

**(Draft)**

**KINGDOM OF CAMBODIA**

**Nation Religion King**

**LAW**

**ON**

**COPYRIGHTS AND RELATED RIGHTS**

**May 2002**

**Ministry of Culture and Fine Arts**

## CHAPTER I: 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 or 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 work;
- 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 consists of a series of inter-linked pictures, in which give an impression of movement, with or without sound, able to be seen, and if accompanied by sound, able to be heard.
- h- **“Broadcasts”** means the transmission of sound, pictures, documents or other messages through radio, television, cable television or satellite;
- i- **“Communication to the public”** is the transmission by wire or without wire of the images or sounds, or both, of a work, a performance, a phonogram or a broadcast in such a way that the images or sounds can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the images or sounds would not be perceivable and, further, irrespective of whether the persons can receive the images or sounds at the same place and time, or at different places and/or times individually chosen by them;
- j- **“Phonogram”** is the fixation of the sounds of a performance or other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;
- k- **“Producers of phonograms”** means the person who produces the phonograms as providing in paragraph (j);
- l- **“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.

- m- **“Reproduction”** is the whole or partial making of one or more copies of a work or phonogram in any manner or form, including any permanent or temporary storage of the work or phonogram in electronic form;
- n- **“Broadcasting organization”** means radio, television, and cable television station or satellite.
- o- **“Related Rights”** is the rights of performer, phonogram producer, and broadcasting organization.

### Article 3:

1) The following works shall be granted protection under this law:

- a- Works of authors who are nationals of, or have their habitual residence in Cambodia, including legal entity established under the law of the Kingdom of Cambodia and having headquarters located in the territory of the Kingdom of Cambodia.
- b- Works of first publishing in the Kingdom of Cambodia, including works of first publishing abroad, which were brought to publish in the Kingdom of Cambodia within 30 days of the first communication to the public.
- c- Audiovisual work, the producer of which has his headquarters or habitual residence in the Kingdom of Cambodia.
- d- Works of architecture erected in the Kingdom of Cambodia and other artistic works incorporated in a building or other structure located in the Kingdom of Cambodia.
- e- Works for which the Kingdom of Cambodia has obligation to grant protection under international treaties, including works of yet to be communicated to the public in the country of origin at the time of this law entering into force, until that work expires its duration of protection.

2) Works of the performers;

(a) Performers who are nationals of Cambodia;

(b) Performers who are not nationals of Cambodia but whose performances:

(i) Take place in the territory of Cambodia;

(ii) Are incorporated in phonograms that are protected under this Law.

(iii) Have not been fixed in a phonogram, but are included in the broadcasts qualifying for protection under this law.

3) Phonogram:

(a) Phonograms, the producers of which are nationals of Cambodia;

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- (b) Phonograms first fixed in the Kingdom of Cambodia;
  - (c) Phonograms first published in the Kingdom of Cambodia.
- 4) Broadcasts through broadcasting organizations:
- (a) Broadcasts of broadcasting organizations, the headquarters of which are situated in the Kingdom of Cambodia;
  - (b) Broadcasts transmitted from transmitters situated in Cambodia.
- 5) The provisions in this Law shall also apply to:
- Performers, phonogram producers, and broadcasting organizations that are eligible for protection by virtue of and in accordance with any international treaties or other international agreements to which the Kingdom of Cambodia is a party.

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## CHAPTER II: Copyright

### SECTION 1: Works

**Article 4:** To be reputed as originals are works, which are the true intellectual creations of their author.

**Article 5:** A work is deemed created, independently of all public disclosure, by the sole fact of the realization, even if incomplete, of the author's idea.

**Article 6:**

- 1) Collaboration work refers to a work whose creation was the result of the joint efforts of several natural persons.
- 2) Derivative work refers to a work created based on original work by means of translating, adapting or modifying
- 3) Collective work refers to a work created at the initiative of a natural person who edits, publishes and discloses it under his/her direction and name, and for which the other authors have participated but without discussing or examining the overall aspect of the work.

