



Hendriks & James
Legal Translations

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THE DUTCH COPYRIGHT ACT

Including the Copyright Contract Act (2015)

This translation is the result of a collaboration with Dutch law firm Visser Schaap & Kreijger (www.ipmc.nl) and is based on a previous translation by Mireille van Eechoud (www.ivir.nl).

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The Dutch Copyright Act

Act of 23 September 1912, containing a new regulation of the law on copyright.

We WILHELMINA, by the Grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc., etc., etc.

To all who shall see or hear these presents, greetings!

Whereas we have considered it is desirable to enact a new regulation of the law on copyright;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

Part I

General provisions

§ 1. The nature of copyright

Section 1

Copyright is the exclusive right of the author of a literary, scientific or artistic work or his successors in title to disclose the work to the public and to reproduce it, subject to the exceptions laid down by law.

Section 2

1. Copyright passes by succession and is assignable in whole or in part.
2. The author, or his successor in title, may grant a licence to a third party for the whole or part of the copyright.
3. Whole or partial assignment, as well as the grant of an exclusive licence, may only be effected by means of a deed executed for that purpose. The assignment or the grant of an exclusive licence comprises only the rights that are stated in the deed or that

necessarily derive from the nature and purpose of the title or the grant of the licence.

4. The copyright that vests in the author of a work and, after his death, the copyright in any of his unpublished works that vests in the heir or legatee of the author, is not subject to seizure.

5. The third subsection, second sentence, and the fourth subsection do not apply to an author as referred to in Sections 7 and 8.

§ 2. Author of the work

Section 3

[repealed as of 01-01-1957]

Section 4

1. Subject to proof to the contrary the author is considered to be the person whose name is indicated as the author in or on the work, or, where there is no such indication, the person who was announced as the author when the work was disclosed to the public by whoever disclosed it to the public.

2. If no statement about the author is made in the case of a recitation which has not been published in print, the person giving it is considered to be the author, subject to proof to the contrary.

Section 5

1. If a literary, scientific or artistic work consists of separate works by two or more persons, then, without prejudice to the copyright in each separate work, the author is considered to be the person under whose direction and super-vision the work as a whole was created or, if there is no such person, the compiler of the various works.

2. It is regarded as an infringement of copyright in the whole work for any person other than its author or his successors in title to reproduce or disclose to the public any separate work in which copyright subsists and which is included in the whole work.

3. Unless otherwise agreed between the parties, if such a separate work has not previously been disclosed to the public, the reproduction or disclosure to the public of that separate work by the author or his successors in title is regarded as an infringement of the copyright in the whole work if that whole work of which it is a part is not indicated.

Section 6

Where a work has been made according to the design by and under the direction and supervision of another person, that person is considered to be the author of the work.

Section 7

Where labour which is carried out in the service of another consists of creating certain literary, scientific or artistic works, the person in whose service those works were created is considered to be the author unless the parties have agreed otherwise.

Section 8

Where a public institution, an association, a foundation or a company discloses a work to the public as its own without indicating any natural person as the author, it is then considered to be the author of that work unless it is proved that, in the circumstances, the disclosure to the public of the work was unlawful.

Section 9

Where a copy of a work has appeared in print and the author is not indicated in or on it, or not by his real name, whoever is indicated in or on the copy of the work as the publisher, or if that indication is also missing, as the printer of the work, may exercise the copyright against third parties on behalf of the rightholder.

§ 3. Works in which copyright subsists

Section 10

1. For the purposes of this Act, literary, scientific or artistic works are:

- 1°. books, brochures, newspapers, periodicals and other writings;
- 2°. dramatic and dramatic-musical works;
- 3°. recitations;
- 4°. choreographic works and mime shows;
- 5°. musical works, with or without words;
- 6°. drawings, paintings, works of architecture and sculpture, lithographs, engravings and other graphic works;
- 7°. geographical maps;
- 8°. designs, sketches and plastic models pertaining to architecture, geography, topography or other sciences;
- 9°. photographic works;
- 10°. films;
- 11°. works of applied art and industrial drawings and models;
- 12°. computer programs and preparatory design materials for such; and generally any creation in the literary, scientific or artistic domain, regardless of the manner or form in which it has been expressed.

2. Reproductions of a literary, scientific or artistic work in a modified form, such as translations, musical arrangements, screen and other adaptations, as well as collections of different works are protected as separate works, without prejudice to the copyright in the original work.

3. Collections of works, data or other independent materials arranged in a systematic or

methodical way and individually accessible by electronic or other means are protected as separate works, without prejudice to other rights in the collection and without prejudice to copyrights or other rights in the works, data or other materials included in the collection.

Section 11

No copyright subsists in laws, decrees or regulations issued by public authorities, or in judicial or administrative decisions.

§ 4. Disclosure to the public

Section 12

1. Disclosure to the public of a literary, scientific or artistic work includes:

1°. the disclosure to the public of a reproduction of the whole or part of the work;

2°. the distribution of the whole or part of the work or of a reproduction thereof, as long as the work has not appeared in print;

3°. the rental or lending of the whole or part of a copy of the work, works of architecture and works of applied art excepted, or of a reproduction thereof which has been put into circulation by or with the consent of the rightholder;

4°. the recitation, playing, performance or presentation in public of the whole or part of the work or a reproduction thereof;

5°. the broadcasting of the work incorporated in a radio or television programme, by satellite or another transmitter or a broadcasting organisation within the meaning of Section 1.1 of the Media Act 2008.

2. Rental, as referred to in the first subsection sub 3°, means making available for use for a limited period of time for direct or indirect economic or commercial advantage.

3. Lending, as referred to in the first subsection sub 3°, means making available for use by institutions which are accessible to the public for a limited period of time and not for direct or indirect economic or commercial advantage.

4. The expression 'recitation, playing, performance or presentation in public' includes in a closed circle, except where this is limited to relatives or friends or equivalent persons and no form of payment whatsoever is made for admission to the recitation, play, performance or presentation. The same applies to exhibitions.

5. The expression 'recitation, playing, performance or presentation in public' does not include those that take place exclusively for the purposes of education provided that this is on behalf of the public authorities or a non-profit-making legal person insofar as such recitation, play, performance or presentation forms part of the syllabus or curriculum where applicable, or those that exclusively serve a scientific purpose.

6. The simultaneous broadcasting of a work incorporated in a radio or television programme by the same organisation that originally broadcasts the programme is not regarded as a separate instance of disclosure to the public.

7. The broadcasting by satellite of a work incorporated in a radio or television programme means the act of introducing, under the control and responsibility of the broadcasting organisation, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth. Where the programme-carrying signals are encrypted, a work incorporated in a radio or television programme is broadcast by satellite if the means for decoding the broadcast are made available to the public by or with the consent of the broadcasting organisation.

Section 12a

1. If the author has assigned the rental right, referred to in Section 12 (1) sub 3°, with respect to a literary, scientific or artistic work fixed in a phono-gram to the producer of that phonogram, the producer owes the author fair compensation for the rental.
2. The right to fair compensation as referred to in the first subsection cannot be waived.

Section 12b

If, by means of transfer of ownership, the original literary, scientific or artistic work or a copy thereof has been put into circulation for the first time by or with the consent of the author or his successor in title in one of the Member States of the European Union or in a State that is party to the Agreement on the European Economic Area, then putting the original work or a copy thereof into circulation in any other way, except by rental and lending, does not infringe the copyright.

