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LAW OF THE KYRGYZ REPUBLIC On Copyright and Neighboring Rights

(as amended on November 6, 1999 by Law № 120 of the Kyrgyz Republic)

Title I. General provisions

Title II. Copyright

Title III. Neighboring rights

Title IV. Collective management of economic rights

Title V. Protection of copyright and neighboring rights

Title VI. Final provisions

Title I. GENERAL PROVISIONS

Article 1. Subject of the Law

This Law governs relations arising from creation and exploitation of scientific, literary and artistic works (copyright), phonograms, performances, stage productions, and the programs of television and radio broadcasting and cable distribution organizations (neighboring rights).

Article 2. Legislation of the Kyrgyz Republic on Copyright and Neighboring Rights

1. The legislation of the Kyrgyz Republic on copyright and neighboring rights consists of this Law, which forms part of the civil legislation of the Kyrgyz Republic, other normative legal acts of the Kyrgyz Republic that are enacted pursuant to this Law.

2. Where an international agreement to which the Kyrgyz Republic is party contains rules different from those set forth in the present Law, the rules of the international agreement shall be applicable.

Article 3. State Regulation in the Area of Protecting Copyright and Neighboring Rights

1. State regulation in the area of protecting copyright and neighboring rights is implemented by the State Intellectual Property Agency under the Government of the Kyrgyz Republic (hereinafter referred to as Kyrgyzpatent).

2. Kyrgyzpatent is the body that implements state management in the sphere of copyright and neighboring rights, promotes creation of legal conditions for the development of creative work in the sphere of science, literature and art, realization of authors' and owners of neighboring rights authorities, including the right to appeal to the court, conclude an agreement on the use of copyright as well as collection and payment of authors' royalties.

The main tasks, functions and authorities of Kyrgyzpatent shall be determined by the present Law and other normative acts of the Kyrgyz Republic.

The Regulation on Kyrgyzpatent shall be approved by the Government of the Kyrgyz Republic.

3. In order to develop the culture of the Kyrgyz Republic and promote creative activities of the authors, the State Intellectual Property Fund is being established. Regulation on the State Intellectual Property Fund shall be approved by Kyrgyzpatent.

Article 4. Basic Concepts

For the purposes of this Law the following terms shall have the meanings specified:

“author” means a natural person, whose creative effort has brought about the creation of a work;

“audiovisual work” is a work consisting of a fixed series of interconnected images (with or without sound accompaniment), which is intended to be made visible and (where the images are accompanied by sound) audible with the aid of appropriate technical equipment; audio-visual works include cinematographic works and all works expressed by means comparable to cinematography (TV and video films, fixed projections slide shows, and the like), regardless of the manner in which they are initially or subsequently fixed

“database” means an objective form for the representation and organization of a body of data (relating to articles, accounts and etc.), so systematized so as to be susceptible of retrieval and processing with a computer;

“reproduction of a work” means making of one or more copies of the work or part of a work in any form, including the form of a sound or visual recording; or the making of one or more three-dimensional copies of a two-dimensional work or one or more two-dimensional copies of a three dimensional work; the storage of a work in a computer memory shall also constitute reproduction;

“reproduction of a phonogram” means the making of one or more copies of a phonogram or part of a phonogram on any physical medium;

“recording” means the fixing, with technical aids, of sounds and/or images in any material form that permits them to be repeatedly perceived, reproduced or communicated;

“producer of an audiovisual work” means the natural person or legal entity that has taken the initiative and responsibility for the production of the audio-visual work; in the absence of proof to the contrary, the natural person or legal entity named in the customary manner on an audiovisual work shall be considered the producer of that work;

“performance” means presentation of works, phonograms, interpretations or renditions by means of acting, recitation, singing or dancing either live or with technical aids (broadcasting, cable television or the like); or by the showing of the pictures an audiovisual work (with or without sound accompaniment) in their normal sequence;

“performer” means the actor, singer, musician, dancer or any other person who performs sings, plays on a musical instrument or in any other way a literary or artistic work (including a variety turn, circus act or puppet show), as well as the producer or director of a play and the orchestra conductor;

“counterfeit copies” mean copies of a work or of a phonogram, production and distribution of which shall entail infringement of copyright and neighboring rights as well as copies of the works and phonograms protected in the Kyrgyz Republic in compliance with this Law, which are imported without the consent of copyright and neighboring right holders of the Kyrgyz Republic from the countries in which these works and phonograms have never been protected or ceased to be protected;

“the owner of copyright and (or) neighboring rights” means the author or performer, in the cases when the author or performer is endowed with economic rights; natural person or legal entity to whom the economic rights were assigned; natural person other than the author or performer, or a legal entity, in the cases when the economic rights were initially assigned to such a natural person or legal entity;

“disclosure of a work” means the act performed with the author’s consent which first makes the work accessible to the public by publication, public presentation, public performance, broadcasting or another means;

“publication” means the putting into circulation of copies of the work or phonogram with the consent of the author of such work or phonogram producer and in sufficient quantity to meet the reasonable needs of the public. Publication is also understood as providing access to a work, phonogram, via electronic information systems;

“broadcasting” means the communication to the public of works, phonograms, performances or programs of broadcasting or cable distribution organizations (including broadcasts of the presentation and or performance) by means of transmission by radio or television (with the exception of cable television); where works, phonograms, performances or programs of broadcasting or cable distribution organizations are relayed by satellite, broadcasting means the act whereby the satellite receives signals from the ground station and retransmits those signals in such a way that works, phonograms, performances, and programs of broadcasting or cable distribution organizations may be communicated to the public, independently of their actual reception of the said public;

“broadcasting by a broadcasting or cable distribution organization” means the broadcast created by the broadcasting or cable distribution organization itself, or, on its instructions and with its funds, by another organization;

“presentation of a work” means the fact of showing the original or a copy of the work either direct or on a screen with the aid of film, photographic slides, a television pictures or other technical means, and the fact of showing the individual images of an audiovisual work without concern for their order;

“users of copyright and/or neighboring rights” means publishing houses, editorial offices of newspapers and magazines, TV and radio studios, cable studios, theaters, concert-spectacle organizations, cinemas, video salons, trade places dealing with sale of audio and video cassettes and laser discs with records, creative collectives regardless of the form of property, as well as natural persons and users of the computer software;

“re-broadcasting” means the broadcasting of works, phonograms, performances, or programs of broadcasting or cable distribution organizations that have already been broadcast;

“computer program” means a complex of instructions or rules expressed in words, numbers, codes, symbols, signs or any other form designated for the operation of computers and other computer devices to achieve a certain purpose or result;

“work of applied art” means a work of art in two or three dimensions applied to objects intended for practical use, craft works or works produced in an industrial process;

“producer of a phonogram” means a natural person or a legal entity that has assumed the initiative and responsibility for the first sound recording of performance or other sounds, where such a person must produce it physically or order it and pay for the production; unless proved otherwise, the natural person or legal entity whose name is indicated on a phonogram and (or) its case in the usual manner shall be recognized a producer of a phonogram;

“derivative work” means a product of intellectual creation, based on another work (translation, adaptation, dramatization, alteration, etc.);

“public demonstration, public performance or communication to the public” means

any presentation, performance or communication of works, phonograms, performances, and other production or broadcasts of broadcasting, and cable distribution organizations either directly or with technical aids, in a public place or a place in which a large number of persons not belonging to the usual family circle are present irrespective of whether the works, phonograms, performances, other productions or broadcasts by broadcasting or cable distribution organizations are perceived at the place of the communication or in another place at the same time as the communication;

“show producer or director” means the person w ho carries out the direction of a stage, circus, puppet, variety or any other performance;

