

**DRAFT**



**COPYRIGHT LAW**

# **COPYRIGHT LAW OF LIBERIA**

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature Assembled:

## **PART I**

### **PRELIMINARY PROVISIONS**

#### **§ 1.1. Short Title**

This Copyright Act of Liberia may also be cited as Liberia Copyright Act

#### **§ 1.2. Repealer**

An Act Adopting a New Copyright Law of the Republic of Liberia Approved July 23, 1997, is hereby repealed.

#### **§1.3. Definitions**

For purpose of this Act, the following terms have the following meaning:

An “anonymous work” is a work on the copies or phonorecords of which no natural person is identified as author.

“architectural work” is the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.

"artistic work" includes, irrespective of artistic quality, any of the following, or works similar thereto:

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;

- (b) maps, plans and diagrams;
- (c) works of sculpture;
- (d) photographs not comprised in audio-visual works;
- (e) works of architecture in the form of buildings or models; and
- (f) works of artistic craftsmanship, pictorial woven tissues and articles of applied handicraft and industrial art;

“audiovisual work” is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible, and where accompanied by sounds, susceptible of being made audible;

"author", in relation to-

- (a) a literary, musical or artistic work, is the natural person who first makes or creates the work;
- (b) a photograph, is the person who is responsible for the composition of the photograph;
- (c) a sound recording, is a person by whom the arrangements for the making of the sound recording were made;
- (d) audio-visual works, is the person by whom the arrangements for the making of the work were made;
- (e) a broadcast, is the first broadcaster;
- (g) a literary, dramatic, musical or artistic work or computer program which is computer generated, is the person by whom the arrangements necessary for the creation of the work were undertaken; and
- (h) a computer program, is the person who exercised control over the making of the program;

“broadcasting” is the transmission by wireless means for public reception of sounds or of images and sounds or of the representations thereof, including transmission by satellite; transmission of encrypted signals is “broadcasting” where the means for decrypting are provided to the public by the broadcaster or with the broadcaster’s consent;

“communication to the public” is the transmission by any means, other than by broadcasting, of images or sounds or both of a work, a performance or a sound recording 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,

irrespective of whether the person can receive images or sounds at the same place and time, or at different places or times individually chosen by them;;

“computer” is an electronic or similar device having information-processing capabilities;

“computer program” is a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that a computer can read, of causing a computer to perform or achieve a particular task or result;

"copy" is a reproduction of a work in any manner or form and includes a sound or audio-visual recording of a work and any permanent or transient storage of a work in any medium, by any technology;

“derivative work” is a work based upon one or more pre-existing works, such as a translation, musical arrangement, dramatization, fictionalization, audiovisual version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted and a work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship.

“distribution” is the lawful placement into public circulation of the original or a copy of a work, a fixation of a performance or a phonogram in tangible form through sale or other transfer of ownership, including importing for the purpose of such putting into circulation and public offering for sale and other transfer of ownership;

“fixation” means the embodiment of letters, numbers, signs, sounds, images and other elements by means of which a work or object of neighboring rights or the representations thereof, in any form or material medium, including an electronic medium which enables the said work or object of neighboring rights to be perceived, reproduced or otherwise communicated through a device;

“infringement” is any act that violates any rights protected under this Act;

“Intellectual Property Office” means the Intellectual Property Office of Liberia;

“Minister” means the Minister of Commerce;

“owner of copyright” is:

(a) where the economic rights are vested in the author, the author,

(b) where the economic rights are originally vested in a natural person other than the author or in a legal entity, that person or entity,

(c) where the ownership of the economic rights has been transferred to a natural person or legal entity, that person or entity;

“performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary and artistic works, including traditional cultural expressions;

“phonogram” is the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in an audiovisual work;

“photographic work” is a recording of light or other radiation on any medium on which an image is produced or from which an image may be produced, irrespective of the technique (chemical, electronic or other) by which such recording is made; a still picture extracted from an audiovisual work shall not be considered a “photographic work” but a part of the audiovisual work concerned;

“producer” is the person, or the legal entity who or which has taken the initiative and financial responsibility for the first fixation of an audiovisual work or a sound recording;

“public performance” is:

- (a) in the case of a work other than an audiovisual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process;
- (b) in the case of an audiovisual work, the showing of images in sequence and the making of accompanying sounds audible; and
- (c) in the case of a phonogram, making the recorded sounds audible,

in each case at a place or at places where persons outside the normal circle of the family and its closest acquaintances are or can be present;

“publication and published” in respect of a work, or a phonogram, is the making of tangible copies available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that, in the case of a work, the making available to the public took place with the consent of the owner of copyright, and in the case of a phonogram, a fixation of a performance with the consent of the producer of the phonogram or his successor in title;

