

# **KINGDOM OF CAMBODIA**

**Nation Religion King**

**LAW**

**ON**

## **COPYRIGHTS AND RELATED RIGHTS**

*(Adopted by the National Assembly on January 21, 2003 and ratified by the Senate on February 13, 2003.)*

# CHAPTER I

## General Provisions

### Article 1

The purpose of this law is, by providing for the rights of author, and the right related thereon with respect to works and the protection of cultural products, performance, phonogram, and the transmission of broadcasting organization in order to secure a just and legitimate exploitation on those cultural products, and thereby contribute to the development of culture.

### Article 2

In this law, the principal terms shall have the following meaning:

- a- “**Work**” means a product in which thoughts or sentiment are expressed in a creative way, and which falls within the literary, scientific, artistic or musical domain;
- b- “**Author**” means a person who created a work;
- c- “**Performance**” means the acting on stage namely dancing, musical performance, singing, or delivering in other ways and means of artistic work, tradition, habit, literary, education, or science;
- d- “**Recitation**” means the oral expression by means of speaking, reading, and pronouncing of work in rhythm;
- e- “**Performers**” mean artists, dancers, musicians, singers or other persons who give a performance;
- f- “**Database**” means an aggregate of information, articles, numerical, diagrams which is systematically constructed, so that such information can be searched for with the aid of a computer;
- g- “**Audio visual work**” means a work, which consists of a series of inter-linked pictures, in which give an impression of movement, with or without sound, able to be seen, and if accompanied by sound, able to be heard.
- h- “**Broadcast**” means the transmission of sound, pictures, documents or other messages through radio, television, cable television or satellite;
- i- “**Communication to the public**” is the transmission by wire or without wire of the images or sounds, or both, of a work, a performance, a phonogram or a broadcast in such a way that the images or sounds can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the images or sounds would not be perceivable and, further, irrespective of whether the persons can receive the images or

sounds at the same place and time, or at different places and/or times individually chosen by them;

- j- **“Phonogram”** is the fixation of the sounds of a performance or other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;
- k- **“Phonogram Producer”** means a person who produces the phonograms as providing in paragraph (j);
- l- **“Computer program”** means a sum of instructions expressed in letters, or codes, or illustrations, or in any other possible forms, once incorporated in a computer, which has its aim to accomplish a task or particular result by means of a computer or through an electronic procedure capable of information processing.
- m- **“Reproduction”** is the whole or partial making of one or more copies of a work or phonogram in any manner or form, including any permanent or temporary storage of the work or phonogram in electronic form;
- n- **“Broadcasting organization”** means radio, television, and cable television station or satellite.
- o- **“Related Right”** is the right of performer, phonogram producer, and broadcasting organization.

### **Article 3**

The following works shall be granted protection under this law including works of the authors, works of the performers, phonograms, and broadcasts through the broadcasting organizations.

#### 1). **Works of the authors:**

- a- Works of authors who are nationals of, or have their habitual residence in Cambodia, including legal entity established under the law of the Kingdom of Cambodia and having headquarters located in the territory on the Kingdom of Cambodia.
- b- Works of first publishing in the Kingdom of Cambodia, including works of first publishing abroad, which were brought to publish in the Kingdom of Cambodia within 30 days (thirty days) of the first communication to the public.
- c- Audiovisual work, the producer of which has his headquarters or habitual residence in the Kingdom of Cambodia.
- d- Works of architecture erected in the Kingdom of Cambodia and other artistic works incorporated in a building or other structures located in the Kingdom of Cambodia.
- e- Works for which the Kingdom of Cambodia has obligation to grant protection under international treaties.

2) **Works of the performers:**

(a) Performers who are nationals of Cambodia;

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

- Take place in the territory of Cambodia; or
- Are incorporated in phonograms that are protected under this Law; or
- Have not been fixed in a phonogram, but are included in the broadcasts qualifying for protection under this law.

3) **Phonograms:**

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

(b) Phonograms first fixed in the Kingdom of Cambodia;

(c) Phonograms first published in the Kingdom of Cambodia.

(d)

4) **Broadcasts through broadcasting organizations:**

(a) Broadcasts of broadcasting organizations, the headquarters of which are located in the Kingdom of Cambodia;

(b) Broadcasts transmitted from transmitters located in the Kingdom of Cambodia.