“reproduction (reprographic reproduction)” means the facsimile reproduction in one or more copies, regardless of the dimensions and form thereof, of originals or copies of written or other graphic works by means of photocopying or with the aid of other technical aid, different from publishing; reprographic reproduction shall not include the storage or reproduction of the said copies in electronic (including digitized) or optical form, or in any other machine-readable form;

“re-broadcasting” means simultaneous transmission of programs (by cable) of one broadcasting organization, exercised by another broadcasting organization;

“rental” means making a copy of a work or phonogram temporarily available for direct or indirect commercial profit;

“communicate” means to show, perform, broadcast or engage in any other act (except for distribution of copies of the work or phonogram), whereby works, phonograms, performances, or programs of broadcasting or cable distribution organizations are made audible or visible whether or not they are actually perceived by the public;

“communicate to the public by cable” means to communicate works, phonograms, performances, or programs of broadcasting or cable distribution organizations to the public by cable, wire, optic fiber or comparable means;

“phonogram” means any exclusive sound recording of performances or other sounds, which may be perceived or reproduced on any other material medium;

“copy of a work” means an exemplar of the work, regardless of the material form in which it is made;

“copy of a phonogram” means the duplicate of a phonogram, on whatever material medium, made directly or indirectly from a phonogram, which includes all or a part of the sounds recorded thereon. *(as amended by Law # 120 from November 6, 1999)*

Title II. COPYRIGHT

Article 5. Scope of Copyright

1. By virtue of this Law, copyright extends:

to works, either disclosed or undisclosed, existing in an objective form in the territory of the Kyrgyz Republic, regardless of the nationality of the authors and successors in title;

to works, either disclosed or undisclosed, existing in an objective form beyond the borders the Kyrgyz Republic, in respect of which it is accorded to authors who are nationals of the Kyrgyz Republic and successors in title;

to works either disclosed or undisclosed , but existing in any objective form beyond the borders of the Kyrgyz Republic, in respect of which it is accorded under international treaties to which the Kyrgyz Republic is a party, to authors (and their successors in title) who are nationals of other states.

2. A work shall also be considered published in the Kyrgyz Republic if within 30 days following the date of its first publication outside the territory of the Kyrgyz Republic it is published on the said territory.

3. Where protection is granted to a work in the territory of the Kyrgyz Republic under the international treaties to which the Kyrgyz Republic is party, the authorship of the work shall be determined by the legislation of the State in the territory of which the legal act occurred that gave rise to ownership of copyright.

Article 6. Works Protected by Copyright (subject matter of copyright).

1. The copyright extends to works of science, literature and art that are the result of creative activity, irrespective of the purpose, the merit as well as the manner of expression thereof.

2. The work must be expressed in verbal, written or other objective form allowing the possibility of its perception.

The work in written form or otherwise expressed on a material medium (manuscript, typewritten text, musical score, recording with the aid of technical devices, including audio or video recording, fixation of image in dimensional or three dimensional form, etc.) shall be considered to have an objective form irrespective of its availability to the third parties.

Oral or other work not expressed in a material medium shall be considered to have an objective form if it became available to the third parties for perception (public recitation, public performance, etc.).

3. The copyright shall extend both to disclosed and undisclosed works.

4. Ideas, methods, processes, systems, means, concepts, principles, discoveries and facts may not be protected by copyright.

5. For a copyright to occur no registration of work or observation of any other formalities shall be required.

Article 7. Types of Objects of Copyright. Parts of Work, Derivative and Composite Works

1. The following shall be referred to the objects of copyright:

literary works (literary - artistic, scientific, educational publicist etc.);
dramatic and scenario works;
musical works with text and without it;
music-dramatic works;
choreographic and mimed works;
audiovisual works (cinematographic, television and video films, slide shows and other cinematographic, television and video production), radio works;
works of painting, sculpture, graphics, design and other works of fine arts;
works of applied and stage designs;
works of architecture, urban planning, garden and park designs;
photographic works and works obtained by way analogous to photography;
geographical, geological and other maps, plans and sketches and other works related to geography, topography and other sciences;
computer software for all types of computers including applied programs and operating systems;
other works complying with the requirements established in Article 6 of this Law.

2. The objects of copyright shall be deemed parts of works, their designations and derived works that meet the requirements established in Article 6 of this Law.

The derived works shall include works that are re-works of other works (translations, processing, annotations, abstracts, resumes, surveys, dramatizations, arrangements and other similar works of science, literature and art);

The composite work shall include compilations (encyclopedias, anthologies) and other composite works that according to their selection and arrangement present the result of creative labor.

3. The derived and composite works shall be protected by copyright irrespective of whether or not the works, on which they are based or on which they include, are objects of copyright.

Article 8. Works and the Results of Activity Similar to them that Are not Objects of Copyright

The following shall not be objects of copyright:

Official documents (laws, resolutions, decisions and etc.) as well as official translations thereof;

State emblems and official signs (flags, armorial bearings, orders, monetary signs and etc.);

Works of folklore;

Information on the news of the day or information on the current events that are of the common press-information character;

The results obtained with the help of technical means for the production of a certain type without creative activity of a man directly targeted for creation of an individual work. (as amended by Law # 120 from November 6, 1999)

Article 9. Author of a Work. Presumption of Authorship.

1. A citizen, by whose creative labor the work is created, shall be considered the author of the work.

Unless proven otherwise, the person indicated as the author in the course of the first publication of the work shall be considered its author.

2. Where a published work is anonymous or pseudonymous (unless the author's pseudonym leaves his identity in no doubt), the publisher, the name or denomination of which is indicated on the work, shall be presumed, in the absence of proof to the contrary, to represent the author and shall be empowered to defend and exercise the author's rights. . This provision shall be effective until such time the author of the work reveals his identity and claims authorship of the work.

3. In order to have his exclusive economic rights recognized, the owner may use a copyright notice, which should be placed on every copy of the work and should consist of the following three elements:

- capital a circled letter C: ©
- the name of the owner of the exclusive rights;
- the year of first publication of the work.

4. The author of a work or other successor shall have a right to register his/her work any time within the term of protection of copyright in the state registers. The person, registering the copyright object, shall be issued a certificate of an established sample. Fee in the amount of cost of means spent for registration shall be charged. *(as amended by Law # 120 from November 6, 1999).*

Article 10. Joint Authorship

1. The copyright in a work that is the product of the joint creative work of two or more persons shall belong jointly to co-authors, regardless of whether such work constitutes an indivisible whole or is composed of parts, each with a relevance of its own.

A part of a work shall be deemed to have a relevance of its own, if it can be used independently of the other parts of the same of work.

Unless otherwise agreed between themselves, each of the co-authors may exploit as he sees fit that part of the work with a relevance of its own that he has created.

Each of the co-authors shall be entitled to use part of the work that has been created by him, that has independent meaning, at his own discretion unless otherwise provided by the agreement between them.

2. As a rule, the relationship between co-authors shall be established on the basis of the agreement. In the absence of such agreement right to a work shall be exercised mutually by all co-authors and the remuneration shall be distributed equally among them.

If the work of the co-authors constitutes an indivisible whole, none of the co-authors shall be entitled to prohibit the exploitation of a work without valid reason.

Article 11. Copyright of Compilers of Collections and Other Composite Works

1. The author of a collection or any other composite works (compiler) shall enjoy copyright in the selection or arrangement of subject matter that he has made insofar as that selection or arrangement is the result of creative effort of compilation.

The compiler shall enjoy copyright subject to respect the rights of the author of each of the works included into the composite work.

The compiler's copyright must not be harmful to the rights of authors whose works are included into the composite work.

The authors of the works included into a composite work shall have the right to exploit his own work independently of the composite work unless the author's contract provides otherwise.

Notwithstanding the compiler's copyright, any third party may make an independent selection or arrangement of the same subject matter for the purposes of creation of a composite work of his own.