“rental” is the transfer of the possession of the original or a copy of a work or sound recording for a limited period of time in return for monetary consideration;

“reproduction” is the making of one or more copies of a work or sound recording in any manner or form, including any permanent or temporary storage of such work or sound recording in electronic or any other form;

“rights management information” is any information that identifies the author, the work, the performer, the performance of the performer, the producer of the phonogram, the phonogram, the broadcaster, the broadcast, the owner of any right under this Act, or information about the terms and conditions of use of the work, the performance, the phonogram or the broadcast, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance, a phonogram or a fixed broadcast, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a phonogram or a broadcast;

“specialized format” is braille, audio, or digital text or other format which is exclusively for use by visually or aurally impaired persons or persons with other disabilities; and with respect to print instructional materials, includes large print formats.

A “pseudonymous work” is a work on the copies or phonorecords of which the author is identified under a fictitious name.

“technological protection measures” means any technology, device or component that, in the normal course of operation, is designed to prevent or restrict acts, in respect of works or objects of related rights, which are not authorized by the right holder.

“traditional cultural expressions” is are any forms, whether tangible and intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise the following forms of expressions or combinations thereof:

- (i) verbal expressions, such as: stories, epics, legends, poetry, riddles and other narratives; words, signs, names, and symbols;
- (ii) musical expressions, such as songs and instrumental music;
- (iii) expressions by action, such as dances, plays, ceremonies, rituals and other performances, whether or not reduced to a material form; and
- (iv) tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting), carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewelry, baskets, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments; and architectural forms;

which are the products of creative intellectual activity; characteristic of a community’s cultural and social identity and cultural heritage;

“technical measure” is any device, product or component incorporated into a work that effectively prevents or inhibits the infringement of any copyright or related right;

“work” is any literary or artistic work under Section 2.3 and Section 2.4 of this Act.;

“work of applied art” is an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

“work of joint authorship” is a work created by two or more authors, in collaboration, in which the contribution of each author is inseparable from the contribution of the other author or authors.

**PART II**  
**COPYRIGHT**

**§2.1. Scope of application; exclusive rights**

- (a) The provisions of this Act concerning the protection of literary and artistic works shall apply to:
- (i.) works of authors who are nationals of, or have their habitual residence in the Republic of Liberia;
  - (ii.) works first published in the Republic of Liberia, and works first published in another country and also published in the Republic of Liberia within thirty days, irrespective of the nationality or residence of their authors;
  - (iii.) audiovisual works, the producer of which has his headquarters or habitual residence in the Republic of Liberia; and
  - (iv.) works of architecture erected in the Republic of Liberia and other artistic works incorporated in a building or other structure located in the Republic of Liberia.
- (b) The provisions of this Act shall apply to works that are eligible for protection in the Republic of Liberia by virtue of and in accordance with any international convention or other international agreement to which the Republic of Liberia is party.
- (c) Subject to the limitations imposed by provisions of this Act, the owner of copyright has the exclusive rights to do and to authorize any of the following:
- (i.) to reproduce the copyrighted work in copies or phonorecords;
  - (ii.) to prepare derivative works based upon the copyrighted work;
  - (iii.) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
  - (iv.) (iv.) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
  - (v.) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and

- (vi.) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

## **§2.2. Works protected**

- (a) A literary and artistic work shall not be considered as a work protected by copyright unless it is an original intellectual creation in the literary and artistic domain.
- (b) Literary and artistic works under this Act include:
  - (i.) books, pamphlets, articles and other writings;
  - (ii.) speeches, lectures, addresses, sermons and other oral works;
  - (iii.) dramatic, dramatico-musical works, pantomimes, choreographic works and other works created for stage productions;
  - (iv.) musical works, with or without accompanying words;
  - (v.) audiovisual works;
  - (vi.) works of architecture;
  - (vii.) drawings, paintings, sculpture, engraving, lithography, tapestry and other works of fine art;
  - (viii.) photographic works;
  - (ix) works of applied art, including handicrafts and those produced on an industrial scale;
  - (x) computer programs;
  - (xi.) illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science;
- (c) Works shall be protected when they are fixed in a medium from which they can be perceived or retrieved, irrespective of their mode or form of expression, as well as their content, quality and purpose.

## **§ 2.3. Derivative works**

- (a) The following derivative works shall be protected as works:

- (i.) translations, adaptations, arrangements and other transformations or modifications of works, including works inspired by traditional cultural expressions;
- (ii.) collections of works and collections of traditional cultural expressions, whether in machine readable or other form, provided that such collections are original by reason of the selection or arrangement of their contents; and
- (iii.) compilations of data or other material, in any form, which by reason of the selection or arrangement of their contents constitute intellectual creations so however that protection shall not extend to the data or the material itself and shall be without prejudice to any copyright subsisting in the data or material contained in the compilation.