The provisions in this Law shall also apply to performers, phonogram producers, and broadcasting organizations that are eligible for protection by virtue of and in accordance with any international treaties or other international agreements to which the Kingdom of Cambodia is a party.

## CHAPTER II

### Copyrights

#### SECTION 1

##### Works

##### **Article 4**

To be reputed as originals are works, which are the true intellectual creations of their authors.

##### **Article 5**

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

##### **Article 6**

Collaboration work refers to a work whose creation was the result of the joint efforts of several natural persons.

Derivative work refers to a work created based on original work by means of translating, adapting or modifying.

Collective work refers to a work created by several natural persons, at the initiative of a natural person, who edits, publishes and discloses it under his/her direction and name.

##### **Article 7**

The following subject matters, in accordance with the contents of Article 3, are being protected under this law:

- a-** All kinds of reading books or other literary, artistic, scientific, and educational documents,
- b-** Lectures, speeches, sermons, oral or written pleadings and other works of the same characteristics.
- c-** Dramatic works or musical dramas.
- d-** Choreographic works, either modern or adapted from traditional works or folklore.
- e-** Circus performances and pantomimes.
- f-** Musical compositions, with or without words.

- g-** Audio-visual works.
- h-** Works of painting, engraving, sculpture or other works of collages, or applied arts.
- i-** Photographic works, or those realized with the aid of techniques similar to photography
- j-** Architectural works.
- k-** Maps plans, sketches or works pertaining to geography, topography, or other sciences.
- l-** Computer program and the design encyclopedia documentation relevant to those programs.
- m-** Products of collage work in handicraft, hand-made textile products or other clothing fashions.

## **Article 8**

Derivative works including translations, adaptations, arrangements and modification or other improvements of works, or compilation of databases, whether in machine readable or other forms shall be also protected by this law.

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

## **Article 9**

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

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

## **Article 10**

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

- a- Constitution, Law, Royal Decree, Sub-Decree, and other Regulations.
- b- Proclamation (Prakas), decision, certificate, other instructed circulars issued by state organizations.
- c- Court decision or other court warrants.

d- Translation of those materials mentioned in the preceding paragraphs (a), (b), and (c) of this article.

e- Idea, formality, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained or embodied in any work.

## SECTION 2

### Authors

#### **Article 11**

The title of author belongs, unless there is evidence to the contrary, to the natural person or persons in whose name the work is created and disclosed.

#### **Article 12**

Co-authors are the owners of a work of collaboration. Co-authors have to exercise their rights based on unanimous and written agreement. In case of disagreement, they have to file their petition to the court.

#### **Article 13**

Natural person or legal person whose name has been publicly disclosed in that work during the time of communicating to the public, this person is vested with the author's rights unless having any contradicted evidence against it.

#### **Article 14**

The author of a work under pseudonymous or anonymous enjoys the rights vested on that work.

As long as the author has not made known his/her civil identity, and demonstrated that he/she is the author, he/she will be represented by the publisher or person who originally disclosed the work, who shall be entitled to exercise and enforce the moral and economic rights of the author. The publisher or the person originally discloses the work must have in his/her possession an agreement identifying the identity, pseudonymous or anonymous name of the author.

Paragraph (2) of this article is not applicable, when the pseudonym adopted by the author discloses the author's true name.

## **Article 15**

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

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

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

## **Article 16**

The author of work is the first holder of the moral and economic rights. In the case of a work created by an author for the benefit of a natural or legal person who is an employer under the framework of a working contract and the contract to utilize that work, unless otherwise specified by the provisions contradicted to the above mentioned contracts, the economic rights in that work are considered to be transferred to the employer.

## **Article 17**

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



## SECTION 3

### Rights of the authors

#### **Article 18**

The author of a work shall enjoy an exclusive right on that work, which shall be enforceable against all persons.

These rights include moral right and economic right.

#### **Article 19**

The moral right of the author is perpetual, inalienable, undistrainable and imprescriptible. It shall be transmitted mortis-causa to the heirs of the author or to the third party in accordance with provisions stipulated in the will.

