Eestikeelne originaaldokument: Eesti Vabariigi autoriõiguse seadus

Republic of Estonia Copyright Act

Passed 11 November 1992

(RT 1992, 49, 615; RT I 1999, 36, 469),

entered into force 12 December 1992,

amended by the following Acts:

15.02.2000 entered into force 22.02.2000 - RT I 2000, 13, 94

09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859.

Chapter I

General Provisions

§ 1. Purpose of Copyright Act

(1) The purpose of the Copyright Act is to ensure the consistent development of culture and protection of cultural achievements, the development of copyright-based industries and international trade, and to create favourable conditions for authors, performers, producers of phonograms, broadcasting organisations, producers of first fixations of films, makers of databases and other persons specified in this Act for the creation and use of works and other cultural achievements.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The Copyright Act provides for:

1) the protection of a specific right (copyright) of authors of literary, artistic and scientific works for the results of their creative activity;

2) the persons who may acquire rights to literary, artistic or scientific works created by an author and the rights of such persons;

3) the rights of performers, producers of phonograms and broadcasting organisations (related rights);

3^1) the rights of makers of databases and conditions for the exercise and protection thereof;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3^2) the related rights of producers of first fixations of films and of other persons specified in this Act;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) limitations on the exercise of copyright and related rights upon the use of works in the interest of the public;

5) guarantees for the exercise of copyright and related rights and the protection of such rights.

(3) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 2. Copyright legislation

(1) The copyright legislation of the Republic of Estonia consists of this Act, other Acts drafted on the basis thereof and other legislation adopted by the Government of the Republic, ministries and executive agencies.

(2) If a piece of copyright legislation is in conflict with an international agreement of the Republic of Estonia, the provisions of the international agreement apply.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The provisions of this Act shall be without prejudice to the application of other specific Acts passed in the field of intellectual property.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 3. Validity of Copyright Act

(1) The Copyright Act applies to works:

1) the author of which is a citizen or a permanent resident of the Republic of Estonia;

2) first published in the territory of the Republic of Estonia or not published but located in the territory of the Republic of Estonia, regardless of the citizenship or the permanent residence of the creator of the works;

3) which must be protected in accordance with an international agreement of the Republic of Estonia.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) This Act applies to works first made available to the public in a foreign state or not made available to the public but located in the territory of a foreign state, the author of which is a person whose permanent residence or registered office is in the foreign state and to which clause (1) 3) of this section does not apply, only if this state guarantees similar protection for works of the authors of the Republic of Estonia and for works first published in the Republic of Estonia.

(3) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter II

Works Protected by Copyright

§ 4. Works in which copyright subsists

(1) Copyright subsists in literary, artistic and scientific works.

(2) For the purposes of this Act, “works” means any original results in the literary, artistic or scientific domain which are expressed in an objective form and can be perceived and reproduced in this form either directly or by means of technical devices. A work is original if it is the author’s own intellectual creation.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) Works in which copyright subsists are:

1) written works in the fields of fiction, non-fiction, politics, education, etc.;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

2) scientific works or works of popular science, either written or three-dimensional (monographs, articles, reports on scientific research, plans, schemes, models, tests, etc.);

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

3) computer programs that shall be protected as literary works. Protection applies to the expression in any form of a computer program;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) speeches, lectures, addresses, sermons and other works which consist of words and which are expressed orally (oral works);

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

5) scripts and script outlines, librettos;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

6) dramatic and dramatico-musical works;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

7) musical compositions with or without words;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

8) choreographic works and entertainments in dumb show;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

9) audiovisual works (§ 33);

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

10) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

11) works of painting, graphic arts, typography, drawings, illustrations;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

12) productions and works of set design;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

13) works of sculpture;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

14) architectural graphics (drawings, drafts, schemes, figures, plans, projects, etc.), letters of explanation explaining the contents of a project, additional texts and programs, architectural works of plastic art (models, etc.), works of architecture and landscape architecture (buildings, constructions, parks, green areas, etc.), urban developmental ensembles and complexes;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

15) works of applied art;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

16) works of design and fashion design;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

17) photographic works and works expressed by a process analogous to photography, slides and slide films;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

18) cartographic works (topographic, geographic, geological, etc. maps, atlases, models);

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

19) draft legislation;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

19^1) standards and draft standards;

(22.02.1999 entered into force 01.04.1999 – RT I 1999, 29, 398)

20) opinions, reviews, expert opinions, etc.;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

21) derivative works, i.e. translations, adaptations of original works, modifications (arrangements) and other alterations of works;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

22) collections of works and information (including databases). For the purposes of this Act, “database” means a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means. The meaning of database does not cover computer programs used in the production or operation thereof. In accordance with this Act, databases which, by reason of the selection or arrangement of their contents, constitute the author’s own intellectual creation shall be protected as such by copyright and no other criteria is applied.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

23) other works.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(4) An author shall also enjoy copyright in the results of the intermediate stages of creating a work (drafts, sketches, plans, figures, chapters, preparatory design material, etc.) if these are in compliance with the provisions of subsection (2) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) The original title of a work is subject to protection on an equal basis with the work.

(6) The protection of a work by copyright is presumed except if, based on this Act or other copyright legislation, there are apparent circumstances which preclude this. The burden of proof lies on the person who contests the protection of a work by copyright.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 5. Results of intellectual activities to which this Act does not apply

(1) This Act does not apply to:

1) ideas, images, notions, theories, processes, systems, methods, concepts, principles, discoveries, inventions, and other results of intellectual activities which are described, explained or expressed in any other manner in a work;

2) works of folklore;

3) legislation and administrative documents (acts, decrees, regulations, statutes, instructions, directives) and official translations thereof;

4) court decisions and official translations thereof;

5) official symbols of the state and insignia of organisations (flags, coats of arms, orders, medals, badges, etc.) and banknotes;

6) news of the day;

7) facts and data;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

8) ideas and principles which underlie any element of a computer program, including those which underlie its user interfaces.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 6. Creation of copyright regardless of purpose, value, form of expression or manner of fixation of work

The purpose, value, specific form of expression or manner of fixation of a work shall not be the grounds for the non-recognition of copyright.

§ 7. Moment of creation of copyright

(1) Copyright in a work is created with the creation of the work.

(2) The creation of a work means the moment of expression of the work in any objective form which allows the perception and reproduction or fixation of the work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The registration or deposit of a work or completion of other formalities is not required for the creation or exercise of copyright.

§ 8. Copyright in works not made available to public and works made available to public

Copyright subsists in works not made available to the public and in works made available to the public (published, performed in public, displayed in public or communicated to the public). “The public” means an unspecified set of persons outside the family and immediate circle of acquaintances.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 9. Published works

(1) A work is deemed published if the work or copies of the work, whatever may be the means of manufacture of the copies, are placed, with the consent of the author, at the disposal of the public provided that the availability of such copies has been such as to enable the public to examine or obtain the work. Publication of a work includes also publication of the work in print, offering original copies of the work for sale, distribution, lending and rental of the work and placing the work at the disposal of the public in any other manner for a charge or free of charge.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(1^1) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1^2) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) A work is deemed published if it is recorded in a computer system accessible to the public.

(3) The performance of a dramatic, dramatico-musical or a musical work, the presentation of audiovisual works, the public recitation of a literary work, the broadcasting or cable transmission of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication, except in the case specified in subsection (2) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 10. Works performed in public, displayed and communicated to public

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) A work is deemed performed if it is recited, played, danced, acted or performed in any other

manner directly or by means of any technical device or process.

(2) A work is deemed displayed (exhibited) if the work or a copy thereof is presented either directly or by means of film, slides, television or any other technical device or process.

(3) A work is deemed communicated to the public if it is made public by means of radio, television, satellite or cable networks or in any other manner which is not connected with the distribution of copies of the work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) Public performance, public display or communication to the public of a work means:

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

1) making the work available in a place open to the public or in a place which is not open to the general public but where an unspecified set of persons outside the family and an immediate circle of acquaintances are present;

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

2) communication or retransmission of the work to the public by means of any technical device or process regardless of whether the public actually perceived the work or not.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 10^1. (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 10^2. Communication of works to public by satellite

(1) For the purposes of this Act, “satellite” means any communications satellite operating on frequency bands which are reserved for the broadcast of signals for reception by the public or which are reserved for closed, point-to-point communication on the condition that the circumstances in which individual reception of the signals takes place are comparable to those which apply in the first case.

(2) For the purposes of this Act, “communication to the public by satellite” means the act of introducing, under the control and responsibility of the broadcasting organisation, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(3) The act of communication to the public by satellite occurs solely in the state where, under the control and responsibility of the broadcasting organisation, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(4) If the programme-carrying signals are encrypted, then there is communication to the public by satellite on the condition that the means for decrypting the broadcast are provided to the public by the broadcasting organisation or with its consent.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 10^3. Cable retransmission

For the purposes of this Act, “cable retransmission” means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter III

Rights Arising upon Creation of Works

§ 11. Content of copyright

(1) Copyright in a work arises upon the creation of the work by the author of the work. Moral rights and economic rights constitute the content of copyright.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The moral rights of an author are inseparable from the author’s person and non-transferable.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The economic rights of an author are transferable as single rights or a set of rights for a charge or free of charge.

(4) The moral and economic rights of an author may be limited only in the cases prescribed in this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 12. Moral rights

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) The author of a work has the right to:

1) appear in public as the creator of the work and claim recognition of the fact of creation of the work by way of relating the authorship of the work to the author’s person and name upon any use of the work (right of authorship);

2) decide in which manner the author’s name shall be designated upon use of the work – as the real name of the author, identifying mark of the author, a fictitious name (pseudonym) or without a name (anonymously) (right of author’s name);

3) make or permit other persons to make any changes to the work, its title (name) or designation of the author’s name and the right to contest any changes made without the author’s consent (right of integrity of the work);

4) permit the addition of other authors’ works to the author’s work (illustrations, forewords, epilogues, comments, explanations, additional parts, etc.) (right of additions to the work);

5) contest any misrepresentations of and other inaccuracies in the work, its title or the designation of the author's name and any assessments of the work which are prejudicial to the author's honour and reputation (right of protection of author's honour and reputation);

6) decide when the work is ready to be performed in public (right of disclosure of the work);

7) supplement and improve the author's work which is made public (right of supplementation of the work);

8) request that the use of the work be terminated (right to withdraw the work);

9) request that the author's name be removed from the work which is being used.

(2) The rights specified in clauses (1) 7), 8) and 9) of this section shall be exercised at the expense of the author and the author is required to compensate for damage caused to the person who used the work.

