

LAW OF MONGOLIA ON COPYRIGHT

CHAPTER ONE

General Provisions

Article 1. Purpose of the law

The purpose of this law shall be to regulate matters relating to the protection of copyright and the use of the subject matter of copyright.

Article 2. Legislation on copyright

1. The legislation on copyright is comprised of the Constitution of Mongolia, this law, and other relevant legislation which is consistent with them.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Subject matter of copyright

1. The subject matter of copyright shall include the following works irrespective of their content, purpose, form, merit, mode of creation or availability to the public:
 - 1) literary works in the scientific or literary domain whether verbal or written;
 - 2) musical works;
 - 3) graphic works and works of applied art;
 - 4) works of architecture and construction design;
 - 5) choreographic works, works of contortionists and pantomime;
 - 6) dramatic works;
 - 7) cinematographic works and all works expressed by a process analogous to cinematography;
 - 8) photographic works and all works expressed by a process analogous to photography;
 - 9) plans, sketches, designs, and models relative to the scientific and technical domain;
 - 10) computer programmes;
 - 11) [Encyclopedia, dictionary, other database compilation that compose an intellectual creation by its content and purpose. However, the copyright in the original works shall not be affected.
 - 12) derived works such as adaptation, translation, arrangements of musical and other artistic works based on pre-existing works.]**
 - 13) any other works expressing the intellectual creative activity of the author.

The subject matter of copyright hereinafter shall be referred to as a "work".

- [2. The followings are not protected by copyright;
 - 1/ legislation and other legal documents;
 - 2/ court decision, official documents;
 - 3/ speech made at court and political meetings;
 - 4/ translation of documents referred in (1), (2), (3) of this paragraph;
 - 5/ news
 - 6/ idea, procedures, method of operation, or mathematical concepts.
3. Copyright of works created, amended, performed, compiled based on folklore or cinematographic and phonographic works or similarly created derived works shall be protected by this law.

4. Copyrighted work shall be protected since its creation and the author may register his works or contract of transfer of rights or transaction thereof, if so wishes.]**

Article 4. Authors

1. The creator of a work shall be considered to be the author of that work.
2. Two or more persons who have made a joint work as a unitary whole and which is inseparable into independent parts shall be considered to be joint authors. Joint authors are entitled to enjoy copyright jointly.
3. Two or more persons who have made a collective work, in which a number of contributions constitute independent and separate parts in themselves, shall be considered to be collective authors. Collective authors may enjoy copyright jointly or each author may, under an agreement concluded with the other collective authors, independently enjoy copyright in respect of his or her contribution to the collective work.

Article 5. Persons entitled to copyright

1. The following persons are entitled to enjoy copyright:
 - 1) citizens of Mongolia, foreign citizens or stateless persons having permanent residence in Mongolia and who are authors of a work;
 - 2) foreign citizens whose work has been first made available to the public in Mongolia. A work of a foreign citizen shall be treated as having been first made available to the public in Mongolia if it was made available to the public within 30 days from the date when it was first made available to the public in any other country;
 - 3) authors of graphic works incorporated in sculpture, architecture or in buildings permanently located in the territory of Mongolia;
 - 3) legal persons who are entitled to enjoy copyright under the conditions and within the scope provided for by the legislation on copyright.
 - 4) [A foreign citizen or legal person or stateless person who is entitled to protection under an international treaty, to which Mongolia is party.
2. In respect of a work created by an author in the course of his employment, the economic right shall belong, unless provided otherwise in a contract, to the author.]**

Article 6. [Intellectual Property Office]*

[The Intellectual Property Office shall, in accordance with the framework of functions of the Minister of Justice, be the agency responsible for dealing with matters concerning copyright and will carry out the following functions:

- 1) receiving applications in respect of copyright in works and making determinations on them;
- 2) granting certificates in respect of works;
- 3) publishing information relating to works;
- 4) compiling a unified database of copyrighted works;
- 5) providing references for the purpose of settling disputes on copyright matters;
- 6) taking measures relating to the deposit, protection and use of any work in accordance with negotiations conducted at the request of the author;
- 7) taking measures for the enforcement of the Copyright Law within the authority conferred upon it;
- 8) protecting and representing, in Mongolia and abroad, the rights of authors or owners of certain works protected by copyright;
- 9) keeping a State register of works and negotiations concerning works;
- 10) determining the design of registration certificates;

- 11) establishing a value for works related to copyright;
- 14) setting and conducting examinations for, and approving, any citizen or legal entity who intends to practise as a copyright attorney;
- 15) [to set up a state inspectorate of intellectual property to carry out state inspection service of national legislation on intellectual property.]**

