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**Amended by:**

- Law No. (12) of 2008
- Law No. (3) of 2011
- Law No. (5) of 2014

The term “Minister of Finance” has been substituted with “the concerned Minister of customs affairs” wherever mentioned in the 2008 law.

**LEGISLATIVE DECREE NO. (22) OF 2006  
WITH RESPECT TO THE PROTECTION OF  
AUTHOR'S RIGHTS AND ATTENDANT RIGHTS LAW**

**We Hamad bin Isa Bin Salman Al Khalifa,                      King of the Kingdom of  
Bahrain**

Having reviewed the Constitution; and  
Legislative Decree No.(12) of 1971 with respect to Promulgating the  
Civil and Commercial Procedures Act, as amended; and  
Penal Code Promulgated by Legislative Decree No.(15) of 1976, as  
amended, and  
Legislative Decree No.(10) of 1993 with Respect to Copyright Law,  
and  
Legislative Decree No.(7) of 1994 with respect to the Ratification  
Document of the Establishment of the World Trade Organisation; and

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\* This copy is translated by Bahrain Economic Development Board (EDB) as per the provisions in force up to January 2019.

\*\*This is an unofficial translation and in the event of any conflict or discrepancy between the English text and the Arabic text, the Arabic text shall prevail.

Legislative No.(30) of 1996 with respect to Approving Accession to the Berne Convention for the Protection of Literary and Artistic Works; and

Civil Code promulgated by Legislative Decree No.(19) of the Year 2001, and

Code of Criminal Procedure Promulgated by Legislative Decree No.(46) of 2002; and

Legislative Decree No.(47) of 2002 Governing the Press, Printing and Publishing; and

Legislative No.(14) of 2004 with respect to Approving Accession by the Kingdom of Bahrain to the WIPO Copyright Treaty; and

Legislative No.(15) of 2004 with respect to Approving Accession by the Kingdom of Bahrain to the WIPO Performances and Phonograms Treaty; and

Law No.1 of 2005 with respect to Approving the Accession by the Kingdom of Bahrain to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations;

Decree No.(1) of 1995 with respect to Accession by the Kingdom of Bahrain to the World Intellectual Property Organisation (WIPO),

The Consultative Council and Council of Representatives ratified the following Law which we approved and enacted:

## **Chapter One**

### **Definitions**

#### **Article1**

In the application of the provisions of this Law, the following words and expressions shall have the meanings assigned against each unless the context otherwise provides:

<b>Kingdom:</b>	Kingdom of Bahrain
<b>Concerned Administrative Authority:</b>	The Concerned Administrative Authority with respect to authors' rights and attendant rights.
<b>Minister:</b>	The Minister who oversees the Concerned Administrative Authority
<b>Author:</b>	A natural person who has produced the work.
<b>Intellectual Work:</b>	Every creative work in the fields of literature, arts or sciences.
<b>Audiovisual Works:</b>	Every work that consists of a series of related images, which give the feeling of movement whether or not they are accompanied by sound.
<b>Collective Work:</b>	A work that is created by the contributions of more than one author by an initiative and direction from a natural or corporate person who undertakes the publication thereof in his name so that the contribution of each is assembled to realize the overall objective intended by such person.
<b>Joint Work:</b>	A work prepared by more than one author whether it is possible to separate the contribution of each or not and which is not classified as a collective work.
<b>Derivative Work:</b>	A work based upon a pre-existing work or form of folkloric expressions.

**Folkloric Expressions:** They are all products of the folk heritage whether oral, musical, graphic or tangible works represented by distinctive elements reflecting the traditional folk heritage that has originated, developed and continuously preserved in a particular geographical region and where it cannot be attributed to a certain known author. Such heritage includes, in particular, the following expressions:

- A) Folk tales, proverbs, quizzes and poetry.
- B) Folk songs accompanied by music.
- C) Folk dances and presentations.
- D) Products of folk art such as drawings with lines or colour, sculptures, pottery, ceramics, inscriptions on wood and metal, jewellery, knitting works, textiles, carpets, garments, musical instruments and architectural forms.

**Audio Recording:** Every fixation of sounds whether arising from the performance of an artist or others or any representation of such sounds. This shall not include the audio recording accompanying an audiovisual work.

**Attendant Rights:** Rights of performing artists, producers of audio recordings and broadcasting corporations.

<b>Performing Artists:</b>	Actors, singers, musicians, dancers and such other persons who act, sing, perform, recite or present performances, in any manner, of the following: A) Protected or unprotected works according to the provisions of this Law or have become part of the public domain upon the expiry of their protection period. B) Folkloric expressions.
<b>Producers of Phonorecords:</b>	Natural or corporate persons who take the initiative at their responsibility to produce the first fixation of sounds or the first fixation of any settings of such sounds.
<b>Producers of Audiovisual Works:</b>	Natural or corporate persons who take the initiative at their responsibility to produce audiovisual works.
<b>Broadcasting Corporations:</b>	They are organisations that undertake audio or audiovisual wireless transmission of broadcasts.
<b>Broadcasting:</b>	Transmission of sounds, pictures and voices or representation thereof by wireless methods including satellites to be received by the public. Broadcasting shall include the transmission of encrypted signals in the cases where the public has access to a method of decrypting by broadcasting corporations or with their approval. Broadcasting through computer networks or any other broadcasting which specifies the reception place and time by the public shall not be considered as a sort of broadcasting.

- Public Performance:** They include playing, acting, singing, dancing, presentation or recital of any work either directly or with the use of any device or any other method if this takes place in a place where persons, other than family members and friends, are assembled.
- Transmission to the Public:** Making a work, performance or broadcasting programme available to the public by way of wire or wireless transmission of sounds and pictures, or either, including transmission that allows any member of the public to have access to the work, performance or broadcasting programme at any place or time of his choice.
- Affixation:** It means every embodiment of pictures and sounds, or either and every embodiment of the presented pictures and sounds or any of them through which they can be reproduced, copied or transmitted by a suitable device.
- Publication:** It means making tangible copies of a work or phonorecord available in a legitimate manner to the public in a manner that meets their reasonable requirements in compliance with the nature of the work or phonorecords.  
Making the copies available to the public in a legal manner if it takes place with the approval of the work's rightful owner.
- Reproduction:** Making one copy or more of a work, performance, phonorecord or broadcast programme directly or indirectly and in any form or manner including printing, photography, recording and permanent or temporary electronic storage.

**Necessary Information for Right Management:** Information imposed by the owner, in his sole discretion, on copies of work, fixation of sounds or phonorecords or which appears when transferring, making copies of the work, fixation of sounds or phonorecords available to the public. The information includes the following:

- A) Identification of the work, its author and the owner of any right in respect thereof.
- B) Identification of a performing artist, his performance, producer of a phonorecord and audio recording and owner of any right to the performance or audio recording.
- C) Conditions of enjoyment of the work, performance or phonorecord.
- D) Any numbers or encryptions embodying the details indicated in the above paragraphs.

**Effective Technical Measure:** Any technology, device or any components that controls within the course of business, the prevalence of work, fixation sounds or phonorecords, or protects any of the author's rights or the prescribed attendant rights pursuant to the provisions of this Law.

