

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- “Broadcasts” means the transmission of sound, pictures, principles, documents or other messages through radio, television, cable television or satellite;
- i- “Publicity” means the release of works by acts of performance, publication, recitation, exhibition, presentation, transmission, distribution, rent, sale, broadcasting, or transferring of rights;
- j- “Derivative work “ means a work created based on original work by means of translating, adapting or simplifying;
- k- “Phonograms” means fixations of sound on phonographic discs, or recording-tapes, or discs, or other material forms which can be accompanied by sound through various means.
- l- “Producers of phonograms” means the person who produces the phonograms as providing in paragraph (k);

- 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, lithographing, engraving, collage, or by mechanical photographic or disc recording;
- o- “Broadcasting organization” means radio, television , and cable television station.

Article 3

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

- a- Works created by Cambodian national, including legal person which is incorporated by the law of the Kingdom of Cambodia and having office in the Kingdom of Cambodia.
- b- Works of first publishing in Cambodia, including works of first publishing abroad which were brought to publish in the Kingdom of Cambodia within 30 days of the first public diffusion.
- c- Works for which Cambodia has obligation to grant protection under international treaties.

2. The following performances shall be granted protection under this law:

- a- Performances which are taking place in Cambodia.
- b- Performances which are recorded in phonogram under the framework of protection.
- c- Performances broadcasts through transmission channel under the framework of protection.
- d- Performances for which Cambodia has obligation to grant protection under international treaties.

3. The following phonograms shall be granted protection under this law:

- a- Phonogram belonged to the Cambodian nationality.
- b- Phonogram which is firstly audio-recorded in Cambodia.
- c- Phonogram for which Cambodia has obligation to grant protection under international treaties.

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

- 1- Collaboration work refers to a work whose creation was the result of the joint efforts of several natural persons.
- 2- Composite work refers to a new work in which is incorporated a pre-existing work without the collaboration of the author of the latter.
- 3- Collective work refers to a work created at the initiative of a natural person who edits, publishes and discloses it under his direction and name, and for which the other authors have participated but without discussing or examining the overall aspect of the work..

Article 7

- a- Books, brochures and other literary, artistic, scientific documents, and education.

- 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 natural person or legal person whose name has been publicly disclosed in that work. 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, by using the above mentioned rights.
3. Paragraph (2) of this article is not applicable when the pseudonym adopted by the author 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 script-scenario.

- 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:

- a. To translation his/her work into foreign language.
- b. To imitate and simplify or undertake any modifications of his/her work.

- c. To put on rental or allow the public rental or public lending of his/her original work or copy of audio-visual work or his/her work incorporated in a recording. To put on rental or allow the public rental or public lending of original work or copy of computer program or database or musical work in graphic form.
 - d. To distribute or allow the public diffusion through sale, rent, lending, ownership transfer of original work or copy of his/her work which previously was not allowed or yet to be allowed for distribution by the owner of work.
 - e. To import into the country, the reproduction copies of his/her works.
2. Rental right and lending right as mentioned in the above paragraph (d) is not applicable for the rental of computer program when the program itself is not the main objective of rent.

Article 25

The importation of a copy of work by any natural person, for his/her personal use, can be done without the consent of the work's owner or the right holder.

Section 6

The reduction of owner's right

Article 26

When a work has been disclosed, the author cannot prohibit the use of that work, unless that use either affects the normal exploitation of the owner of work or causes unjustified damage to the legitimate interest of the author.

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- copies or reproductions strictly reserved for private use, with the exception of copying of computer program, partly or wholly reproduction of database in digital form, reproduction of architectural work in the form of building or other constructions, partly or wholly reprography of reading book under new published form, and the reproduction of musical work in the form of notation.
- c- the arrangement to preserve in a library the copy of work for the purpose of conservation or research.
- d- the use of works for the purposes of education which is not for financial gain.
- e- the translation of works from Khmer language into the languages of the ethnic minorities or vice versa;
- f- If the clear indication of the author's name and the source of work, the following acts are not subjected to any prohibitions:

- 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 partly, through press release or television broadcasting .
- The adaptation of comic or joking 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.

Section 7

Temporary reproduction

Article 27

The temporary reproduction of a work is allowed on the condition that this reproduction:

- a- takes place during the course of digital transmission of a work for audio or visual audience by the intention to conserve it under digital form.
- b- is effected by a natural or legal person, authorized by the right holder, or by law to undertake the said work or action for the sake of audio or visual audience.
- c- is a temporary reproduction of subsidiary criteria that takes place during the normal use of recorded equipment and can be automatically erased without allowing the use of that copy of work for other purposes than those stated in paragraphs (a) and (b) of this article.

Section 8

The reproduction of short citation

Article 28

Notwithstanding the provisions of article 23 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 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- 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.

Section 10

Duration of protection

Article 30

The protection of economic right in a work started from the date of work creation. This protection covers the life of the author, and the whole fifty years following his/her decease.

