

COPYRIGHT ACT B.E. 2537 (1994)

H.M. KING BHUMBOL ADULYADEJ

Given on the 9th day of DECEMBER B.E. 2537 (1994)

being the 49 year of the present reign.

By royal command of His Majesty King Bhumibol Adulyadej it is hereby proclaimed that :

Where as it is proper the amend the law on copyright, IT IS HEREBY ENACTED by the King's Most Excellency Majesty with the advice and consent of the National Legislature as follows :

Section 1. This Act shall be cited as the Copyright Act B.E. 2537.

Section 2. This Act shall come into force at the expiration of ninety days from the date of publication in the Government Gazette.

Section 3. The Copyright Act B.E. 2521 shall be repealed.

Section 4. In this Act :

"author" means a person who makes or creates any work which is a copyright work by virtue of this Act.

"copyright" means the exclusive right to do any act according to this Act with respect to the work created by the author.

"literary work" means any kind of literary work such as books, pamphlets, writings, printed matters, lectures, sermons, addresses, speeches, including computer programs.

"computer program" means instructions, set of instructions or anything which are used with a computer so as to make the computer work or to generate a result no matter what the computer language is.

"dramatic work" means a work with respect to choreography, dancing, acting or performance in dramatic arrangement, including a pantomime.

"artistic work" means a work of any one or more of the following characters :

(1) work of painting and drawing which means a creation of configuration consisting of lines, lights, colors or any other things or the composition thereof upon one or more materials.

(2) work of sculpture which means a creation of configuration with tangible volume.

(3)work of lithography which means a creation of picture by printing process and includes a printing block or plate used in the printing.

(4)work of architecture which means a design of building or construction, a design of interior or exterior decoration as well as a landscape design or a creation of a model of building or construction.

(5)photographic work which means a creation of picture with the use of image-recording apparatus which allows the light to pass through a lens to a film or glass and developed with liquid chemical of specific formula or with any process that creates a picture or an image-recording with any other apparatus or method.

(6)work of illustration, map, structure, sketch or three-dimensional work with respect to geography, topography or science.

(7)work of applied art which means a work which takes each or a composition of the works mentioned in (1) to (6) for utility apart from the appreciation in the merit of the work such as for practical use of such work,decorating materials or appliances or using for commercial benefit. Provided that, whether or not the work in (1) to (7) has an artistic merit and it shall include photographs and plans of such work.

"musical work" means a work with respect to a song which is composed for playing or singing whether with rhythm and lyrics or only rhythm, including arranged and transcribed musical note or musical diagram.

"audiovisual work" means a work which consists of a sequence of visual images recorded on any kind of material and which is capable of being replayed with an equipment necessary for such material, including the sound track of such work, if any.

"cinematographic work" means an audiovisual work which consists of a sequence of visual images which can be continuously shown as moving pictures or can be recorded upon another material so as to be continuously shown as moving pictures, including the sound track of such cinematographic work, if any.

"sound recording" means a work which consists of sequence of music, sound of a performance or any other sound recorded on any kind of material and capable of being replayed with an equipment necessary for such material but not including the sound track of a cinematographic work or another audiovisualwork.

"performer" means a performer, musician, vocalist, choreographer, dancer, and a person who acts,sings, speaks, dubs a translation or narrates or gives commentary or performs in accordance with the scriptor performs in any other manner.

"broadcasting work" means a work which is communicated to public by means of radio broadcasting,sound or video broadcasting on television or by any other similar means.

"reproduction" includes any method of copying, imitation, duplication, block-making, sound recording, video recording or sound and video recording for the material part from the original, copy or publication whether of the whole or in part and, as for computer program, means duplication or making copies of the program from any medium for the substantial part with any method without a character of creating a new work whether of the whole or in part.

"adaptation" means a reproduction by conversion, modification or emulation of the original work for the substantial part without a character of creating a new work whether of the whole or in part.

(1) with regard to literary work, it shall include a translation, a transformation or a collection by means of selection and arrangement,

(2) with regard to computer program, it shall include a reproduction by means of transformation, modification of the program for the substantial part without a character of creating a new work,

(3) with regard to dramatic work, it shall include the transformation of a non-dramatic work to a dramatic work or a dramatic work to a non-dramatic work, whether in the original language or a different language,

(4) with regard to artistic work, it shall include the transformation of a two-dimensional work or a three-dimensional work to a three-dimensional work or a two-dimensional work or the making of a model from the original work,

(5) with regard to musical work, it shall include an arrangement of tunes or an alteration of lyrics or rhythm.