## **Chapter Two**

### **Scope of Author's Rights Protection**

#### **Article 2**

This Law provides protection to literary, artistic and scientific works upon the creation thereof without the need for any procedural formality regardless of the value of such works, type, purpose of creating them, method of expression thereof or form of such expression. Protection shall include, in particular, the following works:

- A) Books, brochures, articles, leaflets and such other written works.
  - B) Computer software whether written in a source language or a machine language.
  - C) Works that are delivered verbally such as lectures, speeches or sermons and the other works of a similar nature.
  - D) Dramatic works, musical dramas, dances, pantomimes and other works created for theatrical performances.
  - E) Musical works that are accompanied or unaccompanied with words.
  - F) Audiovisual works such as cinematographic and TV works.
  - G) Painting works using lines or colors, sculptures, inscriptions, lithograph, printing on fabrics, wood or metals and any other similar works of this nature.
  - H) Applied works of art.
  - I) Photographic works and similar works.
  - J) Illustrations, geographical maps, designs, sketch and 3-D works related to geography, topography, architecture or science.
- A work's title shall enjoy the same protection prescribed for the work if the title is of a creative nature.

### **Article 3**

Derivative works shall enjoy the protection provided for in this Law and such works shall include the following in particular:

- A) Translations, quotations, musical arrangements and adaptations.
- B) Collections of works, folkloric expressions such as encyclopedias and selections, databases whether in a readable format from a computer or in any other form, whether such collections of databases are created in terms of the selection or arrangement of their contents.

The above shall be without prejudice to the protection prescribed for the original works from which such works were derived.



## **Article 4**

Protection shall not include the following:

- A) Abstract ideas, procedures, methods of work, methods of operation and mathematical concepts, principles, discoveries and data.
- B) Statutes, court judgments, arbitrators' awards, resolutions issued by administrative committees that enjoy judicial jurisdiction, international agreements and all official documents as well as the official translations of any of the above.
- C) News of current events that may merely be news reports.

However, protection is enjoyed by collections of the above if their compilation is characterized by being creative in nature in terms of selection or arrangement.

## **Chapter Three**

### **Author's Intangible and Financial Rights**

#### **Article 5**

- 1) An author shall enjoy eternal intangible non-prescriptive and inalienable rights that shall not prescribe as follows:
  - a) The right to decide publishing his work for the first time and to determine the method of such publication and date thereof.
  - b) The right to attribute the work to him especially his right to print his name on all copies of the work as far as possible and in the usual manner.
  - c) The right to keep his name unknown or to use a pseudonym.
  - d) The right to prevent any misrepresentation, distortion or any other alteration of his work or any prejudice that may be harmful to the author's honor or reputation.
  - e) The right to prohibit the launch of his work for circulation or withdrawing it from circulation even though he has previously disposed of the financial rights of exploitation if there are serious reasons

justifying the prohibition or withdrawal. In such case, an author shall be entitled to request the competent court to rule for prohibiting the launch of his work for circulation or its withdrawal therefrom. In case of awarding him such claim, the court shall pass a judgment obliging him to pay in advance a fair compensation to whoever has acquired the financial rights within a time limit to be determined by the court otherwise the judgment shall be null and void.

Any disposal of any such rights shall become null and void whether with or without consideration.

- 2) The author's own successors shall exercise after his death the rights provided for in this Article; and the Concerned Administrative Authority shall exercise such rights in case the author has no direct successor.

### **Article 6**

An author shall enjoy the following exclusive financial rights:

- A) Reproduction of his work.
- B) Translation of his work into another language, its adaptation, musical arrangement or reproducing it in another form.
- C) Distribution to the general public of an original or copies of the work whether by sale or by any other disposal that transfers ownership.
- D) Rental for commercial purposes of an original or copies of his work embodied in a phonorecord, cinematographic work or his work that is in the form of computer software.
- E) Public performance of his work.
- F) Presentation of the original or copies of his work to the public in any manner.
- G) Broadcasting his work.
- H) Transmission of his work to the public.

### **Article 7**

An exclusive right to rental shall not be applicable to computer software unless such software is the principal subject of rental.

### **Article 8**

Subject to the provision of Article 36 of this Law, an author or his successor shall be entitled to transfer or license a third party the exploitation of all or part of his financial rights to the work pursuant to a written contract.

### **Article 9**

Subject to the provision of Article 36 of this Law, an author or his successor shall be entitled to agree on receiving a cash or in-kind consideration for the transfer or licensing the exploitation of any of his financial rights in respect of the work to a third party on the basis of a relative participation in the revenue arising from the exploitation of such rights. Further, he may agree on the basis of receiving a lump sum or a combination of both.

### **Article 10**

An author's disposal of an original or a copy of his work, regardless of the nature of such disposal, shall not result in assigning any of his financial rights to such work. However, it shall not be permitted to oblige the transferee to enable the author to copy, present or transmit the original copy to the public unless there is a written agreement to the contrary.

### **Article 11**

Authors' financial rights related to their published works may be subject to attachment.

Financial rights in respect of works whose owner dies before the publication thereof shall not be subject to an attachment unless he conclusively proves that he planned to publish them before his death.

## **Article 12**

Without prejudice to the provision of Article 36 of this Law, every disposal by an author of his entire production of future works shall be null and void.

## **Article 13**

*"As amended by Law No. (12) of 2008"*

The Concerned Administrative Authority shall maintain a register for registration of the disposals involving an author's financial rights provided for in this Law.

Non-registration shall not prejudice the validity of such disposals.

The owner of the right may deposit the protected works in pursuance of the provisions of the Law, with the competent administrative party, and register such works in the register designated for this purpose.

An order shall be issued by the Minister regulating the deposit procedures and registration of acts or works in the said register, and fees shall be paid for the deposit and registration and the categories of such fees shall be specified by the Minister with the approval of the Council of Ministers.

## **Chapter Four**

### **Attendant Rights**

#### **Article 14**

- 1) Performing artists shall enjoy everlasting intangible non-prescriptive rights that are neither inalienable as follows:
  - a) Right to attribute their performance to them, whether live or affixed, except in the cases imposed by the method of enjoyment of the performance.
  - b) Right to prevent any misrepresentation, distortion or any other alteration to their performance that would undermine their reputation. Disposal of

any such rights shall be null and void whether it is made with or without compensation.

- 2) Direct successors of performing artists shall exercise, after the latter's death, the rights provided for in this Article and the Concerned Administrative Authority shall exercise such rights in case performing artists do not have direct successors.

### **Article 15**

Performing artists shall enjoy the following exclusive financial rights:

- A) Broadcasting their non-fixed performance and transmitting it to the public unless the performance was previously broadcast with their approval.
- B) Fixing their non-fixed performance.
- C) Reproducing their non-fixed performance.
- D) Distribution to the public of the original or copies of their fixed performance whether by way of sale or by any other disposal for transfer of ownership.
- E) Rental to the public for commercial purposes of an original and copies of their fixed performance.
- F) Making available to the public their fixed performance.

The provision of this Article shall not be applicable with the mere approval of the performing artists to include their performance in an audiovisual fixation.

### **Article 16**

Producers of phonorecords shall enjoy the following exclusive financial rights:

- A) Reproducing their phonorecords.
- B) Distribution to the public of the original or copies of their phonorecords whether by way of sale or by any other disposal for transfer of ownership.
- C) Rental to the public for commercial purposes of an original and copies of their phonorecords.
- D) Making available to the public their phonorecords.

E) Broadcasting their phonorecords.

### **Article 17**

Broadcasting corporations shall enjoy the following exclusive financial rights:

- A) Fixing their programmers.
- B) Reproducing their fixed programmers.
- C) Re-transmitting their programmers.
- D) Transmitting their TV programmers to the public.

