

COPYRIGHT LAW OF MONGOLIA

22 June, 1993

Ulaanbaatar

Chapter One

General Provisions

Article 1. Purpose Of the Law

The purpose of this law shall be to regulate matters related to the protection of copyright and the relations arising in connection with use of the works that are subject to copyright.

Article 2. Legislation On Copyright

1. The legislation on copyright shall consist of the Constitution of Mongolia, this law, and other relevant legislation of Mongolia.
2. If an international treaty to which Mongolia is a party provides otherwise than this law, then the former shall prevail.

Article 3. Subject Matter Of Copyright

1. The subject matter of copyright shall include the following works irrespective of their content, purpose, form and mode of creation or availability to the public. */The word "merit" was excluded by Law of May 21, 1999/*
 - 1) all types of literary works whether verbal or written;
 - 2) all types of musical works;
 - 3) all types of works of fine and applied art;
 - 4) works of architecture and construction design;
 - 5) all types of choreographic works, works of contortionists and pantomime;
 - 6) all types of dramatic works;
 - 7) all types of cinematographic works and works expressed by a process analogous to cinematography;
 - 8) all types of photographic works and works expressed by a process analogous to photography;
 - 9) plans, sketches, designs, and models relative to the scientific and technical domain;
 - 10) computer programs;
 - 11) directories, dictionaries, encyclopedias, literary collections and other database compilations that are intellectual property by its purpose and contents. The copyright in the original works in which they are embodied shall not be affected. */Edited by law of May 21, 1999/*
 - 12) derivative works such as simplified texts, translations, musical and other artistic works based upon pre-existing works and sound and visual recordings; */Edited by law of May 21, 1999/*
 - 13) any other works that are able to express the intellectual creative activity of the author.
2. The following works shall not be subject to copyright:
 - 1) texts of laws and other legislative acts;

- 2) court decisions and official documents;
 - 3) speeches made at the court hearings and political meetings;
 - 4) translations of the documents referred in subparagraphs 1, 2 and 3 of this paragraph;
 - 5) any news containing statistical data;
 - 6) any ideas, procedures, instructions and mathematical concepts.
3. Derivative works such as cinematographic work, phonographic works, sound and visual recordings and other similar works created, adapted, performed, or compiled based on the folkloric works are subject to protection under this Copyright Act.
4. Works that are subject to copyright shall be protected from the date of their creation and the author may register his/her works or contract of transfer of rights or transaction thereof at the Intellectual Property Office if so wishes. */Amended by the Law of May 21, 1999/.*

Article 4. Authors

1. The creator of a work shall be called the author of that work.
2. Two or more persons who have made a joint work which is inseparable into independent parts shall be called joint authors. Joint authors are entitled to enjoy copyright jointly.
3. Two or more persons who have made a collective work, in which a number of contributions constitute independent and separate parts in themselves, shall be considered to be collective authors. In addition to collective authors may, enjoying copyright in respect of the work jointly, each of them may, under an agreement concluded with the other collective authors, independently enjoy copyright in respect of subject to copyright contribution to the collective work.

Article 5. Rights In Respect To Copyright Of Artists, Producers Of Sound And Visual Recordings And Broadcasters */Edited by law of May 21, 1999/*

1. The following persons shall copyright:
 - 1) citizens of Mongolia, foreign nationals and stateless persons permanently residing in Mongolia and who have created work;
 - 2) foreign nationals whose work has been first made available to the public in Mongolia. A work of a foreign citizen shall be considered as having been first made available to the public in Mongolia if it was made available to the public within 30 days from the date when it was first made available to the public in any other country;
 - 3) authors of graphic works being component of sculpture, architecture or in buildings which they have permanently located in the territory of Mongolia;
 - 4) legal persons who are entitled to copyright under the conditions and within the scope set by the legislation on copyright;
 - 5) foreign nationals, legal persons and stateless persons who are entitled to protection under an international treaty to which Mongolia is a party *[As amended by the Law of 21 May 1999]*.
2. When the work was created in the course of subject to copyright employment by that person he/she shall retain the copyright unless provided otherwise in the contract *[Edited by law of 21 May 1999]*.