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

#### **Article 20**

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

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

#### **Article 21**

Economic right is the exclusive right of the author to exploit his/her own work through the authorization of reproduction, communication to the public, and creation of derivative work.

Unless otherwise specified in the provisions of articles 24, 25, 26, 27, 28 and 29, the author has exclusive right to act by him/herself or authorize someone to do the followings:

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

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

## **Article 22**

Except for having contradictory provisions in the contract, the economic rights on a computer program and its encyclopedia documentation created by one or more employees in the exercise of their duties or following the instructions of their employer are property of the employer who is alone entitled to exercise them.

The same is true in favor of the person, who hires other persons to create the computer program by virtue of purchasing contract. That person shall entitle the economic right.

## **SECTION 4**

### **Limitations of the author's Right**

## **Article 23**

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

## **Article 24**

The private reproduction of a published work in a single copy shall be permitted without the authorization of the author or the right-holder, where the reproduction is made by a natural person exclusively for his own personal purposes.

The permission under the proceeding paragraph of this article shall not extend to the reproduction:

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

## **Article 25**

The author cannot prohibit the following acts:

- a- Free and private representations made exclusively to a close circle of people such as family or friends.
- b- The arrangement to preserve in a library the copy of work for the purpose of conservation or research.
- c- The use of work for the purposes of education, which is not for financial gain.
- d- The translation of works from Khmer language into the languages of the ethnic minorities or vice versa;

If there is a clear indication of the author's name and the source of work, the following acts are not subjected to any prohibitions by the author:

- The analyses and short quotations justified by the critical, polemical, pedagogical, scientific or informative nature of that work.
- The broadcasting of press commentary.
- The dissemination of speeches addresses to the public either entirely or in part, through press release or television broadcasting.
- The adaptation of comic, style or caricature, based on original work.

- The reproduction of graphic or plastic work which is situated in the public place, when this reproduction doesn't constitute the principle subject for subsequent reproduction.

### **Article 26**

The author of work based on the true story of life of any person or family has to seek authorization from that person or family member who is the heir of that family.

### **Article 27**

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

### **Article 28**

Notwithstanding the provisions of Article 21 of this law, it is permitted, without authorization of the author and without payment of any remuneration, to cite a legitimately published work in another work.

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

### **Article 29**

Notwithstanding the provisions of Article 21 of this law, it is permitted to:

- a- Use a legally published work for the purpose of illustration in publication such as book or newspaper, or by broadcasting, or by audio or visual screening which are intended for educational purposes, without payment of any remuneration. In this connection, source and author's name must be identified, if author's name is given in the source.
- b- Reproduce any separated articles, articles of the newspaper or magazine, or short extracts of any legally published works. This reproduction can be done providing that it is made by reprographic means, and must be used for the sake of teaching or for examinations held by any educational establishments of which the activities do not lead directly or indirectly to commercial gain and must be done with appropriate reason according to this specific objective. The said reproduction can be done without the author's authorization and

without payment of any remuneration, but if the author's name is mentioned in the source, this source and name must be identified.

## **SECTION 5**

### **Duration of the protection of Economic Right**

#### **Article 30**

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

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

#### **Article 31**

The economic right in a work, published in an anonymous manner or under a pseudonym, is protected within the entire period of 75 (seventy five) years counted from the end of calendar year in which such work has been published, with the right-holder's authorization, for the first time.

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

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

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

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

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

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

## **SECTION 6**

### **Transfer of Economic Right**

#### **Article 32**

The transfer of right mentioned in any paragraph of Article 22 of this law does not imply the transfer of other rights stipulated in other paragraphs.

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

#### **Article 33**

Due to the death of the author, economic right can be transferred to the author's heir or to any third party based on the provisions of the author's will.

In case of having no heir or will, the governance and administration of this right is the responsibility of the state represented by the Ministry of Culture and Fine Arts.

## **SECTION 7**

### **The Exploitation of Economic Right**

#### **Article 34**

Contracts of the exploitation of economic rights must be stated in writing, otherwise this contract will be considered as null and void. Only the author or right-holder may have right to present any reasons for the nullity of contract.

#### **Article 35**

The contract for transferring of the exploitation of author's rights must be stated in writing, and separately specified each domain of exploitation of those transferred rights which are properly limited as to its coverage, and its extent, as to place, objectives and as to duration.