### **Article 18**

- 1) The provisions of Articles (8) to (13) of this Law shall be applicable to the acts affecting the financial rights of owners of attendant rights, their registration and attachment of such rights.
- 2) Without prejudice to the applicable rights subject to the provisions of this Law, the producers of phonorecords and broadcasting corporations shall be entitled to receive a one-time fair compensation against the direct or indirect enjoyment of the phonorecords or broadcasting programmers published for commercial purposes to broadcast or transmit them to the public by any means unless there is a written agreement to the contrary.

## **Chapter Five**

### **Free Uses**

#### **Article 19**

It is permissible to produce in a legitimate manner a single copy of a published work merely for personal use without obtaining the author's permission and without payment of a compensation. This shall not be applicable to the following:

- A) Reproduction of architectural engineering works embodied in the form of buildings or any other installations.

- B) Reproduction by photocopying of a written work in whole or in a substantial part thereof.
- C) Reproduction by photocopying of a musical work consisting of musical notes in full or a substantial part thereof.
- D) Reproduction of databases, in whole or in part, that is in digital form.
- E) Reproduction of computer software unless it is in pursuance of the provisions of Article 26 of this Law.

### **Article 20**

Temporary reproduction of any work is permissible without the author's permission and without payment of a compensation under the following conditions:

- A) Where reproduction is an integrated part of a work transmission process by a network medium among other parties or in the context of a work designed to make the digitally stored work accessible.
- B) Where reproduction takes place by a person licensed from the rightful owner or according to the law to undertake such transmission or the process referred to in the preceding sub-paragraph.
- C) Where reproduction comes in the context of integrated and necessary steps to perform a legitimate work so that the copy is erased automatically without being recoverable for any other purpose apart from that provided for in the above two sub-paragraphs.

### **Article 21**

It shall be permissible without the author's permission and without payment of a compensation to do the following, provided that the source and author's name shall be amended if they are indicated in the source:

- A) Reproduction of a brief section of a work, which is legally published, to be quoted in another work, provided that the quotation has been used for a

legitimate purpose and to the extent necessary for the realization of such purpose.

- B) Use of a certain literary or artistic work, which is legally published, in publications, wireless broadcasts and audiovisual recordings as illustrations for teaching purposes, by non-profit educational institutions.
- C) Photocopying reproduction of an article or short extracts of a work or a short work, if they are legally published, for purposes of educational activities inside non-profit making educational institutions, whether directly or indirectly, provided that the reproduction is only once or in different cases and to the extent necessary for the realization of such purposes.

### **Article 22**

It shall be permissible without the author's permission and without payment of a compensation to produce a single copy of the work by photocopying facilities by an archive house or libraries that do not seek to make profits, whether directly or indirectly, in either of the following two cases:

- A) Photocopying shall be in favor of any of the aforesaid parties for the purpose of replacing the original copy in case of its loss, damage or becoming unsuitable for use if it is not possible to obtain a replacement thereof under reasonable conditions.
- B) Reproduction shall be for a published article or brief extracts of a work or a short work if the concerned archive house or libraries estimates that the purpose of reproduction is to meet the requirement of a natural person for his use in a study or research work and non-commercial purpose, provided that the reproduction shall be made once or in different cases and it will not be available for collective licensing subject to which this reproduction will be available.

### **Article 23**



It shall be permissible without the author's permission and without payment of compensation to copy from a work for use in judicial or administrative actions to the extent required by such actions, provided that the source and author's name shall be mentioned if it is indicated in the source.

#### **Article 24**

The following shall be permissible without the author's or rightful owner's permission and without payment of compensation provided that the source and the author's name shall be mentioned if it is indicated in the source:

A) Reproduction from a newspaper or a particular broadcast programmer or wire transmission of any of the following:

- 1) parts from published articles in newspapers or periodicals on current economic, political or religious issues.
- 2) parts from broadcast works of the same nature like the above-mentioned works indicated in the preceding sub-paragraph.

This is in the cases where the right to give permission for reproduction or transmission to the public expressly is reserved for the author or rightful owner.

B) Reproduction and transmission to the public for the purpose of covering current events through photography, cinematography, radio analogue transmission or making available to the public brief extracts of a work that has been viewed or heard in the course of events within the limits justified by the aforesaid media purpose.

C) Reproduction from a newspaper or periodical or transmission to the public of speeches, lectures, seminars and talks that are delivered at public sessions of representative councils or legislative or administrative bodies or the public scientific, literary, artistic, political, social or religious meetings including court pleadings presented at public hearings to the extent justified for media purposes.

### **Article 25**

It shall be permissible, without a permission from the author and without payment of a compensation but subject to the condition of mentioning the author's name, to transmit works of fine, applied, plastic or architectural arts to the public through radio broadcasts for non-commercial purposes if such works are permanently displayed at public places.

### **Article 26**

It shall be permitted, without obtaining a permission from the author and without payment of a compensation, for the legal holder of a copy of a computer software to make the following:

- A) A single copy of the software to be kept for use in case of the loss or damage of the original copy held by a legal document or unsuitability for use.
- B) An extracted, adapted or altered copy of the software or translated into another computer language if this is necessary for compatibility with a certain computer and limited to the exclusive use of the legal holder of the original copy.

The original copy and the other copy must be destroyed once there is no legal basis for possession of the original copy.

### **Article 27**

A public performance of a dramatic or musical work or a dramatic or musical work, or dance or pantomime work or any other artistic work created for dramatic performance shall be permitted, without obtaining a permission from the author and without payment of a compensation, in the following cases:

- A) Religious ceremonies to the extent justified by the nature of such ceremonies.
- B) Purposes of face-to-face educational activities inside recognized and non-profit educational institutions in similar educational classes or places.

In all cases, it shall be required that no financial gain shall be achieved directly or indirectly.

### **Article 28**

A temporary fixing of a work may be permitted to be carried out by broadcasting corporations by their own methods for the purpose of using it in their own programmes without the author's permission and without payment of a compensation subject to the following conditions:

- A) Broadcasting corporations shall obtain the right of transmission of such work.
- B) Broadcasting corporations shall destroy the said fixing six months after completion of the said fixing unless the rightful owner agrees to extend such period. An exemption from the above shall apply to retaining a single copy of such fixing for filing purposes.

### **Article 29**

The provisions of Articles from (19) to (24) of this Law shall apply to the free uses of sound performances and recordings and radio programmes.

### **Article 30**

Free uses of works and performances shall not prejudice the intangible rights of authors and performing artists.

## **Chapter Six**

### **Rightful Owners of Works & Attendant Rights**

#### **Article 31**

- 1) Subject to the provisions of Articles (33) and (36) of this Law, an author, performing artist, producer or publisher shall be the sole owner of rights to a work, performance or phonorecord.
- 2) For the purpose of any administrative, civil or criminal proceedings:

- a) A natural or corporate person whose name appears on a work, performance or phonorecord in the usual manner or is attributed to him as an author, performing artist, producer or publisher thereof, shall be the owner of rights to such work, performance or phonorecord, unless there is evidence to the contrary.
- b) If a work carries a pseudonym or if the author is unknown, the publisher whose name appears on the work shall be deemed as the author's representative and in such capacity shall be empowered to exercise the author's intangible and financial rights until such time when the author's true identity is revealed and his capacity is established.

This provision shall not apply to a pseudonym carried by an author whose identity can be easily identified.

### **Article 32**

- 1) If more than one person participates in creating a joint work, all of them shall be deemed as rightful owners of the work equally among them. None of them shall exercise the sole rights of the author in respect of such work unless there is agreement to the contrary.
- 2) If the participation of each of the authors in a joint work is classified under a different kind of art and is distinguishable so that it may be separated, each of them shall have the right to exploit the part contributed by him separately, provided that this shall not be harmful to the exploitation of the joint work unless there is agreement in writing to the contrary.