2. The Intellectual Property Office shall be financed from income earned in performing its functions.]*

[3. The Rule of State Inspection service of intellectual property shall be approved by the Government.])**

[Article 6/1 Collective administration

1. Authors and performers may establish a non-governmental collective administration in order to protect their rights.
2. The Collective administration organizations shall conclude an agreement with the Intellectual Property Office to carry out their functions to protect copyright.the central public administration in charge of intellectual property shall determine the rule of procedure of cooperation between collective administration and Intellectual Property Office.
3. The Collective administration organizations have the rights to carry out the following duties with regard to protection of their members' interests:
 1. to conclude contracts for use of their works,
 2. to conclude contracts, on behalf of their members, with natural or legal persons with regard to use of the works,
 3. to fix, in cooperation with the Intellectual Property Office, amount of fee of use of works,
 4. to collect or distribute fee for use of works,
 5. to conduct examination and take necessary measures, in cooperation with the Intellectual Property Office, according to information on infringement of rights.
4. The Collective administration organizations shall leave ten percent of the income from use of works of their members to the Intellectual Property Office.]**

CHAPTER TWO Rights of Authors

Article 7 Rights of authors

An author shall enjoy non-economic moral rights and exclusive (economic) rights in respect of his or her work.

Article 8. Non-economic moral rights

An author shall enjoy the following non-property personal rights in respect of his or her work:

- 1) the right to use of a name. An author shall have the right to make his or her work available to the public under his or her own name or under a fictitious (pseudonymous) name or as an anonymous work. It shall be prohibited to alter or disclose an author's name without his or her consent;
- 2) the right of attribution. An author has the right to require his or her name to be mentioned whenever his or her work is made available to the public;
- 3) inviolability of a work. It shall be prohibited to modify a work or its name in any manner or fortn without the author's consent.

Article 9. Exclusive (economic) rights in copyrighted works

1. An author shall enjoy the following exclusive (economic) rights in respect of his or her copyrighted works:
 - 1) the right to reproduce. An author has the exclusive right to publish, draw, engrave, mould, photograph, make sound and visual recordings of, or reproduce his or her original work in any other manner or form;
 - 2) the right to alter, correct and translate. An author has the exclusive right to alter, correct, translate or change the name of his or her work;
 - 3) the right to make a work available to the public. An author has the exclusive right to make his or her original work or a reproduction of it available to the public by way of sale or transfer/licence;
 - 4) the right to make a public communication of a work. An author has the exclusive right to make a public communication of his or her work by any means other than the transfer of copyright.
 - 5) [rental right. The author shall enjoy the exclusive right of authorizing commercial rental to public of their works.]**
2. The exclusive rights referred to in paragraph 1 of this article may be transferred but only with the author's consent.
3. An author has the right to value his or her work and is entitled to remuneration for the use of his or her work.

Article 10. Notice of copyright

The owner of the exclusive rights in copyrighted works may use the symbol being the Latin letter C in a circle, in order to give notice of the existence of copyright in a work which has been made available to the public. The symbol shall be accompanied by the year the work was first made available to the public and by the name of the owner of the exclusive rights in the copyrighted work.

Article 11. Transfer of ownership of exclusive rights in copyrighted works

1. Ownership of the exclusive rights in copyrighted works may be transferred/licensed in whole or in part by way of written agreement.
2. The agreement referred to in paragraph 1 of this article shall contain the:
 - 1) manner, form and term of use of the work;
 - 2) rights and obligations of the author;
 - 3) rights and obligations of the umsferee;
 - 4) amount of royalties due for the use of the work and terms of their payment.

Article 12. Owners of material objects

1. A tangible form in which a work is embodied shall be considered to be a material object. Exercise of the rights of the owner of the material object shall not affect copyright in the work.
2. If a graphic work or work of applied art which has already been sold by the author is auctioned or resold through an agent, then the author shall be entitled to receive a 5 percent royalty from the resale price.

CHAPTER THREE Requisition and Unauthorised Use of Work

Article 13. Requisition of work

- 1 The State or its competent organisations may, by way of agreement to be concluded with the author, purchase his or her work for immediate public interest. If agreement is not reached, then the State or its competent organisations may requisition the work in question.
2. In the case of a requisition referred to in paragraph 1 of this article, the State or its competent organisations shall pay the cost, compensation and remuneration for the use of the work. Disputes arising in this regard shall be resolved in Courts.
3. The Government shall establish rules on the use of requisitioned works.