**Article 7:** The following subject matters, in particular, are being considered as works:

- a-a) Books, brochures or other literary, artistic, scientific, and educational documents,
- b-b) Lectures, speeches, sermons, oral or written pleadings and other works.
- e-c) Dramatic works or musical dramas.

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~~d-d)~~ d-d) Choreographic works, either modern or adapted from traditional works or folklore.

~~e-e)~~ e-e) Circus performances, and pantomimes.

~~f-f)~~ f-f) Musical compositions, with or without words.

~~g-g)~~ g-g) Audio-visual works.

~~h-h)~~ h-h) Works of painting, engraving, sculpture or other works of collages, or applied arts.

~~i-i)~~ i-i) Photographic works, or those realized with the aid of techniques similar to photography

~~j-j)~~ j-j) Architectural works.

~~k-k)~~ k-k) Maps plans, sketches or works pertaining to geography, topography, or other sciences.

~~l-l)~~ l-l) Computer program and the design encyclopedia documentation relevant to those programs.

~~m-m)~~ m-m) Products of collage work in handicraft, hand-made textile products or other clothing fashions.

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#### **Article 8:**

1) The following works shall be protected by law:

(a) Translations, adaptations, arrangements and modification or other improvements of works.

(b) Compilation of databases, whether in machine readable or other form. Such compilation is considered as the selection or arrangement of contents from the original works.

2) The protection of any work referred to in paragraph (1) shall be without prejudice to any protection of an original work incorporated in or utilized for the making of such a new work.

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**Article 9:** The title of any intellectual work, in which it presents an original character of work, is protected by law like the work itself.

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No one can, even if the work is no longer protected in terms of articles 30 and 31, use the title to individualize a work of the same genre, in conditions likely to give rise to confusion.

**Article 10:** The following works shall not be fallen under any protection by this law:

~~a-a)~~ a-a) Constitution, law, Royal Decree, sub-decree, and other regulations.

~~b-b)~~ b-b) Proclamation (Prakas), decision, certificate, other instructed circulars issued by state organizations.

~~c-c)~~ c-c) Court decision, or other court warrants.

~~d-d)~~ d-d) Translation of those materials mentioned in the preceding three items.

e) Any idea, formality, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in any work.

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## SECTION 2: Authors

**Article 11:** The title of author belongs, unless there is evidence to the contrary, to the natural person or persons in whose name the work is disclosed.

**Article 12:** A work of collaboration is the communal property of the co-authors. Co-authors have to exercise their rights based on unanimous and written agreement. In case of disagreement, court ruling is the final decision.

**Article 13:** A collective work is the property of natural person whose name has been publicly disclosed in that work during the time of communicating to the public. This person is invested with the author's rights unless having any contradicted evidence against it.

**Article 14:**

- 1) The author of a work under pseudonymous or anonymous enjoys the rights vested on that work.
- 2) As long as the author has not made known his/her civil identity, and demonstrated that he/she is the author, he/she will be represented by the publisher or person who originally disclosed the work, who shall be entitled to exercise and enforce the moral and economic rights of the author.
- 3) Paragraph (2) of this article is not applicable, when the pseudonym adopted by the author discloses the author's true name, because it leaves no doubt as to his/her identity.

**Article 15:** One or more natural person who realize(s) the intellectual creation of audio-visual work is deemed to be the author/authors of that audio-visual work.

Unless having contradictory evidence, the following persons are considered as the co-authors of an audio-visual work:

- a) The director.
- b) The author of scenario.
- c) The author of the adaptation.
- d) The author of the spoken text.
- e) The author of the musical compositions, with or without words, specially created for the sake of that work.
- f) 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,

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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 conclusion of a contract between the co-authors of an audiovisual work and the producer, in which they undertake to make contributions to the audiovisual work excluding the author of musical works shall, unless provided otherwise in the said contracts, imply a presumption of the assignment to the producer of the audiovisual work of the economic rights. The co-authors shall, however, maintain their economic rights according to the extended use of their contributions, in case those contributions have been separately undertaken from the creation of audiovisual work.