"communication to public" means making the work available to public by means of performing, lecturing, preaching, playing music, causing the perception by sound or image, constructing, distributing or by any other means.

"publication" means the distribution of duplicated copies of a work whatever may be the form of character with consent of the author where such copies are available to the public at a reasonable quantity having regard to the nature of the work provided that the performance or play of a dramatic work, a musical work or a cinematographic work, the lecture or the recitation of a literary work, the sound and video broadcasting of a work, the exhibition of an artistic work and the construction of a work of architecture shall not constitute publication.

"officials" means the persons appointed by the Minister to act in accordance with this Act.

"Director General" means the Director General of the Department of Intellectual Property and includes the persons designated by the Director General of the Department of Intellectual Property.

"Committee" means the Copyright Committee.

"Minister" means the Minister who is in charge of this Act.

Section 5. The Minister of Commerce shall be in charge of this Act and shall be authorized to appoint officials and issue the Ministerial Regulations so as to implement this Act.

The Ministerial Regulations which have been proclaimed in the Government Gazette shall be enforceable.

Section 6. The Copyright work by virtue of this Act means a work of authorship in the form of literary, dramatic, artistic, musical, audiovisual, cinematographic, sound recording, sound and video broadcasting work or any other work in the literary, scientific or artistic domain whatever may be the mode or form of its expression. Copyright protection shall not extend to ideas or procedures, processes or systems or methods of use or operation or concept, principles, discoveries or scientific or mathematical theories.

Section 7. The followings are not deemed copyright work by virtue of this Act : (1)news of the day and facts having the character of mere information which is not a work in literary, scientific or artistic domain, (2) constitution and legislations, (3)regulations, by-laws, notifications, orders, explanations and official correspondence of the Ministries, Departments or any other government or local units, (4)judicial decisions, orders, decisions and official reports, (5)translation and collection of those in (1) to (4) made by the Ministries, Departments or any other government or local units.

## PART 2

### ACQUISITION OF COPYRIGHT

**Section 8** The author of a work is the owner of copyright in the work of authorship subject to the following conditions :

(1) In the case of unpublished work, the author must be a Thai national or reside in Thailand or be a national of or reside in a country which is a member of the Convention on the protection of copyright of which Thailand is a member provided that the residence must be at all time or most of the time spent on the creation of the work ;

(2) In the case of published work, the first publication must be made in Thailand or in a country which is member of the Convention on the copyright protection of which Thailand is a member, or in the case the first publication is made outside Thailand or in a country which is not member of the Convention on the copyright protection of which Thailand is a member, if the publication of the said work is subsequently made in Thailand or in a country which is member of the Convention on the copyright protection of which Thailand is a member within thirty days as from the first publication, or the author has the qualifications as prescribed in (1) at the time

of the first publication. In the case the author must be a Thai national, if the author is a juristic person, it must be established under the Thai law.

**Section 9** Copyright in the work created by the author in the course of employment vests upon the author unless it has been otherwise agreed in writing provided that the employer is entitled to communicate such work to public in accordance with the purpose of the employment.

**Section 10** Copyright in the work created in the course of commission vests upon the employer unless the author and the employer have agreed otherwise.

**Section 11.** Copyright in the work which is an adaptation of a copyright work by virtue of this Act done with the consent of the owner of copyright vests upon the person who makes such adaptation but without prejudice to the owner of copyright in the work created by the original author that is adapted.

**Section 12** Copyright in the work which is a compilation or a composition of copyright works by virtue of this Act done with the consent of the owners of copyright or a compilation or a composition of data or the materials which are readable or conveyable by a machine or other apparatus, vests upon the person who makes the compilation or the composition provided that he has done so by means of selection or arrangement in the manner which is not an imitation of the work of another person but without prejudice to the owners of copyright in the works or data or other materials created by the original authors which are compiled or composed.

**Section 13** Section 8, Section 9 and Section 10 shall apply mutatis mutandis to the acquisition of copyright under Section 11 or Section 12.