2. The publisher of encyclopedias, encyclopedic dictionaries, periodic and continuing

collections of scientific works, newspapers, magazines and other periodicals shall enjoy the exclusive right to use such publications. The editor shall have the right to mention his name or to demand such mention whenever the said publications are exploited.

The authors of the works included in the said publications shall retain the exclusive rights to exploit their works independently of the publication as of the whole work.

Article 12. Copyright of Translators and Other Authors of Derived Works

1. Translators and other authors of derived works shall enjoy copyright in translations, adaptations, arrangements or any other transformations made by them.

The translators and the authors of a derived work shall enjoy copyright in the works created by him, subject to the right of the author of the work that he has translated, adapted, arranged or otherwise transformed.

2. The copyright of translators or authors of a derived works shall not prevent other persons from doing their own translations and transformations of the same works.

Article 13. Copyright to Audiovisual Work

1. The following shall be recognized as authors of audiovisual works:

Author of the scenario (scriptwriter);

Author of the musical work, (with or without words) that has been specially created for this audiovisual work (composer);

Producer;

Camerman;

Stage designer.

2. The conclusion of a contract for the making of an audiovisual work shall entail assignment, by the authors of this work to the producer thereof, of the exclusive rights of reproduction, distribution, public performance, communication to the public by cable, broadcasting or any other public communication of the audiovisual work, as well as subtitling and dubbing of the text of this work unless otherwise provided in the contract. These rights shall be effective throughout the period of validity of the copyright in audiovisual work.

The producer of an audiovisual work shall have the right to mention his name or to demand such mention whenever the work is exploited.

3. In the case of public performance of an audiovisual work, the author of a musical work (with or without words) created specially for audiovisual work shall retain the right to remuneration for every public performance of audiovisual work, its public communication as well as rental of copies of an audiovisual work.

4. The authors of works constituting the audiovisual work, whether preexisting (for instance, the author of a novel from which the scenario is taken), or created in the making of the audiovisual work (for instance, the camera director, artistic director and others), shall enjoy copyright in his own work.

5. Destruction of the final version of the film (negatives, original recording) shall be prohibited without consent of the author or other owners of propriety rights to the film.

Article 14. Copyright in a Service-Related Work.

1. The copyright in a work created in the course of duty obligations or in the performance of an assignment expressly given by the employer (service-related work) shall belong to the author of the said work.

2. The exclusive right to exploit the service related work in a way conditioned by the purpose of assignment and limits arising from it shall belong to the person with whom the author is bound by employment relations (employer), unless otherwise provided in the contract concluded by the said person with the author.

The amount of author's remuneration for each type of use of the service-related work, and the manner of payment thereof, shall be specified in the contract concluded by the author and the employer.

3. The employer shall have the right to mention his name or demand such mention in connection with any exploitation of the service-related work.

4. After ten years from the moment of work presentation and even earlier, provided that there is the consent of the employer - and earlier, the right of the author to use the work and to obtain author's remuneration shall belong to him fully irrespective of the contract concluded with the employer.

5. The provisions of this Article shall not apply to the creation, in the course of duty obligations or the performance of an assignment of encyclopedias, encyclopedic dictionaries, periodicals and collections of scientific works - published in one or in several installments, newspapers, magazines and other periodicals (point 2 of Article 11 of this Law).

Article 15. Moral Rights

1. The author shall enjoy the following moral rights in relation to his work:

Right of authorship - the right to be recognized the author of a work/ the right to have his authorship of the work recognized;

Right to be named - the right to exploit or authorize the exploitation of a work thereof, either with the mention of his true name or his pseudonym or without the indication of a name, i.e. anonymously;

Right of disclosure - the right to disclose the work or to authorize the disclosure thereof, including the right to disavow or withdraw;

The right to the protection of the work, including its title thereof, against any distortion or any other derogatory act liable to prejudice his honor or dignity (right to the protection of the author's reputation).

2. The author shall have the right to renounce a decision taken earlier to disclose the work (right to disavow or withdraw), provided that the user is indemnified for any damages, including lost earnings, attributable to the said decision. If the work has already been disclosed, the author shall be bound to make the said withdrawal known to the public. In this event he may withdraw from circulation, at his own expense, the earlier produced copies of the work. The provision of this paragraph shall not apply to service-related works.

3. The moral rights shall belong to the author independently of his economic rights, and the author shall retain them even where the exclusive rights to exploit the work is assigned.

Article 16. Economic Rights

1. The author shall enjoy the exclusive right to use his work in any form and by any means.

2. The exclusive rights of the author to exploit shall be construed to mean the right to perform or authorize the following actions:

Reproduction of the work (right to reproduction);
Distribution of copies of the work by any means, including sale, rental and etc., (right of distribution);
Importation of copies of the work for the purposes of distribution, including that of copies produced with the permission of the exclusive copyright owner (right to importation);
Presentation of the work in public (right to public presentation);
Performance of the work in public (right to public performance);
Communication of the work to the public by broadcasting and/or re-broadcasting (right of broadcasting);
Communication of the work to the public by cable, wire or comparable means (right of communication to the public by cable);
Translation of the work (right of translation);
Arrangement, adaptation or other transformation of the work (right of adaptation).

The author's exclusive rights in relation to the project for a design work, architectural work, a work of urban planning or a work of park and garden design shall extend also to the practical implementation of such projects. The author of the accepted architectural project shall be entitled to demand that the party who commissioned the work allow him to take part in the realization of his project at the stage of the production of the documentary material relating to the construction of the building or other structure. Unless otherwise provided in the agreement.

3. Where copies of a lawfully legitimately published work have been put into circulation by means of sale, their subsequent distribution shall not require authorization by the author and shall not give rise to the payment of remuneration to the author without consent of the author and payment of author's remuneration.

The right to distribute copies of a work by means rental of an audio-visual work, computer software, database, work fixed in a phonogram, and musical notation shall belong to the author regardless of the property right to such copies.

4. The amount and the procedure for calculating the amount of author's remuneration for each form of exploitation of a work shall be determined by the author's contract and by the contracts that organizations for the collective administration of the economic rights of the authors conclude with users.

5. The rights of authors specified in paragraph 2 of this Article shall be subject to limitations specified in Articles 18 to 26 of this Law which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author.

Article 17. Right of Access to Works of Fine Arts. Right of Succession

1. The author of a work of fine arts shall have the right to require the owner of the work that he allows him to exercise his/her right of reproduction of his work (right of access). The owner of a work should not be required to deliver the work to the author.

2. The transfer of ownership to a work of fine art (whether for consideration or free of charge) from the author to a third party shall constitute the first sale of that work.

For each case of a public resale of the original of a work of fine art (sale by auction, or at an art gallery, art salon, store and etc.,) after the first alienation of the right of ownership for such a work of fine arts, the author or his heirs shall be entitled to receive remuneration from the seller, representing 5 percent of such reselling price (resale royalty). That right shall be inalienable and transferable exclusively to the author's heirs by law or testament throughout the duration of the copyright.

Article 18. Reproduction of Works for Personal Purposes without the Author's Consent and Payment of Author's Remuneration

1. The reproduction of a lawfully disclosed work for exclusively personal purposes shall be authorized without need for author's consent or payment of remuneration except in the cases provided for in Article 26 of this Law.

2. The provisions of the first paragraph of this Article shall not apply in relation to:

Reproduction of architectural works in the form of comparable buildings and structures;

Reproduction of databases or substantial parts thereof;

Reproduction of computer programs with the exception of cases provided for in Article 25 of this Law;

Reproduction of books (in full) and musical scores.

