

Copyright Law of The People's Republic of China (1990/9/7)

Law adopted at the Fifteenth Session of the Standing Committee of the Seventh National People's Congress on September 7, 1990.

CHAPTER I General Provisions

Article 1. This Law is enacted, in accordance with the Constitution, for the purposes of protecting the copyright of authors in their literary, artistic and scientific works and the rights related to copyright, of encouraging the creation and dissemination of works which would contribute to the construction of socialist spiritual and material civilization, and of promoting the development and flourishing of socialist culture and sciences.

Article 2. Works of Chinese citizens, legal entities or entities without legal personality, whether published or not, shall enjoy copyright in accordance with this Law. Works of foreigners first published in the territory of the People's Republic of China shall enjoy copyright in accordance with this Law. Any work of a foreigner published outside the territory of the People's Republic of China which is eligible to enjoy copyright under an agreement concluded between the country to which the foreigner belongs and China, or under an international treaty to which both countries are party, shall be protected in accordance with this Law.

Article 3. For the purposes of this Law, the term "works" includes works of literature, art, natural science, social science, engineering technology and the like which are expressed in the following forms:

- (1) written works;
- (2) oral works;
- (3) musical, dramatic, quyi* and choreographic works;
* Quyi refers to such traditional art forms as ballad singing, story telling, comic dialogues, clapper talks and cross talks (translator's note).
- (4) works of fine art and photographic works;
- (5) cinematographic, television and videographic works;
- (6) drawings of engineering designs and product designs, and descriptions thereof;
- (7) maps, sketches and other graphic works;
- (8) computer software;
- (9) other works as provided for in laws and administrative regulations.

Article 4. Works the publication or distribution of which is prohibited by law shall not be protected by this Law. Copyright owners, in exercising their copyright, shall not violate the Constitution or laws or prejudice the public interest.

Article 5. This Law shall not be applicable to:

- (1) laws; regulations; resolutions, decisions and orders of state organs; other

documents of a legislative, administrative or judicial nature; and their official translations;

(2) news on current affairs; and

(3) calendars, numerical tables, forms of general use and formulas.

Article 6. Regulations for the protection of copyright in expressions of folklore shall be established separately by the State Council.

Article 7. Where any scientific or technological work is protected under the Patent Law, the Law on Technology Contracts or similar laws, the provisions of those laws shall apply.

Article 8. The copyright administration department under the State Council shall be responsible for the nationwide administration of copyright. The copyright administration department of the People's Government of each province, autonomous region and municipality directly under the Central Government shall be responsible for the administration of copyright in its administrative area.

CHAPTER II Copyright

Section 1 - Copyright Owners and Their Rights

Article 9. The term "copyright owners" shall include:

(1) authors;

(2) other citizens, legal entities and entities without legal personality enjoying copyright in accordance with this Law.

Article 10. The term "copyright" shall include the following personality rights and property rights:

(1) the right of publication, that is, the right to decide whether to make a work available to the public;

(2) the right of authorship, that is, the right to claim authorship and to have the author's name mentioned in connection with the work;

(3) the right of alteration, that is, the right to alter or authorize others to alter one's work;

(4) the right of integrity, that is, the right to protect one's work against distortion and mutilation;

(5) the right of exploitation and the right to remuneration, that is, the right of exploiting one's work by reproduction, live performance, broadcasting, exhibition, distribution, making cinematographic, television or video production, adaptation, translation, annotation, compilation and the like, and the right of authorizing others to exploit one's work by the above-mentioned means and of receiving remuneration therefor.

Section 2 - Ownership of Copyright

Article 11. Except where otherwise provided in this Law, the copyright in a work shall

belong to its author.

The author of a work is the citizen who has created the work .

Where a work is created according to the intention and under the supervision and responsibility of a legal entity or entity without legal personality, such legal entity or entity without legal personality shall be deemed to be the author of the work. The citizen, legal entity or entity without legal personality whose name is mentioned in connection with a work shall, in the absence of proof to the contrary, be deemed to be the author of the work .

Article 12.Where a work is created by adaptation, translation, annotation or arrangement of a preexisting work, the copyright in the work thus created shall be enjoyed by the adapter, translator, annotator or arranger, provided that the exercise of such copyright shall not prejudice the copyright in the original work.

Article 13.Where a work is created jointly by two or more coauthors, the copyright in the work shall be enjoyed jointly by those coauthors.