### SECTION 3: Rights of the authors

**Article 18:** Except for having contradictory provisions in the contract, the economic rights on a computer program and its encyclopedia documentation created by one or more employees in the exercise of their duties or following the instructions of their employer, are property of the employer who is alone entitled to exercise them. The same is true in favor of the person, who hires other persons to create the computer program by virtue of purchasing contract. That person shall entitle the economic right.

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**Article 19:** The author of an intellectual work shall enjoy, by the mere fact of its creation, an exclusive right on that work, which shall be enforceable against all persons.

These rights include moral right and economic right.

### SECTION 4: Moral Rights

**Article 20:** The moral right of the author is perpetual, inalienable, undistrainable and imprescriptible. It shall be transmitted mortis-causa to the heirs of the author. This right may be transferred to the third party in accordance with provisions stipulated in the will.

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

**Article 21:** The moral right of the author contains the following three particular points:

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

## **SECTION 5: Economic Rights**

**Article 22:** Unless otherwise specified in the provisions of articles 24, 25, 26, 27, 28 and 29, economic right is the exclusive right of the author to exploit his/her own work through the authorization of reproduction, communication to the public, and creation of derivative work.

The author has exclusive right to act by him/herself or authorize someone to do the followings:

- a. Translation his/her work into foreign language.
- b. Adaptation and simplification or undertake any modifications of his/her work.
- c. Rental or public lending of the original or a copy of an audiovisual work, or a work embodied in a phonogram, a computer program, a database or a musical work in the form of musical notation.
- d. Public distribution by sale, rental of the original or a copy of the work that has not already been subject to a sale or transfer of ownership authorized by the owner of copyright;
- e. Importation into the country, the reproduction copies of his/her works.
- f. Reproduction of work.
- g. Public performance of the work.
- h. Public display of the work
- i. Broadcasting of the work;
- j. Other communications to the public of the work for which the fee are paid to the owner of copyright.

Rental right as mentioned in the above paragraph (c) of this article, is not applicable for the rental of computer program when the program itself is not the main objective of rent.

## **SECTION 6: Limitations of Owner's Right**

**Article 23:** The importation of a copy of work by any natural person, for his/her personal use, can be done without the consent of the author of work or the owner of copyright.

### **Article 24:**

- 1) Subject to the provisions in subsection (2) of this article, the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.
- 2) The permission under subsection (1) of this article shall not extend to reproduction:
  - (a) Of a work of architecture in the form of building or other construction;



- (b) In the form of reprography of the whole or a substantial part of a book or of a musical work in the form of musical notation;
- (c) Of the whole or of a substantial part of a database in digital form;
- (d) Of a computer program, other than a backup-copy.
- (e) Of any work, in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or owner of the copyright.

**Article 25:** The author cannot prohibit the following acts:

- a) Free and private representations made exclusively to a close circle of people such as family or friends.
- b) The arrangement to preserve in a library the copy of work for the purpose of conservation or research.
- c) The use of works for the purposes of education, which is not for financial gain.
- d) The translation of works from Khmer language into the languages of the ethnic minorities or vice versa;
- e) If the clear indication of the author's name and the source of work, the following acts are not subjected to any prohibitions by the author:
  - The analyses and short quotations justified by the critical, polemical or pedagogical or scientific or informative nature of the work.
  - The broadcasting of press commentary.
  - The dissemination of speeches addresses to the public either entirely or not, through press release or television broadcasting.
  - The adaptation of comic or style and caricature, based on the original work.
  - The reproduction of graphic and plastic work which is situated in the public place accessible for the audience, when it doesn't constitute the principle subject for subsequent reproduction.