Article 19. Use of a Work without Consent of the Author and Payment of Author's Remuneration

1. The following shall be authorized without the author's consent and without payment of author's remuneration but with obligatory indication of the author's name whose work is used and the source of the borrowing:

1) The quotation from lawfully disclosed works in the original and translation for scientific, research, polemic, critic and information purposes to the extent justified by the purpose of such quotation, including reproduction of excerpts from newspaper and magazine articles in the form of press reviews;

2) The use of lawfully disclosed works and excerpts therefrom as illustrations in publications, radio and TV broadcasts and educational audio and video recordings to the extent justified by the intended purpose;

3) The reproduction in newspapers, the broadcasting or communication to general public by cable of legitimately published articles in newspapers or magazines on current economic, politics, social and religious topics or of broadcast works of the same nature in cases where such reproduction, broadcast or communication by cable have not been expressly prohibited by the author,

4) The reproduction in newspapers, the broadcasting or communication to the public by cable of political speeches, addresses, lectures and other works of the same nature given in public to the extent justified by an informational purpose. In such cases the author shall retain the right to publication of such works in collections,

5) The reproduction or communication of the current events to the public in reviews by means of photography, broadcasting or public cable communication of works that are seen or heard in the course of such events to the extent justified by the informational purpose. In such cases the author shall retain the right to publication of such works in collections;

6) The reproduction of lawfully published works without gainful intent by using the Braille system or other special means for the blind, except for works specifically created for such means of reproduction.

2. Export of copy of a work by natural person without consent of the author or other owners of copyright and without payment of remuneration shall be allowed only for personal purposes, with the exception of the works, export of which damages the national interest of the republic, the list of which is determined in the established order.

Article 20. Use of Works by Reprographic Reproduction

The following may be reproduced in a single copy without gainful intent and without the author's consent and payment of remuneration, but with obligatory indication of the author's name whose works are used and the source of the borrowing:

1) Of a lawfully published works insofar as the reproduction of the work by libraries and archive service and its purpose is to restore or replace lost or damaged copies and provide the work to other libraries that on some reasons do not have lost works from their collections;

2) Isolated articles and succinct works lawfully published in collections, newspapers or other periodical publications, and short extracts from legitimately published written works (with or without illustrations) by libraries and archives as requested by individuals for educational and research purposes; and

3) Isolated articles and succinct works lawfully published in collections, newspapers and other periodical publications or of short extracts from legitimately published written works (with or without illustrations) by educational institutions to be used in classes.

Article 21. Free Use of Works Permanently Located in a Public Place

The works of architecture, photography or fine arts permanently located in a place open to general public may be reproduced, broadcast, or communicated to the public by cable without the author's consent and payment of author's remuneration, with the exception of cases where the presentation of the work constitutes the main feature of the said reproduction, broadcast or communication to the public by cable or if it is used for commercial purposes.

Article 22. Free Public Performance

Musical works may be performed publicly without the author's consent and payment of the author's remuneration during official and religious ceremonies, as well as funerals, to such extent as may be justified by the nature of the said ceremonies.

Article 23. Free Reproduction for Judicial and Administrative Purposes

Works may be reproduced without the author's consent and payment of author's remuneration for the purposes of judicial or administrative proceedings to the extent justified by this purpose.

Article 24. Free Ephemeral Recording by a Broadcasting Organization

Radio or television broadcasting organization may, without consent of the author and payment of any additional remuneration, make an ephemeral recording of a work for which such an organization has obtained the right to broadcast provided that such recording is made by a broadcasting organization with its own equipment and for its own broadcasts. The broadcasting organization is obligated to destroy such recording within six months after it was made unless a longer term has been agreed upon with the author of the recorded work. Such recording may be preserved in official archives without the author's consent if it is of purely documentary nature.

Article 25. Free Reproduction of Computer Software and Databases. Decompilation of Computer Programs

1. A person lawfully in possession of a copy of a computer program or database shall have the right, without obtaining permission of the author or other owner of the exclusive rights to use such work and without paying any additional remuneration:

1) make alterations to the computer software or database exclusively where the purposes thereof is solely to ensure their operation on the user's material , and perform any act in relation to the operation of the computer program or a database according to its intended purpose, including any inputting or storing in computer memory (that of an individual or that of one of computers in a network), as well as correction of obvious errors , unless otherwise provided by the contract concluded with the author; and

2) make a copy of the computer program or data base provided that this copy is solely for archiving or for replacement of a lawfully acquired copy in the event that the original of the software or database having been lost, destroyed or rendered useless . In these events the copy of computer program or database may not be used for purposes other than stipulated in subparagraph (1) of this paragraph and must be destroyed should the possession of the copy of this computer program or database cease to be lawful.

2. Any person lawfully in possession of a copy of a computer program may without permission of the author or any other holder of the exclusive rights and without payment of additional remuneration, reproduce or convert the object code into a source code (decompile the computer program) or entrust other persons to provide these actions if it is necessary to achieve the ability of a computer program independently developed by this person to interact with other programs which may interact with program being decompiled provided that the following conditions are observed:

1) the person concerned must not previously have had access to other sources capable of providing them with the information necessary to insure the interactive capability;

2) the acts mentioned must only be performed in relation to the parts of the computer program the decompilation of which is essential to the achievement of the interactive capability;

3) the information obtained in the result of decompilation may only be used to achieve the interactive capability of independently created computer software with other programs and may not be passed on to third parties except where necessary to insure the interactive capability of the independently created computer program and it may not be used for the development of a computer program of a type essentially comparable to the decompiled computer software or performance of any other action prejudicial to copyright.

3. Application of the provisions of this Article must not cause unjustifiable affect the normal use of a computer software or data base and infringe upon the legitimate interests of the author or any other holder of the exclusive rights to such computer program or data base.

Article 26. Reproduction of the Work for Personal Purposes without Author's Consent but Subject to Payment of Author's Remuneration

1. Notwithstanding the provisions of Articles 16, 37 and 38 of this Law, the reproduction of an audiovisual work or sound recording of a work for exclusively personal purposes shall be permissible without consent of the author of a work, performer and phonogram producers, but subject to payment of remuneration to them.

2. The remuneration for the reproduction referred to in paragraph 1 of this Article shall be paid by the manufacturers or importers of the equipment (audio and video recorders and other equipment) and recording material (sound and/or video recording and cassettes, optical disks, compact discs and other material media) used for such reproduction.

This remuneration shall be collected and distributed by one of the organizations for collective administration of the economic rights of the authors, phonogram producers and performers under an agreement concluded with the said organization (Article 45 of this Law). Unless otherwise provided by this agreement, remuneration shall be distributed as follows: forty percent shall go to the authors, thirty percent shall go to the performers, and thirty percent to the phonogram producers.

The amount of remuneration and the manner of its payment shall be determined by an agreement between the aforementioned manufacturers and importers on the one hand, and the organizations managing economic rights of authors, phonogram producers and performers on a collective basis on the other hand, but if the parties fail to reach such an agreement, by Kyrgyzpatent.

3. No remuneration shall be paid for the recording equipment and material referred to in paragraph 2 of this Article which are subject to export, or constitute professional equipment not intended for use for home recording.

Article 27. Term of Copyright

1. The copyright shall be valid during the lifetime of the author and for fifty years after his death, beginning from the first of January of the year following the year of the author's death.

2. The copyright to a work created in joint authorship shall be effective during the whole life of co-authors and fifty years after the death of the last co-author who outlived other co-authors.

3. The copyright to a work issued for the first time under pseudonym or anonymously shall have effect during fifty years beginning from the first of January of the year following the year the work was published.

If a pseudonym or anonymous name is disclosed during the established term, the terms indicated in paragraph 1 of this Article shall be applied.

4. The copyright shall belong to the author's heirs and inherited during the terms indicated in paragraph 1 of this Article. During the same terms the copyright shall belong to successors who obtained this right due to the agreement with the author, his heirs and future legal successors.