Article 14. Public communication of works for public benefit

1. In the following cases it shall be permissible to make for the public benefit, without the author's consent and without payment of any remuneration, a public communication of part of a work which has already been made available to the public, provided that mention shall be made of the source and of the name of the author:
 - 1) use for teaching;
 - 2) use in public arrangements for a non-profit purpose;
 - 3) the public communication by the regular press and broadcasters of speeches delivered at official or public meetings.
2. In the cases referred to in sub-paragraphs 5 and 7 of article 16 of this law, it shall be permissible to make, without the author's consent and without payment of any remuneration, a public communication of a work by a person who has reproduced the work.

Article 15. Reproduction of works for private use

1. It shall be permissible to reproduce a work exclusively for private use without the author's consent and without payment of any remuneration if that work has already been made available to the public.
- [2. The permission may extend to the reproduction where it does not conflict with a normal exploitation of a work and would not otherwise prejudice the legitimate interests of the copyright owner.]**

Article 16. Reproduction of works for public benefit

In the following cases it shall be permissible to make for the public benefit, without the author's consent and without payment of any remuneration, a reproduction of part of a work which has already been made available to the public, provided that mention shall be made of the source and of the name of the author:

- 1) use of works as part of collections of archives, museums, or libraries for a non-profit purpose;
- 2) use for teaching;
- 3) deleted by amendment of 21 May, 1999
- 4) reproduction for use by blind people;
- 5) reproduction for use in research and for literary criticism;
- 6) publication of graphic works and works of applied art in periodicals for the purpose of reporting current events;
- 7) reproduction of works displayed in streets, squares and other public places. In case of such reproduction for the purpose of commercial advantage, the author's consent should be sought in advance and the amount of royalties payable to him or her should be agreed upon;

- 8) advertising and announcement of works which are destined for sale or public display;
- 9) press summaries of works published in the press.

Chapter Four

Term of Copyright and Succession

Article 17. Term of copyright

1. The term of copyright in a particular work shall be deemed to begin from the day of its making.
2. The term of exclusive rights in copyrighted works shall be the life of the author and fifty years after his or her death. The term of exclusive rights in copyrighted works after the death of the author shall be deemed to begin on 1 January of the year following the death. In the case of joint authorship this term shall be deemed to begin on 1 January of the year following the death of the last surviving author.
3. In the case of pseudonymous or anonymous works the term of the exclusive rights of the author in copyrighted works shall be a period of 75 years from 1 January of the year following the year the work was first made available to the public. If the identity of the author of pseudonymous or anonymous work is disclosed to the public, the applicable term for the exclusive rights of the author in copyrighted works shall be determined in accordance with paragraph 2 of this article.
4. The term of any copyrighted work where the author is a legal person shall last for a period of 75 years from 1 January of the year following the year of the making of the work.
5. The term of the non-property (personal) rights of the author shall not be subject to any limitation.
6. [The term of copyright of photographic works and works of applied art shall be 25 years from the making of such work.]**

Article 18. Declaration of works as State treasures

A work whose term of copyright has expired may, by the Government's enactment, be declared a State treasure.

Article 19. Succession to copyright

1. The exclusive rights of an author in a copyrighted work shall pass to his or her successors in accordance with the procedures set out in the Civil Law of Mongolia. The non-economic moral rights of the author shall not be subject to succession, although an heir or successor shall be obliged to protect those rights and the rights shall be under State protection.
2. The exclusive rights in joint works shall pass to the respective successors of each author on the day of the death of the last surviving author. Until that time, remuneration for the use of joint works where not all the authors have died shall be distributed between the heir(s) of the deceased author(s) and each surviving author as per the terms of any agreement between the joint authors.

CHAPTER FIVE

Related rights for Performers, Producers of audio, video recordings, Broadcasting organizations

[Article 20.

1. The provision of this article on the protection of performers shall apply to:
 1. The citizen of Mongolia or performers: singer, actors, circus actors, conductors, dancers, musicians;
 2. a foreign citizen or a stateless person the performances of whom are held on the territory of Mongolia, fixed in phonograms protected under this law, not fixed in phonograms but incorporated into the broadcast of broadcasting organizations protected under this law.
2. The performers referred in paragraph 1 of this Article have the following rights with regard to their performances;
 - 1) the right to use names and the right of attribution;
 - 2) inviolability of works;
 - 3) the right to authorise the use of works in any manner or form subject to agreement and remuneration;
 - 4) other rights transferred to them under agreements concluded with the author of the original work.
 - 5) have the right to authorize the fixation of their performance and the reproduction of such fixation;
 - 6) to authorize the communication to the public of their performances.]**