§ 13. Economic rights

(1) An author shall enjoy the exclusive right to use the author's work in any manner, to authorise or prohibit the use of the work in a similar manner by other persons and to receive income from such use of the author's work except in the cases prescribed in Chapter IV of this Act. The author's rights shall include the right to authorise or prohibit:

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

1) reproduction of the author's work (right of reproduction of the work). "Reproduction" means making one or several temporary or permanent copies of the work or a part thereof in any form or by any means;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) distribution of the author's work or copies thereof (distribution right). "Distribution" means the transfer of the right of ownership in a work or copies thereof (sale, giving as gift, etc.) or any other form of distribution to the public, including the rental and lending, except for the rental and lending of works of architecture and works of applied art. The right specified in this clause shall be exhausted and copies of a work may be further distributed without the authorisation of the author if the author or rightholder has sold copies of the work, except in the cases provided for in subsection (2) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) translation of the author's work (right of translation of the work);

5) making adaptations, modifications (arrangements) and other alterations of the work (right of alteration of the work);

6) compilation and publication of collections of the author's works and systematisation of the author's works (right of collections of works);

7) public performance of the work as a live performance or a technically mediated performance (right

of public performance);

8) displaying the work to the public (right of exhibition of the work). "Exhibition of a work" means presentation of the work or a copy thereof either directly or by means of film, slides, television or any other technical device or process;

9) communication of the work by radio, television, cable network, satellite and by means of other technical devices (right of communication of the work);

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

10) carrying out the author's architectural project pursuant to the procedure prescribed by law;

11) carrying out the author's project of a work of design or a work of applied arts, etc.

(2) An author shall enjoy the exclusive right to authorise or prohibit the rental or lending of copies of his or her works to the public even in the case where the distribution right has been exhausted (clause (1) 2)), except in the cases provided for in subsection (6) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) For the purposes of this Act, "rental" means making a work, copies thereof or any other results specified in this Act available for use, for a limited period of time and for direct or indirect economic or commercial advantage.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) For the purposes of this Act, "lending" means making a work, copies thereof or any other results specified in this Act available for use through establishments which are accessible to the public, for a limited period of time and not for direct or indirect economic or commercial advantage.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) The first sale of a copy of a database pursuant to clause (1) 2) of this section shall exhaust the right to control resale of the copy of the database.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(6) An author does not have the right to prohibit the lending of copies of his or her works from public libraries but the author has the right to obtain, pursuant to the procedure provided by law, equitable remuneration for such lending. The list of public libraries which pay remuneration for lending, the amount of such remuneration, the conditions for payment thereof and the payment procedure shall be established by the Government of the Republic.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 13^1. Exercise of author's economic rights

(1) Authors exercise their economic rights either independently or through collective management organisations (Chapter IX).

(2) A work may only be communicated to the public if the person organising the communication of the work to the public has been granted prior authorisation (licence) therefor by the author, his or her

legal successor or the collective management organisation representing the author. If several persons organise the communication of a work to the public, one of them shall apply for the authorisation under an agreement between the persons.

(3) The procedure prescribed in subsection (2) of this section also applies if a work is planned to be communicated to the public by technical means (record, cassette or CD player, etc.) in a place open to the public.

(4) A work may be communicated by radio, television, cable or satellite or by other technical means only if the person communicating the work has been granted prior authorisation (licence) therefor by the author, the author's legal successor or the collective management organisation representing the author.

(5) The procedure prescribed in subsection (2) of this section also applies if a work communicated by means specified in subsection (4) of this section is planned to be communicated by radio, television or cable in a place open to the public or in such a way that persons may access the work from a place and at a time individually chosen by them.

(6) For the purposes of subsections (3) and (5), "place open to the public" means the territory, building or room which is public or granted for use by the public or to which its owner or holder allows individual access (a street, square, park, sports facility, festival grounds, market, recreation area, theatre, cinema, club, discotheque, shop, mass caterer, service enterprise, public means of transport, hotel, motel, etc.).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 14. Author's right to remuneration

(1) An author has the right to obtain remuneration (author's remuneration) for the use of the author's work by other persons except in the cases prescribed by this Act.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) The amount of the remuneration, including rental fees, and the procedure for the collection and payment thereof shall be determined by an agreement (contract) between the author and a user of the work or, by the authorisation of the author, by an agreement between a collective management organisation representing authors or any other person and a user of the work, in which case the specifications provided for in subsections 76 (3) and 77 (3) of this Act shall be taken account of.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) It is prohibited to use a work before an agreement specified in subsection (2) of this section is reached.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(4) If the parties agree on the remuneration but the obligated party fails to perform the party's obligation in part or in full by the due date, the obligated party must stop using the work unless otherwise agreed with the entitled party.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(5) A violation of subsection (4) of this section is deemed the use of a work without the consent of the author or holder of the author's rights.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(6) Where an author has transferred (assigned) the author's economic rights to a producer of audiovisual works or granted an authorisation (licence) to use (including to rent) the original or a copy of an audiovisual work, or where such transfer or authorisation is presumed, the author shall retain the right to obtain equitable remuneration from the television broadcaster, commercial lessor or another person who uses the audiovisual work. An agreement to waive the right to obtain equitable remuneration is void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(7) Where an author has transferred (assigned) the right or granted an authorisation (licence) to a producer of phonograms to rent a copy of a phonogram, or where such transfer or authorisation is presumed, the author shall retain the right to obtain equitable remuneration from the commercial lessor for such rental. An agreement to waive the right to obtain equitable remuneration is void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 15. Remuneration for resale of works of visual art

(1) Upon the resale of the original of a work of visual art at a public auction or via a trade or art organisation, the author of the work has the right to receive 5 per cent of the sales price.

(2) The remuneration specified in subsection (1) of this section shall be transferred in full to the bank account of the collective management organisation representing authors by the person who arranged the resale of the work, not later than on the tenth day as of the date of sale.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 16. Copyright and right of ownership

(1) Copyright in a work shall belong to the author or his or her successor regardless of who has the right of ownership in the material object in which the work is expressed. The manner in which the economic rights of the author or his or her successor are exercised shall be determined by an agreement between the author or his or her successor and the owner.

(2) In order to make a copy of a work of visual art, the author of the work has the right to request access to the original of the work which is in the ownership or lawful possession of another person.

(3) An author may, with the owner's consent, improve, supplement or process in any other manner the author's work of visual art, architecture, applied art, design, etc.

Chapter IV

Limitations on Exercise of Economic Rights of Authors (Free Use of Works)

1. Fundamental Provisions

§ 17. Limitation to economic rights of authors

Notwithstanding §§ 13 – 15 of this Act, but provided that this does not conflict with a normal exploitation of the work or does not unreasonably prejudice the legitimate interests of the author, it is permitted to use a work without the authorisation of its author and without payment of remuneration only in the cases directly prescribed in §§ 18 – 25 of this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 18. Free private use of works

(1) A lawfully published work of another person may be reproduced for private use without the authorisation of its author and without payment of remuneration.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The following shall not be reproduced for private use without the authorisation of the author and without payment of remuneration:

1) works of architecture such as buildings or other similar constructions;

2) works of visual art of limited edition;

3) electronic databases;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) computer programs, except in the cases prescribed in §§ 24 and 25 of this Act;

5) other works if the reproduction is contrary to the use of the work or prejudices the legitimate interests of the author.

(3) Audiovisual works or sound recordings thereof may be in private use pursuant to the procedure prescribed in §§ 26 and 27 of this Act.

(4) Subsection (1) of this section does not apply to legal persons.

2. Use of Works without Authorisation of Author and without Payment of Remuneration

§ 19. Free reproduction of works for scientific, educational, informational, judicial and administrative purposes

The following is permitted without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work, if it appears thereon, the title (name) of the work and the source publication:

1) making summaries of and quotations from works which have already been lawfully made available to the public, provided that the idea of the work as a whole which is being summarised or quoted is conveyed correctly, and their extent does not exceed that justified by the purpose, including summaries of and quotations from newspaper articles and journals for the purpose of providing an overview of the press;

2) the use of a lawfully published work or parts thereof for the purpose of illustration for teaching or scientific research to the extent justified by the purpose and on condition that such use is not carried

out for commercial purposes;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3) the reprographic reproduction of articles lawfully published in newspapers, journals or other periodicals and of excerpts from published works for the sole purpose of teaching or scientific research in educational and research institutions whose activities are not carried out for commercial purposes;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3^1) the reproduction and distribution in the press of articles published in newspapers, journals or other periodicals on current economic, political or religious topics, or the communication of radio or television broadcasts of the same character to the public by radio, television or cable, except if the author of the work or copyright holder has expressly retained the right of such reproduction or communication;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3^2) for the purpose of reporting current events, the partial reproduction and making available to the public of literary and artistic works seen or heard in the course of the event, by means of photography, cinematography, radio, television or cable but in the form and to the extent required by the purpose of reporting currents events;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) (Repealed - 21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

5) (Repealed - 21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

6) (Repealed - 21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

7) for the purpose of communicating information regarding current events, the reproduction of public speeches, addresses, sermons, speeches delivered in the course of legal proceedings, and other oral works in the press, by means of cinematography, radio, television or cable but to the extent required by the purpose of communicating such information. The right of publication of collections of works performed in public specified in this clause belongs to the author;

8) reproduction of a work for the purposes of a judicial or administrative procedure or for the purposes of public security and to the extent justified by the purposes of a judicial or administrative procedure or ensurance of public security.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

9) publication of works made available to the public in braille or another technical manner for the blind, except works created especially for the blind to be reproduced in such manners.

§ 20. Reproduction of works by libraries, archives or museums

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) A work included in the funds or collection of a library, archives or museum may be reproduced as a single copy without the authorisation of its author and without payment of remuneration, in order

to:

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

1) replace a work or a copy thereof which has been lost, destroyed or rendered unusable or, in the likelihood of such danger, make a copy to ensure the preservation of the work. There is a likelihood of danger if a work or a copy thereof is the single one in a library, archives or a museum and the termination of its lending or display is contrary to the functions under the articles of association of the library, archives or museum;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) replace a work or a copy thereof which belonged to the permanent collection of another library, archives or museum if the work is lost, destroyed or rendered unusable.

(2) The reproduction of a work prescribed in subsection (1) of this section is permitted if the activities of the library, archives or museum concerned are not aimed at obtaining direct or indirect economic advantage and acquisition of another copy of the work is impossible.

(3) Libraries, archives and museums have the right to reproduce works or parts thereof which belong to their funds or collections on orders from natural persons for private use (subsection 18 (1)).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) Libraries, archives and museums have the right to reproduce works or parts thereof which belong to their funds or collections on orders from a court or a state agency for the purposes prescribed in clause 19 8) of this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) The activity prescribed in subsections (3) and (4) of this section shall not be carried out for commercial purposes.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 20^1. Free use of reproductions of works located in places open to public

It is permitted, without the authorisation of the author and without payment of remuneration, to reproduce works of architecture, works of visual art, works of applied art or photographic works which are permanently located in places open to the public by any means except for mechanical contact copying, and to communicate such reproductions of works to the public except if the work is the main subject of the reproduction and it is intended to be used for direct commercial purposes. If the work specified in this section carries the name of its author, it shall be indicated in communicating the reproduction to the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 21. (Repealed - 21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 22. Free public performance of works

The public performance of works in the direct teaching process in educational institutions by the teaching staff and students without the authorisation of the author and without payment of

remuneration is permitted if mention is made of the name of the author of the work used, if it appears thereon, on the condition that the audience consists of the teaching staff and students or other persons (parents, guardians, caregivers, etc.) who are directly connected with the educational institution where the work is performed in public.