Each of the partners to the joint work shall be entitled to bring legal action before the competent court for taking any precautionary measures or for preventing the infringement of any copyright in respect of such work.

- 3) If the rights on the embodied work of a phonorecord are entitled to both the author and performing artist (or the producer) and a licence is required by law from each of them to use such work of art, such use shall not be valid if it is

licensed by one of them only and it will have no effect on the exploitation of rights by the other party.

### **Article 33**

A natural or a corporate person whose initiative and directives have resulted in completion of collective work that has been published in his name, shall be the rightful owner of the intangible and financial rights in respect of the collective work unless there is a written agreement to the contrary.

### **Article 34**

An author who has produced a derivative work shall be deemed as the owner of the intangible and financial rights of such work without prejudice to the rights of the original work from which the said work has been derived.

### **Article 35**

- 1) Everyone who participates in creating such work shall be deemed as a co-author of the audiovisual work, particularly the following:
  - a) Script writer or the owner of a written concept of the work.
  - b) Everyone who adapts a pre-existing literary work in a manner making it suitable for the audiovisual format.
  - c) Dialogue writer.
  - d) Sound track composer if it is specifically composed for the work.
  - e) Director if he exercises actual control and has undertaken positive work intellectually for completion of the work.
- 2) If a co-author involved in creating an audiovisual work refuses to complete the part for which he is responsible, this shall not bar the other co-authors from exploiting what has been completed without prejudice to the person who so refuses to enjoy the rights arising from his participation in such work.

3) A producer of an audiovisual work shall be the representative of the authors of such work, except for composer of the musical works, with respect to exploiting their rights in respect of such work, unless otherwise agreed upon in writing.

### **Article 36**

The author's financial rights according to the provisions of this Law, shall belong to the owner or the person for whose benefit it has been completed upon his instruction of the work if the work arises from the implementation of a contract or obligation the content of which is the full dedication of efforts for producing the work, performance or audio recording unless otherwise agreed upon in writing.

The provisions set forth in this Article shall be applicable to civil servants and military personnel employed by the State and similar persons.

## **Chapter Seven**

### **Period of Protection of Financial Rights**

#### **Section One**

### **Period of protection of the Author's Financial Rights**

#### **Article 37**

The author's financial rights provided for in this Law shall be protected during his lifetime and seventy years commencing from the beginning of the calendar year following the year of his death unless there is a special provision in this respect in this Section.

#### **Article 38**

The financial rights of the authors of joint works shall be protected during their lifetime and seventy years commencing from the beginning of the calendar year following the year of death of the surviving one of their number.

### **Article 39**

The financial rights for audiovisual works and collective works shall be protected for a period of seventy years commencing from the beginning of the calendar year following the year of their first publication in a legal manner. If such works have been published during fifty years from the date of their completion, their financial protection shall be seventy years from the beginning of the calendar year following the year of their completion.

### **Article 40**

Financial rights of the works that are published without mention of their author's name or under a pseudonym shall be protected for a period of seventy years commencing from the beginning of the calendar year following the year of their first publication in a legal manner. If such works have been published during fifty years from the date of their completion, their financial protection shall be seventy years from the beginning of the calendar year following the year of their completion. If their author is known and specific or has been identified during the aforesaid period, the protection period shall be calculated according to the rule provided for in Articles (37) and (38) of this Law as the case may be.

### **Article 41**

Financial rights in respect of works of applied arts shall be protected for a period of seventy years commencing from the beginning of the financial year following the year of completion of every individual work. If such works have been published during fifty years from the date of their completion, their financial protection shall be seventy years from the beginning of the calendar year following the year of their completion.

## **Section Two**

## **Attendant Rights' Protection Period**

### **Article 42**

Financial rights of performing artists shall be protected for a period of seventy years commencing from the beginning of the calendar year following the year of their first publication in a legal manner. If such works have been published during fifty years from the date of their completion, their financial protection shall lapse seventy years from the beginning of the calendar year following the year of their performance.

### **Article 43**

Phonorecord producers' financial rights shall be protected for a period of seventy years commencing from the beginning of the calendar year following the year in which the phonorecord was released. If such works have been published during fifty years from the date of their completion, their financial protection shall lapse seventy years from the beginning of the calendar year following the year of their performance.

### **Article 44**

Broadcasting corporations' rights in respect of their broadcasting programmes shall be protected for a period of twenty years which shall commence from the beginning of the calendar year following the year during which the programme was transmitted for the first time.

## **Chapter Eight**

### **Effective Technical Measures and Details of Rights and Programmed Carrier Signals**

### **Article 45**

*Amended by Law No. (5) of 2014*



- 1) Any person shall be prohibited from breaking or rendering defective any effective technical measure without obtaining its owner's permission.
- 2) Any person shall be prohibited from displaying to the public, performing, manufacturing, importing, distributing or trading in any media, products or components or displaying or providing any services to the public in the following events:
  - a) Promoting, advertising or marketing any services to overcome any effective technical measure.
  - b) Any services with insignificant commercial use other than those services to break or defect any effective technical measure.
  - c) Any services that are mainly designed, produced or performed to facilitate any breaking or rendering defective of any effective technical measure.
- 3) Any person shall be prohibited from doing the following without obtaining permission:
  - a) Deliberately deleting or altering any information on the management of rights.
  - b) Distributing or importing any information on the management of rights for distribution purposes although he is aware that such rights have been deleted or altered without permission.
  - c) Distributing or importing for distribution purposes or broadcasting or transmitting to the public copies of artistic works, or phonorecords although he is aware that such rights have been deleted or altered without permission.
- 4) It is prohibited for any person to manufacture, assemble, modify, import, export, sell, rent or distribute any tangible or intangible instrument or system, whether that person knows or has reason to believe that such system or instrument are principally used in decoding the encrypted programme-carrying signals transmitted by satellite, without permission from the rightful party.

- 5) Any person shall be prohibited from deliberately receiving or distributing a programmer's signal such as a coded signal transmitted by satellites if he is aware that it is decoded without the owner's permission to distribute such signal.
- 6) The provisions of Paragraphs 1 and 3 of this Article shall not apply to legal activities carried out by civil servants or government contractors in implementation of the Law or investigating crimes or public security or for any similar official purposes.
- 7) Violating the provisions of subparagraphs from 1 to 5 of this Article shall result in creating a criminal or civil liability, as the case may be, which is separate and independent from any infringement of the prescribed rights according to the provisions of this Law.

## Chapter Nine

### Online Service Providers' Liability

#### Article 46

For the purposes this Chapter, the following words and expressions shall have the meanings assigned against each unless the context otherwise provides:

**Work:** Any electronic work, fixation of sounds or phonorecord having the prescribed protection under the provisions of this Law.

**Service Provider:** means any of the following:

- A) For the purposes of the first class operations: Any person who provides transmission or connection of digital communication online between or through points determined by a user of a certain work without altering the contents of such work while sending or receiving it.
- B) For the purposes of the second, third and fourth class operations: Any provider or operator of online services or online access services.

**Service Provider Network or System:** Any network or system controlled or operated by a service provider or in his favour.

**First Class Operations:** means any of the following:

- A) Any transmission or connection provision of an item by a service provider through its network or system.
- B) Any transitional or accidental storage of an item by the service provider made in the course of the above-mentioned transmission or provision of connection.

**Second Class Operations:** Any copying followed by a temporary storage by a service provider on its network or system of an item available online by an person other than a provider and sent by such person through the provider's network or system at his request in case such storage is made by automatic technological processing for the purpose of making copies of such work for other network or system users requiring the former access to this work upon sending it as indicated above.