**Article 26:** The author of work on the true story of life of any person or family, who discloses his/her work through cinematography means, video, spoken-play, and novel, has to have authorization from that person or family member who is the heir of the family.

### **SECTION 7: Temporary Reproduction**

**Article 27:** The temporary reproduction of a work is allowed on the condition that this reproduction takes place during the course of utilization of work for which the authorization of the right-holder is granted.

### **SECTION 8: The Reproduction of Short Citation**

**Article 28:** Notwithstanding the provisions of article 22 of this law, it is permitted, without authorization of the author and without payment of any remuneration, to cite a legitimately published work in another work.

This reproduction of citation must be done on the condition that source and author's name is indicated, if author's name is given in that source. Such citation also should not be made more than the necessary purpose.

### **SECTION 9: The Advantages for Educational Purposes**

**Article 29:** Notwithstanding the provisions of article 22 of this law, it is permitted to:

**a-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.

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**b-b)** Someone also can reproduce any separated articles, articles of the newspaper, or short extracts of any legally published works, providing that this reproduction which is made by reprographic means, must be use for the sake of teaching or for examinations held by any educational establishments of which the activities do not lead directly or indirectly to commercial gain, and the reproduction itself must be done with appropriated reason according to the specific objective. In this connection, the said reproduction can be done without the author's authorization and without payment of any remuneration, and if the author's name is mentioned in the source for which the reproduction of articles or short citations are made, this source and name must be identified.

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### **SECTION 10: Duration of Protection**

**Article 30:** The protection of economic right started from the date of work creation. This protection covers the life of the author, and the whole 50 (fifty) years following his/her decease.

In the case of a work of collaboration, the economic rights shall be protected during the life of the last surviving author and for 50 (fifty) years after his/her death.

**Article 31:** The economic rights in a work, published in an anonymous manner or under a pseudonym, are protected within the entire period of 75 (seventy five) years counted from the end of calendar year in which such work has been legally published for the first time.

If such an event failing to occur during the 50 (fifty) years following the creation of this work, 75 (seventy five) years period of protection will be counted from the end of the calendar year in which such work has been made accessible to the public.

If such an event failing to occur during the 50 (fifty) years following the creation of this work, 100 (one hundred) years period of protection will be counted from the end of the calendar year of its creation.

If, before the expiry of the said period, the identity of the author is revealed or is established beyond doubt of the public, the provisions of Article 30 is applied.

The economic rights in a collective, or audiovisual or posthumous work are protected within the entire period of 75 (seventy five) years counted from the end of the calendar year in which such work has been legally published for the first time.

If such an event failing to occur in the 50 (fifty) years following the creation of this work, 75 (seventy five) years period of protection will be counted from the end of the calendar year in which such work has been made accessible to the public.

If such an event failing to occur during the 50 (fifty) years following the creation of this work, the 100 (one hundred) years of protection will be counted from the end of the calendar year of its creation.

### **SECTION 11: Transfer of Right**

**Article 32:** The transfer of any right mentioned in article 22 of this law does not imply the transfer of another right.

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

**Article 33:** 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 or will, the preserving and administration of this right is the responsibility of the state represented by the Ministry of Culture and Fine Arts.

### **SECTION 12: The Exploitation of Rights**

**Article 34:** 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 35:** The transfer of the author's rights is subordinated to the condition that each of the transferred right is a subject of separate written mention in the act of transfer, and that the domain of exploitation of the transferred right is properly limited as to its coverage, and its extent, as to place, objectives and as to duration.

**Article 36:** In case of individual author contributes his/her separated work in the framework of establishing a collective work, those individual authors can separately make the exploitation on their contribution, unless having any contradicted provisions, providing that those authors doesn't cause any damages to the exploitation of that collective work.

In the case of work created by co-authors, the exploitation can be done unless having consent of the co-authors. In the case of those co-authors cannot reach any consent, the court has duty to be the decision-maker on that case.

