

Kingdom of Cambodia
Nation Religion King

Royal Government of Cambodia
Drafted Law

Drafted Law
on
Copyright and Related Rights

Chapter 1

General Provisions

Article 1

The purpose of this law is, by providing for the rights of author, and the right related thereon with respect to works and the protection of cultural products, performance, phonogram, and the transmission of broadcasting organization in order to secure a just and legitimate exploitation on those cultural products, and thereby contribute to the development of culture.

Article 2

In this law, the principal terms shall have the following meaning:

- a- “work” means a product in which thoughts or sentiment are expressed in a creative way and which falls within the literary, scientific, artistic and musical domain;
- b- “Author” means a person who created a work ;
- c- “Performance” means the acting on stage namely dancing, musical performance, singing, or delivering in other ways and means of artistic work, tradition, habit, literary, education, and scientific;
- d- “Recitation” means the oral expression by means of speaking, reading, and pronouncing of poem rhythm;
- e- “Performers” means artists, dancers, musicians, singers or other persons who give a performance;
- f- “Databases” means an aggregate of information, articles, numerical, diagrams which is systematically constructed so that such information can be searched for with the aid of a computer;
- g- “Audio visual works” means a work which consist of a series of inter-linked pictures, which give an impression of movement, with or without sound, able to be seen, and if accompanied by sound, able to be heard.
- h-

- m- "Computer programs" means a sum of instructions expressed in words, or codes, or illustrations, or in any other possible forms, once incorporated in a way that is decipherable by a machine, which has its aim to accomplish a task or particular result using a computer or through an electronic procedure capable of information processing.
- n- "Reproduction" means reproducing, or incorporating of the works by all means, namely publishing, drawing, sculpture, photographic work,

4. The following broadcasts of the broadcasting organization shall be granted protection under this law:

- a- Broadcasting which is transmitted by the broadcasting organization of Cambodian nationality.
- b- Broadcasting which is transmitted by the broadcasting station located in the Kingdom of Cambodia.
- c- Broadcasting belonged to the broadcasting organization for which Cambodia has obligation to grant protection under international treaties.

Chapter 2

Copyright

Section 1

works

Article 4

A work shall be considered as an original work, is any work created by idea of the author of that work.

Article 5

A work shall be considered as being created, even though that work has been or has not been publicly disclosed, since the author's idea has started to be implemented, despite that implementation is yet to be completed.

Article 5

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- b-** Lectures, speeches, sermons, oral or written pleadings and other works.
- c-** Dramatic works or musical dramas.
- d-** Choreographic works, either modern or adapted from traditional works or folklore.
- e-** Circus performances, and pantomimes.
- f-** Musical compositions, with or without words.
- g-** Audio-visual works.
- h-** Works of painting, engraving, sculpture or other works of collages, or applied arts.
- i-** Phonogram recording.
- j-** Photographic works, or those realized with the aid of techniques similar to photography
- k-** Architectural works.
- l-** Maps, plans, sketches and works pertaining to geography, topography, or other sciences.
- m-** Computer program and encyclopedia document of idea of various programs.
- n-** Hand-made textile products or other clothing fashions.

Article 8

The title of a work resulted from the creation of an intellectual, if it is presented as an original character, it shall be protected by law like the work itself.

Even though, that work no longer protected by article 30 and 31 of this law, no individual has rights to use that title for another works of the same genre, in the purpose of creating another different works, that can give rise to any confused situation.

Article 9

The following works shall not be fallen under any protection by this law:

- a-** Constitution, law, decree, sub-decree, and other regulations.
- b-** Proclamation (Prakas), decision, certificate, other instructed circulars issued by state organizations.
- c-** Court decision, or other court warrants.
- d-** Translation of those materials mentioned in the preceding three items.
- e-** Any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work.

Section 2

Authors

Article 10

The title as an author is a property of an individual or more whose is/are the owner of a work created by the author itself, and this title has been publicly disclosed unless having any contradicted evidence against it.

Article 11

A work of collaboration is the communal property of the co-authors. Co-authors have to exercise their rights based on unanimous agreement. In case of disagreement, court ruling is the final decision.

Article 12

A composite work is the property of the author who has created it, subjected to the rights of the pre-existing work.