**Third Class Operations:** any storage of a work by a service provider on his network or system at the request of such user of the provider's network or system.

**Fourth Class Operations:** Any link or referral of users by a service provider to a site online in which there is illegal work or illegal activity using any of website search tools such as hyperlink or directory or search engine.

**Owner:** Any owner of the exclusive rights subject to the provisions of this Law.

**Financial Compensation:** It includes any financial compensation such as consultancy, lawyers' and legal fees and charges and any other amounts to be paid.

#### **Article 47**

- 1) Subject to the provisions of Chapter One and without prejudice to the prescribed liability rules subject to the provisions of the Civil Code, the civil liability of the service provider as a partner in infringing upon any of the prescribed rights subject to the provisions of this Law arises if it is proved that he has done the same through his network or system by deliberately inciting or contributing to such infringement if it is aware thereof.

- 2) A service provider shall not be liable to pay any financial compensation for the infringement upon any prescribed rights subject to the provisions of this Law if such infringement takes place in the course of carrying out any of the first, second, third or fourth operations, provided that:
  - a) A service provider fulfils the general conditions provided in Article 48 of this Law.
  - b) Fulfillment by a service provider of the special conditions of the class of operation provided for in Article 49 of this Law. The provisions of this Paragraph shall not prejudice the right to procure handing down a court order against the service provider according to the provision of Article 50 of this Law.
- 3) In application of the provision of the preceding Paragraph, the service provider shall not be required to control his services or positively supervise any facts proving the existence of an infringement activity in a manner that exceed the prescribed limits subject to the standard technological measures referred to in Paragraph (d) of Article 48 of this Law.

#### **Article 48**

Subject to the provision of Article 49 of this law, a service provider shall not pay a financial compensation for any infringement of any rights prescribed according to the provisions of this Law in the course of any of the first, second, third or fourth class operations in the following cases:

- A) An item is not sent by an initiative or instruction of the service provider.
- B) A service provider shall not select the item or its recipient unless if it falls within the first class operation of the information option.
- C) A service provider shall not approve and apply reasonable measures involving, in reasonable cases, termination of the accounts of subscribers who frequently commit infringements.

D) A service provider applies all the standard technological services which determine the item and provide the reasonable and internationally recognized protection, which are accepted by the rights' owners and service providers, provided that they shall be available under reasonable conditions and without discrimination and shall not impose any huge costs to the service providers nor burdens upon their networks or systems.

### **Article 49**

Subject to the provisions of Article 48 of this Law, a service provider shall not pay a financial compensation for any infringement of any exclusive rights according to the provisions of this Law in the following cases:

#### **First: Conditions relating to the first class operations:**

- A) A service provider shall not alter the item's contents in the course of its transmission through its network or system.
- B) A service provider shall not select the item's recipient unless it is an automatic response to another person's request.

Second: Conditions relating to the second class operations:

- A) A service provider shall not alter the item's contents which are stored in RAM to send them later to other users.
- B) A service provider shall quickly delete the RAM-stored item in its network or deny access to such item when receiving notice pursuant to the provision of Article 55 of this Law to ensure that it has been deleted or access denied thereto from the site in which it is available.
- C) A service provider undertakes that it shall not allow access to any simple part of the RAM-stored item except for those users who fulfill all the required conditions in the event that such item undergoes certain conditions regarding access thereto from the site in which it is available.
- D) A service provider shall comply with the rules of re-download, upgrade or renewal of the RAM-stored item if a person who makes the item available

requires the same as per an internationally recognized standard transmission protocol of the network or system of the network or system through which it is made available.

- E) A service provider shall not abuse any technology – in line with the internationally recognized standards, by using it in the site in which such item was available to obtain any information concerning the use thereof.

**Third: Conditions relating to the third class operations:**

- A) A service provider shall not gain any financial benefit directly attributed to the infringement activity of a right prescribed by the provisions of this Law with respect to such item in the event that a service provider has the ability to control such infringement.
- B) A service provider shall quickly delete the RAM-stored item in its network or deny access to such item when receiving notice pursuant to the provision of Article 55 of this Law about a claim that such item has been infringed upon or is subject to the infringement activity.
- C) A service provider shall quickly delete the RAM-stored item in its network or system or deny access to such item as soon as he is aware that this is an infringed item or any facts or circumstances that prove the same.
- D) A service provider shall appoint representatives to receive notices sent thereto in accordance with the provision of sub-paragraph (b) of this Paragraph subject to the provision of Article 52 of this Law.

**Fourth: Conditions relating to the fourth class operations:**

- A) A service provider shall not gain any financial benefit directly attributed to the infringement activity of the owner of the item's right prescribed by the provisions of this Law, which is carried out through connection or referral to the item in the events that the service provider has the ability to control the infringement activity.
- B) A service provider shall quickly delete or deny access to the contents of his network or system such as link or connection to the item whenever he receives

a notice sent thereto in accordance with the provision of this Law notifying him that this is an infringed item or activity.

C) A service provider shall quickly delete any access or connection to the item on his system or network when he is aware that this is an infringed item or activity or any circumstances proving the same.

D) A service provider shall appoint representatives to receive notices sent thereto in accordance with the provision of sub-paragraph (b) of this Paragraph subject to the provision of Article 52 of this Law.

### **Article 50**

1) If a service provider fulfils the general conditions provided for in Article 48 and the special conditions set forth in Article 49 according to its operation's class, a court may, at the concerned parties' request, pass an order or more of the following:

#### **First: For the first class operations:**

- a) Ordering the service provider to take reasonable steps to deactivate access to an online site which materially exists outside the Kingdom.
- b) Ordering the service provider to terminate a certain subscriber's account.

#### **Second: For the second, third or fourth class operations:**

- a) Ordering the service provider to delete the infringed item or deactivate access thereto in the second or third class operations.

For the fourth class operations, the service provider shall be ordered to delete the link of or reference to such item.

- b) Ordering the service provider to terminate a certain subscriber's account.
- c) Any other non-financial order which is less cumbersome but is not less effective.

Any of the order referred to in this paragraph shall not be issued against the service provider except upon being notified by all the legal actions taken to seek the issue of such order and given a chance to defend itself

before the court. This excludes orders seeking to maintain evidence and other orders which shall not adversely affect the operation of the service provider's telecommunication network.

- 2) Upon issuing an order, the court shall, pursuant to the provision of Paragraph 1 of the Article, consider the following:
  - a) Damage caused to the plaintiff or a possible damage.
  - b) Burden to be incurred by the service provider due to this order.
  - c) How far compliance with this order can take place from a technical point of view.
  - d) Effectiveness of this order.
  - e) Any possible negative effect on the service provider's activities or operations.
  - f) Possibility of issuing another order which is less cumbersome but not less effective.
  - g) Any other matters the court considers appropriate.
- 3) No service provider shall be made to incur any lawyers' fees, consulting fees or legal costs in any legal proceedings with respect to issuing an order pursuant to the provisions of this Article. This who requires the person seeking the issue of this order to pay all such costs and fees.

### **Article 51**

- 1) Subject to the provision of Paragraph 2 of this Article, if a service provider deletes or deactivates, in a good faith, access to any item or activity available on its system or network claiming that such item or activity contains any infringement or based on facts and consequences evidencing the existence of such infringed activity, it shall be liable for any claims submitted in this respect by any person regardless of the order to be issued later with respect to the existence or non-existence of infringement.