**Section 14** The Ministries, Departments or other government or local units are the owners of copyright in the works created in the course of employment, order or control unless it is otherwise agreed in writing.

### PART 3 COPYRIGHT PROTECTION

**Section 15** Subject to Section 9, Section 10 and Section 14, the owner of copyright has the exclusive rights of :-

- (1) reproduction or adaptation,
- (2) communication to public,
- (3) letting of the original or the copies of a computer program, an audiovisual work, a cinematographic work and sound recordings,
- (4) giving benefits accruing from the copyright to other persons,
- (5) licensing the rights mentioned in (1), (2) or (3) with or without conditions provided that the said conditions shall not unfairly restrict the competition. Whether the conditions as mentioned in sub-section (5) of the paragraph one are unfair restrictions of the competition or not shall be considered in accordance with the rules, methods and conditions set forth in the Ministerial Regulation.

**Section 16** If the owner of copyright by virtue of this Act permits a person to exercise the right according to Section 15(5), it shall be deemed that the permission does not restrict the owner of copyright to also give such permission to another person except that the written permission specifies the restriction.

**Section 17.** The copyright is assignable.

The owner of copyright may assign the copyright of the whole or in part and may assign it for a limited duration or for the entire term of copyright protection.

The assignment of copyright by other means except by inheritance must be made in writing with the signatures of the assignor and the assignee. If the duration is not specified in the assignment contract, the assignment shall be deemed to last for ten years.

**Section 18** The author of the copyright work in this Act is entitled to identify himself as the author and to prohibit the assignee or any person from distorting, shortening, adapting or doing anything against the work to the extent that such act would cause damage to the reputation or dignity of the author. When the author has died, the heirs of the author is entitled to litigation for the enforcement of his right through the term of copyright protection unless otherwise agreed in writing.

#### **PART 4**

#### **TERM OF COPYRIGHT PROTECTION**

**Section 19** Subject to Section 21 and Section 22, copyright by virtue of this Act subsists for the life of the author and continues to subsist for fifty years after the death of the author.

In the case of a work of joint authorship, copyright subsists for the joint-authors and continues to subsist for fifty years as from the death of the last surviving joint-author.

If the author or all joint-authors die prior to the publication of the work, copyright subsists for fifty years as from the first publication of the work.

In the case of the author being a juristic person, copyright subsists for fifty years as from the authorship; provided that if the work is published during such period, the copyright continues to subsist for fifty years as from the first publication.

**Section 20** Copyright by virtue of this Act in a work which is created by a pseudonymous or anonymous author subsists for fifty years as from the authorship; provided that if the work is published during such period, copyright subsists for fifty years as from the first publication.

If the identity of the author becomes known, Section 19 shall apply *mutatis mutandis*.

**Section 21.** Copyright in a photographic work, audiovisual work, cinematographic work, sound recordings or audio and video broadcasting work subsists for fifty years as from the authorship; provided that if the work is

published during such period, copyright subsists for fifty years as from the first publication.

**Section 22** Copyright in a work of applied art subsists for twenty-five years as from the authorship; provided that

**Section 23** Copyright in a work which is created in the course of employment, instruction or control in accordance with Section 14 subsists for fifty years as from the authorship; provided that if the work is published during such period, copyright subsists for fifty years as from the first publication.

**Section 24** The publication under Section 19, Section 20, Section 21, Section 22 or Section 23 which is the commencement of the term of copyright protection means the publication of the work with the consent of the owner of copyright.

**Section 25** When the term of copyright protection expires during a year and the expiry date is not the last calendar day of the year or the exact date of expiry is not known, copyright continues to subsist until the last day of that calendar year.

**Section 26** The publication of a copyright work after the expiry of the term of copyright protection shall not cause anew the copyright in such work.

## PART 5

### INFRINGEMENT OF COPYRIGHT

**Section 27** Any of the following acts against a copyright work by virtue of this Act without the permission in accordance with Section 15(5) shall be deemed an infringement of copyright :

- (1) reproduction or adaptation,
- (2) communication to public.

**Section 28** Any of the following acts against an audiovisual work, a cinematographic work or a sound recording copyrightable by virtue of this Act without the permission in accordance with Section 15(5) whether against the sound or image shall be deemed an infringement of copyright :

- (1) reproduction or adaptation,
- (2) communication to public,
- (3) letting of the original or copies of the work.