Article 6. [Intellectual Property Office]

1. The Intellectual Property Office shall, within the framework of functions of the Minister of Justice, be the Government Implementory Agency dealing with matters concerning copyright and will cperform the following functions:

- 1) receive and consider applications in respect of copyright in works;
- 2) grant certificates in respect of works;
- 3) publish information relating to works;
- 4) compile a unified database of copyrighted works;
- 5) provide references for the purpose of settling disputes on copyright matters;
- 6) at the request of the author take measures related to the deposit, protection and use of any work on the basis of an agreement conducted with him/her;
- 7) organize enforcement of the Copyright Law on a nation-wide scale;
- 8) protect and represent, in Mongolia and abroad, the rights of authors or owners of certain works;
- 9) keep a State register of works and agreements concerning them;
- 10) determine the design of registration certificates;
- 11) determine the value of works pertaining to copyright;
- 12)select and advice individuals and legal entities to practice as copyright attorney;
- 13)setting up the state inspection service for the implementation of national laws and regulations on intellectual property and to create the position of a state intellectual property inspector" [As amended by the Law of 21 May 1999]

2. The Intellectual Property office shall be financed from its internal revenue.

3. The Government shall approve the rules of state intellectual property inspection.

4. /This paragraph was excluded by the Law of December 13, 1996/

5. Voluntary organisations whose objective is the protection of intellectual property may co-operate with the [Intellectual Property Office] to contribute to the enforcement of copyright.

Article 6¹ Collective Management Organisation

1. Authors and artists may establish a Collective Management Organisation for the purpose of protection of their rights which is a non-governmental organisation.

2. The Collective Management Organisation in carrying on functions on copyright protection shall enter into an agreement with the Intellectual Property Office.

3. The Collective Management Organisation shall have the rights to carry out the following activities for the benefit and interests of their members:

- 1) To enter into contracts with members for setting out classes of use o their works;
- 2) To enter into contracts, on behalf of their members, with individuals and business entities on use of works;
- 3) To set, jointly with the Intellectual Property Office, the rate of royalties for use of members' works;
- 4) To collect and distribute between the members royalties or levies;
- 5) To investigate, with the Intellectual Property Office, matters on infringement of members' copyrights as informed and take necessary counteract measures.

4. The Collective Management Organisation shall pay ten percent of the income generated through the commercialisation of members' works to the Intellectual Property Office [as amended by the Law of 21 May 1999].

Chapter Two

Rights of Authors

Article 7. Rights of Authors

An author shall enjoy non-property personal rights and exclusive (property) rights in respect of his/her work.

Article 8. Non-property Personal Rights

An author shall enjoy the following non-property personal rights in respect of his/ her work:

- 1) the right to use of a name. An author shall have the right to make his/her work available to the public under subject to copyright own name or under a fictitious (pseudonymous) name or as an anonymous work. It shall be prohibited to alter or disclose an author's name without his/her consent;
- 2) the right of attribution. An author shall have the right to require his/her name to be mentioned whenever his/her work is made available to the public;
- 3) inviolability of a work. It shall be prohibited to modify a work or its name in any manner or form without the author's consent.

Article 9. Exclusive (property) Rights In Copyrighted Works

1. An author shall enjoy the following exclusive (property) rights in respect of his/her copyrighted works:
 - 1) the right to reproduce. An author has the exclusive right to publish, draw, engrave, mould, photograph, make sound and visual recordings of, or reproduce subject to copyright original work in any other manner or form;
 - 2) the right to alter, correct and translate. An author shall have the exclusive right to alter, correct, translate or change the name of his/her work;
 - 3) the right to make the work available to the public. An author has the exclusive right to make his/her original work or a reproduction of it available to the public by way of sale or transfer;
 - 4) the right to make a public communication of a work. An author has the exclusive right to make a public communication of his/her work by any means other than the transfer of copyright.
 - 5) The right for commercialization. An author shall enjoy the exclusive right to commercialize his/her work *[as amended on 21 May 1999]*
2. The exclusive rights referred in paragraph 1 above may be transferred only with the author's consent.
3. An author has the right to value subject to copyright work and is entitled to remuneration for the use of subject to copyright work.