(b) The protection of any work referred to in subsection (1) shall be without prejudice to any protection available to a pre-existing work or traditional cultural expression incorporated in or utilized for the making of such a work.

#### **§2.4. Subject matter not protected**

Notwithstanding the provisions of Section 2.2 and Section 2.3 of this Act , no protection shall extend under this Act to:

- (1) any idea, procedure, system, method of operation, mathematical concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work;
- (2) any official legislative, judicial, or administrative text, including the Laws of the Government of Liberia, as well as any official translation thereof;
- (3) news of the day or miscellaneous facts having the character of mere items of press information; and
- (4) political speeches and speeches delivered in the course of legal proceedings.

#### **§2.5. Copyright in works of government and international bodies**

Copyright is conferred by this section on any work eligible for copyright which is created pursuant to a commission from the Government or such international body or non-governmental body as may be prescribed by the Intellectual Property Office, and on which no copyright has otherwise been conferred under any other section.

#### **§2.6. Economic rights**

(a) Subject to exceptions provided for in this Act, the owner of copyright shall have the

exclusive right to carry out or to authorize the following acts in relation to the work:

- (i.) reproduction of the work;
- (ii.) translation of the work;
- (iii.) adaptation, arrangement or other transformation of the work;
- (iv.) distribution of the original or a copy of the work to the public through sale, rental or otherwise;
- (v.) rental of the original or a copy of an audiovisual work, a work embodied in a sound recording or a computer program;
- (vi.) public performance of the work;
- (vii.) broadcasting of the work;
- (viii.) other communication to the public of the work.

(b) The right of distribution under Subsection (a) (iv.) of this Section does not apply to the original or a copy of the work that has already been subject to a sale or other transfer or ownership in any country authorized by the owner of copyright in the work.

(c) The right of rental under Subsection (a) (v.) of this Section does not apply to rental of computer programs where the program itself is not the essential object of the rental.

## **§2.7. Moral rights**

(a) Independently of the author's economic rights, and even after the transfer of the said rights, the author of a work shall have the following moral rights:

- (i.) to have his name indicated prominently on the copies and in connection with any public use of his work, as far as practicable;
- (ii.) to not have his name indicated on the copies and in connection with any public use of his work;
- (iii.) to use a pseudonym;
- (iv.) to object to any distortion, mutilation or other modification of, or other derogatory action in relation to his work which would be prejudicial to his honor or reputation.

(b) Notwithstanding any assignment or sale of the original work, the author of a graphic work, three-dimensional work and manuscript shall have a right to share in the proceeds of any sale of

that work or manuscript by public auction or through a dealer whatever the method used by the latter to carry out the operation.

(c) The conditions for the exercise of the right conferred by Subsection (b) of this section shall be determined by Regulations to be made by the Intellectual Property Office established under this Act.

(d) The rights mentioned in Subsections (a) and (b) shall not be transmissible during the life of the author, but the right to exercise any of those rights may be transferred by testamentary disposition or by operation of law following the death of the author.

## **§2.8. Fair use**

(a) Notwithstanding the provisions of Section 26 and Section 2.7, the fair use of a copyright work, including such use by reproduction in copies or sound recordings or by any other means specified by that section, for purposes such as parody, satire, criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include:

- (a) the purpose and character of the use, including whether such use is of a commercial nature or is for educational purposes;
- (b) the nature of the copyrighted work;
- (c) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (d) the effect of the use upon the potential market for or value of the work.

(b) The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

## **§ 2.9. Quotation**

(a) The reproduction, in the form of quotation from a work that has been published shall be permitted without authorization of the owner of copyright, provided that the quotation is compatible with fair practice and does not exceed the extent justified by the purpose.

(b) Any quotation made in accordance with subsection (1) shall be accompanied by an indication of source and the name of the author, if the name appears in the work from which the quotation is taken.

## **§ 2.10. Private reproduction for personal purposes**

(a) Subject to the provisions of Subsection (b), 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.

(b) The permission under subsection (a) shall not extend to reproduction:

(i.) of a work of architecture in the form of building or other construction;

(ii.) of the whole or of a substantial part of a database in digital form; and

(iii.) 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 owner of the copyright.