**Section 29** Any of the following acts against a sound and video broadcasting copyrightable by virtue of this Act without the permission in accordance with Section 15(5) shall be deemed an infringement of copyright :

- (1) making an audiovisual work, a cinematographic work, a sound recording or a sound and video broadcasting work whether of the whole or in part,
- (2) rebroadcasting whether of the whole or in part,
- (3) making a sound and video broadcasting work to be heard or seen in public by charging money or another

commercial benefit.

**Section 30** Any of the following acts against a computer program copyrightable by virtue of this Act without the permission in accordance with Section 15(5) shall be deemed an infringement of copyright :

- (1) reproduction or adaptation,
- (2) communication to public,
- (3) letting the original or copy of the work.

**Section 31.** Whoever knows or should have known that a work is made by infringing the copyright of another person and commits any of the following acts against the work for profit shall be deemed to infringe the copyright :

- (1) selling, occupying for sale, offering for sale, letting, offering for lease, selling by hire purchase or offering for hire purchase,
- (2) communication to public,
- (3) distribution in the manner which may cause damage to the owner of copyright,
- (4) self-importation or importation by order into the Kingdom.

## **PART 6**

### **EXCEPTIONS FROM INFRINGEMENT OF COPYRIGHT**

**Section 32** An act against a copyright work by virtue of this Act of another person which does not conflict with a normal exploitation of the copyright work by the owner of copyright and does not unreasonably prejudice the legitimate right of the owner of copyright shall not be deemed an infringement of copyright.

Subject to the provision of paragraph one, any act against the copyright work in paragraph one shall not be deemed an infringement of copyright provided that the act is each of the followings :

- (1) research or study of the work which is not for profit;
- (2) use for personal benefit or for the benefit of himself and other family members or close relatives;
- (3) comment, criticism or introduction of the work with an acknowledgement of the ownership of copyright in such work;
- (4) reporting of the news through mass-media with an acknowledgement of the ownership of copyright in such work;
- (5) reproduction, adaptation, exhibition or display for the benefit of judicial proceedings or administrative proceedings by authorized officials or for reporting the result of such proceedings;
- (6) reproduction, adaptation, exhibition or display by a teacher for the benefit of his teaching provided that the act is not for profit;
- (7) reproduction, adaptation in part of a work or abridgement or making a summary by a teacher or



an educational institution so as to distribute or sell to students in a class or in an educational institution provided that the act is not for profit;

- (8) use of the work as part of questions and answers in an examination.

**Section 33** A reasonable recitation, quotation, copy, emulation or reference in part of and from a copyright work by virtue of this Act with an acknowledgement of the ownership of copyright in such work shall not be deemed an infringement of copyright provided that Section 32 paragraph one is complied with.

**Section 34** A reproduction of a copyright work by virtue of this Act by a librarian in the following cases shall not be deemed an infringement of copyright provided that the purpose of such reproduction is not for profit and Section 32 paragraph one is complied with :

- (1) reproduction for use in the library or another library;
- (2) reasonable reproduction in part of a work for another person for the benefit of research or study.

**Section 35** An act against a computer program which is a copyright work by virtue of this Act in the following cases shall not be deemed an infringement of copyright provided that the purpose is not for profit and Section 32 paragraph one is complied with :

- (1) research or study of the computer program,
- (2) use for the benefit of the owner of the copy of the computer program,
- (3) comment, criticism or introduction of the work with an acknowledgement of the ownership of the copyright in the computer program;
- (4) reporting of the news through mass media with an acknowledgement of the ownership of copyright in the computer program;
- (5) making copies of a computer program for a reasonable quantity by a person who has legitimately bought or obtained the program from another person so as to keep them for maintenance or prevention of loss;
- (6) reproduction, adaptation, exhibition or display for the benefit of judicial proceedings or administrative proceedings by authorized officials or for reporting the result of such proceedings;
- (7) use of the computer program as part of questions and answer in an examination;
- (8) adapting the computer program as necessary for use;
- (9) making copies of the computer program so as to keep them for the reference or research for public interest.