§ 5. Reproduction

Section 13

The reproduction of a literary, scientific or artistic work includes the translation, musical arrangement, film or stage adaptation and generally any partial or total adaptation or imitation in a modified form which cannot be considered as a new, original work.

Section 13a

The reproduction of a literary, scientific or artistic work does not include the temporary reproduction that is transient or incidental, forming an integral and essential part of a technological process, carried out for the sole purpose of enabling: (a) transmission in a network between third parties by an intermediary, or (b) lawful use to be made of a work, which has no independent economic significance.

Section 14

The reproduction of a literary, scientific or artistic work includes the fixation of the whole or part of the work in any article intended for allowing a work to be heard or seen.

§ 6. The exceptions to copyright

Section 15

1. Using reports or articles on current economic, political, religious or ideological topics or works of the same nature which have been published in a daily or weekly newspaper or weekly or other periodical, radio or television programme or other medium that has the same function, is not regarded as an infringement of the copyright in a literary, scientific or artistic work, if: 1°. the use is made by a daily or weekly newspaper, a weekly or other periodical, a radio or television programme or other medium that has the same function; 2°. the provisions of Section 25 are observed; 3°. the source, including the name of the author, is clearly indicated; and 4°. the copyright is not expressly reserved.
2. This section also applies to use in a language other than the original.

Section 15a

1. Quoting from a literary, scientific or artistic work in an announcement, review, polemic or scientific treatise or a piece with a comparable purpose, is not regarded as an infringement of the copyright in a literary, scientific or artistic work provided that:
 - 1°. the work quoted from has been lawfully disclosed to the public;
 - 2°. the quotation is in accordance with what is generally regarded as reasonably acceptable and the number and size of the quoted parts are justified by the purpose to be achieved;
 - 3°. the provisions of Section 25 are observed; and
 - 4°. the source, including the author's name, is clearly indicated, insofar as this is reasonably possible.
2. In this section the term quotation also includes quotations in the form of press surveys of articles appearing in a daily or weekly newspaper or other periodical.
3. This section also applies to quotations in a language other than the original.

Section 15b

Renewed disclosure to the public or reproduction of a literary, scientific or artistic work already disclosed by or on behalf of the public authority which is the work's author or his successor in title is not regarded as an infringement of the copyright in that work unless the copyright has been expressly reserved, either generally by law, decree or regulation, or specifically by a notice on the work itself or provided when the work was disclosed to the public. Even if no such reservation has been made, the author retains the exclusive right to have a collection of his works which have been disclosed to the public by or on behalf of a public authority appear.

Section 15c

1. Lending, as referred to in Section 12 (1) sub 3°, the whole or part of a literary, scientific or artistic work or a reproduction of it which has been put into circulation by or with the consent of the rightholder is not regarded as an infringement of the copyright, provided

that the person doing or causing the lending pays fair compensation. The first sentence does not apply to a work as referred to in Section 10 (1) sub 12° unless that work is part of a data carrier that contains data and the work serves exclusively to make those data accessible.

2. Educational establishments and research institutes and the libraries attached to them, as well as the Royal Library, are exempt from payment of compensation for lending as referred to in the first subsection.

3. Publicly accessible library facilities, which are for the most part funded or maintained by municipal, provincial or national authorities or the public body of Bonaire, St Eustatius or Saba, are exempt from paying the compensation referred to in the first subsection in respect of lending items converted on the basis of Section 15i for persons with disabilities who are registered with those facilities.

4. The compensation referred to in the first subsection is not owed if the person liable for payment can demonstrate that the author or his successor in title has waived the right to fair compensation. The author or his successor in title must notify the legal persons referred to in Sections 15d and 15f of the waiver in writing.

Section 15d

The level of the compensation referred to in Section 15c (1) will be determined by a foundation to be designated by the Minister of Security and Justice in agreement with the Minister of Education, Culture and Science, the board of which is composed so as to represent, in a balanced manner, the interests of the authors or their successors in title and the persons liable for payment pursuant to Section 15c (1). The chair of the board of this foundation will be appointed by the Minister of Security and Justice in agreement with the Minister of Education, Culture and Science. The board must have an odd number of members.

Section 15e

Disputes concerning the compensation referred to in Section 15c (1) are to be decided in the first instance exclusively by the District Court of The Hague.

Section 15f

1. The compensation referred to in Section 15c must be paid to a legal person, which is to be designated by the Minister of Security and Justice in agreement with the Minister of Education, Culture and Science, and which they judge to be representative. The legal person is to be exclusively entrusted with the collection and distribution of such compensation. In matters relating to the level and collection of the compensation and the exercise of the exclusive right, the legal person referred to in the preceding sentence will represent the rightholders both in and out of court.

2. The legal person referred to in the first subsection will be supervised by the Supervisory Board as referred to in the Supervision of Collective Management

Organisations for Copyright and Related Rights Act.

3. The compensation collected will be distributed on the basis of regulations drawn up by the legal person referred to in the first subsection and approved by the Supervisory Board referred to in the Supervision of Collective Management Organisations for Copyright and Related Rights Act.

Section 15g

Unless another date is agreed, by 1 April of every calendar year whoever is required to pay the compensation referred to in Section 15c (1) will be obliged to submit a specification of the number of legal acts performed, as referred to in Section 15c, to the legal person referred to in Section 15f (1). He will also be obliged to provide this legal person, on request, with immediate access to any documents or other data carriers needed to establish liability and the level of the compensation.

Section 15h

Unless otherwise agreed, providing access to a literary, scientific or artistic work that forms part of the collections of libraries accessible to the public, educational establishments and museums or archives which do not seek a direct or indirect economic or commercial advantage, by means of a closed network and through dedicated terminals on the premises of these establishments, to individual members of the public, for purposes of research or private study, is not regarded as an infringement of the copyright.

Section 15i

1. The reproduction or disclosure to the public of a literary, scientific or artistic work where this is exclusively intended for disabled persons is not regarded as an infringement of the copyright in that work, provided this is directly related to the disability, is not of a commercial nature and is required on account of the disability.
2. Fair compensation is due to the author or his successor in title for the act of reproduction or disclosure to the public referred to in the first subsection.

Section 16

1. The reproduction or disclosure to the public of parts of a literary, scientific or artistic work for the sole purpose of illustration for teaching, insofar as this is justified by the intended and non-commercial purpose, is not regarded as an infringement of the copyright in that work, provided that:
 - 1°. the work from which the part is taken has been lawfully disclosed to the public;
 - 2°. it is in accordance with what is generally regarded as reasonably acceptable use;
 - 3°. the provisions of Section 25 have been observed;
 - 4°. insofar as reasonably possible the source, including the author's name, has been clearly indicated; and
 - 5°. fair compensation is paid to the author or his successors in title.

2. For the same purpose, and subject to the same conditions, use of the whole work is allowed if it concerns a short work or a work as referred to in Section 10 (1) sub 6°, 9° or 11°.

3. Where the use is for a compilation, the use of works by the same author must be limited to a few short works or short passages of his works. Where it concerns works referred to in Section 10 (1) sub 6°, 9° or 11°, only a few of the said works may be used and only if the reproductions differ appreciably from the original work, in size or as a result of the manner in which they are made, on the understanding that, where two or more such works were disclosed to the public together, the reproduction of only one of them is permitted. 4. The provisions of this section also apply where the use is in a language other than the original.