## **§ 2.11. Temporary reproduction**

The temporary reproduction of a work shall be permitted if all of the following conditions are met:

(a) the reproduction is made in the process of a transmission of the work or an act of making a stored work perceptible;

(b) it is caused by a person or entity that, by virtue of authorization by the owner of the copyright or by operation of law, is entitled to make that transmission or make the work perceptible; and

(c) it is an accessory to that transmission or making perceptible, that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those, referred to in Subsections (a) and (b) of this Section

## **§ 2.12. Reproduction and other utilization for teaching**

(a) The following acts shall be permitted without authorization of the author, or other owner of copyright:

(i.) the utilization by way of illustration for teaching purposes of a work that has lawfully been made available to the public, in publications, broadcasting or sound or visual recordings, provided that such utilization is compatible with fair practice and does not exceed the extent justified by the purpose; the utilization can also include the making available of such works in computer networks, provided that access to the works is only available to enrolled pupils or students and their teachers;

(ii.) the reprographic reproduction, for face-to-face teaching in educational institutions the activities of which do not serve direct or indirect commercial gain, of published articles, other short works or short extracts of works, to the extent justified by the purpose, provided that :

(iii.) the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions;

(iv.) there is no collective license available, offered by a collective administration organization of which the educational institution is or should be aware, under which such reproduction can be made.

(b) The source of the work and the name of the author shall be indicated, as far as is practicable, on all copies made under Subsection (a) of this Section or otherwise in reasonable connection with the work.

## **§ 2.12. Reproduction by libraries and archives**

Any library or archive whose activities do not serve direct commercial gain may, without the authorization of the owner of copyright, make a copy of a work:

(a) by reproduction where the work reproduced is a published article, other short work or short extract of a work, and where the purpose of the reproduction is to satisfy the request of a person, provided that:

(i) the library or archive is satisfied that the copy will be used solely for the purposes of study, scholarship or private research,

(ii) the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions, and

(iii) there is no collective license available or offered by a collective administration organization of which the library or archive is or should be aware, under which such copies can be made or

(b) where the copy is made in order to preserve and, if necessary, replace a copy, or to replace a copy which has been lost, destroyed, or rendered unusable in the permanent collection of another similar library or archive, provided that it is impossible to obtain such a copy under reasonable conditions, and provided further that the act of reproduction is an isolated act occurring, if repeated, on separate and unrelated occasions.

### **§2.13. Reproduction, broadcasting and other communication to the public for information purposes**

The following acts shall be permitted in respect of a work without the authorization of the owner of copyright, subject to the obligation to indicate the source and the name of the author as far as practicable:

- (a) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current issues or a broadcast work of the same character;
- (b) for the purpose of reporting current events, the reproduction and the broadcasting or other communication to the public by means of photography, audiovisual, broadcasting or other communication of short excerpts of a work seen or heard in the course of such events, to the extent justified by the purpose;
- (c) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a lecture, address, sermon or other work of a similar nature delivered in public, to the extent justified by the purpose of providing current information.
- (d) the performance of a non-dramatic literary or musical work or of a dramatic-musical work, or display of a work, in the course of services at a place of worship or other religious assembly.

### **§2.14. Reproduction and adaptation of computer programs**

(a) The reproduction, in a single copy, or the adaptation of a computer program by the lawful owner of a copy of that computer program shall be permitted without the authorization of the owner of copyright, provided:

- (i.) that the copy or adaptation is necessary for use of the computer program with a computer for the purpose and extent for which the computer program has been obtained; or
- (ii.) that the copy or adaptation is necessary for archival purposes and for the replacement of the lawfully owned copy of the computer program in the event that the said copy of the computer program is lost, destroyed or rendered unusable.

(b) No copy or adaptation of a computer program shall be used for any purpose other than those specified in subsection (1), and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful. Any copies prepared in accordance with the provisions of this section may be leased, sold,

or otherwise transferred along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of all rights in the program.

### **§2.15. Visually and aurally impaired persons**

(a) It shall be permitted without the authorization of the owner of copyright to reproduce a published work for visually or aurally impaired persons or persons with print disabilities in a specialized format which enables their perception of the work, and to distribute the copies exclusively to those persons, provided that the work is not reasonably available in an identical or largely equivalent form enabling its perception by the visually, aurally impaired or print disabled person; and the reproduction and distribution are made on a non-profit basis.

(b) The copies of works made in pursuance of this section shall bear a copyright notice identifying the copyright owner and the date of the original publication and notice that any further reproduction or distribution in a format other than a specialized format is an infringement.

(b) The distribution of works made pursuant to this section is also permitted where the copies had been made abroad and the conditions mentioned above have been fulfilled.

### **§2.16. Ephemeral recordings**

Any broadcasting organization may make, without the authorization of the owner of copyright, for the purpose of its own broadcasts, an ephemeral recording of any work which it is authorized to broadcast. All copies of it shall be destroyed within six months of the making or within any longer term agreed to by the owner of the copyright; however, where such recording has an exceptional documentary character, copies of it may be preserved in official archives.

### **§2.17. Use for public security and for the performance or reporting of proceedings**

(a) A work may be used, without authorization from the copyright owner, for the purposes of public security and to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings and the discharge of related functions.

