

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 76-CP

Hanoi, 29 November 1996

Pursuant to the _____ dated 30 September
1992;

Pursuant to the _____ of the Socialist Republic of Vietnam dated 28 October
1995;

Pursuant to the Resolution of the National Assembly on the implementation of the
dated 28 October 1995;

On the proposal of the Minister of Culture and Information;

CHAPTER I

This Decree provides guidelines for the implementation of a number of provisions
with respect to copyright stipulated in Chapter I of Part VI of the _____,
hereinafter referred to as _____.

- (f) Annotated works clarify the meanings of a number of words, sentences or place names in an existing work.
 - (g) Selected works contain works or writings selected from one or more author.
 - (h) Anthological works are compiled from many works of many authors according to a certain intent.
14. Computer software, including computer programs, documents describing programs, back-up documents, and databases.

The publication and dissemination of a work is the presentation of the work to the public by way of presentation, exhibition, publication, performance, radio or television broadcasting, and other forms.

Copyright in respect of a work shall arise at the moment when the created work is expressed in a definite material form, irrespective of whether or not the work has been published or has been registered for copyright protection.

Authors or owners of works stipulated in article 747 and performers, organizations producing audio and video tapes and disks, and radio and television broadcasting organizations stipulated in articles 775, 777 and 779 of the may request the authorized State body to protect their copyright in the case of infringement thereof.

CHAPTER II

1. The personal rights of an author stipulated in sub-paragraphs 1(c) and (d) of article 751 of the may be transferred to another person. Such transfer must be carried out by way of a written contract.
2. The right of an author to publish and disseminate, or to allow others to publish or disseminate, his or her work pursuant to sub-paragraph 1(c) of article 751 of the shall be exercised in the following ways:

- (a) Publishing, duplicating or copying the work.
 - (b) Performing or displaying the work for the public.
 - (c) Disseminating the work to the public by any means or in any form.
 - (d) Distributing the work or copies of it by way of sale or rental, or otherwise.
 - (e) Importing copies of the work from overseas into Vietnam.
3. The right of an author to permit, or not to permit, another person to use his or her work pursuant to sub-paragraph 1(d) of article 751 of the shall be exercised with respect to the following:
 - (a) Copying the work in any form.
 - (b) Translating, rewriting, compiling, adapting or transforming the work.
 4. The payment of royalties, remuneration or other material benefits to which an author is entitled pursuant to paragraph 2 of article 751 of the shall be determined according to the contract between the author and the individual or organization using his or her work.
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1. The provisions in clauses 1, 2 and 3 of article 8 of this Decree shall also apply to the personal rights of an owner who is not also the author of a work as stipulated in paragraph 1 of article 753 of the .
 2. The provisions in paragraph 4 of article 8 of this Decree shall also apply to the property rights of an owner who is not also the author of a work as stipulated in paragraph 2 of article 753 of the .

In the case of the work of co-authors as stipulated in paragraph 1 of article 755 of the , all co-authors must consent to the use and disposal of such work; if one of the co-authors is dead, the heir of that co-author must consent.

Individuals or organizations creating new works on the basis of the translated, rewritten, compiled, transformed or adapted works of other persons must obtain permission from the authors or owners of such works.

Any request for permission from, and payment of remuneration to, the author or owner of the work to be translated, rewritten, compiled, transformed or adapted must be made by way of contract.

1. The duplication of a work for personal use as stipulated in sub-paragraph 1(a) of article 761 of the shall not exceed one copy.
2. The quoted parts of an already published work of another person as stipulated in sub-paragraphs 1(b), (c) and (d) of article 761 of the may not constitute the main parts of the new work; any such quotation shall be used only for the purposes of introduction, commentary or illustration in the new work and the name of the author as well as the source of the quotation must be stated.
3. The translation of a work from Vietnamese into an ethnic minority language of Vietnam and as stipulated in sub-paragraph 1(f) of article 761 of the shall apply only to original works in Vietnamese or in an ethnic minority language of Vietnam.
4. Public performances stipulated in sub-paragraph 1(g) of article 761 of the shall apply only to performances to which entry is absolutely free.

1. Where copyright is inherited at law, heirs of the same level shall have equal rights with respect to the use and disposal of a work. All heirs must consent to the use and disposal of the work; if they fail to reach an agreement, they may request a court to resolve the matter.

Where copyright is inherited under a lawful will and there are a number of heirs according to the will, they shall be entitled to the use and disposal of the work according to the scope specified in the will. Where the will fails to state clearly the scope of use and disposal of the work by each individual heir, all heirs must consent to the use and disposal of the work; if they fail to reach an agreement, they may request a court to resolve the matter.

2. Where an author or co-author has no heir, or the heir disclaims the inheritance or is not entitled to the estate, the property rights of the author shall belong to the State.

The Ministry of Culture and Information shall be responsible for providing guidelines on the use of the above works and the method of payment of remuneration.