5. The copyright in a posthumous work shall have effect for fifty years after the publication of the work, beginning from January 1 after the year following the year of its publication.

6. The authorship, name of the author and inviolability of the work shall be protected permanently.

Article 28. Public Domain

1. On the expiration of the term copyright in a work, the work shall fall into the public domain.

Works that have never enjoyed protection in the territory of the Kyrgyz Republic shall likewise be deemed fallen into the public domain.

2. Works that have fallen into the public domain may be freely used by any person without payment of remuneration. In this case the right to authorship, right to a name and the right to inviolability of the work (Article 15 of this Law) shall be respected.

3. The Government of the Kyrgyz Republic shall establish the amount of deductions paid to the State Intellectual Property Fund for the use of works fallen into the public domain in the territory of the Kyrgyz Republic.

Article 29. Transfer of Copyright by Succession

The copyright is transferable by succession.

Personal non-economic rights of the author provided by Article 15 of the present Law shall not be transferable by succession. The author's heirs shall be entitled to protect the indicated rights. These rights of the heirs shall not be limited by any term.

Where the author has no heirs the defense of the rights in question shall be ensured by Kyrgyzpatent.

Article 30. Assignment of Economic Rights. Author's Contracts.

1. The assignment of economic rights referred to in Article 16 of this Law shall be effected by means of an author's contract except as provided in Articles 18 to 26 of this Law.

The economic rights may be the subject of an author's contract for the assignment of exclusive or an author's contract for assignment of non-exclusive rights.

2. The author's contract on the assignment of the exclusive rights shall allow the use of the work in a certain way and within the limits established by the contract only to the assignee and shall confer on that person the right to prohibit the use of the work by third parties.

The right to prohibit third parties from exploiting the work may be exercised by the author of the work where the person to whom the exclusive rights have been assigned does not avail himself of that right.

3. The author's contract for the assignment of non-exclusive rights shall allow the user to exploit the work under the same conditions as the owner of the exclusive rights who has granted those rights to him and/or other persons who have obtained permission to exploit this work by the same means.

4. The rights to which the author's contract is related shall be deemed non-exclusive unless otherwise expressly stipulated in the agreement.

Article 31. Conditions of the Author's Agreement

1. The author's contract shall stipulate:

1) the modes of exploitation of the work (specific rights assigned under the contract);

2) the period and the territory for which the rights are assignment ;

3) the amount of remuneration and/or the procedure of calculation of the amount of remuneration for each mode of exploitation of the work, the procedure and terms of payment; and

4) other conditions that shall be deemed essential by parties for the contract concerned.

Should an author's contract not specify the condition on the term for which the right is assigned, the contract may be annulled by the author on the expiration of five years from the date of its conclusion if the user is notified in writing about it six months prior to the annulment.

The author's contract concluded for a long term may be canceled by the author on the expiration of ten years as of the date of conclusion of an agreement, if the user is notified in a written form in six months before abrogation of an agreement. The author shall have this right every ten years.

Should the author's contract not specify conditions of the territory to which the right is assigned, the term of the right assigned under the contract shall be limited to the territory of the Kyrgyz Republic.

2. The rights to use a work that have not been directly assigned under the author's contract shall be deemed as not assigned.

The rights to exploitation of the work that are not known at the moment of conclusion the contract may not be the subject of the author's contract.

3. Remuneration shall be determined in the author's contract as a percentage of the revenue derived from the exploitation of the work by the intended means or, where that is not possible in view of the nature of the work or the particular circumstances of the exploitation thereof, in the amount fixed in the contract or otherwise.

The Government of the Kyrgyz Republic shall establish the minimum rates of author's remuneration. The minimum amounts of author's remuneration shall be indexed at the same time as minimum wage amounts.

If in the author's contract for the publication or some other form of reproduction of the work remuneration is calculated as a fixed sum, the contract shall specify the maximum print run of the work.

4. The rights assigned under the author's contract may be assigned, in its entirety or in part, to other persons only if this is expressly indicated by the contract.

5. The author's contract may not relate to exploitation rights arising in connection with works that the author may create in the future.

6. Any clause in an author's contract that imposes limits on the author regarding the future creation of works on a particular subject or in a particular field shall be deemed invalid.

7. The clauses of an author's contract that are contrary to the provisions of this law shall be deemed invalid.

8. The party that failed to perform or improperly performed its obligations under the author's contract must indemnify the losses caused to the other party.

Article 32. The Form of the Author's Contract

1. The author's contract shall be concluded in writing. The author's contract on the use of a work in the periodical press may be concluded by word of mouth.

2. In the course of sale of copies of a computer programs and databases and granting an access thereto to general users, a special procedure for concluding the agreements may be used as set forth by the legislation of the Kyrgyz Republic.

3. The author's contract may be registered in Kyrgyzpatent upon the agreement of the parties. Registration fees shall be charged for registration of the agreement, the amount and the procedure of payment shall be established by the Government of the Kyrgyz Republic.

Kyrgyzpatent is drafting samples of the author's contracts.

Article 33. The Author's Order Contract

1. Personal non-economic right to the work created due to the order contract shall belong to the author.

2. The exclusive rights to use ordered work shall belong to a party specified in the conditions of the author's order contract.

3. Pursuant to the author's order contract, the author is obligated to create a work in accordance with the conditions of the agreement and transfer it to the customer.

4. The commissioning party shall be bound to pay an advance to the author on the remuneration determined in the agreement. The amount of the advance, the procedure and time limits for the payment of the advance shall be set forth in the contract upon the agreement of the parties.

5. If the author fails to submit the ordered work in accordance with the conditions of the order agreement, he/she shall be obligated to indemnify/compensate the actual prejudice/damage caused thereby/to the customer.

Title III. NEIGHBORING RIGHTS

Article 34. Scope of Neighboring Rights

1. The rights of a performer shall be recognized as belonging thereto pursuant to this Law in the events if:

1) the performer is a national of the Kyrgyz Republic;

2) the performance, staging has first taken place in the territory of the Kyrgyz Republic;

3) the performance, staging has been recorded on a phonogram protected pursuant to the provisions of item 2 of this Article; and

4) the performance, staging has not been recorded on a phonogram but is included in a program broadcast or transmitted by cable that is protected under the provisions of item 3 of this Article.

2. The rights of a phonogram producer shall be recognized as belonging thereto pursuant to this Law in the events if:

1) the producer of a phonogram is a national of the Kyrgyz Republic or a legal entity that has an official location on the territory of the Kyrgyz Republic; and

2) the phonogram has been first published in the territory of the Kyrgyz Republic. The phonogram shall be also considered published for the first time on the territory of the Kyrgyz Republic, if within 30 days after the date of its publication outside the Kyrgyz Republic it was published in the territory of the Kyrgyz Republic.

3. The rights of broadcasting or cable distribution organization shall be recognized as belonging thereto pursuant to this Law if the organization has its headquarters on the territory of the Kyrgyz Republic and broadcasts its programs by means of transmitters located on the territory of the Kyrgyz Republic.

4. The rights of foreign performers, producers of phonograms, radio, television and cable distribution organizations shall be recognized in the territory of the Kyrgyz Republic according to the international agreements of the Kyrgyz Republic.

Article 35. Objects of Neighboring Rights

The neighboring rights shall extend to staging, performances, phonograms, and broadcasting and cable distribution organizations irrespective of their purpose, content and merits, as well as the form of expression thereof.

Article 36. Subjects of Neighboring Rights

1. The subjects of neighboring rights shall include performers, phonogram producers, and broadcasting and cable distribution organizations.

2. The producer of a phonogram, broadcasting or cable distribution organization shall exercise their rights as specified in this Title, within the limits of the rights that the performer and the author of the work recorded on the phonogram or broadcast or transmitted by cable have granted them by contract.