**Section 36** The public performance of a dramatic work or a musical work as appropriate which is not organized or conducted for seeking profit from such activity and without direct or indirect charge for watching the performance and the performers not receiving remuneration for such performance shall not be deemed an infringement of copyright provided that it is conducted by an association, foundation or another organization which has objectives for public charity, education, religion or social welfare and that Section 32 paragraph one is

complied with.

**Section 37.** A drawing, painting, construction, engraving, moulding, carving, lithographing, photographing, cinematographing, video broadcasting or any similar act of an artistic work, except an architectural work, which is openly located in a public place shall not be deemed an infringement of copyright in the artistic work.

**Section 38** A drawing, painting, engraving, moulding, carving, lithographing, photographing, cinematographing or video broadcasting of an architectural work shall not be deemed an infringement of copyright in the architectural work.

**Section 39** A photographing or cinematographing or video broadcasting of a work of which an artistic work is a component shall not be deemed an infringement of copyright in the artistic work.

**Section 40** In case another person apart from the author jointly owns the copyright in an artistic work, the subsequent creation by the same author of the artistic work in such a manner that a part of the original artistic work is reproduced or the printing pattern, sketch, plan, model or data acquired from a study which has been applied in the creation of the original artistic work is used shall not be deemed an infringement of copyright in the artistic work provided that the author does not reproduce or copy the substantial part of the original artistic work.

**Section 41.** A restoration in the same appearance of a building which is a copyright architectural work by virtue of this Act shall not be deemed an infringement of copyright.

**Section 42** When the term of protection for a cinematographic work has come to an end, the communication to public of the cinematographic work shall not be deemed an infringement of copyright in the literary work, dramatic work, artistic work, musical work, audiovisual work, sound recording or any work previously used to create such cinematographic work.

**Section 43** A reproduction of a copyright work by virtue of this Act which is in the possession of the government by an authorized official or by an order of such official for the benefit of government service shall not be deemed an infringement of copyright provided that Section 32 paragraph one is complied with.

## **CHAPTER 2**

### **PERFORMERS' RIGHT**

**Section 44** The performer has the following exclusive rights with respect to the acts concerning his performance;

- (1) sound and video broadcasting or communication to public of the performance except the sound and video broadcasting or communication to public from a recording material which has been recorded;
- (2) recording the performance which has not been recorded;
- (3) reproducing the recording material of the performance which has been recorded without the consent of

the performer or the recording material of the performance with the consent of the performer but for another purpose or the recording material of the performance which falls within the exceptions of the infringement of performer's rights by virtue of Section 53.

**Section 45.** Whoever causes the sound broadcasting or the direct communication to public of the audio recording material of a performance which have already been disseminated for commercial purpose or the copies thereof is bound to pay a just remuneration to the performer. In case the parties can not agree upon the remuneration, the Director General shall stipulate the remuneration by taking into account the normal rate of remuneration in such specific business.

A party may appeal the order of the Director General according to paragraph one to the Committee within ninety days as from receiving the letter informing the order of the Director General. The decision of the Committee shall be final.

**Section 46.** Where there are more than one performer involved in a performance or an audio recording of a performance, those performers may appoint a joint agent to take care of or administer their rights.

**Section 47.** A performer has the rights in his performance according to Section 44 provided that the following conditions are met :

- (1) the performer has Thai nationality or has a habitual residence in the Kingdom or;
- (2) The performance or the major part of the performance takes place in the Kingdom or in a country which is a member of the Convention on the protection of performers' rights of which Thailand is also a member.

**Section 48.** A performer is eligible to receive the remuneration according to Section 45 provided that the following conditions are met :

- (1) the performer has Thai nationality or has a habitual residence in the Kingdom when the audio recording of the performance takes place or when he exercises a claim of his right or;
- (2) the audio recording of the performance or the major part of the audio recording of the performance takes place in the Kingdom or in a country which is a member of the Convention on the protection of performers' rights of which Thailand is also a member.

**Section 49.** The performer's rights according to Section 44 lasts for fifty years as from the last day of the calendar year in which the performance takes place. In case the performance is recorded, the performer's rights lasts for fifty years as from the last day of the calendar year in which the recording of the performance takes place.

**Section 50.** The performer's rights according to Section 45 lasts for fifty years as from the last day of the calendar year in which the audio recording of the performance takes place.