Article 13

A collective work is the property of natu

- d). The author of the adaptation.
- e). the author of the spoken text.
- f). The author of the musical compositions, with or without words, specially created for the sake of that work.
- g). The author of the graphic arts for animated works.

Article 16

The author of work is the first holder of the moral and economic rights. In the case of a work created by an author for the benefit of a natural or legal person who is an employer under the framework of a working contract and the utilization of that work, unless otherwise specified by the provisions contradicted to the above mentioned contract, the economic rights in that work are considered to be transferred to the employer in the measure justified by the habitual activities of that employer at the time of the creation of that work.

Article 17

The contribution of co-authors to create an audio-visual work is based on the contract concluded between the producer and the co-author of that work, other than the author of musical work that is included therein. This contract enable the producer to obtain economic rights of the co-authors. However, the co-authors can retain their economic rights in other uses of their individual contributions to the extent to which they are used separately from the creation of that audio-visual work, unless otherwise specified by any provisions contradicted to the above mentioned contract.

Article 18

Computer program either under the form of resource or coding shall be protected by law under the protection of literary work.

The compilation of data or other information either in the form of machine readable or other forms which is obtained from the selection or simplification by the intellectual creation shall be protected by this law.

Article 19

The economic rights vested in computer program and its document created by one or more employees in the exercise of their duties or following the instructions of their employer, is entitled to that employer who is the only one to use this rights, unless otherwise specified by any provisions contradicted to the above mentioned contract. Any individual who has order someone to compile computer program for him/her, through any purchase order, that individual is entitled to the economic rights of that work.

Section 3

Rights of the authors

Article 20

The author of a work is the person who obtains exclusive rights on that work. This rights is respected by the other persons due to the creation of work made by its author.

These rights include moral rights and economic rights.

Article 21

The moral right of the author is perpetual, inalienable, undistrainable and imprescriptible.

In case of having no heir, this right will be subjected to the administration and governance of the Ministry of Culture and Fine Arts.

Article 22

1. The author has the exclusive right to decide the principle, the manner and the timing of disclosure of his work.
2. For the purpose of relation with the public, the author enjoys hi/her right in respect of his/her name, tittle, and work.
3. The author has right to oppose all forms of exaggeration or mutilation or modification the content of his/her work which would be prejudicial to his/her honor or reputation.

Section 5

Economic Right

Article 23

Economic right is the exclusive right on reproduction, public diffusion and continued creation of work.

article 24

1. Unless otherwise specified in the provisions of articles 26 to 29, the author of work has exclusive right to act by him/herself or to authorize someone to make the following acts:

Section 9

The advantages for educational purposes

Article 29

Notwithstanding the provisions of article 23 of this law:

- a- Someone can use a legally published work for the purpose of illustration in publication such as book or newspaper, or by broadcasting, or by audio or visual screening which are intended for educational purposes. In this connection, source and author's name must be definitely identified if author's name is given in the source, and this use can be done without the author's authorization and without payment of any remuneration.
- b-

years following the creation of this work, 50 years period will be counted from the end of the calendar year of its creation.

In the case of during 50 protection by law, identity of the author has been made public or been undoubtedly recognized by the public, the provision of article 30 shall be implemented.

The economic rights in a collective, or audiovisual or posthumous work are protected within the entire period of 50 years counted from the end of the calendar year in which such work has been legally published for the first time, or if the legal protection failed to occurring in the 50 years following the creation of this work, 50 years period will be counted from the end of the calendar year in which such work has been made accessible to the public, or if the legal protection failed to occur during the 50 years following the creation of this work, or 50 years will be counted from the end of the calendar year of its creation.

Section 11

Transfer of right

Article 32

The right for public dissemination and the right for reproduction of work are transferable by free title, or subject to payment. The transfer or granting license for the right to publicly diffuse a work, does not mean to be the right for transfer or granting license of its reproduction and vice versa.

When there is a contract covering wholly transfer or granting license for one of the two proceeding rights mentioned in this article, its scope is limited to the means of exploitation provided for in the contract.

Article 33

In case of imminent abuse in the usage of economic right on the part of the representatives of a deceased author, the courts can order appropriate measures to be taken. Such measure can also be ordered by the court for the settlement of conflict between the said representatives, if the author does not has any known right-holder.

Court action can be initiated by the Minister of Culture and fine Arts.

Article 34

Due to the death of the author, economic right can be transferred to the author's heir or to any third party based on the provisions of the author's will.