§ 23. Use of ephemeral recordings of works by broadcasting organisations

(1) A broadcasting organisation may make, without the authorisation of the author and without payment of remuneration, ephemeral recordings of works which it has the right to broadcast on the condition that such recordings are made by means of its own facilities and used for its own broadcasts.

(2) The broadcasting organisation is required to destroy recordings prescribed in subsection (1) of this section within thirty days as of the making thereof unless otherwise agreed with the author of the work thus recorded.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) Ephemeral recordings prescribed in this section shall not be destroyed if they have considerable value in terms of cultural history. In such case, the recordings shall be preserved, without the authorisation of the author, in the archives of the broadcasting organisation as works of solely documentary character. Works to be preserved in the archives shall be decided on by the broadcasting organisation or, in the case of a dispute, by the State Archivist.

(26.06.1996 entered into force 26.07.1996 - RT I 1996, 49, 953; 25.03.1998 entered into force 01.05.1998 - RT I 1998, 36/37, 552)

§ 24. Free use of computer programs

(1) Unless otherwise prescribed by contract, the lawful user of a computer program may, without the authorisation of the author of the program and without payment of additional remuneration, reproduce, translate, adapt and transform the computer program in any other manner and reproduce the results obtained if this is necessary for:

1) the use of the program on the device or devices, to the extent and for the purposes for which the program was obtained;

2) the correction of errors present in the program.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) The lawful user of a computer program is entitled, without the authorisation of the author of the program or the legal successor of the author and without payment of additional remuneration, to make a back-up copy of the program provided that it is necessary for the use of the computer program, or to replace a lost or destroyed program or a program rendered unusable.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The lawful user of a computer program is entitled, without the authorisation of the author of the program and without payment of additional remuneration, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he or she does so while performing any act of loading, displaying, running, transmitting or storing the program which he or she is entitled to do.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) Any contractual provisions which prejudice the exercise of the rights specified in subsection (2) or (3) are void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 25. Decompilation of computer programs

(1) The lawful user of a computer program may reproduce and translate a computer program without the authorisation of the author of the program and without payment of additional remuneration if these acts are indispensable to obtain information necessary to achieve the interoperability of a program created independently of the original program with other programs provided that the following conditions are met:

1) these acts are performed by the lawful user of the program or, on the behalf of the lawful user of the program, by a person authorised to do so;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) the information necessary to achieve the interoperability of programs has not previously been available to the persons specified in clause 1) of this subsection;

3) these acts are confined to the parts of the original program which are necessary to achieve interoperability.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) Information obtained as a result of the acts prescribed in subsection (1) of this section shall not be:

1) used for goals other than to achieve the interoperability of the independently created program;

2) disclosed to third persons except when necessary for the interoperability of the independently created program;

3) used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes the copyright of the author of the original program.

(3) Any contractual provisions which prejudice the exercise of the rights specified in this section are void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 25^1. Free use of database

The lawful user of a database or of a copy thereof is entitled, without the authorisation of the author and without payment of additional remuneration, to perform any acts which are necessary for the purposes of access to the contents of the database and normal use of its contents. If the lawful user is

authorised to use only part of the database, this provision shall only apply to the corresponding part of the database or of a copy thereof. Any contractual provisions which prejudice the exercise of the right are void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3. Use of Works without Authorisation of Author but with Payment of Remuneration

§ 26. Private use of audiovisual works and sound recordings of works

(1) Audiovisual works or sound recordings of such works may be reproduced for the private use (scientific research, studies, etc.) of the user without the authorisation of the author. The author as well as the performer of the work and the producer of phonograms have the right to obtain equitable remuneration for such use of the work or phonogram (§ 27).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) Subsection (1) of this section does not apply to legal persons.

§ 27. Remuneration for private use of audiovisual works and sound recordings of works

(1) To compensate authors as well as performers and producers of phonograms for the use of works prescribed in § 26, the manufacturers and importers of recording devices for reproduction for private use (audio tape recorders, video tape recorders, etc.) and blank (not containing a recording) audiovisual recording media (tapes, cassettes, etc.) shall pay corresponding remuneration which shall be equitably distributed among authors, performers and producers of phonograms according to the use of works and phonograms.

(2) The procedure for the collection and payment of remuneration prescribed in subsection (1) of this section shall be established by the Government of the Republic.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The Minister of Culture shall annually determine the amount of the remuneration, having previously obtained the approval of the manufacturers and importers provided for in subsection (1) of this section and the collective management organisations representing authors.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3^1) The Minister of Culture shall approve the distribution of the remuneration provided for in subsection (1) of this section not later than three months after the end of the budgetary year, having previously obtained the approval of the representatives of authors, performers and producers of phonograms.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) The remuneration prescribed in subsection (1) of this section shall not be collected on recording devices and blank (not containing a recording) audiovisual recording media which are:

1) exported;

2) used for professional recording;

3) used for making recordings for the benefit of visually-impaired or hearing-impaired persons;

4) exempt from remuneration pursuant to the procedure prescribed by law.

(5) The collective management organisation representing authors which is appointed as the collector of the remuneration prescribed in subsection (1) of this section has the right to receive from customs and statistical authorities, manufacturing and importing organisations all information necessary for the collection of the remuneration.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 27^1. Reprographic reproduction of works

(1) Authors and publishers are entitled to obtain equitable remuneration for the reprographic reproduction (photocopying or reproduction by any other analogous method on paper or on any other similar medium) of their works (clause 13 (1) 1)). The amount of the remuneration shall be determined on the basis of the volume of the work, the number of copies made and the price of one sheet copied.

(2) The remuneration specified in subsection (1) of this section shall be paid by persons who make copies of literary, artistic and scientific works protected by this Act (equipment operators).

(3) The procedure for the calculation, collection and distribution of the remuneration prescribed in subsection (1) of this section shall be established by the Government of the Republic.

(4) The remuneration prescribed in subsection (1) of this section shall be collected by a collective management organisation designated by the Minister of Culture. The organisation has the right to receive from equipment operators all information necessary for the collection of remuneration.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter V

Persons to whom Copyright Shall Belong

§ 28. Author of work

(1) The moral and economic rights of an author shall initially belong to the author of a work unless otherwise prescribed by this Act with regard to the economic rights of the author.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The author of a work is the natural person or persons who created the work.

(3) Copyright shall belong to a legal person only in the cases prescribed in this Act.

(4) Copyright shall belong to the state only in the cases prescribed in this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 29. Presumption of authorship

(1) The authorship of a person who publishes a work under his or her name, a generally recognised

pseudonym or the identifying mark of the author shall be presumed until the contrary is proved. The burden of proof lies on the person who challenges authorship.

(2) The author of a work which is communicated to the public anonymously or under a pseudonym or the identifying mark of the author shall enjoy copyright in the work. Until the moment when the author reveals his or her real name and proves his or her authorship, the economic rights of the author are exercised by the person who lawfully published the work.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) The person who represents the author in the cases prescribed in subsection (2) of this section shall retain the rights to use the work acquired by the person during the time the person acts as a representative unless otherwise prescribed by an agreement between the person and the author.

§ 30. Joint authorship and co-autorship

(1) Copyright in a work created by two or more persons as a result of their joint creative activity shall belong jointly to the authors of the work.

(2) A work created as a result of joint creative activity may constitute an indivisible whole (joint authorship) or consist of parts each of which has independent meaning of its own (co-authorship). A part of a work is deemed to have independent meaning if it can be used independently of other parts of the work.

(3) Each co-author of a work shall enjoy copyright in the part of the work with independent meaning created by him or her and the co-author may use that part of the work independently. Such use shall not prejudice the interests of other co-authors or contradict the interests of joint use of the co-authors of the work.

(4) Relations between joint authors in the exercise of copyright, including the distribution of remuneration, shall be determined by an agreement between them. In the absence of such agreement, all authors shall exercise copyright in the work jointly and remuneration shall be divided equally between them.

(5) Each of the joint authors and co-authors may have recourse to the courts or take other measures to protect the jointly created work and eliminate any infringement of copyright.

(6) Consulting authors, performing the functions of administrative management, editing a work, drawing graphs, schemes, etc. and providing other technical assistance to authors shall not constitute the basis for the creation of joint authorship or co-authorship.

(7) If a work is created under an employment contract in execution of the direct duties of a person, in order to form a group of authors, the prior consent of the person is necessary in order to include him or her in the group of authors. Refusal to participate in the work of a group of authors for good reason shall not be considered breach of work discipline.

§ 31. Copyright in collective works

(1) A collective work is a work which consists of contributions of different authors which are united into an integral whole by a natural or a legal person on the initiative and under the management of this person and which is published under the name of this natural or legal person (works of reference, collections of scientific works, newspapers, journals and other periodicals or serials, etc.).

(2) Copyright in a collective work shall belong to the person on whose initiative and under whose management the work was created and under whose name it was published unless otherwise prescribed by contract.

(3) The authors of the works included in a collective work (contributions) shall enjoy copyright in their works and they may use their works independently unless otherwise determined by contract. Authors of contributions are not deemed to be joint authors or co-authors.

§ 32. Copyright in works created in execution of duties of employment

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) The author of a work created under an employment contract or in the public service in the execution of his or her direct duties shall enjoy copyright in the work but the economic rights of the author to use the work for the purpose and to the extent prescribed by the duties shall be transferred to the employer unless otherwise prescribed by contract.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) An author may use the work created in the execution of his or her direct duties independently for the purpose prescribed by the duties only with the prior consent of the employer whereupon mention must be made of the name of the employer. In such case, the author has the right to receive remuneration for the use of the work.

(3) An author may use the work created in the execution of his or her duties independently for a purpose not prescribed by the duties unless otherwise prescribed by the employment contract. If a work is used in such manner, mention must be made of the name of the employer.

(4) In the cases prescribed by legislation, the author of a work created in the execution of duties shall be paid, in addition to his or her pay (wages), remuneration for the use of the work. Payment of remuneration may also be prescribed in an agreement between the employer and the author.

(5) The author of a computer program or the author of a database who creates the program or database in the execution of his or her duties or following the instructions given by his or her employer shall enjoy a copyright in the program or database but the employer has the exclusive licence to exercise all economic rights unless otherwise provided by contract.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(6) Economic rights in a work created in the public service shall transfer to the state unless otherwise prescribed by contract. The rights shall be exercised by the state agency which assigned, commissioned or supervised the creation of the work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 33. Copyright in audiovisual works

(1) Audiovisual works are all works which consist of series of related images whether or not accompanied by sound and which are intended to be demonstrated using corresponding technical means (cinematographic films, television films, video films, etc.).

