

**Copyright Act, B.E. 2537 (1994)\***

## TABLE OF CONTENTS\*\*

	<i>Sections</i>
[No title] .....	1 - 5
Chapter 1: Copyright .....	
Part 1: Copyright Work .....	6 - 7
Part 2: Acquisition of Copyright.....	8 - 14
Part 3: Copyright Protection .....	15 - 18
Part 4: Term of Copyright Protection .....	19 - 26
Part 5: Infringement of Copyright .....	27 - 31
Part 6: Exceptions to Infringement of Copyright.....	32 - 43
Chapter 2: Performers' Rights .....	44 - 53
Chapter 3: Use of Copyright in Special Circumstances .....	54 - 55
Chapter 4: Copyright Committee.....	56 - 60
Chapter 5: International Copyright and Performers' Rights .....	61
Chapter 6: Litigation with Respect to Copyright and Performers' Rights .....	62 - 66
Chapter 7: Officials .....	67 - 68
Chapter 8: Penalties .....	69 - 77
Transitional Provision .....	78

1. This Act may be cited as the Copyright Act, B.E. 2537.

2. This Act shall come into force on the expiration of 90 days from the date of publication in the Government Gazette.

3. The Copyright Act, B.E. 2521, shall be repealed.

4. In this Act:

“Author” means a person who makes or creates any work which is a copyright work by virtue of this Act.

“Copyright” means the exclusive right to do any act according to this Act with respect to the work created by the author.

“Literary work” means any kind of literary work such as books, pamphlets, writings, printed matter, lectures, sermons, addresses, speeches, including computer programs.

“Computer program” means instructions, a set of instructions or anything which is used with a computer to make the computer work or to generate a result no matter what the computer language is.

“Dramatic work” means a work of choreography, dancing, acting or performance in dramatic arrangement, including pantomime.

“Artistic work” means a work of one or more of the following descriptions:

(1) work of painting or drawing, which means a creation of configuration consisting of lines, light, colors or any other element, or the composition thereof, upon one or more materials;

(2) work of sculpture, which means a creation of configuration with tangible volume;

(3) work of lithography, which means a creation of pictures by printing process and includes printing blocks or plates used in the printing;

(4) work of architecture, which means a design of buildings or constructions, a design of interior or exterior decoration as well as a landscape design or a creation of a model of buildings or constructions;

(5) photographic work, which means a creation of pictures with the use of image-recording apparatus which allows the light to pass through a lens to a film or glass and developed with liquid chemical of specific formula or by any process that creates a picture or an image recorded by any other apparatus or method;

(6) work of illustration, which means a map, structure, sketch or three-dimensional work with respect to geography, topography or science;

(7) work of applied art, which means a work which takes each or a composition of the works mentioned in items (1) to (6) for utility apart from the appreciation in the merit of the work such as for practical use of such work, decorating materials or appliances or using for commercial benefit,

whether with or without artistic merit, and shall include photographs and plans of such works.

“Musical work” means a work which is composed for playing or singing whether with rhythm and lyrics or rhythm only, including arranged and transcribed musical notes or musical diagrams.

“Audiovisual work” means a work which consists of a sequence of visual images recorded on any kind of medium and which is capable of being replayed with equipment suitable for such medium, including the sound track of such work, if any.

“Cinematographic work” means an audiovisual work which consists of a sequence of visual images which can be continuously shown as moving pictures or can be recorded on another medium so as to be continuously shown as moving pictures, including the sound track of such cinematographic work, if any.

“Sound recording” means a work which consists of a sequence of music, sounds of a performance or any other sound recorded on any kind of medium and capable of being replayed with equipment suitable for such medium, but not including the sound track of a cinematographic work or other audiovisual work.



“Performer” means a performer, musician, vocalist, choreographer, dancer or a person who acts, sings, speaks, dubs a translation or narrates or gives commentary or performs in accordance with a script or performs in any other manner.

“Broadcasting work” means a work which is communicated to the public by means of radio broadcasting, sound or video broadcasting on television or by any other similar means.