### **Article 36**

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

In the case of work created by co-authors, the exploitation can be done unless having consent of the co-authors. In the case of those co-authors cannot reach any consent, the court will decide on that case.

### **Article 37**

The transfer of right for exploitation on the author's work may be done wholly or partly. The author will receive the benefit from this transfer in accordance with the provisions of the transfer contract.

## **SECTION 8**

### **Deposit and Registration of Work**

### **Article 38**

Every work is automatically protected. The authors or right-holders may deposit their works at the Ministry of Culture and Fine Arts.

### **Article 39**

The registration may be voluntarily done at the Ministry of Culture and Fine Arts. This registration requires the record of the author's real name, date of the first publication of work, and date of the creation of work, as well as the record of the author's right.

### **Article 40**

The Ministry of Culture and Fine Arts shall issue the Certificate of Registration for the registered work. The applicant has to pay registration fee in accordance with the Joint-Declaration (PRAKAS) of the Ministry of Culture and Fine Arts and the Ministry of Economy and Finance.

## **CHAPTER III**

### **Related Rights**

#### **SECTION 1**

#### **Right of Performer**

##### **Article 41**

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

- a) The broadcasting and the communication to the public of his/her performance, except for the broadcasting of phonogram fixation of the performance authorized by the performer or re-broadcasting through television broadcasting or having authorization of the first broadcasting organization initially broadcast this performance.
- b) The fixation in phonogram of his/her unfixed performance.
- c) The reproduction of a fixation in phonogram of his/her performance.
- d) The distribution to the public by sale or transfer of ownership, of an original fixation in phonogram of his/her performance that have not been a subject to any distribution authorized by the performer.
- e) The rental or lending to the public of an original fixation in phonogram of his/her performance or copies thereof.

Unless otherwise having no contradicted agreement, the performer has the following rights to:

- Authorize the broadcasting through any broadcasting organization, but the other broadcasting organizations are not authorized to broadcast this performance.
- Authorize the broadcasting through any broadcasting organization but that broadcasting organization is not authorized for the fixation of this performance in the phonogram.



## **Article 42**

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

## **Article 43**

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

## **SECTION 2**

### **Rights of Phonogram Producers**

## **Article 44**

Phonogram producer has the exclusive right to record, to reproduce, or to communicate to the public of his/her phonogram.

## **Article 45**

All reproductions, sales, exchanges, leases, and communication to the public of the phonogram must require the authorization of the phonogram producer.

The phonogram producer has right to distribute to the public, by sale or by means of transfer of ownership, the original or copies of the phonogram that has not been subjected to any distribution authorized by that producer.

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

## SECTION 3

### **Rights of Video Producer**

#### **Article 46**

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

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

The transfer of right of the video producer recognized by virtue of this article cannot be done separately from the author's right and the performers' right which incorporated into the work of this video production.

## SECTION 4

### **Rights of the Broadcasting Organizations**

#### **Article 47**

Broadcasting organizations consist of radio, television, and cable television station. These organizations have exclusive right to undertake or authorize the fixation of its broadcast, communication to the public, re-broadcasting, reproduction, distribution or first lease of the copy of its broadcast.

#### **Article 48**

The reproduction of any broadcast belonged to the broadcasting organization for the purpose of sale, lease, exchange, broadcasting or communicating to the public anywhere, must require the authorization of the said organization.

## SECTION 5

### **Remuneration**

#### **Article 49**

If a phonogram has been produced for commercial purposes, or a reproduction of such phonogram is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration, for the performers and the

producer of the phonogram, shall be paid by the user to the organization governing this collective right.

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

## **SECTION 6**

### **Limitations of Rights**

#### **Article 50**

Notwithstanding the provisions of articles 41, 42, 43, 44, 45, 46, 47 and 48 of this law, the following acts are permitted without the authorization of the right-holder, and without payment of any remuneration:

- a) The reporting of news events, on condition that only short fragments are extracted from the performance or from the substance of phonogram or from a broadcast.
- b) The reproduction merely for the purposes of scientific research.
- c) The reproduction for the framework of educational purpose, except for the performance or phonogram which has been produced for the educational purposes.
- d) Quotation, in the form of short citation extracted from the performance or phonogram or broadcast, provided that such quotation is conformed to the reasonable practice and justified the proper informative objective.
- e) All other uses constituting exceptions concerning works protected under copyright by the virtue of this law.
- f) Picture and sound recording for the purpose of wholly or partly simultaneous broadcasting on the realization of a ceremony, meeting or other national events from the broadcasting of the original station.