In case of having no heir, the preserving and administration of this right is the responsibility of the Ministry of Culture and Fine Arts.

Section 12

The exploitation of rights

Article 35

Contracts of the exploitation of economic rights must be stated in writing, otherwise this contract will be considered as null and void. Only the author may have right to present any reasons for the nullity of contract.

Article 36

The transfer of rights for exploitation can be done unless having separate written mentioning, in the act of transfer, on the domain of rights to be transferred and that exploitation should be properly limited to its extent and its finality, as to place, and as to duration.

Article 37

In case of individual author contribute their separated works in the framework of establishing a collective work, those indi

- work, or because the use of this contributed work is only an accessory in relation to the exploited objective.
- In case of the transfer of right for exploitation of computer software.
 - In case of the exploitation of applied arts materials.
- c) Upon the author's request, the lump sum annual payment for the determined period based on the agreement between all parties.

Section 13

Deposit of work

Article 39

Every works are automatically protected. The owners of works must deposit their work at the Ministry of Culture and Fine Arts.

Article 40

The registration can be voluntarily done at the Ministry of Culture and Fine Arts. this registration requires the record of the author's real name, date of the first publication of work, and date of the creation of work, as well as the record of the author's right.

Article 41

The Ministry of Culture and Fine Arts shall issue the Certificate of Registration for the registered works. The applicants have to pay registration fee in accordance with the declaration (PRAKAS) of the Ministry of Culture and Fine Arts.

Chapter 3

Related Right

Section 1

Right of Performers

Article 42

The performer has exclusive right to authorize or undertake the following acts:

1. Broadcasting through broadcasting transmission and public diffusion of his/her performance which is yet to be recorded in the phonogram, excepted for the performance which is a program of the broadcasting organization.
- 2.

Section 2

Right of Phonogram Producers

Article 45

Section 4

Right of the Broadcasting Organizations

Article 48

Broadcasting organizations consist of radio, television, and cable TV station.

1. Radio station

Radio station has the exclusive right to authorize or undertake the following acts:

- The audio record of broadcasting program belonged to the station itself.
- The broadcasting of broadcasting program belonged to the station itself.
- The re-broadcasting of broadcasting program belonged to the station itself.
- The reproduction of broadcasting program belonged to the station itself.
- The distribution or firstly put on rent the copy of broadcasting program of the station itself.

2. Television station

Television station has the exclusive right to authorize or undertake the following acts:

- The audio record of broadcasting program belonged to the station itself.
- The broadcasting of broadcasting program belonged to the station itself.
- The re-broadcasting of broadcasting program belonged to the station itself.
- The reproduction of broadcasting program belonged to the station itself.
- The distribution or firstly put on rent the copy of broadcasting program of the station itself.

3. Cable TV station

Cable television station has the exclusive right to authorize or undertake the following acts:

- The audio record of broadcasting program belonged to the station itself.
- The broadcasting of broadcasting program belonged to the station itself.
- The re-broadcasting of broadcasting program belonged to the station itself.
- The reproduction of broadcasting program belonged to the station itself.
- The distribution or firstly put on rent the copy of broadcasting program of the station itself.

Article 49

The reproduction of any program belonged to the broadcasting organization, for the purpose of sale, rental, exchanging, broadcasting or public diffusion elsewhere, must require the authorization of the said organization.

Section 4

Equitable Remuneration

Article 50

The use of phonogram recording for commercial gain, wherever and under whatsoever form, gives right to the equitable remuneration for performer and producers.

The organization governing collective right has duty to administer this remuneration.

Section 5

Reduction of Right

Article 51

Notwithstanding the provisions of articles 42 to 49 of this law, the following acts are permitted without the authorization of the right-holder as specified in these articles, and without payment of any remuneration:

- a) The reporting of news events, on condition that only short fragments are

Article 52

The provisions of article 42 of this law will no longer be used whenever the performer authorizes the incorporation of his/her performance to be recorded into the visual disc or audio-visual disc.

Article 53

The provisions of article 42 will be no longer used, whenever the performance or phonogram or wireless transmission of commercial purpose, has been copied or reproduced by any broadcasting organization, in its usual manner, in order to broadcast it

Section 8

The transfer of right

Article 55

Article 32, 33, 34, 35 of this law will be applied for the right of performer, phonogram producer, and broadcasting organization.