“Reproduction” includes any material method of copying, imitation, duplication, block-making, sound recording, video recording or sound and video recording from an original, a copy or a publication, whether in whole or in part, and, in the case of computer programs, means duplication or making copies of the program from any medium for a substantial part by any method, not creating a new work whether in whole or in part.

“Adaptation” means a reproduction by conversion, modification or emulation of an original work for a substantial part, not creating a new work whether in whole or in part, which

(1) with regard to literary works, includes a translation, a transformation or a collection by means of selection and arrangement,

(2) with regard to computer programs, includes a reproduction by means of transformation, modification of the program for a substantial part, not creating a new work,

(3) with regard to dramatic works, includes the transformation of a non-dramatic work to a dramatic work or a dramatic work to a non-dramatic work, whether in the original language or a different language,

(4) with regard to artistic works, it includes the transformation of a two-dimensional work or a three-dimensional work to a three-dimensional work or a two-dimensional work or the making of a model from an original work,

(5) with regard to musical works, includes an arrangement of tunes or an alteration of lyrics or rhythm.

“Communication to the public” means making a work available to the public by means of performing, lecturing, preaching, playing music, causing the perception by sound or image, constructing, distributing or by any other means.

“Publication” means the distribution of duplicated copies of a work, whatever their form or nature, with the consent of the author, where such copies are available to the public in a reasonable quantity having regard to the nature of the work, whereby the performance or playing of a dramatic work, a musical work or a cinematographic work, the lecture or recitation of a literary work, the sound and video broadcasting of a work, the exhibition of an artistic work and the construction of a work of architecture shall not constitute publication.

“Officials” means the persons appointed by the Minister to act in accordance with this Act.



“Director General” means the Director General of the Department of Intellectual Property and includes the persons designated by the Director General of the Department of Intellectual Property.

“Committee” means the Copyright Committee.

“Minister” means the Minister who is in charge of this Act.

5. The Minister of Commerce shall be in charge of this Act and shall be authorized to appoint officials and issue Ministerial Regulations to implement this Act.

The Ministerial Regulations which have been proclaimed in the Government Gazette shall be enforceable.

## **Chapter 1 Copyright**

### *Part 1 Copyright Work*

6. Copyright work under this Act means a work of authorship in the form of a literary, dramatic, artistic, musical, audiovisual, cinematographic, sound recording, sound and video broadcasting work or any other work in the literary, scientific or artistic field whatever the mode or form of its expression.

Copyright protection shall not extend to ideas or procedures, processes or systems or methods of use or operation or concepts, principles, discoveries or scientific or mathematical theories.

7. The following shall not be deemed copyright works under this Act:

(1) news of the day and facts having the character of mere information, not being works in the literary, scientific or artistic fields;

(2) the constitution and legislation;

(3) regulations, bylaws, notifications, orders, explanations and official correspondence of the Ministries, Departments or any other government or local units;

(4) judicial decisions, orders, decisions and official reports;

(5) translations and collections of the materials referred to in items (1) to (4), made by the Ministries, Departments or any other government or local units.

### *Part 2 Acquisition of Copyright*

8. The author of a work shall be the owner of copyright in the work of authorship subject to the following conditions:



(1) in the case of an unpublished work, the author must be a Thai national or reside in Thailand or be a national of or reside in a country which is party to the convention for the protection of copyright to which Thailand is party provided that residence must be permanent or that most of the time must be spent on the creation of the work;

(2) in the case of a published work, the first publication must have been made in Thailand or in a country which is party to the convention for the protection of copyright to which Thailand is party or in the case of first publication made outside Thailand or in a country which is not party to the convention for the protection of copyright to which Thailand is a party, publication of the work must subsequently be made in Thailand or in a country party to the convention for the protection of copyright to which Thailand is party within 30 days as from the first publication, or the author must be eligible as prescribed in item (1) at the time of first publication.

In the cases where the author must be a Thai national, if he is a legal person, he must be established under Thai law.

**9.** Copyright in a work created by an author in the course of employment shall vest in the author unless otherwise agreed in writing, provided that the employer shall be entitled to communicate such work to the public in accordance with the purpose of the employment.

**10.** Copyright in a work created on a commission shall vest in the employer unless the author and the employer have agreed otherwise.