Section 16a

Making a short recording, show or presentation of a literary, scientific or artistic work in public in a photographic, film, radio or television report is not regarded as an infringement of the copyright in that work, insofar as this is justified for giving a proper account of the current event that is the subject of the report and provided that, as far as is reasonably possible, the source, including the author's name, is indicated clearly.

Section 16b

1. Making a reproduction of a literary, scientific or artistic work that is limited to a few copies intended exclusively for private practice, study or use by the natural person who, for ends that are neither directly nor indirectly commercial, made the reproduction or had it made exclusively for his own benefit, is not regarded as an infringement of the copyright in that work.

2. Where this concerns a daily or weekly newspaper or weekly or other periodical, or a book or a score or parts of a musical work, and of other works included in the said works, the reproduction is furthermore to be limited to a small part of the work, except in the case of:

a. works of which it may reasonably be assumed that no new copies will be made available to third parties for payment of any kind;

b. short articles, news items or other texts, which have appeared in a daily or weekly newspaper or weekly or other periodical.

3. Where this concerns a work referred to in Section 10 (1) sub 6°, the reproduction must differ appreciably from the original work, in size or as a result of the manner in which it was made.

4. If a reproduction permitted under this section has been made, the copies made may not be issued to third parties without the consent of the author or his successors in title, unless it is for the purposes of judicial or administrative proceedings.

5. It may be determined by order in council that fair compensation is due to the author or his successors in title for the reproduction referred to in the first subsection. Further

rules may be issued and conditions set for this.

6. This section does not apply to acts of reproduction referred to in Section 16c, or to the recreation of works of architecture.

Section 16c

1. Reproducing a literary, scientific or artistic work or part of it on an article that is intended for allowing a work to be heard, shown or presented, provided that the reproduction is carried out for ends that are neither directly nor indirectly commercial and is intended exclusively for private practice, study or use by the natural person who makes the reproduction, is not regarded as an infringement of the copyright in that work.

2. For the reproduction referred to in the first subsection, fair compensation is owed to the author or his successor in title. The manufacturer or the importer of the articles referred to in the first subsection is obliged to pay the compensation.

3. The manufacturer's obligation to pay compensation arises at the time that the articles manufactured by him are ready to be put into circulation. The importer incurs this obligation at the time of import.

4. The obligation to pay compensation lapses if the person liable for the payment referred to in the second subsection exports the article referred to in the first subsection.

5. The compensation is only due once for each article.

6. Further rules may be issued by order in council for the articles for which compensation referred to in the second subsection is due. For the implementation of this section, further rules may be issued and conditions set, also by order in council, with respect to the level and form of fair compensation and liability for payment.

7. If a reproduction permitted under this section has been made, an article as referred to in the first subsection may not be issued to third parties without the consent of the author or his successors in title, unless it is for judicial or administrative proceedings.

8. This section does not apply to the reproduction of a collection accessible by electronic means as referred to in Section 10 (3).

Section 16d

1. The compensation referred to in Section 16c must be paid to a legal person which is to be designated and judged representative by the Minister of Security and Justice and which is entrusted with the collection and distribution of that compensation in accordance with regulations it has drawn up and which have been approved by the Supervisory Board referred to in the Supervision of Collective Management Organisations for Copyright and Related Rights Act. In matters relating to collection and compensation, this legal person will represent the authors and their successors in title both in and out of court.

2. The legal person referred to in the first subsection will be supervised by the

Supervisory Board as referred to in the Supervision of Collective Management Organisations for Copyright and Related Rights Act.

Section 16e

The level of the compensation referred to in Section 16c will be determined by a foundation to be designated by the Minister of Security and Justice, the board of which is composed so as to represent, in a balanced manner, the interests of the authors or their successors in title and the persons liable for payment pursuant to Section 16c (2). The chair of the board of the said foundation will be appointed by the Minister of Security and Justice.

Section 16f

The person who is required to pay the compensation referred to in Section 16c is obliged to submit a specification of the number of articles as referred to in Section 16c (1) that were imported or manufactured by him, to the legal person referred to in Section 16d (1), either immediately or within a period agreed with the said legal person. He is also obliged to provide the said legal person, on request, with immediate access to the documents necessary to establish liability for payment and the level of the compensation.

Section 16g

Disputes pertaining to the compensation referred to in Sections 15i, 16, 16b, 16c and 16h are decided in first instance exclusively by the District Court of The Hague.

Section 16ga

1. At the request of the legal person referred to in Section 16d (1), the seller of articles referred to in Section 16c (1) is obliged to immediately provide access to such documents as are necessary to establish whether the compensation referred to in Section 16c (2) has been paid by the manufacturer or importer.
2. If the seller cannot demonstrate that the compensation has been paid by the manufacturer or the importer, he is obliged to make the payment to the legal person referred to in Section 16d (1) unless the documents referred to in the first subsection above show who the manufacturer or importer is.

Section 16h

1. A reprographic reproduction of an article in a daily or weekly newspaper or weekly or other periodical, or of a small part of a book and other works contained in such a work, is not regarded as an infringement of the copyright, provided that compensation is paid for this reproduction.
2. A reprographic reproduction of the whole work is not regarded as an infringement of the copyright if it may reasonably be assumed that no new copies of the book will be made available to third parties for payment of any kind, provided that compensation is

paid for this reproduction.

3. By order in council it may be determined that, in relation to the reproduction of works referred to in Section 10 (1) sub 1°, the provisions of one or more of the foregoing subsections may be derogated from for the benefit of public service as well as for the performance of tasks entrusted to institutions operating in the public interest. Further rules may be issued and conditions set by order in council in this regard.

Section 16i

The compensation referred to in Section 16h is calculated on the basis of each page of a work, as referred to in the first and second subsections of that section, that is reprographically reproduced.

The level of compensation will be determined, and further rules may be issued and conditions set, by order in council.

Section 16j

Without the consent of the author or his successor in title, a reprographic reproduction made with due regard to Section 16h may only be issued to individuals working in the same company, organisation or institution, unless it is issued for the purposes of judicial or administrative proceedings.

Section 16k

The obligation to pay compensation, as referred to in Section 16h, lapses after the expiry of three years from when the reproduction was made.

The compensation is not owed if the person liable for payment can demonstrate that the author or his successor in title has waived the right to compensation.

Section 16l

1. The compensation referred to in Section 16h must be paid to a legal person which is to be designated and judged representative by the Minister of Security and Justice and which will be exclusively entrusted with the collection and distribution of the said compensation.

2. In matters pertaining to the collection of the compensation, the legal person referred to in the first subsection represents the authors or their successors in title both in and out of court.

3. The legal person referred to in the first subsection will distribute the collected compensation on the basis of regulations. The regulations require the approval of the Supervisory Board referred to in the Supervision of Collective Management Organisations for Copyright and Related Rights Act.

4. The legal person referred to in the first subsection will be supervised by the Supervisory Board specified in the Supervision of Collective Management Organisations for Copyright and Related Rights Act.

5. The first and second subsections do not apply to the extent that the person who is

obliged to pay the compensation can demonstrate that he has agreed with the author or his successor in title that he will pay that compensation directly to the author or his successor in title.

Section 16m

The person who is obliged to pay the compensation referred to in Section 16h to the legal person referred to in Section 16l (1), is obliged to submit a specification to the legal person of the total number of reprographic reproductions he makes each year.

The specification referred to in the first subsection is not required if the number of annual reprographic reproductions is smaller than such number as will be specified by order in council.