Article 10. Copyright Symbol

The owner of the exclusive rights in copyrighted works may use the symbol Ó, being the Latin letter C in a circle, which is an expression of the existence of copyright in a work which has been made available to the public. The symbol shall be accompanied by the year the

work was first made available to the public and by the name of the owner of the exclusive rights in the copyrighted work.

Article 11. Transfer Of Ownership Of exclusive Rights In Copyrighted Works

1. Ownership of the exclusive rights in copyrighted works may only be transferred in whole or in part by way of written agreement .
2. The agreement referred to in paragraph 1 above shall contain the:
 - 1) manner, form and term of use of the work;
 - 2) rights and obligations of the author;
 - 3) rights and obligations of the transferee;
 - 4) amount of royalties due for the use of the work and terms of their payment.

Article 12. Owners Of Material Objects

1. Tangible form in which a work is embodied shall be called a material object. Exercise of the rights of the owner of the material object shall not affect copyright in the work.
2. If a graphic work or work of applied art which has already been sold by the author is auctioned or resold through an agent, then the author shall be entitled to receive a 5 percent royalty from the resale price.

Chapter Three

Requisition and Unauthorised Use of Work

Article 13. Requisition Of Work

1. The State or its competent agencies may, by way of agreement with the author, purchase his/her work for immediate public necessity. If the two parties have not reached agreement, then the State or its competent agency may requisition the work in question.
2. In the case of a requisition referred to in paragraph 1 above, the State or its competent agencies shall pay the price, compensation and remuneration for the use of the work. Disputes arising in this regard shall be resolved in court.
3. The Government shall establish rules on the use of requisitioned works.

Article 14. Public Communication Of Works For Public Benefit

1. In the following cases it shall be permissible to make for the public benefit, without the author's consent and without payment of any remuneration, a public communication of part of a work which has already been made available to the public, provided that mention shall be made of the source and of the name of the author:
 - 1) use for teaching;
 - 2) use in public arrangements for a non-profit purpose;
 - 3) public communication by the regular press and broadcasters of speeches delivered at official or public meetings.
2. In cases referred to in sub-paragraphs 5 and 7 of Article 16 of this law, it shall be permissible to make, without the author's consent and without payment of any remuneration, a public communication of a work by a person who has reproduced the work.

Article 15. Reproduction Of Works For Private Use

1. It shall be permissible to reproduce a work exclusively for private use without the author's consent and without payment of any remuneration if that work has already been made available to the public.
2. The permission may extend to reproduction of original work where it does not conflict with the ordinary course of its use and would not otherwise violate the rights legal and legitimate interests of owner [*Edited by the Law of 21 May 1999*].

Article 16. Reproduction Of Works For Public Benefit

In the following cases it shall be permissible to make for the public benefit, without the author's consent and without payment of any remuneration, a reproduction of part of a work which has already been made available to the public, provided that mention shall be made of the source and of the name of the author:

- 1) use of works as part of collections of archives, museums, or libraries for a non-profit purpose;
- 2) use for teaching;
- 3) [*Excluded by Law of 21 May 1999*];
- 4) reproduction for use by blind people;
- 5) reproduction for use in research and for literary criticism;
- 6) publication of fine art and applied art works in periodicals for the purpose of reporting current events;
- 7) display of works in streets, squares and other public places. In case of such use for the purpose of generating profit the author's consent should be sought in advance and the amount of royalties payable to him/her should be agreed upon;
- 8) advertising and announcement of works which are designated for sale or public display;
- 9) press summaries of works published in the press.