**11.** Copyright in a work which is an adaptation of a copyright work under this Act, made with the consent of the owner of copyright shall vest in the person who makes such an adaptation, but without prejudice to the owner of the copyright in the work created by the original author that is adapted.

**12.** Copyright in a work which is a compilation or a composition of copyright works under this Act done with the consent of the owners of copyright or a compilation or composition of data or other materials which are readable or conveyable by a machine or other apparatus, shall vest in the person who makes the compilation or the composition provided that he has done so by means of selection or arrangement in a manner which is not an imitation of the work of another person, without prejudice to the owners of copyright in the works or data or other materials created by the original authors which are compiled or composed.

**13.** Sections 8, 9 and 10 shall apply *mutatis mutandis* to the acquisition of copyright under Section 11 or Section 12.

**14.** The Ministries, Departments or other government or local units shall be the owners of copyright in works created in the course of employment, order or control unless otherwise agreed in writing.



*Part 3*  
*Copyright Protection*

**15.** Subject to Sections 9, 10 and 14, the owner of copyright shall have the exclusive rights of:

- (1) reproduction or adaptation;
- (2) communication to the public;
- (3) rental of the original or the copies of a computer program, an audiovisual work, a cinematographic work and sound recordings;
- (4) assigning benefits accruing from copyright to other persons;
- (5) licensing the rights mentioned in items (1), (2) or (3), with or without conditions, provided that such conditions shall not unfairly restrict competition.

Whether or not the conditions mentioned in item (5) in the first paragraph constitute unfair restrictions on competition shall be determined in accordance with the rules, methods and conditions set forth in the Ministerial Regulations.

**16.** If the owner of copyright under this Act permits a person to exercise the right according to Section 15(5), it shall be deemed that permission does not prevent the owner of copyright from also giving such permission to another person, except as otherwise agreed in writing.

**17.** Copyright shall be assignable.

The owner of copyright may assign his copyright in whole or in part and may assign it for a limited duration or for the entire term of copyright protection.

The assignment of copyright by other means, except by inheritance, must be made in writing with the signatures of the assignor and the assignee. If the duration is not specified in the assignment contract, the assignment shall be deemed to last for 10 years.

**18.** The author of a copyright work under this Act shall be entitled to identify himself as the author and to prohibit the assignee or any person from distorting, shortening, adapting or doing anything detrimental to the work to the extent that such act would cause damage to the reputation or dignity of the author. When the author has died, the heirs of the author shall be entitled to litigate for the enforcement of his rights throughout the term of copyright protection, unless otherwise agreed in writing.

*Part 4*  
*Term of Copyright Protection*

**19.** Subject to Sections 21 and 22, copyright under this Act shall subsist for the lifetime of the author and for 50 years after his death.

In the case of a work of joint authorship, copyright shall subsist for the lifetime of the joint authors and for 50 years after the death of the last surviving joint author.

If the author or all joint authors die prior to the publication of a work, copyright shall subsist for 50 years as from first publication of the work.

Where the author is a legal person, copyright shall subsist for 50 years as from authorship; if the work is published during such period, the copyright shall subsist for 50 years as from first publication.

**20.** Copyright under this Act in a work which is created by a pseudonymous or anonymous author shall subsist for 50 years as from authorship; if the work is published during such period, copyright shall subsist for 50 years as from first publication.

If the identity of the author becomes known, Section 19 shall apply *mutatis mutandis*.

**21.** Copyright in a photographic work, audiovisual work, cinematographic work, sound recording or audio and video broadcasting work shall subsist for 50 years as from authorship; if the work is published during such period, copyright shall subsist for 50 years as from first publication.

**22.** Copyright in a work of applied art shall subsist for 25 years as from authorship; if the work is published during such period, copyright shall subsist for 50 years as from first publication.

**23.** Copyright in a work which is created in the course of employment, instruction or control in accordance with Section 14 shall subsist for 50 years as from authorship; if the work is published during such period, copyright shall subsist for 50 years as from first publication.

**24.** Publication under Section 19, 20, 21, 22 or 23, which is the commencement of the term of copyright protection, means the publication of the work with the consent of the owner of copyright.