Section 16n

1. It is not regarded as an infringement of the copyright in a literary, scientific or artistic work for libraries, educational establishments, museums or archives accessible to the public which are not seeking a direct or indirect economic or commercial advantage, to make a reproduction provided that the sole purpose of making the reproduction is:

1°. to restore the original work or a copy thereof;

2°. if the original work or a copy thereof is likely to decay, to preserve it for the institution;

3°. to preserve access to the work if the technology available to make it accessible becomes obsolete.

2. The acts of reproduction as referred to in the first subsection are only permitted if:

1°. the copies of the work form part of the collection held by the publicly accessible libraries, educational establishments, museums or archives that rely on this exception; and

2°. the provisions of Section 25 are observed.

Section 16o

1. It is not regarded as an infringement of the copyright in a literary, scientific or artistic work referred to in Section 10 (1) sub 1°, 5° or 10°, for publicly accessible libraries, educational establishments and museums, as well as archives and film or audio-visual heritage institutions that do not seek any direct or indirect economic or commercial advantage, to reproduce or make available a work first disclosed to the public in a Member State of the European Union or in a State that is party to the Agreement on the European Economic Area provided that:

a. the work forms part of the own collection of organisations referred to above;

b. the rightholder to the work has not been identified and located after a diligent search within the meaning of Section 16p has been carried out; and

c. the work is reproduced and made available within the scope of the performance of a public duty, in particular the conservation and restoration of works and providing access

for cultural and educational purposes to the works from the own collections of the organisations referred to above.

2. If the copyright in the work is vested in one or more persons and not all the rightholders have been identified and located after a diligent search has been carried out, the work may only be reproduced and made available if the located rightholder has given his consent in relation to the rights that he himself holds. Upon making a work available, the organisations referred to in the first subsection must indicate the identified, but not yet located, rightholder or rightholders.

3. A work that has not previously been disclosed to the public may be reproduced and made available, in accordance with the first subsection, if the work has been included in the collection referred to in the first subsection sub a with the consent of the rightholder and if it may reasonably be assumed that the rightholder would not oppose the work being reproduced and made available.

4. The organisations referred to in the first subsection may generate revenue by reproducing and making the works available provided that this revenue serves solely to compensate the costs of digitising and making the works referred to in the first subsection available.

Section 16p

1. The diligent search for the rightholder referred to in Section 16o (1)(b) will be carried out by consulting the appropriate sources for the category of works in question to locate rightholders for each work referred to in Section 16o (1), and for each literary, scientific or artistic work incorporated therein. On the recommendation of the Minister of Education, Culture and Science, regulations will be issued by order in council with respect to the sources to be consulted in the search.

2. The search will be carried out in the Member State in which the work was first disclosed to the public. In the case of films the search will be carried out in the Member State in which the producer has his headquarters or habitual residence.

3. The search for a work referred to in Section 16o (3) will be carried out in the Member State in which the organisation that has incorporated the work in its own collection with the consent of the rightholder is established.

4. If there is evidence to suggest that information on the rightholder is to be found in other Member States, the sources of information prescribed for a diligent search in those other Member States will also be consulted.

5. The organisations referred to in Section 16o (1) maintain records of the sources that were consulted as part of the search and which information they have produced. The organisations will provide the following data to a body to be designated on the recommendation of the Minister of Education, Culture and Science, by or pursuant to an order in council, to forward the following data to the Office for Harmonization in the Internal Market (the Office):

a. the results of the diligent searches that the organisations have carried out and

which have led to the conclusion that a work is considered an orphan work;

- b. the manner in which the work will be used;
- c. the contact information of the organisations; and
- d. where applicable, any change to the status of the work.

On the recommendation of the Minister of Education, Culture and Science, further regulations will be issued by order in council with respect to the data to be provided and the manner in which it is to be provided.

6. In the case of orphan works incorporated in the database of the Office referred to in the fifth subsection, a diligent search referred to in Section 16o (1)(b) is not required for reproducing them or making them available to the public.

Section 16q

The use of a literary, scientific or artistic work in accordance with Section 16o (1) will be revoked if a rightholder avails himself of the possibility to put an end to the orphan work status in respect of rights that he himself holds. Fair compensation is due from the organisations referred to in Section 16o (1) to the right-holder for the use that has been made of the work on the basis of Section 16o.

Section 16r

For the purposes of Sections 16o, 16p, 16q and 17, making a work available to the public will be understood to mean making a literary, scientific or artistic work available to the public, by wire or wireless, in such a way that members of the public may access the work from a place and at a time individually chosen by them.

Section 17

It is not regarded as an infringement of the copyright in a literary, scientific or artistic work as referred to in Section 10 (1)(5) or (10) for a public media institution as referred to in Part 2 of the Media Act 2008 to reproduce or make available a work, disclosed to the public as referred to in Section 16o (1)(b) in a Member State of the European Union or in a State that is party to the Agreement on the European Economic Area, if it was produced by the public media institution before 1 January 2003 and archived. Sections 16o to 16r apply equally.

Section 17a

In the public interest, rules may be issued by order in council with respect to the exercise of the rights of an author of a work or his successors in title in relation to the disclosure to the public of a work by means of a broadcast of a radio or television programme by radio or television, or some other medium fulfilling the same function. The order in council referred to in the first sentence may determine that such a work may be disclosed to the public in the Netherlands without prior consent from the author or his successors in title if the broadcast is made from the Netherlands or from a State that is not party to the Agreement on the European Economic Area. The person who is entitled

to disclose a work to the public without prior consent is nonetheless obliged to respect the author's rights as referred to in Section 25, and to pay the author or his successors in title fair compensation, which, failing agreement, will be determined by the court on the application of either party and which may also order the provision of security. The foregoing provisions do not apply to the broadcast by satellite of a work incorporated in a radio or television programme.

Section 17b

1. Unless otherwise agreed, the authority to disclose to the public a radio or television programme by broadcasting it by radio or television or another medium fulfilling the same function, does not include authorisation to create a fixation of the work.

2. The broadcasting organisation that is authorised to disclose to the public as referred to in the first subsection, is however entitled to create a temporary fixation of the work intended for broadcasting with its own equipment and exclusively for the purposes of broadcasting its own radio or television programmes. The broadcasting organisation thus entitled to create a fixation is nonetheless obliged to respect the rights of the author of the work as referred to in Section 25.

3. Fixations created with due observance of the second subsection and which have exceptional documentary character may be kept in official archives.

Section 17c

Singing in a congregation with instrumental accompaniment during a service of worship is not regarded as an infringement of the copyright in a literary or artistic work.

Section 17d

Any order in council issued pursuant to Sections 16b (5), 16c (6), 16h (3), 16m (2), 17a or 29a (4) or any amendment thereto will not come into effect any earlier than eight weeks after the date of issue of the Bulletin of Acts and Decrees in which it is published. Both Houses of the States General will be notified of such publication without delay.

Section 18

The reproduction or disclosure to the public of images of a work referred to in Section 10 (1) sub 6° or a work pertaining to architecture as referred to in Section 10 (1) sub 8° which has been made to be permanently situated in public places and as it is situated there is not regarded as an infringement of the copyright in that work. Where this concerns incorporation into a compilation work, no more than a few works by the same author may be incorporated.

Section 18a

The incidental incorporation of a literary, scientific or artistic work into another work as a part of minor significance is not regarded as an infringement of the copyright in that work.