**Article 37:** The transfer of right for exploitation on the author's work may be done in total or partial. The author will receive the benefit from this transfer in accordance with the provisions of the transfer contract.

### **SECTION 13: Deposit and Registration of Works**

**Article 38:** Every works are automatically protected. The owners of copyright may deposit their works at the Ministry of Culture and Fine Arts.

**Article 39:** 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 40:** 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 Joint-Declaration (PRAKAS) of the Ministry of Culture and Fine Arts and the Ministry of Economy and Finance.

## **CHAPTER III: Related Right**

### **SECTION 1: Rights of Performers**

**Article 41:** The performer has exclusive right to authorize or undertake the following acts:

- 1) The broadcasting and the communication to the public of his/her performance, except for the broadcasting through television broadcasting or the other communications, for which it:

- a) is made from a fixation of the performance authorized by the performer.
  - b) is a re-broadcasting made through television broadcasting or authorized by the first broadcasting organization initially broadcasts this performance;
- 2) The fixation in phonogram of his/her unfixed performance,
  - 3) The reproduction of a fixation in phonogram of his/her performance.
  - 4) The distribution to the public by sale or transfer of ownership, of an original fixation in phonogram of his/her performance that have not already been subject to a distribution authorized by the performer;
  - 5) The rental or lending to the public of an original fixation in phonogram of his/her performance, or copies thereof.

Unless otherwise having no contradicted agreement:

1. Authorization to broadcast through any broadcasting organization is not an authorization for the other broadcasting organizations to broadcast his/her performance.
2. Authorization to broadcast through a broadcasting organization is not an authorization for the phonogram record of his/her performance.

**Article 42:** Independently of the economic rights, and even after the transfer of this right, the performer retains the right to require his/her written name to be displayed on live performance or fixed performance except for the mode of use necessitates the omission of this mention. The performer retains his/her right to object to all deformation, mutilation or other modification of his/her performances which prejudicial to his/her reputation.

**Article 43:** Performers cannot forbid the reproduction and the communication to the public of their performance, if it is accessory to an event constituting the principal subject of a scene, or of a work, or of an audio-visual document.

## **SECTION 2: Rights of Phonogram Producers**

**Article 44:** Phonogram producer has the exclusive right to record, to reproduce, and to communicate to the public of his/her phonogram.

**Article 45:** All reproduction, sale, exchange, rental, and communication to the public must require the authorization of the phonogram producer.

The phonogram producer has right to distribute to the public by sale or other transfer of ownership, the original or copies of the phonogram that has not already been subject to a distribution authorized by the producer.

The phonogram producer also has right to import the copy of his/her phonogram for the purpose of communicating to the public.

### **SECTION 3: Rights of Video Producer**

**Article 46:** Video producer is the natural or legal person who has the initiative and responsibility for the recording of a sequence of images, with or without sound, leading to the realization of a video production.

All reproduction of video recording for the purpose of communicating to the public, sale, exchange, and rental requires the authorization of the video producer.

The right of the producer of a video recording recognized by virtue of this article is the right that cannot be separated from the author's right and the performers' right, which are incorporated into the work recorded on the video recording.

### **SECTION 4: Rights of the Broadcasting Organizations**

**Article 47:** Broadcasting organizations consist of radio, television, and cable television station.

#### **1) Radio station**

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

- The fixation of its broadcast.
- The communication to the public of its broadcast
- The re-broadcasting of its broadcast.
- The reproduction of its broadcast.
- The distribution or firstly put on rent of the copy of its broadcast.

#### **2) Television station**

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

- The fixation of its broadcast.
- The communication to the public of its broadcast.
- The re-broadcasting of its broadcast.
- The reproduction of its broadcast.
- The distribution or firstly put on rent of copy of its broadcast.

#### **3) Cable television station**

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

- The fixation of its broadcast.
- The communication to the public of its broadcast..
- The re-broadcasting of its broadcast.
- The reproduction of its broadcast.
- The distribution or firstly put on rent of copy of its broadcast.