**25.** When the term of copyright protection expires in the course of a year and the expiry date is not the last calendar day of the year or the exact date of expiry is not known, copyright shall subsist until the last day of that calendar year.

**26.** The publication of a copyright work after the expiry of the term of copyright protection shall not cause copyright in such work to start up again.

#### *Part 5 Infringement of Copyright*

**27.** Any of the following acts against a copyright work under this Act performed without permission in accordance with Section 15(5) shall be deemed an infringement of copyright:

- (1) reproduction or adaptation;





- (2) communication to the public.

**28.** Any of the following acts against an audiovisual work, a cinematographic work or a sound recording copyrighted under this Act performed without permission in accordance with Section 15(5), whether against the sound or image, shall be deemed an infringement of copyright:

- (1) reproduction or adaptation;
- (2) communication to the public;
- (3) rental of the original or copies of a work.

**29.** Any of the following acts against a sound and video broadcasting copyrighted under this Act performed without permission in accordance with Section 15(5) shall be deemed an infringement of copyright:

- (1) making an audiovisual work, a cinematographic work, a sound recording or a sound and video broadcasting work whether in whole or in part;
- (2) rebroadcasting whether in whole or in part;
- (3) making a sound and video broadcasting work to be heard or seen in public in return for the payment of money or other commercial benefit.

**30.** Any of the following acts against a computer program copyrighted under this Act performed without permission in accordance with Section 15(5) shall be deemed an infringement of copyright:

- (1) reproduction or adaptation;
- (2) communication to the public;
- (3) rental of the original or copies of the work.

**31.** Whoever knows or should have known that a work is made by infringing the copyright of another person and commits any of the following acts against the work for profit shall be deemed to infringe the copyright:

- (1) selling, holding for sale, offering for sale, letting, offering for lease, selling by hire purchase or offering for hire purchase;
- (2) communication to the public;
- (3) distribution in a manner which may cause damage to the owner of copyright;
- (4) self-importation or importation on order into the Kingdom.



*Part 6*  
*Exceptions to Infringement of Copyright*

**32.** An act against a copyright work under this Act of another person which does not conflict with normal exploitation of the copyright work by the owner of copyright and does not unreasonably prejudice the legitimate rights of the owner of copyright shall not be deemed an infringement of copyright.

Subject to the provision in the first paragraph, the following acts in relation to a copyright work shall not be deemed an infringement of copyright:

- (1) research or study of the work which is not for profit;
- (2) use for personal benefit or for the benefit of the user and his family members or close relatives;
- (3) comment, criticism or introduction of the work with an acknowledgment of the ownership of copyright in such work;
- (4) reporting of news through mass media with an acknowledgment of the ownership of copyright in such work;
- (5) reproduction, adaptation, exhibition or display for the benefit of judicial proceedings or administrative proceedings by authorized officials or for reporting the result of such proceedings;
- (6) reproduction, adaptation, exhibition or display by a teacher for the benefit of his teaching provided that the act is not for profit;
- (7) reproduction, adaptation in part of a work or abridgment or making a summary by a teacher or an educational institution so as to distribute or sell to students in a class or in an educational institution provided that the act is not for profit;
- (8) use of the work as part of questions and answers in an examination.

**33.** A reasonable citation, quotation, copy, emulation or reference in part and from a copyright work under this Act with an acknowledgment of the ownership of copyright in such work shall not be deemed an infringement of copyright provided that the first paragraph of Section 32 is complied with.

**34.** A reproduction of a copyright work under this Act by a librarian in the following cases shall not be deemed an infringement of copyright provided that the purpose of such reproduction is not for profit and the first paragraph of Section 32 is complied with:

- (1) reproduction for use in his own library or another library;
- (2) reasonable reproduction in part of a work for another person for the benefit of research or study.