**Section 51.** The performer's rights according to Section 44 and Section 45 are assignable whether of the whole or in part and may be assignable for a fixed duration or the whole term of protection.

In case there are more than one performer involved, each performer is entitled to assign the rights which specifically belong to him.

The assignment of rights by other means except by inheritance must be made in writing with the signatures of the assignor and the assignee. If the duration is not specified in the assignment contract, the assignment shall be deemed to last for three years.

**Section 52** Whoever acts as specified in Section 44 without the consent of the performer or without paying remuneration in accordance with Section 45 shall be deemed to infringe the performer's rights.

**Section 53** Section 32, Section 33, Section 34, Section 36, Section 42, and Section 43 shall apply mutatis mutandis to the performer's rights.

### **CHAPTER 3**

#### **USE OF COPYRIGHT IN SPECIAL CIRCUMSTANCES**

**Section 54** A Thai national who desires to seek a copyright license for a work which has already been communicated to public in the form of printed materials or other similar forms according to this Act for the benefit of study, teaching or research without a profit-seeking purpose may submit an application to the Director General by showing evidence that the applicant has previously sought a license from the copyright owner to translate the work into Thai or to reproduce the copies of the translation published in Thai but his request has been denied or after a reasonable period of time having elapsed the agreement can not be concluded provided that at the time of submitting the application :

- (1) the copyright owner has not translated or authorized any person to translate the work into the Thai language for publication within three years after the first publication of the work or;
- (2) the copyright owner has published the translation in the Thai language but, beyond three years after the last publication of the translation, no further publication is made and all the editions of the published translation are out of print.

The application according to paragraph one shall follow these rules, methods and conditions:

(1) The Director General shall not grant the license for the application according to paragraph one if the time specified in paragraph one (1) or (2) has elapsed not exceeding six months.

(2) in case the Director General grants the license, the grantee shall be solely entitled to translate or publish the licensed translation provided that the Director General shall not permit another person to make the Thai translation from the same original copyright work if the time specified in the license has not elapsed or has elapsed not exceeding six months.

(3) the grantee is prohibited from assigning the granted license to another person.

(4) if either the copyright owner or the licensee can assure the Director General that he has made the

Thai translation or has published the translated version in Thai content of which is identical to that of the printed materials which are the subjects of license according to Section 55 and has distributed the printed materials at appropriate price comparable with that of another work of the same nature being sold in Thailand, the Director General shall order that the license granted to the grantee be terminated and shall inform the grantee of such order without delay.

The grantee may distribute the copies of the printed materials which have been made or published prior to the order of termination by the Director General until they are out of stock.

(5) the grantee is prohibited to export the copies of the printed materials of the licensed translation or publication in Thai except for the following conditions :

- (a) the recipient abroad is a Thai national;
- (b) the printed materials serve the purposes of study, teaching or research;
- (c) the delivery of the printed materials is not for a commercial purpose; and
- (d) the country to which the printed materials are delivered allows Thailand to deliver or distribute the printed materials to or within that country.

**Section 55** Upon receiving the application according to Section 54, the Director General shall arrange an agreement between the concerning parties as to the remuneration for and the conditions of the license. In case the parties can not reach the agreement, the Director General shall give an order on the just remuneration by taking into consideration the normal rate of remuneration in such business and may stipulate conditions for the license as he deems appropriate.

When the remuneration and conditions are stipulated, the Director General shall issue the license certificate to the applicant.

The concerning parties may appeal the order of the Director General according to paragraph one to the Committee within ninety days as from the receipt of the letter informing the order of the Director General. The decision of the Committee shall be final.

## **CHAPTER 4**

### **COPYRIGHT COMMITTEE**

**Section 56** A committee called "the Copyright Committee" shall be established and to be composed of the Permanent Secretary of the Minister of Commerce as Chairman as well as distinguished members not exceeding twelve persons appointed by the Cabinet in which not less than six persons are appointed from representatives of associations of the owners of copyright or performers' rights and representatives of associations of the users of copyright or performers' rights.

The Committee may appoint any person secretary and assistant secretary.

**Section 57.** An office term of the distinguished members is two years. The member who have been out of office may be reappointed.

In case a member is out of office before the end of his office term or in case the Cabinet appoints additional members while the previously appointed members are still in office, the office term of the member appointed to replace the vacant post or the additional member shall be equal to the remaining term of the previously appointed members.