#### **Article 51**

The provisions of Article 41 of this law will not be applied, whenever the performer authorizes the incorporation of his/her performance in a visual or audiovisual fixation.

#### **Article 52**

The provisions of article 41 will not be applied for the case of any broadcasting organization which copies or reproduces by its own manner (the performance or

phonogram or broadcast), in order to broadcast it in the commercial advertisement program of that broadcasting organization.

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

## **SECTION 7**

### **Duration of Protection**

#### **Article 53**

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

## **SECTION 8**

### **The Transfer of Right**

#### **Article 54**

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

## SECTION 9

### The Deposit

#### Article 55

Article 38, 39, and 40 of this law will be applied for the right of performer, phonogram producer, and broadcasting organization.

## CHAPTER IV

### Collective Management of Rights

#### Article 56

The author of work and related-right holder can establish the collective management organization to protect and manage their economic rights.

The establishment of collective management organization of author's right, performer's right, and phonogram producer's right or video producer's right must require the recognition of the Ministry of Culture and Fine Arts.

The collective management organization of broadcasting right via radio, television, and cable television of the broadcasting organizations shall require the recognition of the Ministry of Information.

## CHAPTER V

### Disputes and Penalties

#### Article 57

Whosoever suffers or risks to suffer a violation of his/her copyright or related right can file petition to the court, in order:

- a) To prohibit this violation of right, if it will be soon imminent.
- b) To desist the defendant from violating his/her right, if it is continue. The complainant may file petition to have the defendant being subjected to the compensation of damages, to the redress of moral injury, and to the return of the

disputed equipment or materials, as well as to the return of any benefits deriving from that illegal act.

### **Article 58**

The court has authority to order the confiscation, destruction of equipment or materials being produced or used or made available in an illegal manner, or of equipment used in the violation, and which are found in the possession of the defendant or are being held by the application of this law.

### **Article 59**

The court has authority to order all provisional measures necessary to ensure the conservation of evidence, especially the confiscation of subject matters reproducing from the unauthorized reproduction of a work.

The complainant is held responsible for the injury caused to the defendant, if his/her petition is proved to be unfounded by the court.

### **Article 60**

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

### **Article 61**

Within 30 (thirty) days of the seizure, if there is no sufficient petition being filed to the court, the court may order the lifting of this seizure based on the request of the seized property's owner, or on the request of a third party who governs the seized property.

### **Article 62**

For the purpose of Articles 64 and 65 of this law, the following acts are considered as illegal:

1. The production or importation for sale or lease of any device or means specifically designed or adapted to circumvent any device or means or intend to restrict the quantity of the reproduction of a work, a phonogram or a broadcast, or to impair the quality of the copies being made.

2. The production or importation for sale or lease of any device or means that is susceptible to assist the unauthorized person in the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including the broadcasting by satellite.
3. The suppression or modification, without being permitted by the right-holder, of all information related to the regime of rights presented in electronic form.
4. The distribution or importation for the purpose of distribution, broadcasting through broadcasting organization, communication to the public or making available to the public, without authorization, of works or performances, of phonogram or broadcast of the broadcasting organization, while knowing that the information relating to the regime of rights, presented in electronic form, has been already suppressed or modified.

The expression "information on the regime of rights" extends to:

- Information revealing the identification of the author, characteristics of the work, identification of the performer, characteristics of the performer, identification of the phonogram producer, characteristics of the phonogram, identification of the broadcasting organization, and characteristics of the broadcasting organization.
- Information enable someone to know the identity of the right-holder or characteristics of the information on the conditions and procedures in the utilization of work and other products covered by this law, and characteristics of number or code representing that information.