**35.** An act against a computer program which is a copyright work under this Act in the following cases shall not be deemed an infringement of copyright provided that the purpose is not for profit and the first paragraph of Section 32 is complied with:

- (1) research or study of the computer program;
- (2) use for the benefit of the owner of the copy of the computer program;
- (3) comment, criticism or introduction of the work with an acknowledgment of the ownership of the copyright in the computer program;
- (4) reporting of news through mass media with an acknowledgment of the ownership of copyright in the computer program;
- (5) making copies of a computer program in a reasonable quantity by a person who has lawfully bought or obtained the program from another person so as to keep them for maintenance or prevention of loss;
- (6) reproduction, adaptation, exhibition or display for the benefit of judicial proceedings or administrative proceedings by authorized officials or for reporting the result of such proceedings;
- (7) use of the computer program as part of questions and answers in an examination;
- (8) adapting the computer program as necessary for use;
- (9) making copies of the computer program so as to keep them for reference or research in the public interest.

**36.** The public performance of a dramatic work or musical work, as appropriate, which is not organized or conducted to obtain profit from such activity and without a direct or indirect charge for watching the performance and with no remuneration for the performers shall not be deemed an infringement of copyright provided that it is conducted by an association, foundation or another organization which has objectives of public charity, education, religion or social welfare and that the first paragraph of Section 32 is complied with.

**37.** A drawing, painting, construction, engraving, molding, carving, lithography, photograph, film, video broadcast or any similar use of an artistic work, except for an architectural work, which is openly located in a public place shall not be deemed an infringement of copyright in the artistic work.

**38.** A drawing, painting, engraving, molding, carving, lithography, photograph, film or video broadcast of an architectural work shall not be deemed an infringement of copyright in the architectural work.

**39.** A photograph, film or video broadcast of a work of which an artistic work is a component shall not be deemed an infringement of copyright in the artistic work.

**40.** Where a person other than the author jointly owns the copyright in an artistic work, the subsequent creation by the same author of the artistic work in such a manner that a part of the original artistic work is reproduced or the printing pattern, sketch, plan, model or data acquired from a study which has been applied in the creation of the original artistic work is used shall not be deemed an infringement of copyright in the artistic work provided that the author does not reproduce or copy a substantial part of the original artistic work.

**41.** Restoration without changing the appearance of a building which is a copyright architectural work under this Act shall not be deemed an infringement of copyright.

**42.** On expiry of the term of protection for a cinematographic work, communication to the public of the cinematographic work shall not be deemed an infringement of copyright in the literary work, dramatic work, artistic work, musical work, audiovisual work, sound recording or any work used to create such cinematographic work.

**43.** A reproduction of a copyright work under this Act which is in the possession of the Government by an authorized official or by order of such official for the benefit of government service shall not be deemed an infringement of copyright provided that the first paragraph of Section 32 is complied with.

## **Chapter 2 Performers' Rights**

**44.** A performer has the following exclusive rights with respect to acts concerning his performance:

(1) sound and video broadcasting or communication to the public of a performance, except for sound and video broadcasting or communication to the public from a recording medium which has been recorded;

(2) recording a performance which has not been recorded;

(3) reproducing a recording of a performance which has been recorded without the consent of the performer or a recording of a performance made with the consent of the performer, but for another purpose, or the recording of a performance which falls within the exceptions to infringement of performers' rights under Section 53.

**45.** Any person who effects the sound broadcasting or direct communication to the public of an audio recording of a performance which has already been disseminated for commercial purposes, or copies thereof, shall be required to pay equitable remuneration to the performer. If the parties cannot agree on the remuneration, the Director General shall stipulate the remuneration by taking into account the normal rate of remuneration in such cases.

A party may appeal against an order made by the Director General under the first paragraph to the Committee within 90 days as from receipt of the letter informing him of the order by the Director General. The decision of the Committee shall be final.



**46.** Where there is more than one performer involved in a performance or an audio recording of a performance, those performers may appoint a joint agent to assert or administer their rights.

**47.** A performer shall enjoy the rights in his performance set out in Section 44 provided that the following conditions are met:

- (1) the performer has Thai nationality or has his habitual residence in the Kingdom or
- (2) the performance or a major part of the performance takes place in the Kingdom or in a country which is party to the convention for the protection of performers' rights to which Thailand is also party.