- a) If a service provider deletes or deactivates access to any item available on its system or network based on a notice submitted pursuant to the provision of Article 55 of this Law with respect to any of the third or fourth class operations, it shall not be liable for any claims in this respect, provided that a service provider complies with the following:
- i) To immediately proceed with giving notice to the person who makes such item available on the service provider's network or system that it has deleted or deactivated access to such item.
  - ii) If a service provider receives a counter notice pursuant to the provision of Article 56 of this Law, it should immediately provide the person who gave the original notice with a copy of such notice and notify him that it shall not restore the deleted item or cease from deactivating access thereto if such person fails to notify the service provider or its representative within ten days to commence the necessary legal proceedings to get issued an order preventing the person who submitted the counter claim from infringement.
  - iii) Immediately return, within a period not less than ten days and not exceeding 14 days from the date of receiving the counter claim, the item deleted or stop deactivating access thereto if a service provider or its representative have not been notified within ten days to take the necessary legal proceedings indicated in Clause (b) of this Paragraph.

### **Article 52**

A service provider shall announce to the public the name of the representative who is appointed it to receive notices on its behalf. This can be carried out by notifying the representative's name, address, e-mail and telephone number on a part of the service provider's website or a record available to the public online or any other means the Minister shall determine by an order.

### **Article 53**

For the purposes of this Chapter, if a person gives a counter notice including fraud or false information purposely, he shall be liable for compensating third parties for any damages sustained by them.

### **Article 54**

If any rights prescribed by this Law are infringed upon and the claimant accordance to the provision of Article 55 of this Law, the Concerned Administrative Authority shall, at the written request of the claimant, issue a written order to oblige the service provider to immediately provide both of them with any information determining the identity of a person who made such claimed infringement. This will not prejudice the right to resort to a competent court.

### **Article 55**

*Amended by Law No. (5) of 2014*

In order to be effective, notification must be submitted in accordance with the provisions of this chapter with respect to any of the third and fourth class operations. Notice must be in writing and signed by the rightful party and shall be submitted to the representative appointed by the service provider pursuant to Article (52) of this law. Such notice may be sent by electronic mail if accompanied by an electronic signature.

In all cases, a notice should materially include the following:

- A) A claimant's identity, address, e-mail and telephone number.
- B) Reasonable enough information that enables the service provider to determine the infringed item.

If a notice includes a number of items available on one website or linked through such website or the service provider's system, a list containing such items may be submitted.

C) Reasonable enough information that enable a service provider to determine the infringed item or the alleged infringement activity on its network or system that is required to be deleted or deactivated. If such notice relates to determine information of the fourth class operations, such information shall be reasonable enough to enable the service provider to determine the reference or link on its network or system, provided that in case such notice relates to a great number of references or links on the service provider's network or system available in one website, a list containing such references or links existing on such website may be submitted.

If a notice relates to a number of works available and linked to one website on the service provider's network or system, a list containing such references or links along with a reasonable enough information to enable the service provider to identify such reference or link may be submitted.

D) A declaration that the information submitted in the notice are true and correct.

E) A declaration that the claimant or its representative has not issued any permission to use such item.

F) A declaration from the person giving such notice that he is the claimant of infringement or his/its attorney.

### **Article 56**

*Amended by Law No. (5) of 2014*

In order to be effective, the counter notification must be submitted in accordance with the provisions of this chapter with respect to any of the third and fourth class operations. Notice must be in writing and signed by the rightful party and shall be submitted to the representative appointed by the service provider pursuant to Article (52) of this law. Such notice may be sent by electronic mail if accompanied by an electronic signature. A notice may be sent by e-mail along with an electronic signature.

In all cases, a counter notice shall materially include the following:

- A) A subscriber's identity, address, e-mail and telephone number.
- B) Identifying the deleted or deactivated item.
- C) The site on which it was available before being deleted or deactivated.
- D) A declaration that the information contained in the notice is true and correct.
- E) A declaration that the subscriber accepts being subject to the Kingdom's court jurisdiction.
- F) A declaration that the subscriber accepts being given the summons concerning any suit brought against him at his material address.
- G) A declaration that the subscriber believes in good faith that the item's location has been deleted or deactivated by mistake or error.

## **Chapter Ten**

### **Collective Management of the Financial Rights of Authors and Owners of Attendant Rights**

#### **Article 57**

Authors and owners of attendant rights may grant exclusive licences with respect to the management of all or some of their financial rights to a professional society or another party in consideration of deduction to be made by the society or such other party from their dues in accordance with mutually agreed conditions.

#### **Article 58**

Societies and parties that undertake the management of the financial rights of authors and owners of attendant rights shall, to the extent of the terms of their agreement, have the following rights:

- A) Granting third parties licenses for exploitation of all or some of the financial rights in respect of a work, performance, phonorecord or broadcast programmer and agreeing to the financial consideration due for such exploitation.

- B) Collecting the due financial consideration and distributing it to the rightful owners after deducting the fees of such societies and parties in consideration of their management of such rights.
- C) Any other rights provided for under the agreement entered into in respect of the management of such rights.

### **Article 59**

The business of management of the financial rights of authors and owners of attendant rights shall not be carried on except by a licence from the Concerned Administrative Authority.

For the issue of such licence, a fee shall be payable and its rates shall be determined by an Order of the Minister upon securing the approval of the Council of Ministers.

### **Article 60**

The business of managing the financial rights of authors and owners of attendant rights shall be subject to the Concerned Administrative Authority's supervision and control.

Societies and parties that carry on such business shall maintain records of the names of their members, titles, rights that they have been licensed to exploit, financial consideration and mutually agreed period. They shall enable authors and owners of attendant rights and their representatives to have access to the details and information kept in such records.

The Concerned Administrative Authority may withdraw the licence in case of a breach by such societies or parties of the provisions of this Law or the ministerial orders issued for implementation of its provisions.

### **Article 61**

The Minister shall issue an order with respect to organizing the business of collective management of the financial rights of authors and owners of attendant rights and methods of supervision and control of such business.

## **Chapter Eleven**

### **Precautionary Measures and Border Arrangements**

#### **Article 62**

- 1) An owner of a right may, in case he has reasonable grounds that lead him to believe in the likelihood of importing goods involving infringement of any rights prescribed by the provisions of this Law, submit a written request to the customs clearing authority to stop clearing and trading in such goods. This request should be accompanied by evidence to convince the customs clearing authority of such apparent infringement upon the applicant's rights and the request should contain enough information which can be reasonably available to the applicant to enable the above-mentioned authority to identify the concerned goods.
- 2) The concerned customs clearing authority shall notify the applicant in writing of its decision with respect to his request within seven days from the date of submitting the request. In case of accepting the request, this decision shall apply for one year from the date of submitting the request or for the remaining protection period on the goods whichever comes earlier, unless the applicant requires a shorter period.
- 3) The concerned customs clearing authority may instruct the applicant to submit a reasonable guarantee or equivalent security to protect the defendant and the concerned authority and to prevent any abuse of customs clearing stoppage.
- 4) Without prejudice to the provisions of the previous paragraphs, the concerned customs clearing authority may automatically without the need for the owner of a right or third parties to submit a complaint or a request, issue a decision to stop customs clearing of imported goods, transit goods or ready to export

goods upon arriving in its customs point if there is reasonable evidence that there is infringement upon any of the rights set forth in this Law.