Article 31

The economic rights in a work, published in an anonymous manner or under a pseudonym, are protected within the entire period of 50 years counted from the end of calendar year in which such work has been legally published for the first time, or if the legal protection failed to occur during 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, 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 individual authors can separately make the exploitation on their contribution unless having any contradicted provisions, providing that those co-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 co-authors cannot reach any consent, the court has duty to be the decision-maker on that case.

article 38

The transfer of right for exploitation on the author's work can be done wholly or partially. In case of this transfer, the author is entitled to benefit on the revenue arising from the sale or rent or exploitation on that work according to:

- a) The proportion of individual work.
- b) The lump sum benefits based on the followings cases:
 - When the basic calculation of proportional remuneration to be given to the author cannot be determined on the definite basis.
 - When cost of operation and inspection are exceeding the fixed cost.
 - When the nature or conditions of the exploitation make it impossible to apply the rule of proportional remuneration, whether because the contribution of the author does not constitute one of the essential elements of the intellectual creation of the

- 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. Audio recording of his/her performance which is yet to be recorded in the phonogram.
3. Reproduction of work performance which is already recorded in the phonogram.
4. Public diffusion of original disc-recorded work or copied disc of his/her performance.
5. Put on rental or public lending of disc-recorded work or copied disc of his/her performance.

Unless otherwise having no contradicted agreement:

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

Article 43

Aside from his/her economic right, the performer has right to require his/her name to be written in the show or to be recorded in the disc, excepted for the case of showing method which is obliged to omit the author's name on it. Meanwhile, the performer also has right to oppose all forms of exaggeration, mutilation, or modifications of his/her work which is prejudicial to his/her reputation.

Article 44

Performers cannot forbid the reproduction and the public diffusion 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

Right of Phonogram Producers

Article 45

Phonogram producer has the exclusive right to record, reproduce, publicly diffuse, and transfer of right in regard to the work.

Article 46

All reproduction, sale, exchange, rental, and public diffusion must require the authorization of the phonogram producer.

The phonogram producer has right to distribute or authorize the public distribution through the sale, rental or transfer of right on the original work or copy of work which is yet to be permitted from him/herself for distribution.

The phonogram producer also has right to import the copy of his/her phonogram production for public diffusion objective.

Section 3

Rights of Video Producer

Article 47

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 public diffusion, sale, exchange, and rental is required the authorization of the video producer.

The video producer's right recognized by the virtue of this article is the right that cannot be transferred separately from the author's right, and performer's right who have incorporated to produce the video.

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 extracted from the performance or from the substance of recorded disc or from a broadcast.
- b) The reproduction merely for the purposes of scientific research.
- c) The reproduction for the purposes of educational framework, excepted for the performance or recorded disc 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 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 in normal transmission. It means that the organization itself has sufficient rights to reproduce and broadcast it, on the condition that:

1. For all acts implemented by virtue of the above mentioned paragraph, the broadcasting organization has right to broadcast that recorded or reproduced performance .
2. For all acts implemented by virtue of the above mentioned paragraph, the broadcasting organization has right to broadcast, in its each broadcasting program, the phonogram or sound recorded program or reproduced phonogram.
3. For all acts implemented by virtue of the above mentioned paragraph, every reproduction of works or copied thereof should be destroyed in the same period as that applied to the duration of recordings and reproductions of works protected by article 42 of this law, with the exception of a single copy which can be kept for the sole purpose of archival conservation.

Section 7

Duration of protection

Article 54

The duration of protection shall be 50 (fifty) years, beginning from the first of January in the calendar year following the first:

- performance; or
- audio, visual recording; or
- diffusion; or
- transmission of the broadcast through broadcasting organization.

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. 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).
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 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

In each case covered by the two preceding articles, the court can decide on the following acts:

- 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 on border measures specified in the Law of Marks, Trade name and Acts of Unfair Competition must be required for supplementary use.

Article 68

- 1) The following acts are considered as illegal and, for the purposes of articles 64 and 65, are similar to the violation of copyrights and other related-right holders. The illegal acts similar to the violation of copyright are of the followings:
 - a. The manufacturing or importing for sale or rental, of a device or any special means conceived or adapted to hamper the operation of any

device or means leading to the prevention or restraint of the reproduction of a work or to damage the quality of the reproduction or samples created from work.

- b. The manufacturing or importing for sale or rental, of a device or means of permitting or facilitating the reception of a program by coded broadcasting or communication in any public manner, by persons who are not entitled to receive it.
- c. 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.
- d. 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, interpretation or performances, of recordings 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.
- e. For the purposes of the present article, the expression “information on the regime of rights” extends to information permitting 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 an 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.

- 2) For the purposes of effective utilization of articles 64 to 67 of this law, any device or means mentioned in paragraph 1 of this article 68, and every

materials extracted from any sample of work in which information on the regime of rights has been suppressed or modified, those devices or means and materials are considered as infringed materials or infringed reproduction of that work.

Section 6

The Application of International treaties

Article 69

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.

Section 7

Final provisions

Article 70

This law applies to all works of the authors, audio-visual works, performer, phonogram producer, and broadcasting organization established when this law comes into force.

The Ministry of Culture and Fine Arts has duty to issue other directives for the implementation of copyright, performer's right, and phonogram producer's right.

The Ministry of information has duty to issue other directives for the implementation of the broadcasting organization's right.

Article 71

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 thesession of the second legislature.*

Chairman of the National Assembly

Note:

The arrangement and translation from KHMER text to English is yet to be completed due to time constraints and the complexity of language usage of the Ministry of Culture and Fine Arts. This version is the last combined version after the review of the Ministry of culture and the preliminary comments of the WIPO. Please Your Excellency accepts my apology.

*September 06,2001
Penn Sovicheat*

(copyright/moc/ipd/pennsvc, sept, 2001)