(b) Notwithstanding the provisions of the foregoing subsection, the moral rights of the author shall be upheld as far as is reasonable.

## **§2.18. Compulsory licensing**

- (a) The Intellectual Property Office shall have the power to grant compulsory licenses in accordance with the provisions of Schedule One to this Act and may make regulations providing further for the procedure and requirements for the exercise of the provisions of the said Schedule.
- (b) Any person aggrieved by a decision of the Intellectual Property Office by virtue of this section shall have a right of appeal to the Court.

## **§ 2.19. Duration of copyright**

- (a) The economic and moral rights in literary, musical and artistic works, other than photographs, shall be protected during the life of the author and for fifty years after the end of the year in which the author dies.
- (b) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for fifty years after the end of the year in which that author dies.
- (c) In the case of an audiovisual work, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by authorized publication or by any other means, whichever date is the latest.
- (d) In the case of a broadcast, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the broadcast took place.
- (e) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public, by authorized publication, whichever date is the latest, provided that where the author's identity is revealed or is no longer in doubt before the expiration of the said period, the provisions of subsection (1) or subsection (2) shall apply, as the case may be.
- (f) In the case of a work of applied art, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made.
- (g) In the case of a photograph, the economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by publication, whichever date is the latest.

## **§2.20. First ownership of copyright**

- (a) Subject to the provisions of subsections (2) to (4) of this section, the first owner of any copyright granted under this Act shall be the author of the work.
- (b) For a work of joint authorship, the co-authors shall be the first owners of the economic rights. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the first owner of the economic rights in the part that he has created.
- (c) For a work created by an author, employed by a natural person or legal entity, in the course of his employment, the first owner of the economic rights shall, unless provided otherwise in a contract, be the employee.
- (d) For an audiovisual work, the first owner of the economic rights shall be the producer, unless provided otherwise in a contract. The co-authors of the audiovisual work and the authors of the pre-existing works included in or adapted for the making of the audiovisual work shall, however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be the subject of acts covered by their economic rights separately from the audiovisual work.

## **§2.21. Presumption regarding authorship, producers of audiovisual works and publishers**

- (a) The natural person whose name is indicated as the author of a work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the author of the work. This provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.
- (b) The person whose name appears on an audiovisual work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the producer of the work.
- (c) In the case of an or pseudonymous work, subject to the provision of subsection (1) of this section, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the author and, in this capacity, shall be entitled to exercise and enforce the moral and economic rights of the author. This presumption shall cease to apply when the author reveals his identity.

## **§2.22. Assignment, relinquishment and licensing of authors' rights**

- (a) Subject to this section, copyright shall be transmissible by assignment, license, testamentary disposition or by operation of law, as movable property.

(b) An assignment, license or testamentary disposition of copyright may be limited so as to apply only to some of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.

(c) Any assignment of copyright and any exclusive license to do an act subject to authorization by the owner of copyright, shall be in writing signed by or on behalf of the assignor or licensor, as the case may be.

(d) An assignment in whole or in part of any economic right, or a license to do an act subject to authorization by the owner of copyright, shall not include or be deemed to include the assignment or license of any other rights not explicitly referred to therein.

(e) An assignment, license or testamentary disposition may be effectively granted or made in respect of a future work, or an existing work in which copyright does not yet subsist and the prospective copyright in any such work shall be transmissible by operation of law as movable property.

(f) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, in the absence of anything to the contrary, be taken to include the disposition of any copyright or prospective copyright in the work which is vested in the testator.

### **§ 2.23. Application for registration; issuance of certificate**

The application for copyright registration shall be made pursuant to regulations of the Intellectual Property Office. When, after examination, the Registrar of copyrights, determines that in accordance with the provisions of this Act, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of regulations of the Intellectual Property Office have been met, shall register the claim and issue to the applicant a certificate of registration under the seal of the Intellectual Property Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

### **§ 2.23. Registration of transfers and other documents**

(a) Any transfer of copyright ownership or other document pertaining to a copyright may be registered in the Intellectual Property Office if the document filed for registration bears the actual signature of the person who executed it, or if it is accompanied by a sworn affidavit or official certification that it is a true copy of the original, signed document.

(b) The Director General shall, upon receipt of a document provided by sub-section (1) and of the fee as specified by the Intellectual Property Office, shall register through the Registrar the document and return it with a certificate of record.

(c) Registration of a document in the Intellectual Property Office shall give all persons constructive notice of the facts stated in the registered document.

(d) In the case of works first published in Liberia by Liberian authors, no persons claiming by virtue of a transfer to be the owner of copyright may institute an infringement action unless the claim has been registered in the Intellectual Property Office. An infringement action may be initiated after registration on a cause of action that arose before registration.