Article 21. Rights of producers of sound and visual recordings

1. A producer of sound and visual recordings shall enjoy the following rights in respect of copyright:
 - 1) the right to reproduce his or her sound and visual recordings;
 - 2) the right to alter and modify his or her sound and visual recordings;
 - 3) the right to reproduce his or her sound and visual recordings and thus make them available to the public;
 - 4) the right to authorise the use of his or her sound and visual recordings subject to agreement and remuneration;
 - 5) other rights transferred to him or her under an agreement concluded with the author of the original work.
2. It shall be permissible to use for a non-commercial purpose sound and visual recordings which have already been made available to the public, without the producer's consent or payment of any remuneration for such use.
3. The producer of sound and visual recordings shall enjoy the right to authorise the reproduction of his or her works to be made available to the public by organisations and may charge for such availability.
4. [The term of copyright of performers and producers of phonograms shall be 50 years computed from the date when the fixation was made or the performance took place.
5. The provision of this article on protection of audio and video recordings shall apply to:
 - 1/ audio and video recordings produced by a citizen of Mongolia;
 - 2/ audio and video recordings produced in Mongolia;
 - 3/ audio and video recordings first communicated to public in Mongolia.]**

Article 22. Rights in respect of copyright of broadcasting organisations

1. Broadcasting organisations shall enjoy the following rights related to copyright:
 - 1) the right to authorise other broadcasting organisations to make simultaneous broadcasting of their broadcasts;
 - 2) the right of television to broadcast by radio and the right of radio to broadcast by television.

- 3) the right of reproduction of excerpts of their broadcasts;
 - 4) other rights transferred to them under agreements concluded with the authors of original works.
2. The term of rights in respect of copyright of radio and television broadcasting organisations shall last for a period of 25 years from 1 January of the year following the year the broadcast first took place.
- [3. The provision of this article on the protection of broadcasts shall apply to:
- 1/ the broadcast of broadcasting organizations, the headquarter of which is situated on the territory of Mongolia;
 - 2/ the broadcasts transmitted from the transmitter which is situated on the territory of Mongolia.]**

Article 23. Use of works without the consent of producers of sound and visual recordings, authors of derivative works or broadcasting organisations

In the following cases it shall be permissible to make, for the public benefit a public communication of part of a derivative work or a sound and visual recording and to broadcast without the consent of the relevant persons and without payment of any remuneration for such communication:

- 1) either the derivative work or the sound and visual recording; or
- 2) use it for the purposes of teaching or scientific research; or
- 3) use excerpts of it for the purpose of reporting current events.

CHAPTER SIX

Miscellaneous

Article 24. Liability for breach of legislation on copyright

- [1. If a breach of the legislation on copyright is held not to constitute a criminal offence, a state inspector shall impose on an offending person a fine of up to 5000 togrogs or on an offending business entity or organisation a fine of up to 50,000 togrogs, a judge shall impose on an offending person a fine of up to 50000 togrogs or on an offending business entity or organisation a fine of up to 250,000 togrogs, or imprisonment of the infringer for up to 7-14 days, the infringing goods shall be seized.]**
2. If a fraudulent use of a notice of copyright or alteration of such a notice is held not to constitute a criminal offence, a judge shall impose on an offending person a fine of up to 50,000 togrogs, or on an offending business entity or organisation a fine up to 250,000 togrogs.
3. Compensation for material losses suffered as a result of infringement of exclusive rights in copyrighted works shall be paid in accordance with the Civil Law of Mongolia.
4. Use of works, which have already been made available to the public, for private purposes without the author's consent and without payment of any remuneration for such use, shall be deemed not to constitute a breach of the legislation on copyright.

Article 25. Protection of non-economic moral rights of authors

In the case of a breach of the inviolability of a work or of other non-property personal rights of an author, the author of a work or his or her heir or successor, or the [Intellectual Property Office]* (if there is no apparent heir or if such heir has waived or has been deprived of his or her right of succession) shall be entitled to demand from the infringing party the restoration of the infringed rights and to bring an action to resolve his or her claim in the Courts.

Article 26. Coming into force of the law

1. This law shall come into force on 1 September 1993.
2. This law shall not apply retrospectively.

[]* *as amended on 1 February 1997*

[]** *as amended on 21 May 1999*

Chairman of the State Ikh Hural of Mongolia

N. Bagabandi

Secretary General of the Secretariat of the State Ikh Hural of Mongolia

N. Rinchindorj

Ulaanbaatar

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