**48.** A performer shall be eligible to receive remuneration according to Section 45 provided that the following conditions are met:

- (1) the performer has Thai nationality or has his habitual residence in the Kingdom at the time the audio recording of the performance takes place or at the time he asserts his right or,
- (2) the audio recording of the performance or a major part of the audio recording of the performance takes place in the Kingdom or in a country which is party to the convention for the protection of performers' rights to which Thailand is also party;

**49.** The performers' rights set out in Section 44 shall subsist for 50 years as from the last day of the calendar year in which the performance takes place. If the performance is recorded, the performers' rights shall subsist for 50 years as from the last day of the calendar year in which the recording of the performance takes place.

**50.** The performers' rights set out in Section 45 shall subsist for 50 years as from the last day of the calendar year in which the audio recording of the performance takes place.

**51.** The performers' rights set out in Sections 44 and 45 shall be assignable in whole or in part and for a fixed duration or the whole term of protection.

Where there is more than one performer involved, each performer shall be entitled to assign the rights which specifically belong to him.

The assignment of rights by other means, except by inheritance, shall be in writing and shall bear the signatures of the assignor and the assignee. If the duration is not specified in the assignment contract, the assignment shall be deemed to last for three years.

**52.** Any person who acts as specified in Section 44 without the consent of the performer or without paying remuneration in accordance with Section 45 shall be deemed to infringe the performer's rights.

**53.** Sections 32, 33, 34, 36, 42 and 43 shall apply *mutatis mutandis* to performers' rights.

### Chapter 3 Use of Copyright in Special Circumstances

54. A Thai national who wishes to obtain a copyright license for a work which has already been communicated to the public in the form of printed material or other similar forms under this Act, for the benefit of study, teaching or research without a profit-seeking purpose may submit an application to the Director General evidencing that the applicant has previously sought a license from the copyright owner to translate the work into Thai or to reproduce copies of the translation published in Thai, but that his request has been denied or, after a reasonable period of time having elapsed, agreement cannot be reached, provided that at the time of submitting the application:

(1) the copyright owner has not translated or authorized any person to translate the work into the Thai language for publication within three years after the first publication of the work, or

(2) the copyright owner has published the translation in the Thai language but, beyond three years after the last publication of the translation, no further publication has been made and all editions of the published translation are out of print.

The application according to the first paragraph shall conform with the following rules, methods and conditions:

(1) the Director General shall not grant a license on an application under the first paragraph if the time specified in items (1) or (2) has elapsed for a time not exceeding six months;

(2) if the Director General grants a license, the grantee shall be solely entitled to translate or publish the licensed translation and the Director General shall not permit any other person to make a Thai translation from the same original copyright work if the time specified in the license has not elapsed or has elapsed for a time not exceeding six months;

(3) the grantee shall be prohibited from assigning the granted license to another person;

(4) if either the copyright owner or the licensee can assure the Director General that he has made a Thai translation or has published a translated version in Thai the content of which is identical to that of the printed material which is the subject of the license under Section 55 and has distributed the printed material at an appropriate price comparable with that of another work of the same nature being sold in Thailand, the Director General shall order that the license granted to the grantee be terminated and shall inform the grantee of such order without delay. The grantee may distribute the copies of the printed material which have been made or published prior to the termination order by the Director General until they are out of stock;

(5) the grantee shall be prohibited from exporting copies of the printed material of the licensed translation or publication in Thai except in the following circumstances:

(a) the recipient abroad is a Thai national,

- (b) the printed material serves the purposes of study, teaching or research,
- (c) the delivery of the printed material is not for a commercial purpose and
- (d) the country to which the printed material is delivered allows Thailand to deliver or distribute the printed material to or within that country.

**55.** On receipt of the application under Section 54, the Director General shall arrange an agreement between the concerned parties as to the remuneration and the conditions of the license. If the parties cannot reach agreement, the Director General shall make an order on equitable remuneration by taking into account the normal rate of remuneration in such cases and may stipulate conditions for the license as he deems appropriate.

Once the remuneration and conditions have been laid down, the Director General shall issue a license certificate to the applicant.

The concerned parties may appeal against an order made by the Director General under the first paragraph to the Committee within 90 days as from the receipt of the letter informing them of the order by the Director General. The decision of the Committee shall be final.