## **PART III**

### **PROTECTION OF PERFORMERS, PRODUCERS OF SOUND RECORDINGS AND BROADCASTING ORGANIZATIONS**

#### **§3.1. Scope of application, related rights**

(a) The provisions of this Act on the protection of performers shall apply to performers who are nationals of the Republic of Liberia, and performers who are not nationals of the Republic of Liberia but whose performances:

- (i) take place on the territory of the Republic of Liberia; or
- (ii) are incorporated in phonograms that are protected under this Act; or
- (iii) have not been fixed in a phonogram but are included in broadcasts qualifying for protection under this Act.

(b) The provisions of this Act on the protection of sound recordings shall apply to:

- (i.) sound recordings the producers of which are nationals of the Republic of Liberia;
- (ii.) sound recordings first fixed in the Republic of Liberia; and
- (iii.) sound recordings first published in the Republic of Liberia.

(c) The provisions of this Act on the protection of broadcasts shall apply to:

- (i.) broadcasts of broadcasting organizations the headquarters of which are situated in the Republic of Liberia; and
- (ii.) broadcasts transmitted from transmitters situated in the Republic of Liberia.

(d) Section 3.5. applies to program-carrying signals the originating organization of which is a national of the Republic of Liberia.

(e) The provisions in this Act shall apply to performances, producers of sound recordings, and broadcasts, broadcasting organizations that are eligible for protection in the Republic of Liberia by virtue of and in accordance with any international convention or other international agreement to which the Republic of Liberia is party.

### §3.2. Rights of performers

(a) A performer shall have the exclusive right to carry out or to authorize any of the following acts:

(i.) the broadcasting or other communication to the public of his performance, except where the broadcasting or the other communication is made from a fixation of the performance which the performer has authorized to be made or is a rebroadcasting made or authorized by the organization initially broadcasting the performance;

(ii.) the fixation of his unfixed performance;

(iii.) the direct or indirect reproduction of a fixation of his performance, in any manner or form;

(iv.) the distribution of a fixation of his performance, or of copies thereof, to the public;

(v.) the commercial rental to the public of a fixation of his performance, or copies thereof;

(vi.) the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.

(b) Once the performer has authorized the incorporation of his performance in an audiovisual fixation, he shall, in the absence of contractual provisions to the contrary, be deemed to have assigned his exclusive economic rights with respect to that fixation to its producer.

(c) The right of distribution under item (d) of subsection (1) shall not apply to a copy of a fixation of his performance that has already been subject to a sale or other transfer of ownership in any country authorized by the performer.

(d) Independently of the performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

(e) Modifications consistent with the normal exploitation of a performance in the course of a use authorized by the performer shall not be considered prejudicial to the performer's reputation. The provisions of Section 2.7 (b) apply *mutatis mutandis* to the rights granted under this subsection.

(f) The rights under this section shall be protected until the end of the fiftieth calendar year following the year in which the performance was fixed.

### **§3.3. Rights of producers of sound recordings**

(a) A producer of a sound recording shall have the exclusive right to carry out or to authorize any of the following acts:

(i.) the direct or indirect reproduction of the sound recording, in any manner or form;

(ii.) the distribution of the original or copies of the sound recording to the public;

(iii.) the commercial rental of the original or copies of the sound recording to the public,

(iv.) the making available to the public of the sound recording, by wire or wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.

(b) The right of distribution under Subsection (a)(ii.) of this Section shall not apply to the original or the copy of the sound recording that has already been subject to a sale or other transfer of ownership in any country authorized by the producer.

(c) The rights under Subsection (a) shall be protected from the publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, if the sound recording has not been published from the fixation of the sound recording until the end of the fiftieth calendar year, following the year of fixation.

### **§3.4. Equitable remuneration for use of sound recordings**

(a) If a sound recording published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user to the producer or a collective management organization licensed by the Intellectual Property Office.

(b) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under subsection (a) shall be paid by the producer to the performer or performers.

(c) The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of fifty calendar years following the year of publication.

(d) For the purposes of this section, sound recordings that have been made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they have been published for commercial purposes.

(e) Subsection (a) does not apply to the extent that the use of the sound recording is covered by an exclusive right under Section 3.2(a) (iv.) and Section 3.3(a)(iv.) of this Act.

### **§3.5. Rights of broadcasting organizations**

(a) A broadcasting organization shall have the exclusive right to carry out or to authorize any of the following acts:

- (i.) the rebroadcasting of its broadcast;
- (ii.) the communication to the public of its broadcast;
- (iii.) the fixation of its broadcast;
- (iv.) the reproduction of a fixation of its broadcast.

(b) The rights under this section shall be protected from the moment when the broadcasting takes place until the end of the twentieth calendar year following the year in which the broadcast takes place.