(2) Copyright in an audiovisual work shall belong to its author or joint or co-authors - the director, the script writer, the author of dialogue, the author of the musical work specifically created for use in

the audiovisual work, the cameraman and the designer. The economic rights of the director, the script writer, the author of dialogue, the cameraman and the designer shall transfer to the producer of the work unless otherwise prescribed by contract. The economic rights of the author of the musical work used in the audiovisual work shall not transfer to the producer regardless of the fact whether or not the work was specifically created for use in the audiovisual work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The producer of a work is a natural or legal person who financed or managed the creation of the work and whose name is fixed in the audiovisual work.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(4) The fact that the person whose name is indicated in an audiovisual work is the producer shall be presumed until the contrary is proved. The burden of proof lies on the person who challenges the fact that this person is the producer.

(5) Directors, script writers, composers and authors of script outlines, dialogue and the announcer’s text, designers, cameramen, choreographers, sound recordists and other persons who participate in the creation of an audiovisual work shall enjoy copyright in their work which constitutes a part with independent meaning of the audiovisual work and which can be used independently of the work as a whole.

Economic rights with regard to such works may be exercised independently unless otherwise provided by contract on the condition that such use shall not prejudice the interests of using the work as a whole.

§ 34. Copyright of compilers

(1) A person who creates a collection as a result of his or her creative activity by selecting or arranging the material (compiler) shall enjoy copyright in this collection.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) A compiler may independently arrange and transform results of intellectual activity to which this Act does not apply (§ 5).

(3) A compiler may independently arrange and transform, observing the provisions of § 44 of this Act, works whose term of protection of copyright has expired.

(4) Works subject to protection by copyright may be arranged and included in collections as originals or in a transformed form only with the consent of the author or his or her legal successor except in the cases prescribed in Chapter IV of this Act. A compiler is required to observe the copyright in works included in the collection.

(5) The publication of a collection by a person shall not restrict other persons in using the same material in order to create an independent collection pursuant to the provisions of subsections (1) and (4) of this section.

(6) A collection compiled by a person may be transformed by other persons only if they observe the copyright of the compiler of the original collection.

§ 35. Copyright in derivative works

(1) The author of a work which is derived from the work of another author shall enjoy copyright in his or her work.

(2) The creation of derivative works, including the transformation of a narrative work into a dramatic work or a script, the transformation of a dramatic work or a script into a narrative work, the transformation of a dramatic work into a script, and the transformation of a script into a dramatic work, shall be carried out only pursuant to the procedure prescribed in Chapter VII of this Act and observing the copyright of the creator of the original work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) A person who creates, on the basis of a work of another author (original work), a new, creatively independent work which is separate from the original work shall enjoy copyright in this work. In such case, the name of the author of the original work, the title (name) of the work and the source where the work is published shall be indicated.

(4) The provisions of subsection (1) of this section also apply to works the authors of which are unknown (works of folklore, anonymous works, etc.), works whose term of protection of copyright has expired and to results of intellectual activity to which this Act does not apply (§ 5).

§ 36. Rights of successors

(1) Succession of copyright shall be intestate succession or testate succession according to the general provisions of the law of succession.

(2) The economic rights of an author specified in §§ 13-15 of this Act shall transfer to an intestate successor for the term of protection of copyright unless otherwise prescribed by a will.

(3) Unless otherwise prescribed by an author during his or her lifetime, the following moral rights shall transfer to his or her successor:

1) the right to permit the addition of other authors' works to the author's work (illustrations, forewords, epilogues, comments, explanations, additional parts, etc.) (right of additions to the work);

2) the right to contest any misrepresentations of and changes and other inaccuracies in the work, its title (name) or the designation of the author's name and any assessments of the author or his or her work which are prejudicial to the author's honour and reputation (right of protection of author's honour and reputation);

3) the right to make an unpublished work available to the public (right of disclosure of the work).

(4) An author has the right to designate, pursuant to the same procedure as that pursuant to which an executor of will is designated, a person to protect the inviolability of the author's work and the author's honour and reputation after the author's death. Such person shall exercise his or her authority during his or her lifetime.

(5) Copyright transferred to the state by way of succession shall be exercised by the Ministry of Culture.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 37. Copyright of legal successors of authors who are not successors

Only the economic rights of an author may transfer, on the basis of a contract entered into with the author or in the cases directly prescribed in this Act, to natural and legal persons who are not successors of the author.

Chapter VI

Duration of Copyright

§ 38. Term of protection of copyright

(1) The term of protection of copyright shall be the life of the author and seventy years after his or her death, irrespective of the date when the work is lawfully made available to the public, except in the cases prescribed in §§ 39 – 42 of this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2^1) Where the country of origin of a work, within the meaning of subsection 4 of Article 5 of the Berne Convention on Literary and Artistic Works, is a third country, and the author of the work is not a citizen or permanent resident of the Republic of Estonia, the term of protection of copyright shall run within a period prescribed by the law of the country of origin but may not exceed the term specified in subsection (1).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 39. Term of protection of copyright in case of joint authorship or co-authorship

The term of protection of copyright in a work created by two or more persons as a result of their joint creative activity (§ 30) shall be the life of the last surviving author and seventy years after his or her death.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 40. Term of protection of copyright in anonymous or pseudonymous works

In the case of anonymous or pseudonymous works, the term of protection of copyright shall run for seventy years after the work is lawfully made available to the public. If the author of the work discloses his identity during the above-mentioned period or leaves no doubt as to the connection between the authorship of the work and the person who created the work, the provisions of §§ 38 and 39 apply.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 41. The term of protection of copyright in collective works, works created in execution of duties, audiovisual works and serials

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) The term of protection of copyright in a collective work (§ 31) or work created in the execution of duties (§ 32) shall run for seventy years after the work is lawfully made available to the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1^1) The term of protection of copyright in an audiovisual work (§ 33) shall expire seventy years after the death of the last surviving author (director, script writer, author of dialogue, author of a musical work specifically created for use in the audiovisual work).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) If a work specified in subsection (1) of this section is not made available to the public fifty years after the creation thereof, the term of protection of copyright shall expire seventy years after the creation of the work.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) Where a work is published as a serial (volumes, parts, issues or instalments, etc.) and the term of protection of copyright runs from the time when the work was lawfully made available to the public, the term of protection for each instalment shall expire seventy years after the time when the instalment is lawfully made available to the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) The term of protection of copyright in independent works included in a collective work, a work created in the execution of duties or in an audiovisual work which have not been made available to the public anonymously or under a pseudonym shall expire within the term provided for in subsection 38 (1) of this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 42. (Repealed - 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 43. Beginning of term of protection of copyright

The term prescribed in this Chapter begins on the first of January of the year following the year of the death of the author (subsection 38 (1) and § 39) or of the year following the year when the work was lawfully made available to the public or of the year following the year of creation of the work (subsection 38 (2); §§ 40, 41 and 42).

§ 44. Protection of authorship of work, name of author, honour and reputation of author and title of work without term

(1) The authorship of a certain work, the name of the author and the honour and reputation of the author shall be protected without a term.

(2) The use of the title (name) of a work by another author for a similar work when the term of protection of copyright has expired is not permitted if such use may result in identification of authors which would mislead the public.

§ 45. Use of works after term of protection of copyright expires

Works whose term of protection of copyright has expired may be freely used by all persons pursuant to the provisions of § 44 of this Act and the Heritage Conservation Act (RT I 1994, 24, 391; 1996, 49, 953; 86, 1538; 1997, 93, 1559).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter VII

Use of Works

1. Fundamental Provisions

§ 46. Use of works by other persons

(1) Works shall be used by other persons only in the case of transfer (assignment) of the author's economic rights by him or her or on the basis of an authorisation (licence) granted by the author except in the cases prescribed in Chapter IV of this Act.

(2) The transfer of the author's economic rights by him or her shall be formalised and an authorisation to use a work shall be granted in writing except in the cases prescribed in subsection 49 (2) of this Act.

(3) The transfer of the author's economic rights by him or her or the grant of an authorisation to use a work may be limited with regard to certain rights and to the purpose, term, territory, extent, manner and means of using the work.

§ 47. Authorisation (licence) to use work

(1) An authorisation (licence) to use a work is a possibility to perform acts within the limits of the author's rights.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) Upon granting an authorisation, an author may retain similar rights as those granted to another person for use and a possibility to grant similar rights to a third person (non-exclusive licence) or waive the exercise of the transferred rights to the extent and under the conditions specifically determined by contract (exclusive licence).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) A person who is granted an authorisation to use a work may authorise a third person to use the work (assignment of licence) only with the prior consent of the author (sublicence).

2. Author's Contract

§ 48. Definition of author's contract

(1) An author's contract is an agreement for the use of a work between the author or his or her legal successor and a person who wishes to use the work on the basis of which the author or his or her legal successor transfers the author's economic rights to the other party or grants an authorisation to use the work to the extent and pursuant to the procedure prescribed by the conditions of the contract.

(2) An author's contract may be entered into to use an existing work or to create and use a new work.

§ 49. Form of author's contract

(1) An author's contract shall be entered into in writing.

(2) The written form is not required upon the grant of a non-exclusive licence, including contracts for publishing works in periodical publications or works of reference and for one-time transmissions of oral works in radio and television.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 50. Standard author's contract

(1) Standard author's contracts with regard to separate ways of using works may be approved by an agreement between a collective management organisation representing authors and organisations which unite users of works.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) An author's contract may include conditions which are not prescribed by this Act or in a standard author's contract. The conditions of a contract entered into with an author which are unfavourable for the author compared to the conditions determined by this Act or a standard author's contract are void and shall be substituted by conditions determined by the Act or a standard author's contract.

§ 51. Entry into author's contract

(1) An author's contract is deemed entered into if an agreement in the format prescribed in § 49 of this Act regarding all the essential conditions of the contract is reached between an author or his or her legal successor and a person who wishes to use a work.

(2) Depending on the type of a work, the essential conditions of an author's contract are:

1) an exact description of the work being used (genre, volume and name of the work, etc.);

2) the extent, purpose, manner and means of using the work;

3) the territory where the work is being used;

4) the term of the author's contract and the term of commencement of use of the work;

5) the rights transferred;

6) the type of authorisation (non-exclusive licence, exclusive licence) and grant of authority to reassign the authorisation (sublicence);

7) limitation on the use of the work with regard to third persons;

8) the amount of remuneration, the term of and procedure for payment thereof;

9) liability of the parties upon failure to comply with the conditions of the contract;

10) other terms and conditions with regard to which agreement should be reached at the request of a party.

(3) An author's contract may prescribe a contractual penalty, fine or a fine for delay for failure to perform or for unsatisfactory performance of the contract.

§ 52. Term of author’s contract

The term of an author’s contract shall be determined by an agreement between the parties.

§ 53. Term of commencement of use of work

(1) According to an author’s contract, the person who wishes to use a work is required to commence use of the work in the manner and within the term agreed upon in the contract, except in the cases prescribed in subsection 56 (1) of this Act.

(2) The term of commencement of use of a work shall not exceed three years as of the moment of delivery of the work to the user by the author.

(3) Taking account of the volume of the work and nature of the use thereof, shorter time-limits may be prescribed by a standard author’s contract than those prescribed in this section.