#### **Chapter 4 Copyright Committee**

**56.** A committee, called “the Copyright Committee” shall be established, composed of the Permanent Secretary to the Minister for Commerce as Chairman, as well as distinguished members not exceeding 12 persons appointed by the Cabinet, in which not less than six persons shall be appointed from among representatives of associations of owners of copyright or performers’ rights and representatives of associations of users of copyright or performers’ rights.

The Committee may appoint any person as secretary and assistant secretary.

**57.** The term of office of distinguished members shall be two years. Members who have been out of office may be re-appointed.

If a member leaves office before the end of his term of office or if the Cabinet appoints additional members while the previously appointed members are still in office, the term of office of the member appointed to fill the vacant post or the additional member shall be equal to the remaining term of the previously appointed members.

**58.** The distinguished members shall leave office upon

- (1) death,
- (2) resignation,
- (3) discharge by the Cabinet,
- (4) becoming bankrupt,
- (5) becoming an incompetent or a quasi-incompetent person,



(6) being sentenced to imprisonment by a final judgment, except imprisonment for an offense which has been committed by negligence or for a petty offense.

**59.** The quorum for meetings of the committee shall be not less than one half of the number of all committee members. If the Chairman is not present or is not able to perform his duty, the committee members present shall elect a committee member to preside over the meeting. The decisions of the meeting shall be decided by a majority.

Each committee member shall have one vote. In the event of equal votes, the presiding Chairman shall have one additional casting vote.

**60.** The Committee shall have the following duties:

(1) to give advice or consultation to the Minister for the issuance of Ministerial Regulations under this Act;

(2) to decide appeals against orders made by the Director General under Sections 45 and 55;

(3) to support or facilitate the association or organization of authors or performers with respect to the collection of royalties from users of copyright works or performers' rights and the protection or safeguard of the rights or any other benefits under this Act;

(4) to consider other matters as assigned by the Minister.

The Committee shall be authorized to set up a subcommittee to consider or perform any matter as assigned by the Committee and Section 59 shall apply *mutatis mutandis* to the meetings of the Subcommittee.

The Committee or the Subcommittee shall be authorized to issue a written order summoning any person to testify or to submit documents or other material for consideration as necessary.

## **Chapter 5 International Copyright and Performers' Rights**

**61.** A copyright work of an author and the rights of a performer who is a national of a country party to the convention for the protection of copyright or the convention for the protection of performers' rights to which Thailand is also party or a copyright work of an international organization of which Thailand is a member shall be protected under this Act.

The Minister shall have authority to announce the names of the countries party to the convention for the protection of copyright or the convention for the protection of performers' rights in the Government Gazette.



## Chapter 6

### Litigation with Respect to Copyright and Performers' Rights

**62.** It shall be presumed in litigation with respect to copyright or performers' rights, whether a civil or criminal case, that the work in dispute is a copyright work or the subject of performers' rights under this Act and that the plaintiff is the owner of copyright or performers' rights in such work or subject matter unless the defendant argues that no one owns the copyright or the performers' rights or disputes the plaintiff's right.

In the case of a work or subject matter bearing the name or pseudonym of a person claiming to be the owner of copyright or performers' rights, it shall be presumed that the person who is the owner of the name or the pseudonym is the author or the performer.

In the case of a work or subject matter bearing no name or no pseudonym or bearing a name or a pseudonym without claim to or ownership in copyright or performers' rights and bearing a name or pseudonym of a person claiming to be the printer or the publisher or the printer and publisher, it shall be presumed that publisher is the owner of copyright or performers' rights in such work or subject matter.

**63.** No action for copyright infringement or performers' rights infringement may be filed after three years as from the day on which the owner of copyright or performers' rights becomes aware of the infringement and of the identity of the infringer, provided that the action shall be filed not later than 10 years as from the day the infringement of copyright or performers' rights takes place.

**64.** In the case of infringement of copyright or performers' rights, the court may order the infringer to compensate the owner of copyright or performers' rights for damages the amount of which shall be determined by the court taking into account the seriousness of the injury, including the loss of profits and the expenses necessary for the enforcement of the right of the owner of copyright or performers' rights.