Section 18b

Disclosure to the public or reproduction of a literary, scientific or artistic work in the context of a caricature, parody or pastiche is not regarded as an infringement of the copyright in that work, provided that this use is in accordance with what is generally regarded as reasonably acceptable.

Section 19

1. The reproduction of a portrait by or on behalf of the person portrayed or, after his death, his relatives, is not regarded as an infringement of the copyright.
2. If the same portrait portrays two or more persons, for each of them the entitlement to reproduce the other person's (or persons') portraits requires the consent of that person/ those persons, or, for ten years after their death, the consent of their relatives.
3. In the case of a photographic portrait, disclosure of the portrait to the public in a newspaper or periodical by or with the consent of one of the persons referred to in the first subsection is not regarded as an infringement of the copyright, provided that the name of the author is stated if the name is indicated on or with the portrait.
4. This section only applies to portraits made on commission by or on behalf of the persons portrayed, or created on commission by the author for their benefit.

Section 20

1. Unless otherwise agreed, the holder of the copyright in a portrait is not entitled to disclose it to the public without the consent of the person portrayed or, for ten years after his death, his relatives.
2. If an image contains the portrait of two or more persons, then, with respect to the whole image the consent of all the persons portrayed is required, or, for ten years following their death, their relatives.
3. The last subsection of the preceding section applies.

Section 21

If a portrait is made without the author having been commissioned by or on behalf of the person portrayed, or for his benefit, the rightholder is not permitted to disclose the portrait to the public if there is a reasonable interest opposing disclosure on the part of the person portrayed or, after his death, one of his relatives.

Section 22

1. In the interests of public safety as well as for the purpose of criminal investigations, images of any kind whatsoever may be reproduced or disclosed to the public by or on behalf of the judicial authorities.
2. The use of a literary, scientific, or artistic work for purposes of public safety, or for ensuring the proper course of administrative, parliamentary or judicial proceedings or the reporting of them, is not regarded as an infringement of the copyright in that work.

Section 23

Unless otherwise agreed, whoever owns, possesses or holds a drawing, painting, sculpture or a work of architecture or applied art, is permitted to reproduce and disclose that work to the public insofar as that is necessary for a public exhibition or public sale of that work, subject to the exclusion of any other commercial use.

Section 24

Unless otherwise agreed, the author of any painting, notwithstanding the assignment of his copyright, remains entitled to create similar paintings.

Section 24a

1. It is not regarded as an infringement of the copyright in a collection as referred to in Section 10 (3) for the lawful user of the collection to reproduce it where this is necessary to gain access to and make normal use of the collection.
2. If the lawful user is only entitled to use part of the collection, the first subsection applies solely to the access to and normal use of that part.
3. No agreement may derogate from the provisions of the first and second subsections to the detriment of the lawful user.

Section 25

1. Even after assigning his copyright, the author of a work has the following rights:
 - a. the right to oppose disclosure to the public of the work without reference to his name or other indication as author, unless such opposition would be unreasonable;
 - b. the right to oppose disclosure to the public of the work under a name other than his own, as well as any alteration to the title of the work or the indication of the author, insofar as these appear on or in the work or have been disclosed to the public in connection with the work;
 - c. the right to oppose any other alteration to the work, unless the nature of the alteration is such that opposition would be unreasonable;
 - d. the right to oppose any distortion, mutilation or other impairment of the work that could be prejudicial to the honour or reputation of the author or to his dignity as an author.
2. After the death of the author and until the copyright expires, the rights testament referred to in the first subsection vest in the person the author has specifically designated by testamentary disposition.
3. The right referred to in the first subsection sub a. may be waived. The rights referred to sub b. and c. may be waived insofar as alterations to the work or its title are concerned.
4. If the author of the work has assigned his copyright, he remains entitled to make such alterations to the work as he may make in good faith in accordance with the generally accepted rules. As long as copyright continues to subsist in the work, the same right

vests in the person the author has specifically designated by testamentary disposition, if it is reasonably likely that the author would also have approved such alterations.

Section 25a

For the purposes of this Part, "relatives" means parents, spouse or registered partner and children. The rights of relatives may be exercised by each of them individually. In the event of a dispute, the Court may issue a decision which will be binding upon them.

Part IA

Exploitation agreements

Section 25b

1. This Part applies to a contract, the main purpose of which is to grant to another party the right to exploit the author's copyright, unless Article 3.28 of the Benelux Convention on Intellectual Property applies.
2. Section 25f applies to a contract by which the author assigns the copyright in whole or in part, or by which the author grants an exclusive licence.
3. This Part does not apply to the author as referred to in Sections 7 and 8.
4. This Part applies equally to a natural person who has acquired the copyright as the author's heir or legatee.

Section 25c

1. The author is entitled to contractually stipulated fair compensation for granting a right of exploitation.
2. The Minister of Education, Culture and Science may, having consulted an advisory body appointed by order in council and after consulting the Minister of Security and Justice, determine the amount of fair compensation for a specific sector and for a certain period of time. Fair compensation will be determined with due regard to the importance of preserving cultural diversity, the accessibility of culture, a social policy objective, and the interests of the consumer.
3. The Minister of Education, Culture and Science will only determine fair compensation, as referred to in the second subsection, at the joint request of an association of authors existing in the relevant sector and an exploiter or an association of exploiters. This request will contain jointly agreed advice on fair compensation and a clear definition of the sector to which the request relates.
4. An association as referred to in the third subsection is representative and independent. The association's bylaws make it clear that its objects include advising the Minister of Education, Culture and Science as referred to in the third subsection.
5. By or pursuant to an order in council, further regulations may be issued in connection with the submission of the request by associations of authors and exploiters and the determination of fair compensation by the Minister of Education, Culture and Science.
6. If the author has granted exploitation rights for a manner of exploitation that is not

yet known upon conclusion of the contract and the other party commences exploitation, the latter will owe the author additional fair compensation for this. If the party with whom the author concludes the contract has assigned these exploitation rights to a third party and that third party commences exploitation, then the author may claim the additional fair compensation from that third party.

Section 25d

1. The author may claim additional fair compensation in court from the other party to the contract if, having regard to the performance delivered by both parties, the agreed compensation is seriously disproportionate to the proceeds from the exploitation of the work.
2. If the serious disproportion between the author's compensation and the proceeds from the work's exploitation arises after the other party to the contract with the author assigns the copyright to a third party, the author may issue the claim as referred to in the first subsection against that third party.

Section 25e

1. The author may dissolve the contract wholly or in part if the other party to the contract does not sufficiently exploit the copyright to the work within a reasonable period after concluding the contract, or does not sufficiently exploit the copyright after having initially performed acts of exploitation. The preceding sentence does not apply if the failure to sufficiently exploit the copyright within this period is attributable to the author, or if the interest of the other party to the contract in maintaining the contract is so compelling that, according to the standards of reasonableness and fairness, it outweighs the author's interest in that regard.
2. If the copyright vests in several authors and the author's contribution is not distinct from the contribution of the others, then the author may only dissolve the contract with the consent of the other authors. If an author withholds his consent and the other authors are disproportionately disadvantaged as a result, the contract may only be dissolved in court.
3. To the extent that exploitation by the other party to the contract is not permanently impossible, the right to dissolve the contract only arises after the author has granted the other party, in writing, a reasonable period to sufficiently exploit the work and no exploitation is made within this period.
4. At the author's request, the other party to the contract will provide him with a written statement about the extent of the exploitation within the period referred to in the third subsection.
5. In accordance with Article 6:267 of the Civil Code, the contract is dissolved by a written statement by the author to the other party to the contract. Upon application by the author, the contract may also be dissolved by a judicial decision.
6. If the other party to the contract has assigned the copyright to a third party, then the

author may also exercise the rights arising from the dissolution against that third party after having notified him, in writing, of the dissolution as soon as possible.