§ 54. Restriction on use of work with regard to third persons

According to an author’s contract concerning the transfer of economic rights or grant of an exclusive licence, an author or his or her legal successor has no right to authorise third persons to use the work specified in the contract or a part thereof in the same manner as agreed upon in the contract without the written consent of the other party unless otherwise prescribed by the contract.

§ 55. Payment of remuneration

(1) The manner of payment (percentage of the sales price of the work, a fixed amount, percentage of the profits made upon using the work, etc.) and the amount of remuneration, the term of and procedure for payment thereof shall be determined in the author’s contract by agreement of the parties.

(2) If minimum rates of remuneration are established by legislation of the Republic of Estonia, the rates of remuneration agreed upon in an author’s contract shall not be lower than such minimum rates.

§ 56. Author’s contract for creation of new work (commission contract)

(1) According to an author’s contract for the creation of a new work, an author undertakes to create the work under the conditions and within the term determined in the contract and deliver the work to the person commissioning the work in the manner agreed upon, and the person commissioning the work undertakes to pay remuneration to the author and commence use of the work within the term determined in the contract unless otherwise agreed with regard to use of the work.

(2) The author is required to create the work personally unless otherwise prescribed by the contract. Other persons may be involved in the creation of the work and the group of authors may be changed only with the prior consent of the person commissioning the work and such consent shall be formalised as an amendment to the author’s contract.

(3) The person commissioning the work is required to review the work within the term determined by the contract and notify the author in writing of approval of the work delivered or rejection thereof on the grounds prescribed in the contract or of the need to make changes to the work indicating the content of such changes which comply with the conditions of the contract. If a written notification is not sent to the author within the term determined by the contract, the work is deemed approved by the person commissioning the work.

(4) The amount of advance payment payable to the author out of the remuneration prescribed by the contract, the terms of and procedure for the payment thereof shall be determined in the author's contract.

§ 57. Rights transferred to users of works by virtue of contract

(1) The right of ownership in the manuscript, draft, drawing, magnetic tape or floppy disc of a work or other material object by means of which the work is reproduced shall transfer to the user of the work only in the cases directly prescribed by an author's contract.

(2) If an author transfers the original or a copy of his or her work, this does not constitute a transfer of the author's economic rights or grant of an authorisation to use the work unless otherwise determined by the contract.

(3) A work of visual art created on the basis of a commission contract shall transfer into the ownership or possession of the person commissioning the work unless otherwise determined by the contract.

(4) Pursuant to subsection (2) or (3) of this section, the acquirer of a work has the right to display (exhibit) such work to the public without payment of additional remuneration to the author unless otherwise determined by the contract. A person who possesses the original or a copy of a work on the basis of a commercial lease contract, contract of loan for use, etc. has no such right.

(5) If an author's contract on the use of a literary or artistic work for the creation of an audiovisual work is concluded, the user of the work has the right to display the work to the public at the cinema, on television, by cable or by other technical means, to dub the work into other languages, to provide it with subtitles and to reproduce and distribute the work, unless otherwise prescribed by the contract. The author has the right to obtain equitable remuneration for the rental of the work (subsection 14 (6)). The provisions of this subsection do not apply to musical works.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 58. Liability of author or his or her legal successor for breach of author's contract

(1) An author or his or her legal successor is required to return the remuneration received under an author's contract if the user of the work terminates the contract because:

1) the author or his or her successor failed to deliver the work within the term determined by the contract;

2) the work created by the author in order to perform the contract fails to comply with the conditions of the contract;

3) the author failed to make the changes, submitted to him or her, arising from the contract within the term, pursuant to the procedure and to the extent agreed upon;

4) the author violated the requirement to perform the work personally;

5) the author or his or her legal successor violated the provisions of § 54 of this Act.

(2) If an author does not voluntarily return the remuneration paid to the author, it shall be collected under a court proceeding.

(3) If the user of a work fails to prove, in court, the fault of the author or his or her legal successor upon failure to perform or upon unsatisfactory performance of the contract, the author shall keep the remuneration received according to the contract.

§ 59. Liability of user of works for breach of author's contract

(1) If a user of a work does not use a work approved by the user or does not commence use of the work within the term determined by the author's contract, the user of the work is required to pay the author or his or her legal successor the remuneration agreed upon in the contract in full.

(2) In the cases prescribed in subsection (1) of this section, the author or his or her legal successor has the right to withdraw from the contract and to request return of the work or copies thereof delivered according to the contract.

(3) The user of a work is not required to pay the author or his or her legal successor that part of the remuneration which is payable after the commencement of use of the work if the user of the work proves that the user of the work could not use the work due to circumstances depending on the author or his or her legal successor.

§ 60. Compensation for damage

(1) Both parties to an author's contract have the right to claim compensation for damage from the other party upon failure to perform or upon unsatisfactory performance of the contract due to fault of the other party.

(2) The burden of proof of the fault of the other party and the extent of damage lies on the party who files the claim for damages.

§ 61. Author's rights upon reorganisation or liquidation of organisation

(1) If an organisation commissioning or using a work is reorganised, the economic right transferred by an author or the authorisation to use the work shall transfer to the legal successor of the organisation who shall be responsible for the performance of the obligations arising from the author's contract.

(2) If an organisation is liquidated or goes bankrupt, an author or his or her legal successor has the right to obtain in full the remuneration agreed upon in the contract for a work delivered to the organisation.

Chapter VIII

Rights of Performers, Producers of Phonograms and Broadcasting Organisations (Related Rights)

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 62. Definition of related rights

(1) A performer, producer of phonograms, broadcasting organisation, producer of the first fixation of a film, a person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, and a person who publishes a critical or scientific publication of a work not protected by copyright shall enjoy the rights prescribed in this Chapter in the results created by him or her (object of related rights).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The exercise of related rights does not limit the exercise of copyright by the author or his or her legal successor.

(3) For the purposes of this Chapter, "distribution" means the making available to the public of originals or copies of the object of related rights by sale or by transfer of the right of ownership in any other manner.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) The distribution right prescribed in this Chapter is exhausted and the object of related rights may be further distributed without the consent of the rightholder and without payment of remuneration if the first sale of the object of related rights is made by the rightholder or with his or her consent.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) A performer, producer of phonograms, broadcasting organisation, producer of the first fixation of a film, a person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, and a person who publishes a critical or scientific publication of a work not protected by copyright may transfer (assign) the economic rights provided for in this Chapter or grant an authorisation (licence) for the use of the object of related rights.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 63. Validity of related rights

(1) The provisions of this Chapter apply in respect of a performer if:

1) the performer is a citizen or a permanent resident of the Republic of Estonia;

2) the work is performed (produced) in the territory of the Republic of Estonia; or

3) the performance (production) of the work is recorded on a phonogram which is protected pursuant to subsection (2) of this section; or

4) the performance (production) of the work which is not recorded on a phonogram is included in a radio or television programme which is protected pursuant to subsection (3) of this section.

(2) The provisions of this Chapter apply in respect of a producer of phonograms if:

1) the producer of phonograms is a citizen or a permanent resident of the Republic of Estonia or a legal person located in the Republic of Estonia; or

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) the sounds were first fixed on a phonogram in the territory of the Republic of Estonia; or

3) the phonogram was first published in the territory of the Republic of Estonia. "Publication" means offering copies of a phonogram to the public in reasonable quantity.

(3) The provisions of this Chapter apply in respect of a broadcasting organisation if:

1) the registered office of the organisation is in the territory of the Republic of Estonia; or

2) the work is communicated by means of a transmitter which is located in the territory of the Republic of Estonia.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) The provisions of this Chapter apply in respect of citizens of foreign states and foreign legal persons pursuant to international agreements to which the Republic of Estonia is party.

§ 64. Definition of performer

For the purposes of this Act, “performers” means actors, singers, musicians, dancers or other persons or groups of persons who act, sing, declaim, play on an instrument or in any other manner perform literary or artistic works or works of folklore or supervise other persons upon the performance of works, and persons who perform in variety shows, circuses, puppet theatres, etc.

§ 65. Rights of performers

(1) Performers shall enjoy moral and economic rights in the performance (interpretation) of works.

§ 66. Moral rights of performers

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

A performer shall enjoy the following rights:

1) right of authorship of the performance;

2) right to a stage name;

3) right of inviolability of the performance;

4) right of protection of the performer’s honour and reputation with respect to the performer’s performance.

§ 67. Economic rights of performers

(1) A performer has the exclusive right to use and to authorise or prohibit the use of the performance of a work and to obtain, for such use, remuneration agreed upon by the parties except in the cases prescribed by this Act and an agreement between the parties.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The following is permitted only with the consent of the performer:

1) recording a performance which has previously not been fixed onto a record, audio or video tape, on film or in another manner;

2) the broadcasting of performances by radio or television, including by satellite, except in the cases where a recording of the performance is broadcast or the performance is retransmitted with the

permission of the broadcasting organisation which first broadcast the performance;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3) transmission of a performance to the public by whichever technical means outside the location of the performance except in the cases where a recording of the performance is broadcast or the performance is transmitted by means of radio or television;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) use of the sound and image of the performance separately if they are recorded together and form a single whole;

5) the direct or indirect, temporary or permanent reproduction of the recording of a performance;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

6) the distribution of recordings to the public;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

7) the rental or lending of the recording of a performance. The rental right shall transfer to the producer of an audiovisual work (subsection 33 (3)) upon the conclusion of a corresponding individual or collective contract for the creation of an audiovisual work unless otherwise prescribed by contract. The performer shall retain the right to obtain equitable remuneration (subsection 68 (4)).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) A performer may authorise other persons, including a collective management organisation representing authors, to grant permission for the performance of acts prescribed in subsection (2) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) (Repealed - 21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(5) The rights of an employer and performer upon the performance of works in execution of the direct duties of the performer shall be determined by agreement of the parties.

§ 68. Authorisation to use performance

(1) The authorisation of a performer to use a performance shall be granted in writing or formalised by a contract.

(2) In order to use a work performed by a group of persons, the consent of all members of the group is required. The leader of an ensemble, a conductor, leader of a choir, producer or another person authorised by the group of persons may grant an authorisation in the name of the group.