**Article 48:** The reproduction of any program belonged to the broadcasting organization for the purpose of sale, rental, exchanging, broadcasting or communicating to the public, must require the authorization of the said organization.

### **SECTION 5: Equitable Remuneration**

**Article 49:** If a phonogram published for commercial purposes, or a reproduction of such phonogram is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration, for the performers and the producer of the phonogram, shall be paid by the user to the organization governing this collective right.

The organization governing collective right is a legal person having duty to administer this remuneration, which is determined by the sub-decree.

### **SECTION 6: Limitations of Rights**

**Article 50:** Notwithstanding the provisions of articles 41, 42, 43, 44, 45, 46, 47 and 48 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 extracted from the performance or from the substance of phonogram or from a broadcast.
- b) The reproduction merely for the purposes of scientific research.
- c) The reproduction for the framework of educational purpose, excepted for the performance or phonogram that themselves have been already produced for the educational purposes.
- d) Quotation, in the form of short citation, extracted from the performance or phonogram or broadcasting transmission, provided that such quotation is conformed to reasonable practice and justified to the proper informative objective.
- e) All other uses constituting exceptions concerning works protected under copyright by the virtue of this law.

**Article 51:** The provisions of article 41 of this law will no longer be used, whenever the performer authorizes the incorporation of his/her performance in a visual or audiovisual fixation.

**Article 52:** The provisions of article 41 will be no longer used, whenever the performance or phonogram or broadcasting transmission of commercial purpose, has been copied or reproduced by any broadcasting organization, in its usual manner, in order to broadcast it in normal transmission. That organization itself has sufficient rights to copy, reproduce and broadcast it.

On the condition that:

1. For all acts implemented by virtue of the above-mentioned paragraph of this article, the broadcasting organization has right to broadcast that recorded or reproduced the performance.
2. For all acts implemented by virtue of the above-mentioned paragraph of this article, the broadcasting organization has right to broadcast, in its each broadcasting program, the phonogram or broadcasting or reproduced phonogram.

For all acts implemented by virtue of the above-mentioned paragraph of this article, every reproduction of works or copied thereof should be destroyed within 06 (six) months after the making , with the exception of a single copy which can be kept for the sole purpose of archival conservation.

## **SECTION 7: Duration of Protection**

### **Article 53:**

1. The duration of protection for performer shall be 50 (fifty) years following the calendar year in which the performance was recorded in the phonogram, or in the absence of such recording, from the end of the calendar year in which the performance took place.
2. The duration of protection for the producer of phonogram shall be 50 (fifty) years following the calendar year in which the phonogram has been published, or in the absence of such publication, from the end of the year following the fixation of the phonogram.
3. The duration of protection of the broadcasting program of the broadcasting organization shall be 50 (fifty) years following the moment in which this program has been broadcast until the end of calendar year.



## **SECTION 8: The Transfer of Right**

**Article 54:** Article 32, 33, and 34 of this law will be applied for the right of performer, phonogram producer, and broadcasting organization.

## **SECTION 9: The Deposits**

**Article 55:** Article 38, 39, and 40 of this law will be applied for the rights of performers phonogram producers, and broadcasting organizations.

## **CHAPTER IV: Collective Management of Rights**

### **Article 56:**

- 1) The author of work and related-right holder can establish the collective management organization to manage their economic rights.
- 2) The collective management organization of author's right, performer's right and phonogram producer's right must require the authorization of the Ministry of Culture and Fine Arts.
- 3) The Department of Copyright and Related right is the organization responsible for the duty mentioned in the above paragraph (2) article 56 of this law.
- 4) The collective management organization of broadcasting rights via radio, television, cable television of the broadcasting organizations shall require the authorization of the Ministry of Information.