7. If the other party to the contract or the third party does not assign the copyright back within a stipulated reasonable period, then a court may, on application by the author, determine an amount that is reasonable in the circumstances which the other party to the contract or the third party must pay the author, in addition to any compensation due to the author.

Section 25f

1. A clause stipulating rights to the exploitation of future works of the author for an unreasonably long or insufficiently determinate period is voidable.
2. A clause that, having regard to the nature and content of the contract, the way in which the contract was concluded, the reciprocal, cognisable interests of the parties or the other circumstances of the case, is unreasonably onerous for the author, is voidable.
3. If the other party to the contract has stipulated that the contract may be terminated early, the author also has this right under the same conditions.

Section 25fa

The author of a short scientific work, the research for which was paid for in whole or in part from Dutch public funds, is entitled to make that work available to the public for no consideration following a reasonable period of time after the work was first disclosed to the public, provided that clear reference is made to the source of that first disclosure of the work to the public.

Section 25g

1. The Minister of Security and Justice may appoint a dispute resolution committee for the resolution of disputes between an author and the other party to the contract or a third party for the purposes of Sections 25c (1) and (6), 25d, 25e or 25f.
2. If a court has not been seised of the dispute within three months of a copy of the dispute resolution committee's decision having been sent to the parties, then the parties are deemed to have agreed to the findings set out in this decision once that term has ended.
3. Proceedings in respect of a dispute may also be brought on behalf of authors by a foundation or an association with full legal capacity to the extent that, pursuant to its bylaws, it represents the interests of authors.
4. By or pursuant to an order in council, further regulations may be issued concerning the financing, composition, structure, procedures, funding, working method and supervision of the dispute resolution committee.

Section 25h

1. The author may not waive the provisions of this Part.
2. Regardless of the law that governs the contract, the provisions of this Part apply if:

- a. the contract is governed by Dutch law when no applicable law has been chosen, or;
- b. the acts of exploitation take place or should take place wholly or pre-dominantly in the Netherlands.

Part II

The exercise and enforcement of copyright and criminal law provisions

Section 26

Where two or more persons hold the joint copyright in one and the same work, any one of them may enforce the right, unless otherwise agreed.

Section 26a

1. The right to consent to the simultaneous, unaltered and unabridged broadcasting of a work incorporated in a radio or television programme by a broadcasting organisation within the meaning of Section 1.1 of the Media Act 2008 may only be exercised by legal persons which, according to their bylaws, aim to represent the interests of rightholders through the exercise of their rights referred to above.

2. Where this concerns the exercise of the same rights as stated in their bylaws, the legal persons referred to in the first subsection are also entitled to represent the interests of rightholders who have not instructed them to do so. If, according to their respective bylaws, several legal persons aim to represent interests in the same category of rightholders, the rightholder may designate one of them as authorised to represent his interests. The rights and obligations arising from an agreement that a legal person entitled to exercise the same rights concluded in respect of the broadcast referred to in the first subsection apply fully to rightholders who have not issued instructions as referred to in the second sentence.

3. Claims against the legal person referred to in the first subsection for sums collected by it expire three years from the day following that on which the broadcast referred to in the first subsection took place.

4. This section does not apply to rights referred to in the first subsection where these vest in a broadcasting organisation in respect of its own broadcasts.

Section 26b

Parties are obliged to conduct the negotiations on the consent for the simultaneous, unaltered and unabridged broadcasting referred to in Section 26a (1) in good faith, and they must not prevent or obstruct negotiations without valid reason.

Section 26c

1. If no agreement can be reached on the simultaneous, unaltered and unabridged broadcasting referred to in Section 26a (1), each party may engage the assistance of one or more mediators. The mediators will be selected such that no doubt can reasonably exist as to their independence and impartiality.

2. The mediators will assist in conducting the negotiations and are entitled to serve proposals on parties. Each party may serve its objections to these proposals on the other party within three months of the date of receipt of the proposals from the mediators. The mediators' proposals are binding on the parties unless one of them has served its objections within the period referred to in the preceding sentence. Proposals and objections are served on the parties in accordance with the provisions of Book 1, Title 1, Part 6 of the Code of Civil Procedure.

Section 26d

Upon application by the author, the court may order an intermediary whose services are used by a third party to infringe copyright, to cease and desist from providing the services that are used for that infringement.

Section 26e

Upon application by the author or his successor in title, the provisional relief judge may allow the infringement to continue temporarily on condition that security is provided as compensation for the damage suffered by the author or his successor in title. Under the same terms, the court may allow the provision of services by the intermediary as referred to in Section 26d to continue.

Section 27

1. Notwithstanding the assignment of his copyright in whole or in part, the author retains the right to bring an action for compensation against the person who has infringed the copyright.
2. In appropriate cases, the court may set the compensation at a lump sum.
3. After the author's death, the right to bring an action for compensation on account of an infringement of copyright as referred to in the first subsection vests in the author's heirs or legatees until the copyright expires.

Section 27a

1. In addition to compensation, the author or his successor in title may claim that whoever has infringed his copyright be ordered to surrender the profits he has accrued by reason of the infringement, and to render account thereof.
2. The author or his successor in title may also bring one or both of the claims referred to in the first subsection on behalf of or partly on behalf of a licensee, without prejudice to the latter's right to intervene in proceedings whether or not these were partly or wholly instituted on his behalf by the author or his successor in title, in order to directly obtain compensation for the damage he has suffered or to obtain a proportionate share of the profits to be surrendered by the defendant. A licensee may bring both or either claims as referred to in the first subsection, but only if he has obtained the right to do so from the author or his successor in title.

Section 28

1. Copyright confers on the rightholder the right to claim as his property, or claim the removal from circulation, the destruction or rendering unusable of, any movable goods that are not subject to registration and which have been disclosed to the public in violation of that right or which are unauthorised reproductions, or materials and implements principally used in the creation or manufacture of these goods. The rightholder may bring a claim for the delivery up of such goods so that they can be destroyed or rendered unusable.
2. The same right to claim exists:
 - a. with respect to the sum of entrance fees paid for attendance at a recitation, play, performance, presentation or exhibition in public which infringes the copyright;
 - b. with respect to other monies that may be assumed to have been obtained by or as a result of an infringement of the copyright.
3. The provisions of the Code of Civil Procedure concerning seizure and delivery up of movable goods that are not subject to registration apply. In the event of concurrent seizures, the person seizing pursuant to this section has precedence.
4. The measures referred to in the first subsection are carried out at the expense of the defendant, unless particular reasons prevent this.
5. With respect to immovable property, ships or aircraft which infringe copyright, the court may order, on the claim of the rightholder, that the defendant make such alterations as are necessary to end the infringement.
6. Unless otherwise agreed, the licensee has the right to exercise the rights deriving from subsections 1 to 5 insofar as their purpose is to protect the rights he is entitled to exercise.
7. The same right that is referred to in the first subsection exists with respect to devices, products and components as referred to in Section 29a, and with respect to reproductions of works as referred to in Section 29b which are not subject to registration.
8. When assessing the measures that the rightholder or his licensee are entitled to claim under the first, second and seventh subsections, the court will take account of the necessary proportionality of the measures claimed and the seriousness of the infringement as well as of the interests of third parties.
9. Upon application by the rightholder, the court may order the person who has infringed his rights to inform the rightholder of everything he knows about the origin and distribution channels of the infringing goods or services and to provide him with all the relevant information. On the same conditions, such an order may be made against a third party who is in possession of, or is using, infringing goods on a commercial scale, who is providing services used in the infringing activities on a commercial scale, or who has been indicated by one of the said third parties as being involved in the production,

manufacture or distribution of these goods or the provision of these services. This third party may refuse to provide information that could serve as evidence of his participation in an infringement of an intellectual property right committed by him or by the other persons referred to in Article 165 (3) of the Code of Civil Procedure.

