following such date, and not connected with the merits of the obligations.
4. Contracts concluded prior to this Act coming into force shall not cover related rights, unless the parties agreed otherwise.

Article 127¹

The President of the Council of Ministers, upon request of the minister responsible for culture and protection of national heritage, shall appoint, by regulation, a team whose task will be to counteract infringements of copyright and related rights, and shall specify its composition, tasks and procedures.

Article 128.

The Act of 10 July 1952 on Copyright Law (Journal of Laws of 1952, No. 34, Item 234, of 1975, No. 34, Item 184; and of 1989, No. 35, Item 192) shall become invalid.

Article 129.

This Act shall come into force 3 months after the date of its promulgation, except for Article 124, paragraph 3 which shall come into force on the date of promulgation.