**Section 58** The distinguished members are out of office upon

- (1) death;
- (2) resignation;
- (3) discharge by the Cabinet;
- (4) becoming bankrupt;
- (5) becoming an incompetent or a quasi-incompetent person;
- (6) getting an imprisonment by a final judgement to impose imprisonment except an imprisonment for the offence which has been committed by negligence or for a petty offence.

**Section 59** The quorum of the committee meeting shall consist of not less than one-half of the number of the whole committee members. If the Chairman is not present or is not able to perform his duty, the attending committee members shall elect one committee member to preside over the meeting. The resolution of the meeting shall be decided by majority.

Each committee member has one vote. In case of equal votes, the presiding chairman shall have one additional casting vote.

**Section 60** The Committee shall have the following authorities :

- (1) to give advice or consultation to the Minister for the issuance of Ministerial Regulations under this Act;
- (2) to decide appeals against orders of the Director General according to Section 45 and Section 55;
- (3) to support or facilitate the association or organization of authors or performers with respect to the collection of royalties from users of the copyright work or the performer's rights and the protection or safeguard of the rights or any other benefits under this Act;
- (4) to consider other matters as assigned by the Minister.

The Committee is authorized to appoint a Sub-committee to consider or perform any matter as assigned by the Committee and Section 59 shall apply mutatis mutandis to the meeting of the sub-committee.

The Committee or the Sub-committee is authorized to issue a written order summoning any person to testify or to submit documents or other materials for consideration as necessary.

## CHAPTER 5

### INTERNATIONAL COPYRIGHT AND PERFORMER'S RIGHTS

**Section 61.** A copyright work of an author as well as rights of a performer of a country which is a member of the Convention on the protection of copyright or the Convention on the protection of performer's rights of which Thailand is also a member or a copyright work of an international organization of which Thailand is a member shall be protected by this Act.

The Minister has an authority to proclaim the names of the member countries of the Convention on the protection of copyright or the Convention on the protection of performer's rights in the Government Gazette.

## CHAPTER 6

### LITIGATION WITH RESPECT TO COPYRIGHT AND PERFORMER'S RIGHTS

**Section 62.** It shall be presumed in a litigation with respect to copyright or performer's right, whether it be a civil or criminal case, that the work in dispute is a copyright work or the subject of performer's right in this Act and the plaintiff is the owner of copyright or performer's rights in such work or subject unless the defendant argues that no one owns the copyright or the performer's rights or disputes the plaintiff's right.

As for a work or subject bearing a name or a substitution for name of a person claiming to be the owner of copyright or performer's rights, it shall be presumed that the person who is the owner of the name or the substitution for name is the author or the performer.

As for a work or subject bearing no name or no substitution for name or bearing a name or a substitution for name without a claim of ownership in copyright or performer's rights and having a name or a substitution for name of a person claiming to be the printer or the publisher or the printer and publisher, it shall be presumed that the person who is the printer or the publisher or the printer and publisher becomes the owner of copyright or performer's rights in such work or subject.

**Section 63.** No action on copyright infringement or performer's rights infringement shall be filed after three years as from the day the owner of copyright or performer's rights becomes cognizant of the infringement as well as the identity of the infringer provided that the action shall be filed not later than ten years as from the day the infringement of copyright or performer's rights takes place.

**Section 64.** In the case of infringement of copyright or performer's rights, the Court has the authority to order the infringer to compensate the owner of copyright or performer's rights for damages the amount which the Court considers appropriate by taking into account the seriousness of injury including the loss of benefits and expenses necessary for the enforcement of the right of the owner of copyright or performer's rights.

**Section 65.** In case there is an explicit evidence that a person is doing or about to do any act which is an infringement of copyright or performer's rights, the owner of copyright or performer's rights may seek the injunction from the court to order the person to stop or refrain from such act.

The injunction of the court according to paragraph one does not prejudice the owner of copyright or

performer's rights to claim damages under Section 64.