(c) Program-carrying signals transmitted by satellite which are not intended for direct reception by the public, but for simultaneous or subsequent broadcasting or cable distribution by an authorized receiving organization, may not be broadcast or communicated to the public by anyone else without authorization of the person or legal entity that decided what program the emitted signal would carry (originating organization).

### **§3.6. Limitations on protection**

Sections 3.2, 3.3, 3.4 and 3.5 shall not apply where the acts referred to in those sections are related to:

- (a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- (b) cases where, under Part I, a work can be used without the authorization of the owner of copyright.

### **§ 3.7. Technological protection measures.**

- (a) Technological protection measures shall be regarded as effective where the use of a work or object of related right protected under this Act is controlled by the right holder through application of an access control or protection process which, in the normal course of its operation, achieves the protection objective.
- (b) Notwithstanding the provisions of this section, a beneficiary of any exception or limitation under this Act may circumvent any technological protection measure to the extent required to benefit from such exception or limitation..

### **§ 3.8. Protection of rights management information**

- (a) It is prohibited to knowingly:
  - (i.) remove or alter any electronic rights management information without the consent of the right holder, or
  - (ii.) distribute, import for distribution, broadcast or communicate to the public of works or other subject-matter protected under this Act from which electronic copyright management information has been removed or altered without the authorization of the right owner when such act will induce, enable, facilitate or conceal an infringement of any right covered by this Act.
- (b) Subsection (a) does not prohibit any governmental activities for public policy or security authorized by law.
- (c) Notwithstanding Subsection (a), upon the request by the beneficiary of an exception or limitation in accordance with this Act, the Director General of the Intellectual Property Office may order that the necessary means be made available to a beneficiary in order that he may enjoy or apply the exception or limitation, to the extent required to benefit from it.

### **§ 3.9. Protection of traditional cultural expressions**

- (a) Traditional cultural expressions are protected against the following actions:
  - (i.) reproduction;
  - (ii.) fixation of a previously unfixed performance;

(iii.) communication to the public by performance, broadcasting, distribution by cable or other means;

(v) adaptations, translations and other transformations;

when such expressions are made for commercial purposes outside their traditional or customary context by persons who are not Liberians citizens or domiciled in Liberia.

(b) The rights conferred under subsection (a) of this Section shall not include the right to control:

(i.) use for educational purposes;

(ii.) use by way of illustration in an original work of an author; provided that the extent of such use is within the scope of fair use;

(iii.) incidental inclusion of in a copyright work.

(c) In all publications including fixations of performances and in connection with any communication to the public or broadcast of any identifiable traditional cultural expression, its source shall be indicated in an appropriate manner and in conformity with fair practice, by mentioning the community or place from where the expression was derived.

(d) The right to authorize acts referred to in subsection (a) of this section shall vest in the Intellectual Property Office.

(e) The Intellectual Property Office shall ensure that any benefits accruing from the commercial exploitation of traditional cultural expression are realized by the relevant community from where it originated and where the community cannot be clearly identified or the work cuts across more than one community, the benefits shall be administered by the Intellectual Property Office for the promotion of cultural activities in Liberia.

### **§ 3.10. Levy on Copyright material**

(a) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.

(b) The levy payable under Subsection (a) of this Section shall be as may be determined by the Minister from time to time and published and different levies may be imposed on different categories of materials.

(c) The levy shall be paid into the funds of the Copyright Office and the Office shall have power to disburse the funds amongst approved collective management organizations in accordance with regulations made by the Office.

(d) The Minister shall have power to exempt any class of materials from the payment of any levy.

(e) In this section, “material” includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work.

### **§3.11. Royalties**

(a) In the absence of an agreement to the contrary, no person may broadcast, cause the transmission of or play a sound recording without payment of a royalty to the owner of the relevant copyright.

(b) The amount of a royalty contemplated in Subsection (a) of this Section shall be determined by an agreement between the user of the sound recording, the performer and the owner of the copyright, or between their representative collecting societies.

(c) In the absence of an agreement, the user, performer or owner may refer the matter to the courts or they may agree to refer the matter for disputes resolution in the form of mediation or arbitration.

(d) The owner of the copyright who receives payment of a royalty in terms of this section shall share such royalty with any performer whose performance is featured on the sound recording and who would have been entitled to receive a royalty in that regard under this Section.

(e) The performer’s share of the royalty shall be determined by an agreement between the performer and the owner of the copyright.

(f) In the absence of an agreement between the performer and the owner of the copyright, or between their representative collecting societies, the performer or owner may refer the matter to the courts, or seek alternative disputes resolution in the form of mediation or arbitration.