**65.** Where there is explicit evidence that a person is committing or about to commit an act which is an infringement of copyright or performers' rights, the owner of copyright or performers' rights may seek an injunction from the court to order the person to cease or refrain from such act.

A court injunction under the first paragraph shall not prejudice the right of the owner of copyright or performers' rights to claim damages under Section 64.

**66.** An offense under this Act may be subject to settlement.

## Chapter 7

### Officials

**67.** For the implementation of this Act, the officials shall be officials according to the Penal Code and have the following powers:

(1) to enter a building, office, factory or warehouse of any person between sunrise and sunset or during the working hours of such place or to enter a vehicle to search or examine the merchandise when there is a reasonable suspicion that an offense under this Act is committed;

(2) to seize or confiscate documents or material relating to the offense for the purpose of instituting litigation when there is a reasonable suspicion that an offense under this Act is committed;

(3) to order any person to testify or submit accounting books, documents or other evidence when there is reasonable suspicion that the testimony, accounting books, documents or such evidence will be useful for the finding or use as evidence for proving the offense under this Act.

All persons shall afford suitable assistance for the work of the officials.

**68.** In performing his duty, an official must show his identification card to any person concerned.

The official's identification card shall comply with the form stipulated by the Minister.

## **Chapter 8 Penalties**

**69.** Any person who infringes copyright or performers' rights under Section 27, 29, 30 or 52 shall be liable to a fine of between 20,000 baht and 200,000 baht.

If the offense referred to in the first paragraph is committed by way of trade, the offender shall be liable to imprisonment of between six months and four years or a fine of between 100,000 baht and 800,000 baht or both imprisonment and fine.

**70.** Any person who commits a copyright infringement under Section 31 shall be liable to a fine of between 10,000 baht and 100,000 baht.

If the offense referred to in the first paragraph is committed by way of trade, the offender shall be liable to imprisonment of between three months and two years or a fine of between 50,000 baht and 400,000 baht or both imprisonment and fine.

**71.** Any person who fails to testify or submit any documents or material as required by the Committee or the Subcommittee under the third paragraph of Section 60 shall be liable to imprisonment not exceeding three months or a fine not exceeding 50,000 baht or both imprisonment and fine.

**72.** Any person who obstructs or fails to provide assistance to an official in the performance of his duty under Section 67 or defies or ignores the orders of an official under Section 67 shall be liable to imprisonment not exceeding three months or a fine not exceeding 50,000 baht or both imprisonment and fine.



**73.** Any person who, having committed an offense and having been sanctioned under this Act, subsequently commits an offense under this Act within five years after being discharged from the penalty shall be liable to twice the penalty prescribed for the offense.

**74.** If a legal person commits an offense under this Act, all the directors or managers of the legal person shall be considered joint offenders with the legal person unless they can prove that the legal person has committed the offense without their knowledge or consent.

**75.** All articles made or imported into the Kingdom which constitute an infringement of copyright or performers' rights under this Act and which are still in the ownership of the offender under Section 69 or 70 shall pass to the owner of copyright or performers' rights and the objects used for committing the offense shall all be confiscated.

**76.** One half of the fine imposed by a judgment shall be paid to the owner of copyright or performers' rights; the right of the owner of copyright or performers' rights to bring a civil action for damages for an amount which exceeds that part of the fine that the owner of copyright or performers' rights has received shall not be prejudiced.

**77.** The Director General shall be authorized to lay down the fine for offenses under the first paragraph of Section 69 and in the first paragraph of Section 70.

### **Transitional Provision**

**78.** Existing copyright works under the Act for the Protection of Literary and Artistic Works, B.E. 2474, or the Copyright Act, B.E. 2521, on the day this Act comes into force shall enjoy the copyright protection afforded by this Act.

Works made before this Act comes into force which are not copyright works under the Act for Protection of Literary and Artistic Works, B.E. 2474, or the Copyright Act, B.E. 2521, shall enjoy the copyright protection afforded by this Act.

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\* *Entry into force:* March 21, 1995.

*Source:* Translation by the International Bureau of WIPO on the basis of an English translation supplied by the Thai authorities.

\*\* Added by the International Bureau of WIPO.