10. Upon application by the rightholder, the court may order appropriate measures to be taken for the dissemination of information about the decision at the expense of the person who has infringed the copyright.

Section 29

1. The right referred to in Section 28 (1) cannot be exercised in respect of goods in the possession of persons who do not trade in similar goods and who have obtained them exclusively for their own use, unless they have themselves infringed the copyright concerned.

2. The claim referred to in Section 28 (5), can only be made against the owner or holder of the property if that person is guilty of the infringement of the copyright concerned.

Section 29a

1. For the purposes of this section, "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts in respect of works which are not authorised by the author or his successors in title. Technological measures are deemed to be "effective" where the use of a protected work is controlled by the author or his successors in title through application of an access control or a protection process, such as encryption, scrambling or other transformation of the work or a copy control mechanism which achieves the protection objective.

2. Any person who circumvents any effective technological measures and knows or reasonably ought to know he is doing so, is acting unlawfully.

3. Any person who provides services or manufactures, imports, distributes, sells, rents out or advertises devices, products or components or is in the possession of these for commercial purposes, is acting unlawfully if these:

a. are offered, advertised or marketed for the purpose of circumventing the protective operation of effective technological measures, or

b. have only a limited commercial significant purpose or use other than to circumvent the protective operation of effective technological measures, or

c. are primarily designed, produced or adapted for the purpose of enabling or facilitating the circumvention of the protective operation of effective technological measures.

4. Further rules may be issued by order in council that oblige the author or his successors in title to provide the user of a literary, scientific or artistic work, for the purposes described in Sections 15i, 16, 16b, 16c, 16h, 16n, 17b and 22 of this Act, with the means necessary to benefit from these restrictions, provided that the user has

lawful access to the work protected by technological measures. The provisions in the preceding sentence do not apply when, under contractual terms, works are made available to users at a place and at a time individually chosen by them.

Section 29b

1. Any person who, intentionally and without being entitled to do so, removes or alters electronic copyright-management information, or distributes, imports for distribution, broadcasts or otherwise discloses to the public literary, scientific or artistic works from or in which electronic copyright-management information has been removed or altered without authority, and knows, or reasonably ought to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright, is acting unlawfully.

2. For the purposes of this section, the term "copyright-management information" means any information provided by the author or his successors in title which is associated with a reproduction of a work, or which is provided in connection with the disclosure to the public of a work, or which serves to identify the work or its author or his successors in title, or information about the terms and conditions of use of the work and any figures or codes which represent such information.

Section 30

If a person discloses a portrait to the public without being authorised to do so, then the provisions of Sections 28 and 29 on copyright apply equally to the right of the person portrayed.

Section 30a

1. The permission of the Minister of Security and Justice is required for a business to act as an intermediary in matters relating to copyright in musical works, whether for profit or not.

2. Acting as an intermediary in matters relating to copyright in musical works is taken to mean concluding or performing agreements, whether or not in one's own name, for the benefit of authors or their successors in title, for the public performance or broadcasting in a radio or television programme through signs, sounds or images of these works or reproductions thereof, wholly or in part.

3. The performance or broadcast in a radio or television programme of dramatic-musical works, choreographic works and mime shows, and reproductions thereof, where such works are played without being shown, are equated with the performance or broadcast in a radio or television programme of musical works.

4. Agreements as referred to in the second subsection which are entered into without the permission of the Minister required under the first subsection having been obtained, are null and void.

5. Further regulations concerning the permission referred to in the first subsection are issued by order in council.

6. The Supervisory Board specified in the Supervision of Collective Management Organisations for Copyright and Related Rights Act supervises those who have obtained ministerial permission.

Section 30b

1. At the request of one or more representative commercial or professional organisations deemed as such by the Minister of Security and Justice and the Minister of Economic Affairs, and which are legal persons with full legal capacity and whose object it is to promote the interests of persons who import into the Netherlands, disclose to the public or reproduce literary, scientific or artistic works on a professional or commercial basis, these Ministers may jointly determine that members of the profession or industry concerned designated by them are obliged to keep their records in a manner to be determined by them.

2. Any person who fails to comply with the obligation referred to in the preceding subsection is punishable with a fine of the second category. Such failure is regarded as a minor offence.

Section 31

Any person who intentionally infringes another person's copyright is punishable with imprisonment for not more than six months or with a fine of the fourth category.

Section 31a

Any person who intentionally:

- a. publicly offers for distribution;
- b. has to hand, for the purpose of reproduction or distribution;
- c. imports, forwards or exports; or
- d. keeps, in pursuit of profit

an article that comprises a work infringing another person's copyright is punishable with imprisonment for a term of not more than one year or with a fine of the fifth category.

Section 31b

Any person who makes it his profession or business to commit the serious offences referred to in Sections 31 and 31a is punishable with imprisonment for a term of not more than four years or with a fine of the fifth category.

Section 32

Any person who:

- a. publicly offers for distribution;

- b. has to hand, for the purpose of reproduction or distribution;
- c. imports, forwards or exports; or
- d. keeps, in pursuit of profit

an article which he can reasonably presume comprises a work that infringes another person's copyright, is punishable with a fine of the third category.

Section 32a

Any person who intentionally:

- a. publicly offers for distribution;
- b. has to hand, for the purpose of distribution;
- c. imports, forwards or exports; or
- d. keeps, in pursuit of profit

any means the sole intended purpose of which is to facilitate the removal or circumvention of any technological measure applied to protect a work as referred to in Section 10 (1) sub 12°, without the consent of the author or his successor in title, is punishable with imprisonment for a term of not more than six months or with a fine of the fourth category.

Section 33

The punishable acts of Sections 31, 31a, 31b, 32 and 32a are serious offences.

Section 34

1. Any person who, in any literary, scientific or artistic work protected by copyright, intentionally makes any unlawful alterations to its title or the indication of the author, or impairs such a work in any other way that could be harmful to the reputation or honour of the author or to his dignity as an author is punishable with imprisonment for a term of not more than six months or with a fine of the fourth category.
2. The act is a serious offence.

Section 35

1. Any person who exhibits a portrait in public or discloses it to the public in any other manner without being authorised to do so, is punishable with a fine of the fourth category.
2. The act is a minor offence.

Section 35a

1. Any person who acts as an intermediary as referred to in Section 30a, without having obtained the necessary permission from the Minister of Security and Justice, is punishable with a fine of the fourth category.
2. The act is regarded as a minor offence.