- 5) If the concerned customs clearing authority resolves, in application of this Article, to stop the customs clearing of the goods which arrived to the customs point, it shall:
  - a) Notify the goods exporter and the owner of a right, of the decision with respect to stopping the customs clearing upon its issuance.
  - b) Notify the owner of right, based on his written request, of the goods consignor's names and addresses, its importer, date of import and quantities.
  - c) Allowing the concerned persons to inspect the goods according to the applicable customs procedures in this respect. The owner of a right shall bring suit of the core dispute before the concerned court and notify the concerned customs clearing authority within ten business days from the date of being notified of the goods' customs clearing stoppage decision, otherwise the decision shall be null unless such authority or the concerned court decides to extend this period for a further term not exceeding ten days in cases they consider appropriate.

If a lawsuit is filed in respect of the core dispute, the court may support, amend or cancel such decision.
- 6) If it is proved that the goods to be released include an infringement upon any of the rights set forth in this Law, the court shall issue an order to destroy such goods at the importer's expense or dispose thereof outside the commercial channels if such destruction will cause unreasonable harm to public health or environment.
- 7) The Minister of Finance shall, in agreement with the Minister, issue an order regulating the goods' customs release suspension and the necessary documents to be attached with the request. Upon determining the same, an order shall

consider matters which will bar the request to take the above-mentioned action.

The Minister shall also, with the approval of the Council Ministers, issue an order regulating the following:

- a) Guarantee or equivalent security estimation rules that are necessary to be deposited by the applicant pursuant to the provisions of this Article.
  - b) Fees imposed upon suspended goods, guarantee or equivalent security or the rate of the above-mentioned fees should not be high in a manner that will bar the request to take the above-mentioned action.
- 8) The provisions of this Article shall not apply to small quantities of works, phonorecords and broadcasting programmes in the travelers' personal luggage, that are not of a commercial nature.

### **Article 63**

- 1) In case of infringement or to avoid any infringement upon any of the rights protected pursuant to the provisions of this Law, or when any infringement is committed pursuant to the provisions of Paragraphs from (1) to (5) of Article No. 45 of this Law, or to avoid any such actions, the owner of a right shall procure the issue of a writ by the President of the Court having jurisdiction to hear the dispute to take one or more of the precautionary measures, including the following:
  - a) Conducting a detailed description of the infringement, prohibited act claimed, the work, items, materials, machines and equipment used in the infringement and holding in custody any evidence related to the matter.
  - b) Placing an attachment over the materials referred to in the above-mentioned Paragraph and the proceeds of such infringement or alleged prohibited act.



- c) Prohibiting the infringement items or banned goods from entering the commercial channels and prohibiting their export. This also includes the imported goods upon their release from customs.
  - d) Cessation of the infringement or the banned action or the occurrence of both.
- 2) The Court President shall be empowered to compel the petitioner to submit reasonable evidence that the occurrence of infringement upon a right and commitment of banned actions are threatened by an imminent infringement. He is also empowered to compel the petitioner to submit the necessary information for assisting the authority in charge of enforcing the precautionary measure upon the concerned goods.
  - 3) The Court President shall issue an order on an urgent basis within ten days from the date of its submission, except for the exceptional cases estimated by the Court President.
  - 4) The Court President shall, if necessary, issue the aforesaid order on an urgent basis without serving the summons upon the other party to avoid the inevitable damages caused by the delay in the issue of the order upon the petitioner or the possible destruction of evidence, provided that the other party shall be given notice of the order immediately upon the issue thereof.
  - 5) If the Court President issues an order to take the precautionary action on an urgent basis without serving the summons upon the other party, the petitioner shall be entitled, upon being notified, to file an appeal with the concerned Court within ten days from the date of being notified. In this case, the Court shall support, amend or cancel the order.
  - 6) The Court President may instruct the petitioner to submit a reasonable guarantee or equivalent security to protect the claimant and prevent abuse of the right. A guarantee or equivalent security amounts should not be too high to bar the request to take the above-mentioned precautionary action.

- 7) The petitioner shall file a legal action in respect of the core dispute with the competent court within the 20 days following the issue of the precautionary action or from the date of rejecting the appeal referred to in Paragraph 5 of this Article, as the case may be, otherwise the said order shall be cancelled at the request of the claimant.

## **Chapter Twelve**

### **Civil Procedures & Compensation**

#### **Article 64**

*Amended by Law No. (5) of 2014*

- 1) Subject to the provision of Paragraph 3 of this Article, an owner of a right may, if he sustains any direct damage that arise from an infringement upon any of his rights set forth in the provisions of this Law, or commitment of any banned actions subject to the provisions of Paragraphs 1 to 5 of Article 45 thereof, file a suit with the concerned civil court for issuing a judgment of paying him enough compensation to make good the damages he sustained due to infringement or the prohibited action including any profits gained by such infringement or commitment of the banned action.

The Court shall determine the compensation amount which it considers appropriate subject to the provisions of Articles 161 and 162, Paragraph (a) of the Civil Code, provided that what the Court considers in this regard shall be the goods or service value subject to this infringement pursuant to the Plaintiff's amount regarding the retail price or any legitimate standard request to be applied or by experience.

- 2) In the event that the rightful party is unable to prove the extent of the damages, the rightful party may choose at any time and before the case request compensation between 500 to 9,000 dinars for each violation or prohibited action. The compensation amount shall decrease to an amount not less than

150 dinars, if evidenced to the courts that the defendant has acted in good faith.

- 3) Nonprofit libraries or libraries that do not archive documents and manuscripts or educational institutions or public non-commercial broadcasting institutions are not obliged to pay the compensation in regards to the actions undertaken, as stated in Paragraphs 1 to 3 of Article (45) of this law, if they were not aware or did not have reason to believe that such activity involved a violation or constituted a prohibited act.
- 4) The concerned court shall, at the request of the owner of a right, pass, without any compensation of any types to be paid to the Defendant, a judgment to destroy the infringed goods. It may also pass a judgment to destroy the materials and tools used in the manufacture and production of such goods without delay and without any compensation of any type. The court may pass, in extraordinary cases that it considers appropriate, a judgment to dispose of such goods outside the commercial channels in a manner that prevents any possible infringements.

Instead of destroying the used goods, materials and devices in the infringement, a court may pass a judgment to dispose of them outside the commercial channels unless such destruction results in unreasonable damages to the public health and the environment.

- 5) The concerned court shall determine charges and fees of the assigned experts and specialists to the Case in proportion to the assignment size and nature and in a manner that prevents resorting to such procedures.

## **Chapter Thirteen**

### **Penalties**

#### **Article 65**

- 1) Without prejudice to a severer penalty provided for in the Penal Code or any other law, a penalty of imprisonment for a period of no less than three

months and no more than one year and a fine of no less than BD500 and no more than BD4,000, or either penalty, shall be inflicted upon the following:

- a) Anyone who infringes upon any copyright or owners of attendant rights provided for in this Law, including the following:
  - 2) Anyone who purposely and materially infringes upon any copyright or owners of attendant rights provided for in this Law, even if he does not aim to make a material gain directly or indirectly.
  - 3) Anyone who purposely infringes upon any copyright to achieve commercial purpose or special material gain.
    - a) Committing of any of the prohibited acts subject to the provisions of Paragraph 3 of Articles 45 of this Law to achieve commercial purpose or material gain if the doer is aware that his act is prohibited or could facilitate or hide any copyright or owners of attendant rights provided for in this Law.
    - b) Committing of any of the prohibited acts subject to the provisions of Paragraphs 4 & 5 of Articles 45 of this Law.
    - c) Trading in or design of forged labels to display them on a phonorecord, a copy of computer software, documents or cases of computer software, a copy of a movie film or any video works if he knows the same.
    - d) Trading in forged documents or cases of computer software if he is aware thereof.
    - e) Using folk expressions in breach of the provision of Article 68 of this Law.