**Section 66** The offence in this Act is an offence allowing settlement.

## **CHAPTER 7 OFFICIALS**

**Section 67.** For the benefit of operation under this Act, the officials shall be the officials according to the Penal Code and have the following authorities :

(1) to enter a building, office, factory or warehouse of any person during sunrise and sunset or during the working hours of such place or to enter a vehicle to search or examine the merchandise when there is a reasonable suspicion that an offence under this Act is committed,

(2) to seize or forfeit documents or materials relating to the offence for the benefit of proceeding a litigation when there is a reasonable suspicion that an offence under this Act is committed,

(3) to order any person to testify or submit accounting books, documents or other evidences when there is a reasonable suspicion that the testimony, accounting books, documents or such evidences shall be useful for the finding or the use as evidence for proving the offence under this Act.

Any person concerned shall provide suitable convenience for the operation of the officials.

**Section 68** In performing his duty, the officials must show his identification card to any person concerned.

The official's identification card shall comply with the form stipulated by the Minister.

## **CHAPTER 8 PENALTIES**

**Section 69** Whoever infringes the copyright or the performer's rights according to Section 27, Section 28, Section 29, Section 30 or Section 52 shall be inflicted with a fine from twenty thousand Baht up to two hundred thousand Baht.

If the offence in paragraph one is committed with the commercial purpose, the offender shall be inflicted with imprisonment for a term from six months up to four years or a fine from one hundred thousand Baht up to eight hundred thousand Baht or both imprisonment and fine.

**Section 70** Whoever commits a copyright infringement according to Section 31 shall be inflicted with a fine from ten thousand Baht up to one hundred thousand Bath.

If the offence in paragraph one is committed with the commercial purpose, the offender shall be inflicted with imprisonment for a term from three months up to two years or a fine from fifty thousand Baht up to forty hundred thousand Baht or both imprisonment and fine.

**Section 71.** Whoever fails to testify or submit any documents or materials as the Committee or the Sub-



committee has ordered according to Section 60 paragraph three shall be inflicted with imprisonment for a term not exceeding three months or a fine not exceeding fifty thousand Baht or both imprisonment and fine.

**Section 72** Whoever obstructs or fails to provide a convenience to an official who performs his duty according to Section 67 or defies or ignores the order of the official who gives the order according to Section 67 shall be inflicted with imprisonment for a term not exceeding three months or a fine not exceeding fifty thousand Baht or both imprisonment and fine.

**Section 73** Whoever having committed an offence and having been penalized by virtue of this Act subsequently commits an offence under this Act within five years after being discharged from the penalty shall be inflicted with double penalty as prescribed for the offence.

**Section 74** In case a juristic person commits an offence under this Act, it shall be deemed that all directors or managers of the juristic person are joint offenders with the juristic person unless they can prove that the juristic person has committed the offence without their knowledge or consent.

**Section 75** All things made or imported into the Kingdom which constitutes an infringement of copyright or performer's rights by virtue of this Act and the ownership of which are still vested upon the offender under Section 69 or Section 70 shall belong to the owner of copyright or performer's rights provided that the things used for committing the offence shall be all forfeited.

**Section 76** One half of the fine paid in accordance with the judgement shall be paid to the owner of copyright or performer's rights provided that the right of the owner of copyright or performer's rights to bring a civil action for damages for the amount which exceeds the fine that the owner of copyright or performer's rights has received shall not be prejudiced.

**Section 77.** The Director General shall be authorized to prescribe the fine for the offence according to Section 69 paragraph one and Section 70 paragraph one.

### **TRANSITORY PROVISION**

**Section 78** The existing copyright work by virtue of the Act for the Protection of Literary and Artistic Works, B.E.2474 or the Copyright Act B.E.2521 on the day this Act comes into force shall enjoy the copyright protection by this Act.

The work made before this Act coming into force and not being a copyright work by virtue of the Act for the Protection of Literary and Artistic Works B.E.2474 or the Copyright Act B.E.2521 shall enjoy the copyright protection by this Act.

**Countersigned by,  
Chuan Leekpai  
Prime Minister**

**NOTE :-** The reason for the proclamation of this act is as follows : whereas the Copyright Act B.E.2521 has been long in force, the provisions therein become inconsistent with the changing internal and external circumstances particularly the development and expansion of domestic and international economy, trade and industry, the copyright protection measures therefore should be improved to be more efficient to accommodate those changes and to promote the increasing creation of work in literary and artistic domain and other relevant fields. This Act so be enacted.

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