(3) Unless otherwise prescribed by contract:

1) an authorisation to broadcast the performance of a work on radio or television does not grant the broadcasting organisation the right to record the performance or grant an authorisation to broadcast the work to other organisations;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) an authorisation to broadcast the performance of a work on radio or television and to fix the performance does not grant the broadcasting organisation the right to reproduce the recording;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3) an authorisation to record the performance of a work and to reproduce the recording does not grant the right to broadcast such recording or a copy thereof on radio or television.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) Where a performer has transferred (assigned) the right to rent the original or a copy of a phonogram or audiovisual work or has granted a licence therefor, or such transfer or grant of a licence may be presumed, the performer shall retain the right to obtain equitable remuneration for the rental. An agreement to waive the right to obtain equitable remuneration is void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 69. Definition of producer of phonograms

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

For the purposes of this Act, “producer of phonograms (sound recordings)” means the natural or legal person who first lawfully records the sounds of a performance or other sounds.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 70. Rights of producers of phonograms

(1) A producer of phonograms has the exclusive right to authorise or prohibit:

1) the direct or indirect, temporary or permanent reproduction of phonograms;

2) the importation of copies of phonograms;

3) the distribution of phonograms to the public;

4) the rental or lending of copies of phonograms.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The amount of remuneration for the use of a phonogram, the manner of and procedure for payment thereof shall be determined by an agreement between the producer of phonograms and a user thereof.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 71. Symbol of protection of phonogram

In order to guarantee the rights of a producer of phonograms and of the performers whose works are recorded on a phonogram, the producer of phonograms has the right to mark recordings made for

commercial purposes or containers thereof with the symbol P (P in a circle) together with the year of the first publication of the phonogram added thereto. The name of the producer of phonograms and the principal performers of the work recorded, if these are not directly indicated on the phonogram or the container thereof, shall be added to the said symbol.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 72. Remuneration for use of phonogram

(1) If a phonogram published for commercial purposes or a reproduction (copy) of such phonogram is used for broadcasting to the public by radio or television or by any other technical means, the performer and the producer of phonograms are entitled to obtain equitable remuneration for each such broadcasting from the user of the phonogram. Such remuneration is payable to the producer of phonograms as a single payment.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The producer of phonograms shall pay one half of the remuneration prescribed in subsection (1) of this section to the performers of the works recorded on the phonogram unless otherwise prescribed by an agreement between the performers and the producer of phonograms.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) The remuneration received from a producer of phonograms shall be divided between the performers of works recorded on a phonogram or used jointly according to an agreement between the performers.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 73. Rights of broadcasting organisations

(1) Broadcasting organisations have the exclusive right to authorise or prohibit:

1) retransmission of their broadcasts;

2) recording of their broadcasts, whether those broadcasts are transmitted by radio or television, including by cable or satellite;

3) direct or indirect, temporary or permanent reproduction of recordings of their broadcasts under the conditions set out in clause 2) of this subsection;

4) communication to the public of their broadcasts if such communication is made in places open to the public against payment of an entrance fee;

5) distribution of recordings of their broadcasts to the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The amount of remuneration for the use of a recording of broadcasts, the manner of and procedure for payment thereof shall be determined by an agreement between the broadcasting organisation and a user.

(3) The rights provided for in subsection (1) of this section do not extend to a cable operator who

retransmits by cable the broadcasts of broadcasting organisations.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 73[1]. Rights of producers of first fixations of films

(1) Producers of first fixations of films have the exclusive right to authorise or prohibit:

1) direct or indirect, temporary or permanent reproduction of the originals or copies of their films;

2) distribution of the originals or copies of their films to the public;

3) rental or lending of the originals or copies of their films.

(2) For the purposes of this section, "films" mean audiovisual works or moving images whether or not accompanied by sound which are not works.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 74. Duration of related rights

(1) The rights prescribed in this Chapter shall not expire before the end of a period of fifty years:

1) for the performer, as of the first performance of a work. If a recording of the performance is lawfully published or lawfully communicated to the public within this period, the rights of the performer shall expire in fifty years as of the date of such publication or communication to the public, whichever is the earliest;

2) for the producer of phonograms, as of the first fixation of a phonogram. If a recording of the phonogram is lawfully published or lawfully communicated to the public within this period, the rights of the producer of phonograms shall expire in fifty years as of the date of such publication or communication to the public, whichever is the earliest;

3) for the broadcasting organisation, as of the first transmission of a broadcast, regardless of whether the broadcast is transmitted by wire or over the air, including by cable or satellite;

4) for the producer of the first fixation of a film, as of the first fixation of the film. If the film is lawfully published or lawfully communicated to the public within this period, the rights of the producer of the first fixation shall expire in fifty years as of the date of such publication or communication to the public, whichever is the earliest.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The term of protection commences from the first of January of the year following the year when the acts specified in subsection (1) of this section are performed.

(3) Within the term of protection specified in this section, the economic rights related to copyright shall be transferred by way of succession.

(4) The authorship and stage name of a performer and the honour and reputation of the performer shall be protected without a term.

§ 74[1]. Related rights in previously unpublished works and critical or scientific publications

(1) A person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work shall benefit from a protection equivalent to the economic rights of the author (§ 13), within twenty-five years from the time when the work was first published or communicated to the public.

(2) A person who publishes a critical or scientific publication of a work unprotected by copyright has rights to the publication equivalent to the economic rights of an author (§ 13), within thirty years from the time when the publication was first published.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75. Limitation to related rights

(1) Without the authorisation of a performer, producer of phonograms, broadcasting organisation, producer of the first fixation of a film, a person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work or of a person who publishes a critical or scientific publication of a work unprotected by copyright, and without payment of remuneration, it is permitted to use the performance, phonogram, radio or television broadcast or recordings thereof, or the film, including by reproduction:

1) for private use, taking account of the provisions of §§ 26 and 27 of this Act;

2) solely for the purposes of teaching or scientific research;

3) if short excerpts are used in connection with the reporting of current events;

4) if short excerpts (quotations) are used for informational purposes and the obligation to convey the meaning of the whole performance, phonogram or radio or TV broadcast accurately is observed;

5) for an ephemeral recording of the performance, broadcast or phonogram by a broadcasting organisation and for reproduction thereof by means of its own facilities and for the purpose of its own broadcasts, provided that the broadcast organisation is entitled to broadcast the performance, broadcast or phonogram. Such recordings and reproduction thereof (copies) shall be destroyed after thirty days from their making, except for one copy which may be preserved as an archive copy;

6) in other cases where the rights of authors of works are limited pursuant to Chapter IV of this Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The free use prescribed in this section is permitted only on the condition that the legitimate interests of performers, producers of phonograms or broadcasting organisations are not unreasonably prejudiced and such use does not conflict with the normal economic use of their results.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter VIII[1]

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Rights of makers of databases

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75[1]. Purpose of this Chapter

The purpose of this Chapter is to provide independent protection for databases by establishing special rights for makers of databases to protect investments made by them.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75[2]. Definition of database

For the purposes of this Chapter, "database" means a collection of works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means. The definition of database does not cover computer programs used in the making or operation thereof.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75[3]. Maker of database

(1) The maker of a database is a person who has made a substantial investment, evaluated qualitatively or quantitatively, in the collecting, obtaining, verification, arranging or presentation of data which constitutes the contents of the database.

(2) The provisions of this Chapter apply if:

1) the maker of a database or rightholder is a citizen or permanent resident of the Republic of Estonia;

2) the maker of a database or rightholder is a company which is founded in accordance with the law of the Republic of Estonia and has its registered office, central administration or principal place of business within the territory of the Republic of Estonia. If such company has only its registered office in the territory of the Republic of Estonia, its operations must be genuinely linked on an ongoing basis with the economy of Estonia;

3) a database must be protected in accordance with an international agreement of the Republic of Estonia.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75[4]. Rights of makers of databases

(1) The maker of a database has the exclusive right to authorise or prohibit the use of the database in the manner prescribed in subsection (2) of this section and to obtain remuneration agreed between the parties for such use, except in the cases prescribed in this Chapter or by agreement of the parties.

(2) The following is permitted only with the authorisation of the maker of a database:

1) extractions from the database or from a substantial part thereof. "Extraction" means the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;

2) re-utilisation of the database or a substantial part thereof. "Re-utilisation" means any form of

making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission.

(3) The first sale of a copy of a database by the maker of the database or with the latter's authorisation shall exhaust the right of the maker of the database to control the resale of the database or the copy as provided for in clause (2) 2) of this section.

(4) The exclusive right specified in subsection (2) of this section shall belong to the maker of a database irrespective of the eligibility of that database or the contents thereof for protection by this Act or under other legislation.

(5) Public lending is not an act of extraction or re-utilisation of a database or a substantial part thereof.

(6) The maker of a database may transfer (assign) the right provided for in subsection (2) of this section or grant an authorisation (licence) for the exercise of such right. In such cases, the provisions of Chapter VII of this Act shall apply.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75^5. Rights and obligations of lawful users of databases

(1) A lawful user of a database which is made available to public in whatever manner has the right to make extractions and to re-utilise insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purposes whatsoever. Where the person is authorised to use only part of the database in the manner provided for in this subsection, the provisions of this subsection shall apply only to that part.

(2) A lawful user of a database which is made available to the public in whatever manner shall not prejudice the copyright or related rights in the works or other materials contained in the database.

(3) A lawful user of a database which is made available to the public in whatever manner shall not perform acts that conflict with normal use of the database or unreasonably prejudice the legitimate interests of the maker of the database.

(4) Any contractual provisions which prejudice the exercise of the rights provided for in this section by a lawful user of a database are void.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75^6. Limitation to rights of makers of databases

A lawful user of a database which is lawfully made available to the public in whatever manner may, without the authorisation of its maker and without payment of remuneration, extract or re-utilise a substantial part of the database in the case of:

1) extraction for private purposes of the contents of a non-electronic database;

2) extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;

3) extraction or re-utilisation for the purposes of public security or an administrative or judicial procedure to the extent justified by the purposes of public security or an administrative or judicial

procedure.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 75^7. Term of protection of rights of makers of databases

(1) The rights of the maker of a database shall run from the date of completion of the database, which is the date on which the making of the database is completed.

(2) The term of protection of the rights of the maker of a database shall expire in fifteen years from the first of January of the year following the date when the database was completed.

(3) If a database is made available to the public in whatever manner within the period provided for in subsection (2) of this section, the term of protection of the rights of the maker of the database shall expire in fifteen years from the first of January of the year following the date when the database was first made available to the public.

(4) If there is a substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from additions, deletions or alterations, which would result in the database being considered to be a substantial investment, evaluated qualitatively or quantitatively, the rights of the maker of the changed database shall expire in fifteen years from the making of corresponding changes. In such case, the term shall be calculated pursuant to the procedure provided for in subsection (2) or (3).