Authorization to exploit a staging that has been obtained from the producer of the play shall include the need to obtain permission from the other performers participated in the performance, as well as from the author of the work performed.

3. The performer shall exercise the rights specified in this Title provided the rights of the author of the performed work are observed.

4. The origin and exercise of neighboring rights shall not be subject to compliance with any formality. The producer of a phonogram and performer, in order to publicize their rights, have the right to make use of a reserved rights notice which is affixed to each copy and/or on every inlay card of such a phonogram and should consist of three components:

a circled Latin letter P – (P);

the name of the owner of the exclusive rights;

the year of first publication of the phonogram.

5. The performer, producer of a phonogram, broadcasting and cable distribution organizations have the right to register their performance, staging, phonogram and broadcast at any time during the effective term of neighboring rights protection in the state registers. A person registering the object of neighboring right shall be granted a certificate in the established form. Kyrgyzpatent shall carry out registration.

Fees in the amount spent on registration shall be charged for the registration of the objects of neighboring rights. (as amended by Law # 120 from November 6, 1999).

Article 37. Rights of the Performer

1. With the exception of cases provided by this Law, the performer shall enjoy the following personal non-economic and economic rights to his/her performance or staging:

- the right to be named;

- the right to the protection of the performance or staging against any distortion or other derogatory act liable to prejudice his honor and dignity; and the right to exploit the performance or staging in any form, including the right to be paid remuneration for each such form of use of the performance or staging.

2. The exclusive rights to exploit the performance or staging shall mean the right to perform, authorize or prohibit the following acts:

1) broadcasting or cable communication of the performance or staging to the public insofar , as the performance or staging used for such a program have not been broadcast previously or is not effected on the basis of a recording;

2) recording of a previously unrecorded performance or staging;

3) reproduction of the recording of a performance;

4) broadcasting or cable communication of the recording of a performance insofar as the said recording was originally made for noncommercial purposes; and

5) rental of a phonogram published for commercial purposes, on which a performance has been recorded with the participation of the performer. The right shall be transferred to the producer of a phonogram on the conclusion of a contract for the recording of the performance or staging on a phonogram; in this case the performer shall nevertheless retain the right to remuneration for rental of copies of a phonogram (point 2, Article 39 of this Law).

3. The exclusive right of the performer under subparagraph 3 of paragraph 2 of this Article shall not apply if:

- the initial recording of a performance was made with the consent of the performer;

- the reproduction of the performance is made for the same purposes as the recording of the performance to which the performer consented.

- the reproduction of the performance is made for the same purposes for which the recording has been made pursuant to the provisions of Article 42 of this Law.

4. The authorizations referred to in paragraph 2 of this Article shall be granted by the performer, or, in the case of a group performance, by the head of the group, in a written contract concluded with the user.

5. The authorization referred to in subparagraphs 1), 2) and 3) of paragraph 2 of this Article shall not be necessary for the rebroadcasting of a performance or staging, the recording for broadcasting purposes and the reproduction of that recording by broadcasting or cable distribution organizations if they are expressly provided for in the contract concluded by the performer with the broadcasting or cable distribution organization. The amount of performer's remuneration for such a use shall likewise be specified in the contract.

6. The conclusion of the contract for the making of an audiovisual work by the performer and the maker shall entail granting of rights by the performer referred to in subparagraphs 1), 2), 3) and 4) of paragraph 2 of this Article.

Granting of the said rights by the performer shall be limited by the use of the audiovisual work and, unless otherwise provided in the contract, shall not extend the rights in any separate use of the sound or the pictures embodied in the audiovisual work.

7. The exclusive rights of a performer provided by paragraph 2 of this Article may be assigned to third parties by contract.

8. The agreement on assignment of the exclusive rights may be registered at Kyrgyzpatent. Registration fees shall be collected for the registration, the amount of which and the procedure of their payment shall be established by the Government of the Kyrgyz Republic.

Article 38. Rights of the Phonogram Producer

1. Except as provided by this Law, the producer of a phonogram shall enjoy the exclusive rights to exploit the phonogram in any form, including the right to remuneration for each form of use of this phonogram.

The exclusive right to use the phonogram shall mean the right to perform or authorize the following act:

1) reproduction of the phonogram;

2) adaptation or any other transformation of the phonogram;

3) distribution of copies of the phonogram, for instance by sale, rental, etc.;

4) importation of copies of the phonogram for the purposes of distribution, including copies made with the authorization of the producer of this phonogram in question.

3. Where copies of a lawfully published phonogram have been placed on the market by sale, they may be further distributed without the consent of the producer of the phonogram and without payment of remuneration.

The right to distribute copies of the phonogram by rental shall belong to the producer of a phonogram regardless of the ownership of the said copies.

4. The exclusive rights of the producer of a phonogram provided by paragraph 2 of this Article may be assigned or licensed to third parties by contract.

5. The agreement on assignment of the exclusive rights may be registered at Kyrgyzpatent. Registration fees shall be collected for the registration, the amount and the procedure of payment shall be established by the Government of the Kyrgyz Republic.

Article 39. Use of a Phonogram Published for Commercial Purposes without Consent of the Producer of Phonogram and the Performer

1. As an exception to the provisions of Articles 37 and 38 of this Law, the following acts shall be authorized without consent of the producer of a phonogram published for commercial purposes and the performer, whose performance is recorded on such a phonogram, but against payment of remuneration:

- 1) public performance of the phonogram;
- 2) broadcasting of the phonogram; and
- 3) communication of the phonogram to public by cable.

2. Remuneration provided by paragraph 1 of this Article shall be collected, distributed and paid out by an organization for the collective administration of the rights of producers of phonograms and performers (Article 44 of this Law) pursuant to the agreement concluded between these organizations. Except where otherwise provided in the said agreement, the remuneration shall be split equally between the producer of a phonogram and the performer.

3. The amount of the remuneration and the manner of its payment thereof shall be determined by agreement between the user of a phonogram or the unions (associations) of such users, on the one hand, and organizations managing the rights of producers of phonograms and performers, on the other hand, in the event the parties fail to reach such an agreement, by Kyrgyzpatent.

The amount of remuneration shall be set for each form of use of the phonogram.

4. The users of phonograms shall be bound to submit to the organization specified in paragraph 2 of this Article programs containing detailed information on the number of uses of the phonogram, as well as the other information and material as is necessary for collection and distribution of remuneration.

Article 40. Rights of Broadcasting Organizations

1. Except as provided by this Law, broadcasting organizations with respect to their program shall enjoy the exclusive rights to use the program in any form and authorize the use of the program, including the right to receive remuneration for granting such permission.

2. The exclusive right to authorize the use of a program shall mean the right of the broadcasting organization to authorize the following acts:

- 1) the simultaneous broadcasting of this program by the other broadcasting organization;
- 2) the communication of the program to the public by a cable;
- 3) the recording of the program;
- 4) the reproduction of the recording of the program;
- 5) the communication of the program to the public in places where a charge is made for admission.

3. The exclusive right of the broadcasting organization provided by subparagraph 4 of paragraph 2 of this Article, shall not extend to the cases when:

the recording of the program has been made with the consent of the broadcasting organization;

the program is reproduced for the same purposes as those for which it was recorded pursuant to the provisions of Article 42 of this Law.

Article 41. Rights of Cable Distribution Organization

1. Except as provided in this Law, cable-broadcasting organizations shall enjoy the exclusive rights to use the program in any form and authorize the use of the program, including the right to receive remuneration for granting such authorization.