Chapter Four

Term of Copyright and Succession

Article 17. Term Of Copyright

1. The term of copyright in a particular work shall begin from the day of its creation.
2. The term of exclusive rights in copyrighted works shall be the lifetime of the author and 50 years after his/her death. The term of exclusive rights in copyrighted works after the death of the author shall be deemed to begin on 1 January of the year following his/her death. In case of joint authorship this term shall begin on 1 January of the year following the death of the last surviving author.
3. In the case of pseudonymous or anonymous works the term of the exclusive rights of the author in copyrighted works shall be a period of 75 years from 1 January of the year following the year the work was first made available to the public. If the name of the author of pseudonymous or anonymous work is disclosed to the public, the applicable term for the exclusive rights of the author in copyrighted works shall be determined in accordance with paragraph 2 above.
4. The term of any copyrighted work where the author is a legal person shall last for a period of 75 years from 1 January of the year following the year of the creation of the work.
5. The term of the non-property (personal) rights of the author shall not be subject to any limitation.
- 6) The term of protection of photographic works and works of applied art shall be 25 years from the date of the creation of the *work* [*as amended on 21 May 1999*].

Article 18. Declaration Of Works As National Treasures

A work of which term of copyright has expired may, by the Government decision, be declared a State treasure.

Article 19. Inheritance Of Copyright

1. The exclusive rights of an author in a copyrighted work shall pass to his/her heirs in accordance with the rules set forth in the Civil Code of Mongolia. Non-property personal rights of the author shall not be subject to inheritance, although an heir or successor shall be obliged to protect those rights and the rights shall be under State protection.
2. Succession of exclusive rights in joint works shall arise on the day of the death of the last surviving author. Remuneration for the use of joint works shall be distributed between the heir(s) of the deceased author(s) and each surviving author as per the terms of an agreement between the joint authors.

Chapter Five

Rights Related to Copyright of Authors of Derivative Works, Producers of Sound and Visual Recordings and to Copyright of Broadcasting Organisations

Article 20. Rights of Authors of Derivative Works

1. Provisions of this law on the protection of artists shall apply to the following persons:
 - 1) artists who are citizens of Mongolia: singers, artists, circus actors, conductors, dancers, musicians and recitators of literary works;
 - 2) foreign nationals and stateless persons whose performances have been recorded in sound recordings and held in the territory of Mongolia or have been included in radio and TV programs protected by this law.
2. The artists referred in paragraph 1 above shall enjoy the following rights:
 - 3) to rent his/her works out in any manner or form by contract and for remuneration;
 - 4) other rights transferred to him/her under an agreement entered into with the author of the original work;
 - 5) to record his/her works and authorize the other party to reproduce;
 - 6) to give permissions to disseminate his/her work for the purpose of communication to the public. Actors, translators, compilers, producers, choreographers, conductors and other authors of derivative works shall enjoy the following rights in respect of their works. *[Edited by Law of 21 May 1999]*
3. The person who is in charge of financing a joint derivative work (producer) as part of the exercise of official duties or obligations under an agreement shall enjoy the rights related to copyright in respect of that joint work unless the agreement provides otherwise.

Article 21. Rights of Producers of Sound and Visual Recordings

1. A producer of sound and visual recordings shall enjoy the following rights in related to copyright:
 - 1) the right to reproduce his/ her sound and visual recordings;
 - 2) the right to alter and modify his/her sound and visual recording;
 - 3) the right to reproduce his/her sound and visual recording and thus make it available to the public;
 - 4) the right to authorize the use of his/her sound and visual recording subject to agreement and remuneration;
 - 5) other rights transferred to him/her under an agreement concluded with the author of the original work.
2. It shall be permissible to use for a non-commercial purpose sound and visual recordings which have already been made available to the public, without the producer's consent or payment of any remuneration for such use.