1. The date of termination of the fifty (50) year period of copyright protection as stipulated in paragraphs 2 and 3 of article 766 of the shall be 31 December of the fiftieth year.
2. The date of termination of the fifty (50) year period of protection of a cinematographic work, radio or television broadcast, video work or posthumous work; and of protection of the rights of organizations producing audio and video tapes and disks and radio and television broadcasting organizations as stipulated in paragraph 4 of article 766 and articles 777 and 779 of the shall be 31 December of the fiftieth year commencing from the date on which the work is first published.
3. Any transfer of the personal rights stipulated in sub-paragraphs 1(c) and (d) and the property rights stipulated in sub-paragraphs 2(a), (b) and (c) of article 751 of the may not occur outside the protection period stipulated by law.

CHAPTER III

1. A contract for use of a work must be entered into in accordance with the provisions of TDi9for U

1. Within thirty (30) days of the author or owner of a work transferring the work to the work user, the work user must notify in writing the author or owner of whether or not the work is accepted, unless otherwise agreed by the two parties.

Where the work needs to be amended and refined at the request of the author or owner, the time for transfer of the final version of the work shall be agreed by the two parties.

2. Unless there is written consent by the author, the work user may not change the name of the author or the contents of the works, including any preamble, epilogue, notes or illustrations in the work.
3. The work user must strictly abide by the agreements stated in the contract concerning the time for publication and dissemination of the work, the forms and scope of its use, the amount of royalties or remuneration, and the time and method of payment of royalties or remuneration.

1. The author or owner of a work may cancel the contract and demand compensation for damage in the event that the work user fails to comply with the provisions of paragraphs 1, 2, and 3 of article 771 of the and the provisions of clauses 2 and 3 of article 17 of this Decree.

2. The work user may cancel the contract and demand the author or owner of the work to compensate for damage in the following cases:

- (a) The work is not protected by the State as stipulated in article 749 of the .
- (b) The author or owner of the work fails to transfer the work within the time-limit provided for in the contract.
- (c) The author or owner of the work refuses to carry out the agreements of the two parties in the contract.

CHAPTER IV

1. The rights of organizations producing audio and video tapes and disks stipulated in sub-paragraph 1(a) of article 777 and article 779 of the shall include the right to permit, or not to permit, the duplication of their products by other persons and the right to permit, or not to permit, the publication of their products by other persons.
2. If their rights stipulated in articles 777 and 779 of the are infringed upon by an individual or organization, organizations producing audio and video tapes and disks and radio and television broadcast organizations may lodge a written request to the authorized State body for consideration and resolution.

CHAPTER V

An individual or organization being the author, co-author or owner of a work may lodge a written application for registration and protection of their copyright and their ownership rights with respect to the work.

1. An author, co-author or owner of a work which wishes to register its copyright and ownership rights with respect to a work must file an application for registration for protection in accordance with the form issued by the Ministry of Culture and Information.
 2. The applicant must produce the necessary materials and documents to prove that it is the author, co-author or owner of the work and must pay the prescribed registration fee. The author, co-author or owner of the work may authorize another individual or legal person to carry out the registration procedures; the power of attorney must be notarized by the State Notary Office or certified by the people's committee of the commune, ward or township in which the author, co-author or owner of the work resides.
 3. Where registration is carried out by an heir, he or she must produce documents evidencing that he or she is the legal heir.
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1. The Copyright Department shall consider and examine the contents of applications for protection.

CHAPTER VI

The Government shall exercise unified State administration of copyright protection throughout the country. As the Government body responsible for State administration of copyright protection, the Ministry of Culture and Information shall have the following duties and powers:

1. To formulate policies in relation to copyright protection.
2. To promulgate legislation on copyright protection within its authority or submit such legislation to the Government, the Standing Committee of the National Assembly or the National Assembly for promulgation.
3. To protect, by itself or in co-ordination with related ministries and branches, copyright with respect to cultural, artistic and scientific works.
4. To carry out, by itself or in co-ordination with related ministries and branches, inspections and to deal with complaints, denunciations and copyright infringements within its authority.
5. To undertake international co-operation in the field of copyright.

The Copyright Department shall be responsible for assisting the Ministry of Culture and Information in its exercise of State administration of copyright protection and shall have the following functions and duties:

1. To draft laws, ordinances, decrees and other legal regulations concerning copyright protection.
2. To register Vietnamese and foreign individuals and organizations for copyright protection; to issue and revoke copyright certificates as well as operating licences to provide copyright services.
3. To provide Departments of Culture and Information with guidelines in relation to State administration of copyright protection in the localities.
4. To organize and carry out co-operation with foreign countries and international organizations in the field of copyright protection.

5. To organize dissemination of and education about legislation on copyright and conduct information activities with respect to copyright protection.

The author or owner of a work may request protection when one of the following

CHAPTER VI

The Ministry of Culture and Information shall provide guidelines for the implementation of this Decree.

The Ministry of Culture and Information shall co-ordinate with the relevant bodies in providing guidelines for protection of architectural works.

This Decree shall be of full force and effect as of the date of issuance.

Ministers, heads of ministerial equivalent bodies and Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for the implementation of this Decree.

On behalf of the Government
The Prime Minister

VO VAN KIET