Coauthorship may not be claimed by anyone who has not participated in the creation of the work .

If a work of joint authorship can be separated into independent parts and exploited separately, each coauthor shall be entitled to independent copyright in the parts that he has created, provided that the exercise of such copyright shall not prejudice the copyright in the joint work as a whole.

Article 14.The copyright in a work created by compilation shall be enjoyed by the compiler, provided that the exercise of such copyright shall not prejudice the copyright in the preexisting works included in the compilation.

The authors of such works included in a compilation as can be exploited separately shall be entitled to exercise their copyright in their works independently.

Article 15.The director, scriptwriter, lyricist, composer, cameraman and other authors of a cinematographic, television or videographic work shall enjoy the right of authorship in the work, while the other rights included in the copyright shall be enjoyed by the producer of the work.

The authors of the screenplay, musical works and other works that are included in a cinematographic, television or videographic work and can be exploited separately shall be entitled to exercise their copyright independently.

Article 16.A work created by a citizen in the fulfillment of tasks assigned to him by a legal entity or entity without legal personality shall be deemed to be a work created in the course of employment. The copyright in such work shall be enjoyed by the author, subject to the provisions of the second paragraph of this Article, provided that the legal entity or entity without legal personality shall have a priority right to exploit the work within the scope of its professional activities. During the two years after the completion of the work, the author shall not, without the consent of the legal entity or entity without legal personality, authorize a third party to exploit the work in the same way as the legal entity or entity without legal personality does.

In the following cases the author of a work created in the course of employment shall

enjoy the right of authorship, while the legal entity or entity without legal personality shall enjoy the other rights included in the copyright and may reward the author:

- (1) drawings of engineering designs and product designs and descriptions thereof, computer software, maps and other works created in the course of employment mainly with the material and technical resources of the legal entity or entity without legal personality and under its responsibility;
- (2) works created in the course of employment where the copyright is, in accordance with laws, administrative regulations or contracts, enjoyed by the legal entity or entity without legal personality.

Article 17. The ownership of the copyright in a commissioned work shall be agreed upon in a contract between the commissioning and the commissioned parties. In the absence of a contract or of an explicit agreement in the contract, the copyright in such a work shall belong to the commissioned party.

Article 18. The transfer of ownership of the original copy of a work of fine art, or other works, shall not be deemed to include the transfer of the copyright in such work, provided that the right to exhibit the original copy of a work of fine art shall be enjoyed by the owner of such original copy.

Article 19. Where the copyright in a work belongs to a citizen, the right of exploitation and the right to remuneration in respect of the work shall, after his death, during the term of protection provided for in this Law, be transferred in accordance with the provisions of the Inheritance Law.

Where the copyright in a work belongs to a legal entity or entity without legal personality, the right of exploitation and the right to remuneration shall, after the change or the termination of the status of the legal entity or entity without legal personality, during the term of protection provided for in this Law, be enjoyed by the succeeding legal entity or entity without legal personality which has taken over the former's rights and obligations, or, in the absence of such successor entity, by the State.

Section 3 - Term of Protection

Article 20. The rights of authorship, alteration and integrity of an author shall be unlimited in time.

Article 21. The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a work of a citizen shall be the lifetime of the author and fifty years after his death, expiring on December 31 of the fiftieth year after his death. In the case of a work of joint authorship, such term shall expire on December 31 of the fiftieth year after the death of the last surviving author.

The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a work where the copyright belongs to a legal entity or entity without legal personality, or in respect of a work created in the course of employment where the legal entity or entity without legal personality enjoys the copyright (except the

right of authorship), shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work, provided that any such work that has not been published within fifty years after the completion of its creation shall no longer be protected under this Law.

The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a cinematographic, television, videographic or photographic work shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work, provided that any such work that has not been published within fifty years after the completion of its creation shall no longer be protected under this Law.