### **Article 63**

The customs authority can, based on the written petition of the owner of copyright or related right owner, retain under its framework of merchandise control, of which in the opinion of the right-holder constitutes the infringed goods. The court, competent authority who is the petitioner, and the governor of goods should be informed, without delay, by the customs authority, of the confiscation to which applied by this institution in regard to the said goods.

Subjected to the customs legislation which is contradicted to this provision, this measure can be rightfully lifted, in the case that within the period of 10 (ten) working days, counted from the date of notification on merchandise retention, the petitioner fails to prove any justified evidence to the customs authority in regard to:

- The request to the court for the retention measure, as specified in article 59 of this law.

- The petition to the court which is constituted the required security in order to cover any eventual responsibilities.

The petitioner is held responsible for the injury caused by the retention of goods, if his/her petition proves to be unfounded.

The provisions on border measures specified in the "Law on Marks, Trade name and Acts of Unfair Competition" must be applied for the supplement utilization of this article.

### **Article 64**

All production, reproduction, or performance, or communication to the public, by whatever means, (of a work) in violation of the author's right, as defined by this law, are offences which must be punished by law.

Infringement of production or reproduction is punishable by 06 (six) months to 12 (twelve) months and/or 5,000,000 (five million) Riels to 25, 000, 000 (twenty five million) Riels fine. Double punishment is applied in case of repeated offense.

The importation or exportation of product obtained from the infringed acts of reproduction is punishable by 06 (six) months to 12 (twelve) months and/or 2,000,000 (two million) Riels to 10, 000, 000 (ten million) Riels fine. Double punishment is applied in case of repeated offense.

Infringement of performance or communication to the public is punishable by 01 (one) month to 03 (three) months and/or 1,000,000 (one million) Riels to 5, 000, 000 (five million) Riels fine. In case of having several offenses, punishment will be multiplied by the number of offense. Double punishment of the previous cases is applied in case of repeated offense.

### **Article 65**

All production or reproduction (of a work) without having authorization of the performer or phonogram producer or video producer or broadcasting organization is punishable by 06 (six) months to 12 (twelve) months imprisonment and/or 5,000,000 (five million) Riels to 25,000,000 (twenty five million) Riels fine. In case of repeated offense, double punishment will be applied.

The importation or exportation of phonogram, cassette, or video cassette without authorization of the performer or phonogram producer or video producer or broadcasting organization is punishable by 01 (one) month to 03 (three) months and/or 2,000,000 (two



million) Riels to 10, 000, 000 (ten million) Riels fine. Double punishment is applied in case of repeated offense.

The broadcasting by broadcasting organization without permission of the performer or phonogram producer or video producer or broadcasting organization is punishable by 01 (one) month to 03 (three) months and/or 1,000,000 (two million) Riels to 10, 000, 000 (ten million) Riels fine. Double punishment is applied in case of repeated offense.

## **Article 66**

In each case covered by article 64 and article 65 of this law, the court may decide as the following:

- To order the confiscation of all or parts of the revenue obtained through the acts of infringement, and equipment specially installed for the purpose of committing this offence.
- To order the confiscated materials or equipment to be returned to the owner of copyright or related right, without prejudice to any moral injury to be compensated.
- To order the destruction of the confiscated materials or equipment.

## **CHAPTER VI**

### **The Application of International Treaties**

## **Article 67**

The provisions of any international treaties in respect of Law on Copyright and Related Right, to which the Kingdom of Cambodia is a party, shall apply to matters dealt with by this Law.

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

## CHAPTER VII

### Transitional Provisions

#### Article 68

The ministry of Culture and Fine Arts shall issue a proclamation (PRAKAS) on the immediate ceasing of any exploitation contradictory to the provisions of this law, after the entry into force of this Law.

The provisions on the penalties of Article 64 and 65 will be applied, 06 (six) months after the entry into force of this Law, on any existing exploitation contradicted to the provisions of this Law.

## CHAPTER VIII

### Final Provision

#### Article 69

Any provisions that contradict this Law shall be considered as null and void.

*This Law is adopted by the National Assembly of the Kingdom of Cambodia on January 21, 2003, at the plenary session number 9th of the second mandate.*

*Phnom Penh, January 28, 2003*

*Chairman of the National Assembly*

*Signature and Seal*

*Norodom Ranaridh*