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter IX

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

Collective Exercise of Rights

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 76. Organisations representing authors, performers, producers of phonograms, broadcasting organisations and other rightholders

(1) Authors, performers, producers of phonograms, broadcasting organisations and other holders of copyright and related rights have the right to establish associations pursuant to the procedure provided by legislation for the collective exercise of their copyrights and other rights arising from this Act and for the protection of their creative and economic interests. Such collective management organisations are non-profit associations which are founded, operate or are dissolved pursuant to the Non-profit Associations Act (RT I 1996, 42, 811; 1998, 96, 1515; 1999, 23, 355; 67, 658; 10, 155) with the exceptions provided for in this Act.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) Rights are represented collectively in the following fields:

1) public performance of musical and literary works;

2) communication of musical, literary and artistic works by radio, television, cable network, satellite or by means of other technical devices;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

3) collection and distribution of remuneration for the resale of works of visual art;

4) collection of remuneration prescribed for the private use of audiovisual works and sound recordings;

5) cable retransmission of radio and television broadcasts and programmes (including works contained therein);

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

6) reproduction of sound recordings of musical or literary works, and audiovisual reproduction of musical, literary or other artistic works;

7) reproduction of works of visual art and photography in periodicals;

7^1) collection and payment of remuneration to authors and performers for the use (including rental) of phonograms and audiovisual works;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

7^2) the lending of phonograms, films and computer programs;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

8) other use of works and objects of related rights.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) The rights related to the fields specified in clauses (2) 3)-5) and 7^1) of this section are exercised only through collective management organisations. Such organisations have the right to receive necessary oral or written truthful information from all persons in public law and private law to the extent concerning the remuneration collected and distributed for the use of works.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) Broadcasting organisations may exercise rights related to the fields specified in clause (2) 5) of this section independently. Whether the rights are provided for the broadcasting organisation by law or are transferred to the broadcasting organisation on the basis of law or a contract is not relevant.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 77. Principles and methods of activities of collective management organisations

(1) Collective management organisations shall exercise and protect the economic and personal non-economic rights of their members pursuant to the procedure prescribed in their articles of association and membership contracts, including:

1) give their consent to the use of works or objects of related rights (performances, phonograms, radio or television broadcasts or programmes) by concluding corresponding contracts with users;

2) determine the amount of author's remuneration, licence fees, performer's fees or any other remuneration, by way of conducting negotiations if necessary;

3) collect and pay remuneration for the use of works or objects of related rights;

4) establish and manage foundations to improve the conditions necessary for the creative activities of Estonian authors and performers, provide social guarantees for them and promote their works abroad;

5) protect and represent the rights of authors and holders of related rights in court and other institutions;

6) promote other activities in the field of exercise of copyright and related rights in accordance with an authorisation granted by authors.

(2) Under a corresponding contract or in the cases provided by law, collective management organisations may also represent authors and holders of related rights who are not members of these organisations.

(3) During the period when a collective management organisation has, pursuant to law or contract, the right to represent authors or holders of related rights, the authors or holders of related rights cannot exercise such rights themselves.

(4) In the cases of evident violations of the rights and legitimate interests of authors or holders of related rights, collective management organisations have the right to represent all authors or holders of related rights without authorisation.

(5) Collective management organisations shall represent foreign authors and holders of related rights under bilateral or multilateral agreements concluded with foreign collective management organisations.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 78. Guarantees for members of collective management organisations

In order to prevent unlawful and unjustified limitations to copyrights and related rights:

1) all decisions on remuneration (author's remuneration, licence fees, performers' fees or any other fees) and the percentage deducted from such fees to cover administrative expenses of a collective management organisation (commission), methods of collection, distribution and payment of fees, as well as the use of collected fees for social or cultural purposes, for the foundation of foundations or other purposes relating to the common interests of members of a collective management organisation shall be adopted by the general meeting of the collective management organisation or by members authorised by them (meeting of representatives or of the central administration);

2) remuneration collected shall be distributed among authors and holders of related rights as proportionately as possible subject to the actual use of the works after deducting from the fees the percentage jointly determined by the members of the organisation to cover administrative expenses and for other purposes prescribed in clause 1) of this section;

3) the members of a collective management organisation shall have access to regular and complete information concerning all activities of the organisation and the use of their works and the remuneration to be obtained by them;

4) the same rules apply to foreign authors and holders of related rights as to Estonian authors;

5) foreign collective management organisations with whom bilateral or multilateral agreements have been concluded shall, at their request, receive all necessary information concerning management of the rights of their authors and holders of related rights in Estonia.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 79. Management of rights related to cable retransmission by collective management organisations

(1) Holders of rights related to cable retransmission (clause 76 (2) 5)), except broadcasting organisations, may exercise the rights related to cable retransmission only through collective management organisations specified in § 76 of this Act.

(2) If a holder of rights specified in subsection (1) of this section, except a broadcasting organisation, does not conclude a contract with a collective management organisation for the management of the rightholder's rights, the organisation representing holders of rights of the same category is authorised to represent the rightholder. If there are several such collective management organisations, the rightholder is free to choose which of the organisations is authorised to manage the rightholder's rights.

(3) Based on a contract between a cable operator and a collective management organisation, a rightholder represented pursuant to subsection (2) of this section has the same rights and obligations as a rightholder who is represented by such collective management organisation pursuant to a membership contract or another corresponding contract.

(4) Under a contract between a cable operator and a collective management organisation, a rightholder represented pursuant to subsection (2) of this section may

claim the rightholder's rights and performance of obligations corresponding to such rights, within three years from the date of the retransmission which includes the object of the rightholder's rights specified in subsection (1) of this section.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 79[1]. Exercise of broadcasting rights by collective management organisations

(1) The provisions of subsections 79 (2), (3) and (4) of this Act also apply to the exercise by an author of the right to broadcast his or her work by satellite on the condition that the communication to the public by a broadcasting organisation by satellite simulcasts a terrestrial broadcast by the same broadcaster.

(2) A rightholder represented by a collective management organisation pursuant to the procedure provided for in subsection (1) of this section has at any time the right to demand that the representation be terminated and to exercise his or her rights either individually or collectively.

(3) Subsections (1) and (2) of this section do not apply to audiovisual works.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Chapter X

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

Protection of Rights and Liability

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 80. General principles of liability

(1) An infringement of copyright or related rights, or a violation of the rights of makers of databases provided for in this Act or other copyright legislation, as well as a violation of the requirements provided by copyright legislation shall result in civil, criminal or administrative liability.

(2) The provisions concerning the protection of copyright and related rights apply to the protection of the rights of makers of databases (Chapter VIII[1]) unless otherwise provided by law.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 80[1]. Pirated copy

For the purposes of this Act, “pirated copy” means a copy, in any form and whether or not with a corresponding packaging, of a work or object of related rights which has been reproduced in any country without the authorisation of the author of the work, holder of copyright or holder of related rights.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 81. Protection of copyright and related rights under civil law

(1) In the case of an infringement of copyright or related rights and a dispute which arises in the implementation of this Act or other copyright legislation, either party or both parties may have recourse to the courts for resolution of the dispute.

(2) In addition to the measures specified in § 112 of the General Part of the Civil Code Act (RT I 1994, 53, 889; 89, 1516; 1995, 26-28, 355; 49, 749; 87, 1540; 1996, 40, 773; 42, 811; 1998, 30, 409; 59, 941; 1999, 10, 155), infringed rights are protected under civil law by:

1) ordering payment of damages for moral damage;

2) ordering delivery of assets acquired through infringement;

3) termination of a contract;

4) prohibition of infringing activities.

(3) If a claim filed by an entitled person or representative thereof pursuant to clause (2) 2) of this section is included in a criminal matter or matter regarding an administrative offence arising from a violation of copyright legislation, then, upon the rendering of a decision in the same matter ordering seizure of the assets acquired as a result of the criminal offence or administrative offence, the same amount of money or an equivalent of the seized assets in money shall be ordered to be paid or delivered to the entitled person by the same decision.

(4) If, as a result of a violation of copyright legislation, a work is communicated to the public, recorded, reproduced, distributed, imported or altered etc., an entitled person may claim:

1) restoration of the work in the original form; or

2) alteration of copies of the work by specific means; or

3) destruction of pirated copies.

(5) The provisions of clauses (4) 2) and 3) of this section do not apply to works of architecture.

(6) It is prohibited to transfer pirated copies to the author, holder of related rights or a representative thereof.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 82. Protection of copyright and related rights under criminal law

(1) If a natural person infringes copyright or related rights or violates requirements provided by copyright legislation in the interests of a legal person, it is permitted to hold both the natural person criminally liable and the legal person administratively liable.

(2) The importation or exportation of pirated copies is deemed to be a violation of the customs rules. The Customs Act (RT I 1998, 3, 54; 36/37, 552; 51, 756) provides for the liability of legal persons for the importation or exportation of pirated copies.

(3) The provisions of §§ 83 and 84 of this Act and the Code of Administrative Offences (RT 1999, 41, 496; 58, 608; 95, 843) together with the specifications provided by this Act shall be taken as the basis in proceedings regarding administrative offences committed by legal persons which are not specified in subsection (2) of this section.

(4) The Code of Enforcement Procedure (RT I 1993, 49, 693; 1997, 43/44, 723; 1998, 41/42, 625; 51, 756; 61, 981; 103, 1695; 1999, 27, 380; 95, 845) shall be taken as the basis in the execution of a decision imposing a fine on a legal person which has committed an administrative offence and of a decision rendered pursuant to the procedure provided for in subsection 81 (3) of this Act.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 83. Administrative liability of legal persons

(1) A fine in the amount of 20 000 kroons to 50 000 kroons is imposed for an infringement of copyright or related rights by a legal person, or for a violation of requirements provided by copyright legislation by a legal person, except in the cases specified in subsections (2)-(6) of this section.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) A fine in the amount of 50 000 kroons to 100 000 kroons is imposed for trading in pirated copies by a legal person.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) A fine in the amount of 50 000 kroons to 150 000 kroons is imposed for the public performance, public display or communication to the public of a work by a legal person if pirated copies are used.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force

06.01.2000 - RT I 1999, 97, 859)

(4) A fine in the amount of 150 000 kroons to 200 000 kroons is imposed for the manufacture, acquisition, possession, use, carriage, sale or transfer by a legal person of any technical device or equipment designed for the removal of protective measures against the illegal reproduction of works or against the illegal reception of signals transmitted via satellite or cable.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(5) A fine in the amount of 7500 kroons to 100 000 kroons for each illegally reproduced (installed) program but not more than 500 000 kroons altogether is imposed for the possession for commercial purposes or use of a computer program by a legal person if the computer program is reproduced (installed) in a computer without the consent of the author or holder of the author’s rights.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(6) A fine in the amount of 250 000 kroons to 500 000 kroons is imposed for the reproduction of a work or object of related rights by a legal person without the consent of the author of the work, holder of copyright or holder of related rights.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 84. Proceedings in matters concerning administrative offences of legal persons

(1) In the case of an administrative offence committed by a legal person, the following have the right to prepare a corresponding report:

1) officials of the Media Division of the Ministry of Culture: in the cases specified in subsections 83 (1) – (3) of this Act;

2) police officials.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(2) A report shall set out the time and place of its preparation; the name and address of the institution in whose name the report is prepared; the official title, given name and surname of the official who prepared the report; the (business) name, registered office and registry code of the offender; the official position, given name and surname of the competent representative of the offender; the place, time and description of the offence; reference to the corresponding subsection of § 83 of this Act which prescribes liability for such administrative offence; statement by the representative of the offender and other information which is necessary for the correct adjudication of the matter.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) Matters regarding administrative offences specified in § 83 of this Act are heard by administrative court judges.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(4) In the hearing of matters regarding administrative offences specified in § 83 of this Act, the following objects are subject to seizure:

1) the object used to commit the administrative offence, except in the cases specified in subsection 83 (5) where the court may seize the computer system which is the object used to commit an administrative offence;

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

2) assets acquired as a result of the administrative offence;

3) technical devices or equipment designed for the removal of protective measures against the illegal reproduction of works or against the illegal reception of signals transmitted via satellite or cable.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

4) pirated copies.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

Chapter XI

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

Implementation of Act

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 85. Identification of pirated copies and prevention of further circulation thereof

(1) In civil, criminal or administrative procedure, the following is taken as the basis for considering a copy of a work to be a pirated copy:

1) statements given and documents provided by the author, holder of the author’s rights or holder of related rights or by a representative thereof, legal copies of the work or any other factual information received from the above-mentioned persons; or

2) the absence of a required special marking on the object of related rights or its packaging.