Section 4 - Limitations on Rights

Article 22. In the following cases, a work may be exploited without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work shall be mentioned and the other rights enjoyed by the copyright owner by virtue of this Law shall not be prejudiced:

- (1) use of a published work for the purposes of the user's own private study, research or self-entertainment;
- (2) appropriate quotation from a published work in one's own work for the purposes of introduction to, or comments on, a work, or demonstration of a point;
- (3) use of a published work in newspapers, periodicals, radio programs, television programs or newsreels for the purpose of reporting current events;
- (4) reprinting by newspapers or periodicals, or rebroadcasting by radio stations or television stations, of editorials or commentators' articles published by other newspapers, periodicals, radio stations or television stations;
- (5) publication in newspapers or periodicals, or broadcasting by radio stations or television stations, of a speech delivered at a public gathering, except where the author has declared that publication or broadcasting is not permitted;
- (6) translation, or reproduction in a small quantity of copies, of a published work for use by teachers or scientific researchers, in classroom teaching or scientific research, provided that the translation or reproduction shall not be published or distributed;
- (7) use of a published work by a state organ for the purpose of fulfilling its official duties;
- (8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery or similar institution, for the purposes of the display, or preservation of a copy, of the work;
- (9) free-of-charge live performance of a published work;
- (10) copying, drawing, photographing or video recording of an artistic work located or on display in an outdoor public place;
- (11) translation of a published work from the Han language into minority nationality languages for publication and distribution within the country;
- (12) transliteration of a published work into braille and publication of the work so transliterated.

The above limitations on rights shall be applicable also to the rights of publishers,

performers, producers of sound recordings and video recordings, radio stations and television stations.

CHAPTER III

Copyright Licensing Contracts

Article 23. Subject to provisions in this Law according to which no permission is needed, anyone who exploits a work created by others shall conclude a contract with, or otherwise obtain permission from, the copyright owner.

Article 24. A contract shall include the following basic clauses:

- (1) the manner of exploitation of the work covered by the license;
- (2) the exclusive or non-exclusive nature of the right to exploit the work covered by the license;
- (3) the scope and term of the license;
- (4) the amount of the remuneration and the method of its payment;
- (5) the liability in the case of breach of the contract;
- (6) any other matter that the contracting parties consider necessary.

Article 25. The licensee shall not, without permission from the copyright owner, exercise any right that the copyright owner has not expressly licensed in the contract.

Article 26. The term of validity of a contract shall not exceed ten years. The contract may be renewed on expiration of that term.

Article 27. The tariffs for remuneration for the exploitation of works shall be established by the copyright administration department under the State Council in collaboration with other departments concerned.

Where otherwise agreed to in a contract, remuneration may also be paid in accordance with the terms of the said contract.

Article 28. Publishers, performers, producers of sound recordings and video recordings, radio stations, television stations and other entities who or which have obtained, pursuant to this Law, the right to exploit the copyright of others, shall not infringe the authors' rights of authorship, alteration or integrity, or their right to remuneration.

CHAPTER IV

Publication, Performance, Sound Recording, Video Recording and Broadcasting

Section 1 - Publication of Books, Newspapers and Periodicals

Article 29. A book publisher who publishes a book shall conclude a publishing contract with, and pay remuneration to, the copyright owner.

Article 30. During the term of the contract, a book publisher shall have the exclusive right to publish the work delivered to him by the copyright owner for publication. The

term of the exclusive right to publish, enjoyed by the publisher as specified in the contract, shall not exceed ten years. The contract may be renewed on expiration. During the term specified in the contract, the exclusive right to publish a work enjoyed by the book publisher shall be protected by law, and the work may not be published by others.

Article 31. The copyright owner shall deliver the work within the term specified in the contract. The book publisher shall publish the work in accordance with the quality requirements and within the term specified in the contract.

The book publisher shall bear the civil liability specified in Article 47 of this Law if he fails to publish the work within the term specified in the contract.

The book publisher shall notify, and pay remuneration to, the copyright owner when the work is to be reprinted or republished. If the publisher refuses to reprint or republish the work when stocks of the book are exhausted, the copyright owner shall have the right to terminate the contract.

Article 32. Where a copyright owner has submitted the manuscript of his work to a newspaper or a periodical publisher for publication and has not received, within 15 days from the newspaper publisher or within 30 days from the periodical publisher, counted from the date of submission of the manuscript, any notification of the said publisher's decision to publish the work, the copyright owner may submit the manuscript of the same work to another newspaper or periodical publisher for publication, unless the two parties have agreed otherwise.

Except where the copyright owner has declared that reprinting or excerpting is not permitted, other newspaper or periodical publishers may, after the publication of the work by a newspaper or periodical, reprint the work or print an abstract of it or print it as reference material, but such other publishers shall pay remuneration to the copyright owner as prescribed in regulations.

Article 33. A book publisher may alter or abridge a work with the permission of the copyright owner.

