

**Decree of President of Government of Islamic Republic of Afghanistan regarding signing The Law on the support the right of authors, composers, artists and researchers (Copy Right Law)**

**Number:** 54

**Date:** 21 July, 2008

**Article 1:**

I am signing the Law on the support the right of authors, composers, artists and researchers (Copy Right Law) pursuant to the article 79 of Constitution of Afghanistan which is confirmed in 7 chapters and 49 articles based on approval # 18 dated 17/4/1387 of ministerial council.

**Article 2:**

Minister of Justices and Government Minister in parliamentary affairs are held responsible to present this decree within 30 days from the date of first National Assembly meeting.

**Article 3:**

The decree from the date of signature shall be enforced and be published along the law in the official gazette.

Hamed Karzai

President of Islamic Republic of Afghanistan

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7. **Reprint of work:** is to make one or more copies of a work including phonogram, audio or video. To record a work in order to store it temporarily or permanently using any mean which can be perceived also include this definition.
8. **Fixed Work:** is a work with its contents in a copy, phonogram or its attachments by or under the authority of the author which is created for certain fixed level or permanently which can be perceived, reproduced or communicated repeatedly.
9. **Anonymous Work:** is a work that the author is not known or identified.
10. **Classic Work:** is the compiling and gathering of the existing information or material from the past which is selected, coordinated and organized in a way that the end work is a new collected work. Classic Work also includes collective works.
11. **Architectural Work:**

Foreign natural person: is a person who is holding a non-Afghan citizenship.

Foreign legal person: is a person whose legal personality has been identified pursuant to the legal frameworks other than Afghanistan's legal

## **Chapter Two:**

### **Copy right**

#### **Copy right protection**

##### **Article 5:**

The original works of authors shall be protected that are fixed (without taking into account the value, quality, purpose or the mode of its expression) in one of the tangible mediums of expression that is known now or means that will be developed later, which are perceived, reproduced or communicated in a different way either directly or with the aid of a device.

#### **Works to be protected**

##### **Article 6:**

- (1) The following works shall be protected:
  - 1- Book, pamphlet, brochure, essay, play and other academic technical and artistic writings,
  - 2- Poem, melody, song and compose that has been written, recorded or published using any mean.
  - 3- Audiovisual work for the purpose of performance on a movies scene or broadcast



**Record:**

**Article 7:**

- (1) The author can record the work, name, title and logo of his/her work in the Ministry of Information and Culture. How to apply, record and other issues related to this shall be communicated through a different procedure issued from the Ministry of Information and Culture.
- (2) The author can apply to present his/her works to the Ministry if it includes the followings:
  - 1- Name of author or authors or person with lateral rights.
  - 2- Contents of the work or issue of lateral right.
  - 3- Two copies of the work or issue of lateral right.
  - 4- An exact correspondence on the characteristics of the work or issue of lateral right
  - 5-

## **Moral Rights**

### **Article 11:**

- (1) The moral rights of the work are confined to the author and are non-transferrable.
- (2) The author has the the following moral rights:
  - 1- Mention or no mention of his/her name or his/her metaphorical name.
  - 2- Ban on any kind of use from his/her work that negates the reputation and credibility of the author
  - 3- Objection on any kind of alternation, change of form or possession of the work.
- (3) Whenever an employee during the scope his/her employment creates a work using the facilities of the employer, the work belongs and is owned by the employer unless there has been a different agreement on that.

## **Cession or Transfer of Rights**

### **Article 12:**

- (1) The author a work protected by the provisions of this law can transfer in writing the economic rights of his work to another person with the clear mention of the timeframe, modality of the transfer, purpose, place and amount of it.
- (2) The author cannot stop the person whom he has transferred the rights, but can withdraw to publish or broadcast his work or can bring a change in that, in which case he has to compensate for the losses of the person whom he had transferred the rights previously.
- (3) The honor of the moral rights enshrined in this Law shall be transferred to the legal inheritor of the author after his/her death. Where author dies without an inheritor, the rights shall be undertaken by the Ministry of Information and Culture.
- (4) If the author advises in his testament for a certain date of his work to be published or not, his testament will be fully taken into account.
- (5) If an author, his/her partners or one of his co-authors has no legal inheritor, the share of their economical rights shall be attributed to the Ministry of Information and Culture after their death.

## **Selling or cession of the original copy:**

### **Article 13:**

Sell or cession of the original copy of the work by the author shall not be considered as his rights transfer.

### **Publication of the work after the death**

#### **Article 14:**

Whenever the inheritors or successors of the author do not publish the work and Ministry of Information and Culture deems this in the interest of the public, the Ministry shall notify the inheritors and successors in writing. If they do not publish the work in one year effective from the date of the notification, the Ministry shall issue the order to publish the work and shall pay a reasonable amount to the beneficiaries of the author/s.

### **Exclusive Right of Phonogram**

#### **Article 15:**

The producer of the phonogram shall have the following exclusive rights:

- 1- Direct or indirect reproduction of the phonogram in different forms.
- 2- Leasing the copy of the phonogram.
- 3- Providing the phonogram through selling it.