A penalty handed down by the court shall be sufficient to deter any future committing of infringement or prohibited acts and prevent the material incentive of the infringer or doer of the prohibited acts. A penalty should be doubled to its maximum or minimum limit in case of recurrence and the shop in which such infringement is committed should be closed or suspend its activities, as the case may be, for a period not less than fifteen

days and no more than six months. The judgment shall be published in a local daily newspaper once or more at the convicted party's expense.

- 4) The Court shall pass a ruling to seize suspicious goods containing any infringement of any copyright subject to the provisions of this Law, any other relevant devices and tools used in such act or any assets that are related to the infringement activity or prohibited acts subject to the provisions of this Article and any relevant documents. Such items shall not be necessarily provided for in the seizure order separately as long as they are general items recorded in this order.
- 5) If committing any infringement or prohibited acts is proved, the Court shall pass a ruling of the following without any compensation to be paid for the convicted:
  - a) Confiscation or destruction of the goods subject to the infringement at the convicted party's expense or disposal thereof outside the commercial channels if such destruction will result in unreasonable damage to public health and environment.
  - b) Confiscation or destruction of all the materials, machines and equipment used in the infringement or the prohibited acts if it is proved that such acts were purposely committed or dispose thereof outside the commercial channels if such destruction will result in unreasonable damage to public health and the environment.

If the act of infringement is proved, the Court may pass a ruling for confiscation of any assets that are related to the infringement activity.

### **Article 66**

*Amended by Law No. (5) of 2014*

Without prejudice to any severer penalty provided for in any other law:

- A) The penalty shall be imprisonment for a period of no more than six months and a fine of no more than BD1,000 against any convicted party in application of the provision of Clause (c) of Paragraph 4 of Article 64 of this Law.
- B) Imprisonment of up to 6 months or a fine not exceeding 2,000 dinars shall be imposed on parties of the claim, judges' agents or those appointed to the court who violate a court order in regards to the protection of confidential information that are disclosed or exchanged during the judicial proceedings.

## **Chapter fourteen**

### **Miscellaneous Provisions**

#### **Article 67**

Officers appointed by the Minister to ascertain of the implementation of the provisions of this Law and orders issued to implement it, shall be entitled to have access to the relevant shops.

Officers designated by the Minister of Justice in agreement with the Minister shall have summary powers with regard to the crimes that are committed in their areas of jurisdiction and relating to their duties and functions.

Reports of such crimes shall be referred to the Public Prosecution by an order to be issued by the Minister or his representative.

#### **Article 68**

- 1) Without prejudice to the provisions of Article 45 of this Law, importing, using, owning, selling or distributing copies of works or its phonorecords when introduced to the market of any country by an owner of a right of such works, performance or phonorecord or subject to his approval, shall not be deemed an infringement upon copyright or owners of attendant rights.
- 2) For the purpose of Chapters Eleven to Thirteen, a presumption shall be assumed should be available within the course of any legal proceedings with

respect to the provisions of this Law, unless otherwise created a copyright or attendant rights of works, performance or phonorecord, approved them.

### **Article 69**

Folk expressions that reflect the traditional popular heritage that has existed, developed or preserved in the Kingdom shall become a public property of the State. It may be exploited appropriately in good aspects of use, provided that such use shall not involve a misrepresentation of such expressions and their source. The Concerned Administrative Authority shall be entitled to prohibit any exploitation of such expressions in breach of these provisions.

### **Article 70**

No one who has produced a picture of another person shall be entitled to publish, display or distribute copies thereof without the permission of the person represented by the picture unless there is a written agreement to the contrary. However, a picture may be published where events took place in public or where the picture relates to official or public figures or those who enjoy a local or international reputation or if such publication is permitted by the competent government authorities to serve the public interest, provided that the display of the picture or its circulation in this case shall not prejudice the person's honour, reputation or standing.

The person represented by the picture may authorize the publication thereof in newspapers and other types of media in spite of the photographer's opposition thereto unless there is a written agreement to the contrary.

### **Article 71**

Buildings and any sculptures, drawings, decorations or other architectural forms shall not be subject to any attachment. Further, no judgement shall be passed for destroying them, altering their features or confiscation thereof with the intent of

protecting the rights of an author whose designs and drawings have been illegally used in the building, provided that this shall not prejudice his right to a fair compensation therefor.

### **Article 72**

The concerned administrative authority shall exercise the following powers:

- A) Educating authors and owners of attendant rights about their financial and intangible rights.
- B) Settlement of disputes that arise in respect of any of the rights provided for in this Law in an amicable manner if this is accepted by the concerned parties.
- C) Co-coordinating with the authorities concerned with protection of copyright and attendant rights.
- D) Any other powers provided for in this Law or conferred by the Minister upon the concerned administrative authority with respect to implementing its provisions.

## **Chapter Fifteen**

### **Scope of Applying the Law**

#### **Article 73**

The provisions of this Law related to copyright protection shall be applicable to:

- A) Works of authors who are citizens of the Kingdom or who have their normal domicile therein.
- B) Works that are published for the first time in the Kingdom or which are published for the first time in another country then published in the Kingdom within 30 days from the date of overseas publication regardless of their authors' nationality or residential address.
- C) Audio-video works whose producers are based or have their residential address in the Kingdom.



D) Architectural works that have been built in the Kingdom and other technical works incorporated in a building or any other facilities situated in the Kingdom.

#### **Article 74**

The provisions of this Law related to protection of performing artists shall apply to the performances of:

- A) Performing artists who are citizens of the Kingdom.
- B) Performing artists who are non-citizens of the Kingdom in the following events:

First: If a performance is presented in the Kingdom's territory.

Second: If the performance is included in phonorecords protected pursuant to the provisions of this Law.

Third: If the performance is incorporated in a broadcasting transmission that is protected under this Law in case the performance is not fixed in a phonorecord.

#### **Article 75**

The provisions of this Law related to protection of producers of phonorecords shall be applicable to phonorecords:

- A) that have been produced by citizens of the Kingdom.
- B) that have been fixed for the first time in the Kingdom.
- C) that have been published for the first time in the Kingdom.

#### **Article 76**

The provisions of this Law related to protection of broadcasting corporations shall be applicable to radio programmes of broadcasting corporations:

- A) that have their head office situated in the Kingdom.
- B) that transmit from transmission stations situated in the Kingdom.

### **Article 77**

Without prejudice to the provisions of Articles (73) to (76), the provisions of this Law shall be applicable to authors, performing artists, phonorecord producers and broadcasting corporations that enjoy protection pursuant to international agreements ratified by the Kingdom.

### **Article 78**

The provisions of this Law shall be applicable to works, performances, phonorecords and broadcasting stations completed or fixed prior to the effective date of this Law, provided that they have become public property as a result of the expiry of the protection period prescribed therefor under the former Law or in a legislation currently in force in their native country.

## **Chapter Sixteen**

### **Final Provisions**

### **Article 79**

The Minister shall issue the necessary Orders for implementing the provisions of this Law.

### **Article 80**

Legislative Decree No.(10) of 1993 with respect to Copyright shall be revoked.

### **Article 81**

The Ministers, each in his respective capacity, shall implement the provisions of this Law which shall come into effect from the day following the date of its publication in the Official Gazette.

**Hamad bin Isa Al Khalifa**

**King of the Kingdom of Bahrain**

Issued at Riffa Palace

Dated: 29<sup>th</sup> Jumadaa Al Awwal

Corresponding: 25<sup>th</sup> June 2006