A newspaper or periodical publisher may make editorial modifications and abridgments in a work, but shall not make modifications in the content of the work unless permission has been obtained from the author.

Article 34. When publishing works created by adaptation, translation, annotation, arrangement or compilation of preexisting works, the publisher shall pay remuneration both to the owners of the copyright in the works created by means of adaptation, translation, annotation, arrangement or compilation and to the owners of the copyright in the original works.

Section 2 Performance

Article 35. A performer (an individual performer or a performing group) who for a performance exploits an unpublished work created by another shall obtain permission

from, and pay remuneration to, the copyright owner.

A performer who for a commercial performance exploits a published work created by another does not need permission from, but shall, as prescribed by regulations, pay remuneration to, the copyright owner; such work shall not be exploited where the copyright owner has declared that such exploitation is not permitted.

A performer who for a commercial performance exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

Where a performer performs a work created by another and that performance is exploited for the production of a sound recording, video recording, radio program or television program, Article 37 and Article 40 shall apply.

Article 36. A performer shall, in relation to his performance, enjoy the right

(1) to claim performership;

(2) to protect the image inherent in his performance from distortion;

(3) to authorize others to make live broadcasts;

(4) to authorize others to make sound recordings and video recordings for commercial purposes, and to receive remuneration therefor.

Section 3 Sound Recording and Video Recording

Article 37. A producer of sound recordings who, for the production of a sound recording, exploits an unpublished work created by another, shall obtain permission from, and pay remuneration to, the copyright owner. A producer of sound recordings who, for the production of a sound recording, exploits a published work created by another, does not need permission from, but shall, as prescribed by regulations, pay remuneration to, the copyright owner; such work shall not be exploited where the copyright owner has declared that such exploitation is not permitted.

A producer of video recordings who, for the production of a video recording, exploits a work created by another shall obtain permission from, and pay remuneration to, the copyright owner.

A producer of sound recordings or video recordings who exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

Article 38. When producing a sound recording or video recording, the producer shall conclude a contract with, and pay remuneration to, the performers.

Article 39. A producer of sound recordings or video recordings shall have the right to authorize others to reproduce and distribute such sound recordings or video recordings and the right to obtain remuneration therefor. The term of protection of such rights shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of

the recording.

A producer of sound recordings or video recordings who is authorized to reproduce and distribute a sound recording or video recording shall also pay remuneration to the copyright owner and to the performer as prescribed by regulations.

Section 4 Broadcasting by a Radio Station or Television Station

Article 40.A radio station or television station that exploits, for the production of a radio or television program, an unpublished work created by another, shall obtain permission from, and pay remuneration to, the copyright owner.

A radio station or television station that exploits, for the production of a radio or television program, a published work created by another does not need a permission from the copyright owner, but such a work shall not be exploited where the copyright owner has declared that such exploitation is not permitted. In addition, remuneration shall be paid as prescribed by regulations unless this Law provides that no remuneration need to be paid.

A radio station or television station that exploits, for the production of a radio or television program, a work created by adaptation, translation, annotation or arrangement of a preexisting work, shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

Article 41.When producing a radio program or television program, the radio station or television station shall conclude a contract with, and pay remuneration to, the performers.

Article 42.A radio station or television station shall, in respect of a program produced by it, enjoy the right:

- (1) to broadcast the program;
- (2) to authorize others to broadcast the program, and to receive remuneration therefor;
- (3) to authorize others to reproduce and distribute the radio or television program, and to receive remuneration therefor.

The term of protection of the rights specified in the preceding paragraph shall be fifty years, expiring on December 31 of the fiftieth year after the first broadcasting of the program .

A producer of sound recordings or video recordings who is authorized to reproduce and distribute a radio or television program shall also pay remuneration to the copyright owner and to the performer as prescribed by regulations.

Article 43.A radio station or television station that broadcasts, for non-commercial purposes, a published sound recording needs not obtain permission from, or pay remuneration to, the copyright owner, performer or producer of the sound recording.

Article 44.A television station that broadcasts a cinematographic, television or

videographic work produced by another shall obtain permission from, and pay remuneration to, the producer of the cinematographic, television or videographic work.