2. The exclusive right to authorize the use of a program shall mean the right of the cable distribution organization to authorize the following acts:

1) the simultaneous cable communicate the program to the public by another cable distribution organization;

2) the broadcasting of the program;

3) the recording of the program;

4) the reproduction of the recording of the program; and

5) the communication of the program to general public in places where a charge is made for admission.

3. The exclusive right of a cable distribution organization provided under subparagraph 4 of paragraph 2 of this Article shall not extend to cases in which:

- the program has been recorded with the consent of the cable distribution organization;

- the program is reproduced for the same purposes as those for which it was recorded under the provisions of Article 42 of this Law.

Article 42. Limits of the Rights of the Performer, the Phonogram Producer, the Broadcasting or Cable Distribution Organization

1. Notwithstanding the provisions of Articles 37 to 41 of this Law it shall be permissible without consent from the performer, the phonogram producer and the broadcasting or cable distribution organization, and without payment of remuneration, to make use of the performance or the broadcast or cabled program or the recording thereof, and to reproduce phonograms:

1) for the inclusion in a report on current events short excerpts from the performance, the phonogram, the broadcast or cabled program;

2) for the sole purposes of teaching or scientific research;

3) as a means of quoting in the form of short excerpts from such performance, the phonogram or the broadcast or cabled program provided that such quotation is done for information purposes. In this case any use of copies of a phonogram published for commercial purposes by broadcasting or cable distribution organization shall be allowed for broadcasting or cable distribution only in compliance with the provisions of Article 39 of this Law; and

4) in the other cases set forth by the provisions of Articles 18-25 of this Law for the limitation of economic rights of the author of works of literature, science and arts.

2. As an exception to provisions of Article 37 to 41 of this Law, the program may be used for broadcasting and cable distribution organization and its recording and a phonogram may be reproduced for personal purposes without consent of the performer, producer of a phonogram, and broadcasting or cabled program. Reproduction of the phonogram shall be permissible against payment of remuneration under Article 26 of this Law.

3. The provisions of Articles 37, 38, 40 and 41 of this Law concerning the authorization of the performer, producer of a phonogram or radio broadcasting and cable TV organization to make a short term use recordings of a performance, program, reproduce such recordings and reproduce a phonogram published for commercial purposes if such a short term use of the ephemeral recording or the reproduction is made

by broadcasting or cable distribution organization on its own equipment and for the purposes of its own broadcasts shall not be applied based upon the conditions that:

1) the broadcasting organization has obtained prior authorization to broadcast the performance or the program of which an ephemeral recording is made or performed under the provisions of this paragraph; and

2) the ephemeral recording is destroyed within the period laid down for ephemeral recordings of works of literature, science and the arts made for the short term use by the broadcasting organization pursuant to the provisions of Article 24 of this Law, with the exception of a single copy which may be preserved in official archives if it is of purely documentary character.

4. The limitations stipulated in this Article shall not prejudice either normal exploitation of the phonogram, the performance, or the program broadcast or cable transmission and recordings thereof, as well as the normal exploitation of works of literature, science and the arts incorporated therein, and it shall likewise prejudice the legitimate interests of the performer, producer of the phonogram, the broadcasting or cable distribution organization and the authors of the works in question.

Article 43. Term of Neighboring Rights

1. The rights of the performer provided in this Title shall remain effective for 50 years following the first performance.

The performer's rights to be named and to have the performance protected against any distortion or any other derogatory act, laid down in Article 37 of this Law shall be protected without limitation in time.

2. The rights provided by this Title to the phonogram producer shall remain in effect for 50 years following the first publication of the phonogram or during 50 years following the first recording if the phonogram has not been published in the course of that period.

3. The rights provided under this Title for the broadcasting organizations shall remain effective for 50 years following the first broadcast effected by this organization.

4. The rights of the cable distribution organizations under this Title shall be protected for 50 years following the first cable transmission made by this organization.

5. Any period under paragraphs 1, 2, 3, and 4 of this Article shall be calculated as from January 1 of the year following the year in which the legal act occurred that marks the starting point of the period.

6. In the event the performer has been rehabilitated posthumously after having been the subject of repressive measures, the period of protection of his/her rights under this Article shall start from January 1 of the year following the year of rehabilitation.

7. The heirs (in the case of a legal entities, the successors in title) of the performer, the phonogram producers, broadcasting or cable distribution organization shall inherit the right to permit the use of the performance, phonogram, broadcast or cable transmissions and the right to remuneration within the limits of the non-elapsed portion of the terms as specified in paragraphs 1, 2, 3, 4 of this Article.

Title IV.

COLLECTIVE ADMINISTRATION OF ECONOMIC RIGHTS

Article 44. Objectives of Collective Administration of Economic Rights

1. Organizations for the collective administration of the economic rights of authors, performers, phonogram producers and other owners of copyright or neighboring rights may be created in cases where the individual exercise thereof is hampered by difficulties of a practical nature.

Such organizations shall be established directly by the owners of copyright and neighboring rights and operate within the limits of the mandate entrusted to them and also on the basis of statutes adopted according to a procedure laid down by law. The charter of the organization, which administers the economic rights on a collective basis, must contain the provisions, which comply with the requirements of

this Law. The refusal to register the organization that administers economic rights of the authors on a collective basis is allowed in the cases if the provisions of the present Law as well as legislation establishing the order of registration of public associations have been violated.

2. Either separate organizations with respect to different rights and different categories of right holders or organizations administering various rights in the interests of different categories of right owners or a single organization simultaneously administering copyright and neighboring rights may be established.

Article 45. Organizations for the Collective Administration of Economic Rights

1. The mandate for the collective administration of economic rights shall be entrusted either direct, by the owners of copyright or neighboring rights in written contracts, or under appropriate contracts with foreign organizations that administer equivalent rights. Such contracts shall not constitute author's contracts, and the provisions of Articles 30-33 of this Law shall not extend to them.

Any author, his heir or any other owner of copyright or neighboring rights protected pursuant to Title III of this Law, has, by contract, the right to entrust the exercise of his/her economic rights to such an organization, and the organization shall agree to exercise of those rights on a collective basis if the administration of such category of rights forms part of the statutory activities of this organization.

The organization administering economic rights on a collective basis shall not be entitled to engage in commercial activities or exploitation of the works or subject matter of neighboring rights for which they have received a collective administration mandate.

The activity of the collective administration organization shall not be considered as monopoly, and therefore shall not be subject to limitations set forth by the anti-monopoly legislation.

2. An organization for the collective administration of economic rights shall grant users licenses for the use of the relevant works and subject matter of neighboring rights by appropriate means. The conditions on which such licenses are granted shall be identical for all users in a given category. Such an organization shall not be entitled to refuse a license to a user without valid reason. *Procedure of concluding licensing agreements shall be conducted in accordance with of Article 406 of the Civil Code of the Kyrgyz Republic.*

These licensing agreements shall authorize the use of all the works and objects of neighboring rights in any ways provided therein and shall be granted on behalf of all owners of copyright and neighboring rights, including those who have not mandated the organization pursuant to paragraph 1 of this Article.

All users who have concluded licensing agreement must carry out the state registration in the established order and obtain the state registration certificate of an appropriate form at Kyrgyzpatent. *Fee in the amount spent for registration shall be charged for issuance of a certificate.*

The organization that grants shall settle problems arising from claims made by owners of copyright and neighboring on users in connection with the use, under the license, of their works or subject matter of neighboring rights.