Section 9

The deposits

Article 56

Article 39,40, 41 of this law will be applied for the right of performer, phonogram producer, and broadcasting organization.

Chapter 4

Collective Management of Rights

Article 57

1. The author of work and related-right holder can establish the collective management organization to manage their economic right.
- 2.

Chapter 5

Disputes

Section 1

Civil Disputes

Article 58

Whosoever proves that he/she has the legal interest to bring an action to the court, that person can do so in order to claim the existence or non-existence of his/her right, or his/her legal relationship to that right as provided by this law.

Article 52

1. Whosoever suffers or risks to suffer a violation of his/her copyright or his/her related right can file petition to the court:
 - a. to prohibit this violation, if it will be soon imminent.
 - b. to desist this violation, if it is still continued.
2. He/she can equally petition to have the defendant being subjected to the compensation of damages, to the redress of moral injury, and to the return of the disputed equipment or material, as well as to the return of any benefits deriving from that illegal act.

Article 60

The court may order, unless subjecting to the rights of any bona fide third parties, the confiscation, destruction or the removal from utilization of equipment or materials being made or used, or made available in an unauthorized manner, or of equipment used in the violation, and which are found in the possession of the defendant or are being held by the application of this law.

Article 61

The court has authority to order all provisional measures necessary to ensure the conservation of evidence, especially the confiscation of subject matters reproducing from the unauthorized reproduction of a work.

This action is prepared and undertaken in accordance with the form of injunction. The accuser is held responsible for the injury caused to the defendant, if his/her petition is proved to be unfounded by the court.

Article 62

Within thirty days of the seizure, owner of the seized property, or a third party, can file petition to the court for the lifting of this seizure or to limit its effects.

Article 63

Within thirty days of the seizure, if there is no sufficient petition being filed to the court, the court may order the lifting of this seizure based on the request of the seized property's owner, or on the request of a third party.

Section 2

Criminal Disputes

Article 64

All reproduction, or performance, or diffusion, by whatever means, of an intellectual work in violation of the author's right, as defined by this law, are infringements. All infringements are offences.

Infringement in the territory of Cambodia or abroad is punishable by 02 to 03 years imprisonment and 1,000,000 Riels (one million) to 10, 000, 000 (ten million) fine.

The same punishment is applied to the importation or exploitation of an intellectual work in violation of the author's right as defined and regulated by this law.

Article 65

All reproduction broadcast of a performance, of a recording, a video recording or a program, created without authorization, when it is required, of the performing artist, the producer of audio or video recordings, or the broadcasting organization, is punishable by 01-02 (one to two) years imprisonment and a fine of 100 000 – 5,000,000 Riels (one to five million Riels).

The same punishments will be applied to the importation or exportation of phonogram or audio-visual work undertaken without authorization of the producer or the performer, when this authorization is required.

Article 66

- To order the confiscation of all or part of the revenue obtained through the acts of infringement, and all gains obtained from the sale of infringed goods, as well as materials and equipment specially installed for the purpose of committing this offence.
- To order the confiscated materials or equipment to be returned to the owner of copyright or related right, without prejudice to any damages to be compensated.
- To order the destruction of the confiscated materials or equipment.

Article 67

- 1) The customs authority can, based on the written petition of the owner of copyright or related right owner, retain under its framework of control the merchandises, of which in the opinion of the right's owner constitutes the infringed goods.

The court, or competent authority, or petitioner, or the goods' owner should be informed without delay, by the customs authority, of the confiscation to which applied by this institution in regard to the said goods.

- 2) Subjected to the customs legislation which is contradicted to this provision, this measure can be rightfully lifted, in the case that within the period of 10 working days, counted from the date of notification on merchandise retention, the petitioner fails to prove any justified evidence to the customs authority in regard to:
 - the retention measure, as specified in article 61, which is requested by the petitioner.
 - the proceed through the civil court, or criminal court, which is constituted the required security in order to cover any eventual responsibilities.
- 3) The petitioner is held responsible for the injury caused by the retention of goods, if his/her petition proves to be unfounded.

For the purpose of this article, the provisions o3.9(e09 T4(, t)8(h)4-.7(u)4.5(n)9 T4(, s.3(o3.b41(n)9(, s.3

device or means leading to the prevention or restraint of the

materials extracted from any sample of work in which information on the