## **Chapter Three:**

### **Timeline to use the copyright**

#### **Timeline to protect the works**

##### **Article 16:**

- (1) Provisions in the article six of this Law shall be protected under the following circumstances:
  - 1- Works published or broadcast during the life cycle of the author shall be protected fifty calendar years after his/her death unless the author has decided differently.
  - 2- Joint works published or broadcast during the life cycle of the authors shall be protected for fifty years after the death of the last author.
  - 3- Works published or broadcast with metaphorical (pseudonym) names shall be protected for fifty years after the first year of the publication. If the author is identified, the provisions of the clause 1 of this article shall apply.
  - 4- Works not published during the life cycle of the author and in the case of the joint work, that have not been published during the life cycle of the last author, shall be protected for fifty years effective from the first year of publication and broadcast.
  - 5- Audiovisual works shall be protected for fifty years effective from the first year of the publication or broadcast.
  - 6- Photography and painting works shall be protected fifty years effective from the first year of publication and broadcast.
- (2) Provisions of the article 15 of this Law for the publication of the audiovisual work in the case of not being publicized and broadcast, effective from the date of phonogram's fixation shall be protected for fifty years.

#### **Start Date of the timeline for the protection of the work**

##### **Article 17:**

If the timeline of the protection starts from the date of the publication and broadcast, therefore the first date of the publication shall be the date for the protection timeline unless the author when reproducing the work brings fundamental changes in the work in way that results into a new work. If the work is consisted of several components or is published in different phases, the timeline for the protection shall be accounted for each component as a separate work.

## **Chapter Four**

### **Rights of the Broadcasting Organization and the Performer of Work**

#### **Ownership of the work based on an agreement**

##### **Article 18:**

If an author based on a contract creates a work for the owner of the broadcasting organization, the rights of this work belongs to the owner of the broadcasting organization unless the agreement states differently.

#### **Reproduction**

##### **Article 19:**

The broadcasting organization has the right to reproduce its publications; this right is reserved twenty years effective from the date of publication.

#### **Obligations of the Broadcasting Organization**

##### **Article 20:**

Broadcasting organization or other persons who print, publish, disseminate or replicate works

Performer's rights shall be attributed to him/her for fifty years effective from the first year of the performance of the work.

## **Chapter Five**



## **Non-prevention of Production or Display of Collective Work**

### **Article 28:**

If the Authors of a



7. Ordering the ban and closing down the establishment engaged in infringement.

(3) A person committing one of the following acts may be sentenced to up to one year of imprisonment.

- 1- manufacture or imports of any devices or instruments and implements with an intention of using them to deactivate any devices or instruments preventing or limiting the Reproduction of a Work, a sound recording, or a broadcast, or if meant to undermine the quality of the Work.
- 2- Manufacture or import of any devices or instruments and implements with the intention of using them to enable the reception of codified programs broadcast or communicated to the public in any other way, including programs communicated through satellite, or if they facilitate such transmission to Person not entitled to receive such programs.
  - a. Broadcast, remove or modify of any electronic data relating to copyright without authorization of the owner

### **Penalties**

#### **Article 31:**

(1) Any Person who publishes a Work he or she does not own, in the time frame mentioned in Article (19) of this law, without a certified written authorization from the Author of the Work, with a consideration of the circumstances shall be punished by imprisonment for a period up to one year or with a fine of not less than (50,000.00 Afs) and not more than (100,000.00 Afs), or by either punishment.

(2) Any Person who repeats broadcast and show of a Work or a part of a Work without a certified written agreement from the Performer of the Work, in the time frame mentioned in Article (22) of this law, with a consideration of circumstances shall be punished by imprisonment for a period up to one year or with a fine of not less than (50,000.00 Afs) and not more than (100,000.00 Afs), or by either punishment.

(3) Any Person who Publishes broadcasts, airs the translation of the Work under his own name or somebody else name, without a written agreement from the Author of the Work, with a consideration of circumstances shall be punished by imprisonment for a period up to one year and or with a fine of not less than (50,000.00 Afs) and not more than (100,000.00 Afs), or by either punishment.

(4) The amounts mentione

## **Broadcasting Order**

### **Article 35:**

In case of recurrence, the sanctions provided in Article 31, shall be doubled, and the Court may also order to Publicizing or broadcasting the judgment in one of mass-media chosen by and at the expense of the petitioner party.

## **Chapter Seven**

### **Miscellaneous**

## **Ownership Right**

### **Article 36:**

Total transfer of future Works shall be null and unacceptable.

## **Exclusive Right of publicizing and broadcasting correspondences**

### **Article 37:**

The Author shall have the exclusive right to publish his or her letters. However, he may not exercise such right without the permission of the recipient, where the Publication is likely to be prejudicial to the latter.

## **Publicizing/broadcasting picture or recording voice**

### **Article 38:**

(1) A Person who takes photographs, films, portraits or records voice of a Person shall be prohibited from publishing, displaying or distributing the original or copy of picture, film or voice record of the said person; this provision shall not apply if the Publication of the photograph or portrait was done on the occasion of a public event, or if relating to public figures or world known celebrities, or if authorized by public authorities for the public interest.

(2) The Person represented in the photograph, portrait, film, or recorded voice, may authorize its Publication in newspapers and magazines and other similar Publications or electronic transferors, without the authorization of the photographer, unless otherwise agreed.



2.



(3) The translation licenses provided for in paragraph (1) of this Article are granted for

3-Audiovisual Works whose Producers have their headquarters or Permanent Office in the State [Afghanistan].