3. If an organization for the administration of economic rights has remuneration in its possession that has been claimed for three years following the date of the collection thereof, it may retain it and either include it in the sums that it distributes or assign it to other purposes of interest to the owners of copyright or neighboring rights that it represents. *(as amended by Law # 120 from November 6, 1999).*

Article 46. Functions and Obligations of the Organizations for Collective Administration of Economic Rights

1. An organization for the collective administration of economic rights shall, on behalf of the owners of copyright and neighboring rights that it represents and on the basis of the mandates entrusted to it, perform the following functions:

1) negotiation with the users, of remuneration amounts and other conditions to which the grant of licenses is subject;

- 2) concluding licensing agreements with the users for the exploitation of rights, the administration of which forms part of its activities;
- 3) negotiation, with the users, of the amount of remuneration in the event the organization is responsible for collecting such remuneration without granting a license (Article 26 and paragraphs 2 and 3 of Article 39 of this Law);
- 4) collection of the remuneration as provided by licensing agreement and/or that referred to in subparagraph 3 of this paragraph;
- 5) allocation and payment of the collected remuneration to the owners of copyright and neighboring rights represented by the organization;
- 6) performance of any legal act essential to the defense of the rights under the administration of which forms part of its activities; and
- 7) performance of any other activities in accordance with powers under mandates received from the owners of copyright and neighboring rights.

Performance of functions, provided by subparagraphs 4 and 5 of the present point by more than one organization for the collective administration of economic rights shall not be permissible.

2. The organization for the collective administration of economic rights shall carry out the following duties in the interests of owners of copyright and neighboring rights:

1) it shall use the remuneration collected exclusively for allocation and payment to the owners of copyright and neighboring rights pursuant to the provisions of subparagraph 4 of paragraph 1 of the present Article. However, the organization shall have the right to deduct from the amount of remuneration collected a sum intended to cover expenditure actually incurred by it in the collection, allocation and payment of such remuneration, as well as a sum payable to a special fund established by the organization on the decision of its members. The Government of the Kyrgyz Republic shall establish the amounts of deductions to the State Intellectual Property Fund for the use of works and objects of neighboring rights on the territory of the Kyrgyz Republic.

2) it shall allocate and regularly pay the collected amounts of remuneration with the deduction of the amounts referred to in subparagraph 1 of this paragraph proportionally to the actual use of works and objects of neighboring rights concerned;

3) simultaneously with payment of remuneration to the owners of copyright and neighboring rights it shall submit the statements containing the data on the use their rights.

2. Owners of copyright and neighboring rights who have not mandated the organization to collect the remuneration in compliance with subparagraph 4 of paragraph 1 of this Article, shall have the right to demand that the organization pay them the remuneration accruing to them according to the allocation made or alternatively that it exclude their works or subject matter of neighboring rights from the licenses that it grants users. *(as amended by Law # 120 from November 6, 1999).*

Article 47. Control over the Activities of Organizations for Collective Administration of Economic Rights

1. An organization for collective administration of economic rights must submit to Kyrgyzpatent that controls its activities the following data:

- 1) changes introduced to the charter or other founding documents of such an organization;
- 2) bilateral and multilateral agreements concluded by this organization with foreign organizations administering similar rights;
- 3) decisions of the general meetings;
- 4) annual balance sheet, annual statement including data on unclaimed remuneration and auditing;

5) persons, authorized to represent the organization;

2. Kyrgyzpatent has the right to require additional information from this organization, which is necessary to check the activities of this organization for compliance with this Law, legislation on public associations or other legislation, as well as the charter of the organization.

3. Kyrgyzpatent shall carry out the functions and obligations of these organizations in compliance with the present section before the creation of organizations that administer economic rights on a collective basis.

**Title V.
PROTECTION OF COPYRIGHT AND NEIGHBORING RIGHTS**

Article 48. Violation of Copyright and Neighboring Rights

Violation of the copyright and neighboring rights provided by this Law shall make the offender liable to civil, criminal and administrative sanctions pursuant to legislation of the Kyrgyz Republic.

Article 49. Civil-Legal and Other Measures for Protection of Copyright and Neighboring Rights

Protection of copyright and neighboring rights is carried out by the court by way of:

1) recognition of the said rights;

2) restoration of the situation obtaining prior to the infringement of the right;

3) cessation of acts that infringe or create a threat of infringement;

4) payment of damages;

5) the surrender, in place of the payment of damages, of revenue derived by the infringer from the infringement;

6) payment, in place of damages or the surrender of revenue, of an indemnity in an amount between 20 and 50000 times the minimum salary set by the legislation of the Kyrgyz Republic, at the discretion of the court;

7) the adoption of such other measures provided for in legislative texts and related to protection of their rights.

The choice between the measures referred to in subparagraphs 4, 5 and 6 of this paragraph shall be made by the owner of the copyright and neighboring rights.

2. For the defense of his/her exclusive rights the owner of copyright or neighboring rights may, according to the established procedure, bring action before a court, arbitration court, private arbitration, investigation body or bodies of preliminary investigation according to the competence thereof.

3. The counterfeit copies of the works or phonograms shall be subject to mandatory confiscation on the decision of the court or a single judge as well as the decision of the arbitration court. The confiscated counterfeit copies of the works or phonograms shall be destroyed, except for the cases when such copies are transferred to the owner of the copyright or neighboring rights, by his request. The court or a single judge as well as arbitration court may order the confiscation of the materials and the equipment used for manufacture and reproduction of counterfeit copies of the works or phonograms.

4. By the demand of the author or owner of neighboring rights, the person guilty of willful destruction or negligent destruction of the original of a work of fine art, manuscript or final variant of the audio-visual work (negative, original record), shall be obliged to pay material and moral damage, pursuant to requirements of paragraph 1 of this Article.

Article 50. Injunctions in the Cases of Violation of Copyright and Neighboring Rights

1. The court or a single judge, as well as arbitration court may rule to prohibit the defendant or the person alleged to be an infringer of copyright or neighboring rights provided sufficient evidence is available, to perform certain acts (production, reproduction, sale, rental, import or other use provided by this Law, as well as transportation, storage or possession with the purpose of releasing into civil turnover copies of the works or phonograms assumed to be counterfeit).

2. The court or a single judge, as well as the arbitration court may issue an injunction to seize and confiscate all copies of the works or phonograms allegedly counterfeit, as well as materials and equipment intended for their manufacture and reproduction.

In the presence of sufficient information on violation of copyright or neighboring rights the investigation body, investigator, court or a single judge are obligated to take measures in the form of the location and descriptive seizure of allegedly counterfeit copies of works or phonograms and also of the materials and equipment intended for manufacture and reproduction thereof, as well as documents providing evidence of violation of the provisions of this Law, and where appropriate in the form of actual seizure and delivery to a custodian.

Title VI. FINAL PROVISIONS

Article 51. Enactment of the Present Law

1. Implement the present Law as of the date of its publication. (Erkin-Too as of January 23, 1998, # 6-7; Nasha gazeta as of January 28, 1998, # 6).

2. The present Law shall extend to the relations on creation as well as use of copyright and neighboring rights objects arisen after its implementation.

3. Until the compliance of the legislation of the Kyrgyz Republic with the present Law, the normative acts of the Kyrgyz Republic shall be applied in the parts where they do not contradict to the present Law.

4. The Law shall extend to the works and objects of neighboring rights that have not been earlier protected by copyright, for the period remaining before expiration of 50 years from the date of its legitimate publication or before expiration of 50 years as of the date of its creation if not promulgated.

5. The term of protection of the authors' rights stipulated by Article 27 of the present Law shall be applied to the works for which the effective term of copyright before publication of the present Law is not expired.

Within three months after publication of the present Law the Government of the Kyrgyz Republic shall:

- prepare and introduce to the Jogorku Kenesh of the Kyrgyz Republic proposals on brining the legislation in compliance with the present Law;

- bring into compliance with the present Law normative acts issued by the Government of the Kyrgyz Republic, ministries and administrative agencies of the Kyrgyz Republic.

The President of the Kyrgyz Republic A. Akaev
Adopted by the Legislative Assembly of the Jogorku Kenesh
of the Kyrgyz Republic December 16, 1997