CHAPTER V

Legal Liabilities

Article 45. Anyone who commits any of the following acts of infringement shall bear civil liability for such remedies as ceasing the infringing act, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances:

- (1) publishing a work without the consent of the copyright owner;
- (2) publishing a work of joint authorship as a work created solely by oneself, without the consent of the other coauthors;
- (3) having one's name mentioned in connection with a work created by another, in order to seek personal fame and gain, where one has not taken part in the creation of the work;
- (4) distorting or mutilating a work created by another;
- (5) exploiting a work by performance, broadcasting, exhibition, distribution, making cinematographic, television or video productions, adaptation, translation, annotation, compilation, or by other means, without the consent of the copyright owner, unless otherwise provided in this Law;
- (6) exploiting a work created by another without paying remuneration as prescribed by regulations;
- (7) broadcasting a live performance without the consent of the performer;
- (8) committing other acts of infringement of copyright and of other rights related to copyright.

Article 46. Anyone who commits any of the following acts of infringement shall bear civil liability for such remedies as ceasing the infringing act, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances, and may, in addition, be subjected by a copyright administration department to such administrative penalties as confiscation of unlawful income from the act or imposition of a fine:

- (1) plagiarizing a work created by another;
- (2) reproducing and distributing a work for commercial purposes without the consent of the copyright owner;
- (3) publishing a book where the exclusive right of publication belongs to another;
- (4) reproducing and publishing a sound recording or video recording of a performance without the consent of the performer;
- (5) reproducing and distributing a sound recording or video recording produced by another, without the consent of the producer;
- (6) reproducing and distributing a radio or television program produced by a radio station or television station without the consent of the radio station or television station;
- (7) producing or selling a work of fine art where the signature of an artist is counterfeited.

Article 47.A party who fails to fulfill his contractual obligations, or executes them in a manner that is not in conformity with the agreed conditions of the contract, shall bear civil liability in accordance with the relevant provisions of the General Principles of the Civil Law.

Article 48.A dispute over copyright infringement may be settled by mediation. If mediation is unsuccessful, or if one of the parties fails to carry out an agreement reached by mediation, proceedings may be instituted in a people's court. Proceedings may also be instituted directly in a people's court if the parties do not wish to settle the dispute by mediation.

Article 49.A dispute over a copyright contract may be settled by mediation. It may also be submitted for arbitration to a copyright arbitration body under the arbitration clause in the contract, or under a written arbitration agreement concluded after the contract has been signed.

The parties shall implement the arbitration award. If one of the parties fails to implement the award, the other party may apply to a people's court for enforcement.

If the people's court that has been requested to enforce an arbitration award finds the award unlawful, it shall have the right to refuse the enforcement. If a people's court refuses to enforce an arbitration award, the parties may institute proceedings concerning the contractual dispute in a people's court .

Any party may institute proceedings directly in a people's court in the absence of an arbitration clause in the contract or in the absence of a written arbitration agreement concluded after the contract has been signed.

Article 50.Any party who objects to an administrative penalty may institute proceedings in a people's court within three months of having received the written decision on the penalty. If a party neither institutes proceedings nor implements the decision within the above time limit, the copyright administration department concerned may apply to a people's court for enforcement.

CHAPTER VI Supplementary Provisions

Article 51.For the purposes of this Law, the terms "zhuzuoquan*" and "banquan*" are synonymous.

* Zhuzuoquan corresponds to "author's right," but literally translated means "right in a work"; banquan is the literal translation of "copyright." This Article has been included in the Law as both expressions are used in Chinese.

Article 52.The term "reproduction" as used in this Law shall mean the act of producing one or more copies of a work by printing, photocopying, copying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means.

The term "reproduction" as used in this Law shall not cover the construction or the manufacture of industrial products on the basis of drawings of engineering designs and

product designs, and descriptions thereof.

Article 53. Regulations for the protection of computer software shall be established separately by the State Council.

Article 54. The implementing regulations of this Law shall be drawn up by the copyright administration department under the State Council and implemented on approval by the State Council.

Article 55. The rights of copyright owners, publishers, performers, producers of sound recordings and video recordings, radio stations and television stations as provided for in this Law, of which the term of protection specified in this Law has not yet expired on the date of this Law's entry into force, shall be protected in accordance with this Law. Any infringements of copyright and the rights related to copyright or breaches of contract committed prior to the entry into force of this Law shall be dealt with under the relevant regulations or policies in force at the time when the act was committed.

Article 56. This Law shall enter into force on June 1, 1991.

(In case of discrepancy, the original version in Chinese shall prevail.)