### **§3.12. Regulations; Administrative Instructions**

Regulations shall be issued on copyrights by the Director General of the Office to further implement this Act and which shall include general provisions pertaining to:

- (i.) Border Measures;
- (ii.) Changes in Ownership;
- (iii.) Licenses/compulsory licenses;
- (iv.) Correction of errors;
- (v.) Extension of time;

- (vi.) The register;
- (vii.) Official Gazette;
- (viii.) Exercise of discretionary powers;
- (ix.) Representation;
- (x.) Competence of the court;
- (xi.) Royalties;
- (xii.) Appeals.

## **PART IV**

### **ENFORCEMENT OF RIGHTS AND LEGAL PROCEEDINGS**

#### **§4.1. Provisional measures**

- (a) All provisional remedies under the Civil Procedure Law of Liberia including injunctions shall be applicable to civil proceedings relating to copyrights primarily to prevent an infringement from occurring and preserve relevant evidence in regard to the alleged infringement, including cultural traditional expressions;
- (b) Time limitations for action for damages under the Civil Procedure Law of Liberia shall be applicable to copyrights.

#### **§4.2. Evidence**

(a) Any party to proceedings relating to copyrights infringement shall be governed by the provisions of the Civil Procedure Law relative to evidence including burden of proof, the right to compel production of documents and to designate documents as privileged or confidential.

(b) Any registration issued under this Act of a copyright registered on the principal register for copyrights and owned by a party to an action shall be admissible in evidence and shall be prima facie evidence of the validity of the registered copyright and of the registration of the copyright, of the registrant's ownership of the copyright, and of the registrants' exclusive right to use the copyright.

#### **§4.3. Damages**

(a) An aggrieved party to proceedings involving copyrights, who as the exclusive owner of a copyright or legal or beneficial owner of the exclusive right to a copyright, may seek and obtain a court order that the infringer pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity, inclusive of expenses such as attorney fees, or an order for the recovery of profits and or payment of pre-established damages where the infringer with reasonable grounds to know engaged in infringing activity.

(b) An order may also be sought and obtained that the infringer to inform the holder of the right of the identity of third persons involved in the production and distribution of the infringing goods or rendering of services and of their channels of distribution, where this would be in proportion to the seriousness of the infringement.

(c) The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement.

#### **§4.4. Indemnification of Defendant**

Any party to copyrights proceedings who abuses enforcement proceedings may be required by Court order to indemnify the defendant for injury suffered for such an abuse pursuant to the Civil Procedure Law of Liberia.

#### **§4.5. Unfair Competition**

Unfair competition legislation in Liberia prohibiting dishonest practices in industrial or commercial matters shall be applicable to copyrights.

#### **§4.6. Appeals**

(a) An applicant for registration of a copyright, party to an opposition proceeding, or applicant for renewal or other infringement proceedings who is dissatisfied with the decision of the Director General may appeal to the courts.

(b) The appeal shall follow the procedure provided under the Civil Procedure Law of the Republic of Liberia.

#### **§4.7. Further Sanctions**

When a person has been found liable for infringement under this Act, to create an effective deterrent to further infringement, the infringer may be subjected to a court order for seizure, forfeiture or disposal of the infringing goods and of any materials and instruments the predominant use of which have been in the commission of the infringement.

## **PART V**

### **OFFENSES**

#### **§5.1. False representation**

(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration or in any written statement filed in connection with the application shall be guilty of a second degree felony under the Penal Law of Liberia.

(b) Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a work in which copyright subsists under this Act shall be guilty of a second degree felony under the Penal Law of Liberia.

(c) Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be guilty of a second degree felony under the Penal Law of Liberia.

#### **§ 5.2. Unlawful importation and exportation**

Any person who imports into or exports out of the Republic of Liberia, without the authority of the owner of the copyright, copies or phonorecords of a work that has been copyrighted inside or outside and acquired inside or outside of the Republic of Liberia, which constitutes an infringement of the copyright of the owner or the exclusive right to distribute copies of phonorecords pursuant to this Act, shall be guilty of a second degree felony under the Penal Law of Liberia.

#### **§ 5.2. Criminal infringement**

Any person who willfully infringes a copyright shall be guilty of a second degree felony under the Penal Law of Liberia for the purposes of :

- (a) Commercial advantage or private financial gain;
- (b) By the reproduction or distribution, including by electronic means, during any 180-day period, or 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$,1000.00 United States Dollars or the Liberian Dollar equivalent;
- (c) By the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to the public or the internet, if the person knew or should have known the work was intended for commercial distribution.

### **§ 5.2. Violation of rights in traditional cultural expressions**

Any person who wilfully misrepresents the source of a traditional cultural expression or willfully distorts a traditional cultural expression in a manner prejudicial to the honour, dignity or cultural interests of the community in which it originates shall be guilty of a second degree felony under the Penal Law of Liberia.

This Act shall take effect immediately upon publication into Handbills by the Ministry of Foreign Affairs.

**ANY LAW TO THE CONTRARY NOT WITHSTANDING**