## **CHAPTER V : Disputes**

### **SECTION 1: Civil Disputes**

**Article 57:** Whosoever proves that he/she has the legal rights to bring an action to the court, that person can do so in order to claim against the violation of his/her interest, or can bring any legal action in accordance with the provisions provided by this law.

### **Article 58**

- 1) Whosoever suffers or risks to suffer a violation of his/her copyright or his/her related right can file petition to the court, in order:
  - 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 materials, as well as to the return of any benefits deriving from that illegal act.

**Article 59:** The court may order, unless subjecting to the rights of any bona fide third parties, the confiscation, destruction 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 60:** 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.

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 61:** Within 30 (thirty) days of the seizure, owner of the seized property, or a third party who governs the seized equipment or materials, can file petition to the court for the lifting of this seizure or to limit its effects.

**Article 62:** Within 30 (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 who governs the seized property.

## **SECTION 2: Criminal Disputes**

**Article 63:** 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 (two) to 03 (three) years imprisonment and 1,000,000 (one million) Riels to 10, 000, 000 (ten million) Riels fine.

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

**Article 64:** All reproduction, broadcast of a performance, a phonogram recording, a video recording, made without authorization, when it is required, of the performer, the producer of audio or video recordings, or the broadcasting organization, is punishable by 02 (two) to 03 (three) years imprisonment and a fine of 1,000,000 (one million) Riels to 10,000,000 (ten 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 65:** In each case covered by article 63 and article 64 of this law, the court can decide as the following:

- To order the confiscation of all or part of the revenue obtained through the acts of infringement, and all gains obtained from the 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 66**

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 (ten) 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 60 of this law, 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 article 66 of this law, the provisions on border measures specified in the "Law on Marks, Trade name and Acts of Unfair Competition" must be required for supplementary use.

**Article 67:** The following acts are considered as illegal and, for the purposes of articles 63 and 64, of this law, are similar to the violation of copyrights and other related-right holders:

1. The manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work, a phonogram or a broadcast, or to impair the quality of copies made.
2. The manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the program.
3. The suppression or modification, without being permitted by the right's owner, of all information related to the regime of rights presented in electronic form.
4. The distribution or importation for the purpose of distribution, broadcast through broadcasting organization, communication to the public or making available to the public, without being entitled, of works or performances, of phonogram or broadcasting transmissions, while knowing that information relating to the regime of rights which is presented in electronic form has been suppressed or modified without authorization.
5. The expression "information on the regime of rights" extends to information revealing the identification of the author, the performer, the interpretation of performance, the producer of phonogram, the broadcasting organization, and the program of broadcasting organization. This expression also means that, it is the information to enable someone to know the identity of the right's owners, in respect of this law, or the identity of all information related to the conditions and methods of the utilization of work and other products already covered by this law, and all numbers and codes representing this information. The expressions which reveals those identities are considered, unless one or any of its elements are linked to the reproduction of work, the recorded performance through any broadcasting means or, in case of any element of those elements is related to the materials extracted from the phonogram or materials being jointly broadcast by broadcasting organization or jointly broadcast by public communication or jointly broadcast with the acts of allowing public utilization of the work or performance which is transmitted by transmission devices or jointly broadcast with the acts of allowing public utilization of that phonogram or program of the broadcasting organization.

## **Chapter VI: The Application of International Treaties**

**Article 68:** The provisions of any international treaties in respect of copyright and related right, to which the Kingdom of Cambodia is a party, shall apply to matters dealt with by this Law.

In case of conflict with the provisions of this Law, the provisions of those international treaties shall prevail.

## **CHAPTER VII: Final Provisions**

**Article 69:** This law applies to all works of the authors, audio-visual works, performer, phonogram producer, and broadcasting organization existing when this law comes into force in the Kingdom of Cambodia.

**Article 70:** Any provisions contradicted to this Law shall be considered as null and void.

*This Law is adopted by the National Assembly of  
the Kingdom of Cambodia on .....  
At the .....session of the second legislature.*

*Chairman of the National Assembly*