3. Only the producer of sound and visual recordings shall enjoy the right to authorise the reproduction of his/her works to be made available to the public by organisations and may charge for such availability.
4. The term of the copyright of artists and makers of sound and visual recordings shall be 50 years from the first date of its production or from the date of its first performance *[Edited by law of 21 May, 1999]*
5. **The following sound and visual recordings shall be subject to the protection under this article:**
 - 1) Sound and visual recordings produced by a citizen of Mongolia;
 - 2) Sound and visual recordings first made in Mongolia; and
 - 3) Sound and visual recordings first made to the public in Mongolia *[As amended by the Law of 21 May, 1999]*.

Article 22. Rights In Respect of Copyright of Broadcasting Organisations

1. Broadcasting organisations shall enjoy the following rights related to copyright:
 - 1) the right to authorize other broadcasting organizations to make simultaneous broadcasting of their programs;
 - 2) the right of television to broadcast by radio and the right of radio to broadcast by television;
 - 3) the right of reproduction of recordings of their programs;
 - 4) other rights transferred to them under agreements concluded with the authors of original works.
2. The term of rights in respect of copyright of radio and television broadcasting organisations shall last for a period of 25 years from 1 January of the year following the year the program was first broadcast.
3. Protection provisions of this article with respect to the radio and television programs shall s apply to the following:
 - 1) Programs of broadcasters the headquarters of which are located in the territory of Mongolia at the time of the broadcast; and
 - 2) programs transmitted from the transmitters located in the territory of Mongolia It shall not be permissible within this period to reproduce, broadcast, make use of an excerpt in broadcasting or make public communications of broadcasts in any other manner or form without the consent of the radio or television broadcasting organisation *[As amended by the Law of 21 May, 1999]*.

Article 23. Use of Works Without the Consent of Producers of Sound and Visual Recordings, Authors of Derivative Works or Broadcasting Organisations

In the following cases it shall be permissible to make, for the public benefit a public communication of part of a derivative work, sound and visual recording or a radio or television program without the consent of the relevant persons and without payment of any remuneration for such communication:

- 1) broadcast by radio or television of either the derivative work or the sound and visual recording; or
- 2) use it for the purposes of teaching or scientific research; or
- 3) use excerpts of it for the purpose of reporting current events.

CHAPTER SIX

MISCELLANEOUS

Article 24. Liability for Breach of Legislation on Copyright

1. If a breach of the legislation on copyright is not to be subjected to criminal liability, it shall be subject to a fine by a judge of up to 50,000 togrogs in case of an individual or of up to 250,000 togrogs in case of a business entity or organisation respectively [*Edited by Law of 21 May, 1999*].
2. If a fraudulent use or alteration of an identification mark on a work is not to be subjected to criminal liability, it shall be subject to a fine by a judge a fine of up to 50,000 togrogs in case of an individual, or of up to 250,000 togrogs case of a business entity or organisation respectively.
3. Compensation for material loss suffered as a result of infringement of exclusive rights in copyrighted works shall be paid as provided in the Civil Code of Mongolia.
4. Use of works, which have already been made available to the public, for private purposes by individuals without the author's consent and without payment of any remuneration for such use, shall be deemed not to constitute a breach of the legislation on copyright. [*As amended by the Law of 17 April 1995*]

Article 25. Protection of Non-property Personal Rights of Authors

In the case of a breach of the inviolability of a work or of other non-property personal rights of an author, the author of a work or his/her heir or successor, or the [Intellectual Property Office] (if there is no apparent heir or if such heir has waived or has been deprived of his/her right of succession) shall be entitled to demand from the infringing party the restoration of the infringed rights and to file a complaint to court. [*As amended by the Law of 1 February 1997*]

Article 26. Entry Into Force of the Law

1. This law shall enter into force on 1 September, 1993.
2. This law shall not apply retrospectively.

N. Bagabandi

Chairman of the State Ih Hural of Mongolia