(2) Pirated copies are subject to seizure regardless of the imposition of penalties.

(3) Pirated copies are subject to seizure regardless of the fact to whom they belong.

(4) Illegal copies of objects of architecture are not subject to seizure.

(5) Seized pirated copies are destroyed.

(6) A person who obtains a pirated copy in good faith has the right to file an action in court against the person who sold or transferred the pirated copy to that person.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 86. Further handling of seized computer system

(1) A computer system which has been seized in a matter regarding an administrative offence

specified in § 83 of this Act as the object used to commit the offence shall be transferred to the Ministry of Culture free of charge.

(2) The Ministry of Culture shall remove the computer program installed in the computer without the consent of the author or holder of the author's rights and shall transfer the computer system to a state or municipal educational institution or any other educational institution in public law free of charge and for permanent use within the framework of the Tiger Leap programme.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 87. Copyright committee

(1) A copyright committee (hereinafter the committee) shall be formed at the Ministry of Culture and the committee shall act in the capacity of an expert committee. The Government of the Republic shall appoint the members of the committee for a period of two years. The committee shall:

1) monitor compliance of the level of protection of copyright and related rights with the international obligations assumed by the Republic of Estonia;

2) analyse the practice of implementation of copyright legislation;

3) make proposals to the Government of the Republic for amendment of copyright legislation and accession to international agreements;

4) resolve, at the request of the parties, disputes related to copyright and related rights by way of conciliation of the parties;

5) perform other functions assigned to the committee by the Government of the Republic.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1^1) In the resolution of a dispute by the copyright committee, the membership of the committee shall be such that its independence and impartiality is beyond reasonable doubt. If necessary, independent experts from outside the committee shall be invited to participate in its work by an order of the Minister of Culture.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1^2) The committee shall resolve a dispute by a decision making specific proposals to the parties therefor. The decision shall be delivered to both parties against their signature. If no party files objections to the committee's decision in writing within three months as of the date following the date of receipt of the decision, it shall be presumed that they have accepted the proposals made in the decision. If a party fails to notify that the party does not agree with the decision within three months or notifies that the party agrees with the decision but in either case has recourse to a court in the same dispute, the other party has the right to claim compensation for economic and moral damage caused by the party.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) If an interested person disagrees with a decision made by the committee in a dispute specified in subsection (1) of this section, the person has the right of recourse to the courts concerning the same dispute.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

(3) The committee shall provide an overview of compliance of the level of protection of copyright and related rights in Estonia with the international obligations assumed by Estonia and the practice of implementation of copyright legislation to the Government of the Republic twice a year and, if necessary, shall make proposals for the improvement of activities in this field.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(4) If necessary, the courts shall involve members of the committee as experts in civil, criminal or administrative proceedings regarding violations of the requirements provided by this Act or other copyright legislation.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 87^1. Negotiations and resolution of disputes in respect of rights managed only by collective management organisations

(1) In the cases provided for in clauses 76 (2) 3) – 5) and 7^1) of this Act, a collective management organisation and a user are required to enter into and conduct negotiations in good faith. The parties shall not prevent or hinder negotiations without valid justification.

(2) A party who fails to comply with the requirement provided for in subsection (1) of this section is required to compensate the other party for damage arising therefrom.

(3) If a collective management organisation and a user are unable to reach an agreement, one or both parties have the right to call upon the assistance of a mediator for the resolution of the dispute. The copyright committee (§ 87) or one or several persons who have been selected by the parties and whose independence and impartiality are beyond reasonable doubt may act as mediators. If the parties do not have recourse to the copyright committee, the provisions of subsection 87 (1^2) of this Act shall be applied to the decision of a mediator.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 88. Protection of works and results of work of performers, producers of phonograms or broadcasting organisations created before entry into force of this Act

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(1) This Act also extends to works and results of the work of performers, producers of phonograms or broadcasting organisations which are created before 12 December 1992.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(2) The requirements established by this Act for the use of works and results of the work of performers, producers of phonograms or broadcasting organisations do not extend to cases where use occurred before 12 December 1992.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156; 09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

(3) In the case of works whose term of protection of copyright has expired, the authorship of the

works, the names of authors and their honour and reputation shall be protected by the Ministry of Culture (subsection 44 (1)). This provision also applies to performers (subsection 74 (4)).

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

§ 88[1]. Application of specific provisions of Act

(1) Section 15 of this Act also applies in respect of the states party to the Berne Convention for the Protection of Literary and Artistic Works which ensure for the citizens or permanent residents of the Republic of Estonia the same level of protection as that prescribed in Article 14ter of the Berne Convention for the Protection of Literary and Artistic Works.

(2) The copyright provisions of this Act also apply in respect of the citizens and permanent residents of the contracting states of the World Trade Organisation (WTO) pursuant to Agreement on the Trade-Related Aspects of Intellectual Property Rights in Annex 1C of the Agreement Establishing the World Trade Organisation (Marrakesh Agreement).

(3) Section 15 of this Act also applies in respect of the contracting states of the World Trade Organisation which ensure for the citizens or permanent residents of the Republic of Estonia the same level of protection as that prescribed in Article 14ter of the Berne Convention for the Protection of Literary and Artistic Works.

(4) Section 74[1] of this Act does not apply in respect of the contracting states of the Berne Convention for the Protection of Literary and Artistic Works and the World Trade Organisation.

(5) The provisions of clauses 67 (2) 1)-3) and 7) of this Act and other provisions arising from the given section of this Act apply in respect of persons who are citizens of a contracting state of the World Trade Organisation.

(6) The provisions of clauses 70 (1) 1) and 4) of this Act and other provisions arising from the given section of this Act apply in respect of producers of phonograms who are citizens of a contracting state of the World Trade Organisation, or in respect of legal persons which have their registered office in a contracting state of the World Trade Organisation.

(7) The provisions of clauses 73 (1) 1), 2), 4) and 5) of this Act and other provisions arising from the given section of this Act apply in respect of broadcasting organisations which have their headquarters in the territory of a contracting state of the World Trade Organisation.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 89. Implementing Acts

(1) The Government of the Republic or, by its authorisation, the Minister of Culture has the right to issue regulations for the implementation of copyrights provided for in §§ 13 and 15 of this Act.

(1[1]) Subsection 13 (6) and § 27[1] of this Act enter into force on 1 January 2002.

(15.02.2000 entered into force 22.02.2000 - RT I 2000, 13, 94)

(2) The Government of the Republic has the right to establish requirements for documenting the circulation of certain objects of related rights.

(21.01.1999 entered into force 15.02.1999 – RT I 1999, 10, 156)

Chapter XII

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

Provisions which Enter into Force upon Accession to European Union

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 90. Protection of databases

(1) The first sale in a Member State of the European Union of a copy of a database by the author or with his or her consent shall exhaust the right of the author as provided for in clause 13 (1) 2) of this Act to control resale of that copy within the European Union.

(2) The first sale in a Member State of the European Union of a copy of a database by the maker of the database or with his or her consent shall exhaust the right of the maker of the database as provided for in clause 75^4 (2) 2) of this Act to control resale of that copy within the European Union.

(3) The provisions of Chapter $VIII^1$ of this Act also apply if:

1) the maker of a database or rightholder is a citizen of a Member State of the European Union or a person who has his or her habitual residence in the territory of the European Union;

2) the maker of a database or rightholder is a company founded in accordance with the law of a Member State of the European Union and having its registered office, central administration or principal place of business in the territory of the European Union. If such company has only its registered office in the territory of the European Union, its operations must be genuinely linked on an ongoing basis with the economy of a Member State of the European Union.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 91. Protection of computer programs

The first sale in a Member State of the European Union of a copy of a computer program by its author or with his or her consent shall exhaust the right of the author provided for in clause 13 (1) 2) of this Act to distribute that copy within the European Union, with the exception of the right to rent the program or a copy thereof.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 92. Terms of protection

(1) Where the country of origin of a work, within the meaning of subsection 4 of Article 5 of the Berne Convention, is a third country, and the author of the work is not a citizen of a Member State of the European Union, the term of protection of copyright in the European Union shall expire within a period prescribed by the law of the country of origin of the work, but may not exceed the term specified in subsection 38 (1).

(2) The terms of protection prescribed in § 74 of this Act also apply in respect of holders of related rights who are not citizens of a Member State of the European Union, provided that the Member States grant them protection. Such rights shall expire within a period prescribed by the law of the Member State of which the rightholder is a citizen, but may not exceed the term prescribed in § 74,

unless otherwise prescribed by an international agreement.

(3) The terms of protection provided for in Chapter VI, and §§ 74 and 75^7 of this Act apply to all works and objects of related rights which are protected in at least one Member State of the European Union.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 93. Related rights

(1) Section 74^1 and Chapter $VIII^1$ of this Act also apply in respect of citizens and permanent residents of the Member States of the European Union and in respect of legal persons which have their registered office in a Member State of the European Union.

(2) The Government of the Republic or, by its authorisation, the Minister of Culture shall notify the Commission of any intention to create new related rights including the basic reasons for their introduction and the term of protection envisaged.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 94. Rental right and lending right

The distribution right prescribed in Chapter VIII of this Act shall only be exhausted if the first sale of an object of related rights is made in the territory of the European Union by the rightholder or with his or her consent, except for the rental right which is not exhausted.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 95. Communication to public by satellite

(1) The act of communication to the public by satellite occurs solely in the Member State where, under the control and responsibility of the broadcasting organisation, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(2) If an act of communication to the public by satellite occurs in a non-Community State which does not provide the level of protection provided for in this Act, then:

1) if the programme-carrying signals are transmitted to the satellite from an uplink station situated in a Member State of the European Union, that act of communication to the public by satellite is deemed to have occurred in that Member State and the rights provided for in this Act shall be exercisable against the person operating the uplink station;

2) if no uplink station situated in a Member State of the European Union is used but a broadcasting organisation established in a Member State has commissioned the act of communication to the public by satellite, that act is deemed to have occurred in the Member State in which the broadcasting organisation has its principal establishment in the Community and the rights provided for in this Act shall be exercisable against the broadcasting organisation.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 96. Cable retransmission

For the purposes of this Act, “cable retransmission” means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State of the European Union, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 97. Application of this Chapter to countries party to European Free Trade Association (EFTA)

Pursuant to an international agreement of the Republic of Estonia, this Chapter applies in the territory of the European Economic Area which, in addition to the Member States of the European Union, covers the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)

§ 98. Entry into force of this Chapter

The provisions of this Chapter enter into force by a separate Act.

(09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859)