Section 35b

1. Any person who intentionally gives false or incomplete information in a written application or submission that is to be used to determine the compensation due for copyright in the business of the person acting as an intermediary in matters relating to music copyright with the Minister of Security and Justice's permission, is punishable with detention for a term of not more than three months or with a fine of the third category.
2. The act is a minor offence.

Section 35c

Any person who intentionally fails to submit a written specification or intentionally provides false or incomplete information in such specification to the legal person referred to in Section 16d (1), on the basis of which the amounts due pursuant to Section 16c are determined, is punishable with detention for a term of not more than three months or with a fine of the third category. The act is regarded as a minor offence.

Section 35d

Any person who intentionally fails to submit a specification as referred to in Section 15g or who intentionally provides false information in such a specification, is punishable with detention for a term of not more than three months or with a fine of the third category. The act is regarded as a minor offence.

Section 36

1. Reproductions declared forfeit by the criminal court will be destroyed; the court may, however, make provision in its judgment that they be surrendered to the rightholder if the latter applies for this at the office of the court registry within one month of the judgment having become final.
2. Upon surrender, the reproductions become the property of the rightholder. The court may order that surrender is conditional upon payment by the rightholder of a certain compensation that will accrue to the State.

Section 36a

Investigating officers may at any time, for the purposes of investigating offences punishable under this Act, require access to all documents or other data carriers that are in the possession of persons who, in the exercise of their profession or business, import, forward, export, disclose to the public or reproduce literary, scientific or artistic works, where inspection of such documents or data carriers is reasonably necessary for the fulfilment of their duty.

Section 36b

1. Investigating officers are authorised to enter any premises for the purposes of investigating offences punishable under this Act and seizing anything that is subject to seizure.
2. If they are denied entry, they may gain it, if necessary, with the assistance of the police.
3. They may not enter a home against the will of the occupant except on presentation of a special written warrant from or in the presence of a public prosecutor or an assistant public prosecutor. They will draw up a report within twenty-four hours of such entry.

Section 36c

[repealed as of 01-01-1994]

Part III

Duration of copyright

Section 37

1. Copyright expires after 70 years calculated from the first of January of the year following the year of the author's death.
2. The duration of the copyright that is vested jointly in two or more persons in their capacity as co-authors of one and the same work, is calculated from the first of January of the year following the year of the last surviving co-author's death.

Section 38

1. The copyright in a work whose author has not been indicated or not in such a way that his identity is beyond doubt, expires after 70 years calculated from the first of January of the year following the year in which the work was first lawfully disclosed to the public.
2. The same applies to works whose author is considered to be a public institution, an association, a foundation or a company unless the natural person who created the work is indicated as the author on or in copies of the work which have been disclosed to the public.
3. If the author discloses his identity before the term referred to in the first subsection ends, the duration of the copyright in that work concerned will be calculated in accordance with the provisions of Section 37.

Section 39

The copyright in works for which the duration of copyright is not calculated in accordance with Section 37 and which have not lawfully been disclosed to the public within 70 years of their creation, expires.

Section 40

The copyright in a film expires after 70 years calculated from the first of January of the year following the year in which the last of the following persons to survive dies: the principal director, the screenplay writer, the writer of the dialogue and the composer of the music created for the film.

Section 40a

If, in the case of a musical work with words, the copyright in the music and the copyright in the words are vested in different persons, the copyright expires after 70 years calculated from the first of January of the year following the year in which the last of these persons to survive dies.

Section 41

For the purposes of Section 38, where a work is published in volumes, parts, issues or episodes, each volume, part, issue or episode is considered as a separate work.

Section 42

Notwithstanding the provisions of this Part, no copyright can be invoked in the Netherlands in cases where it has already expired in the country of origin of the work. The provision in the first sentence does not apply to works whose author is a national of a Member State of the European Union or of a State that is party to the Agreement on the European Economic Area of 2 May 1992.

Part IV

Special provisions concerning resale right

Section 43

In this Part and the provisions pertaining to it:

a. original work of art means:

1°. a work of graphic or visual art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs, insofar as it is made by the artist himself or it is a copy that can otherwise be regarded as an original work of art.

2°. a copy of works referred to sub 1° limited numbers of which have been made by the author himself or under his authority.

b. professional art dealer: any natural or legal person who makes it his profession or business to buy or sell original works of art, or to act as an intermediary for the conclusion of agreements for the sale of original works of art.

Section 43a

1. A resale right is the right of the author and his hereditary successors in title to receive compensation for each sale of an original work of art which involves a professional art

dealer, with the exception of the first alienation by the author.

2. A resale right cannot be transferred, except through a legacy.

3. A resale right cannot be waived.

4. The compensation referred to in the first subsection is due from the time that the sale price of the original work of art is due, but at the latest three months from the conclusion of the purchase agreement.

Section 43b

The level of compensation referred to in Section 43a (1) is determined by order in council and further rules may be issued with regard to liability for that compensation.

Section 43c

1. The obligation to pay the compensation referred to in Section 43a (1), is borne by the professional art dealer involved in the sale. If more than one professional art dealer is involved in a sale, each is jointly and severally liable for this compensation.

2. The limitation period for a claim for payment of compensation, referred to in Section 43a (1), is five years from the day following the day on which the rightholder acquired knowledge of both the compensation due and of the person owing the compensation. In any case the limitation period is twenty years from the time the compensation became due.

Section 43d

The holder of the resale right may, for up to three years from the time that the compensation referred to in Section 43a (1) became due, request from the person who is liable for that compensation all information necessary to safeguard the payment of the compensation.

Section 43e

1. The resale right expires at the time the copyright expires.

2. In derogation from the first subsection, the compensation referred to in Section 43a (1) is not due to the hereditary successors in title of the author for a sale of an original work of art made before 1 January 2010.

3. By order in council the period referred to in the second subsection may be extended to no later than 1 January 2012.

Section 43f

Without prejudice to the provisions of Section 43g, this Part applies to original works of art that on 1 January 2006 were protected under the national copyright law of at least one Member State of the European Union or of a State that is party to the Agreement on the European Economic Area of 2 May 1992.

Section 43g

1. This Part applies to authors of original works of art who:
 - a. are nationals of one of the Member States of the European Union and their successors in title;
 - b. are nationals of a State that is party to the Agreement on the European Economic Area of 2 May 1992 and their successors in title;
 - c. have their habitual residence in the Netherlands and to their successors in title.
2. This Part also applies to authors of original works of art and their successors in title who are nationals of a State other than a Member State of the European Union or of a State that is party to the Agreement on the European Economic Area of 2 May 1992, for the duration and to the extent that such State recognises the resale right for authors of original works of art from the Member States of the European Union and from States that are party to the Agreement on the European Economic Area of 2 May 1992, and for their successors in title.

Section 44

[repealed as of 01-04-2006]

Section 45

[repealed as of 07-01-1973]

Part V

Special provisions concerning films

Section 45a

1. A film means a work that consists of a sequence of images, with or without sound, irrespective of the manner of fixation, if it is fixed.
2. Without prejudice to the provisions of Sections 7 and 8, the authors of a film are considered to be the natural persons who have made a contribution of a creative nature to the making of the film.
3. The producer of a film is the natural or legal person responsible for the making of the film with a view to its exploitation.

Section 45b

Where one of the authors is unwilling or unable to complete his contribution to the film, he cannot oppose the use by the producer of that contribution for completing the film unless otherwise agreed in writing. With respect to the contribution he has created, he is deemed to be its author as referred to in Section 45a.

Section 45c

A film is deemed completed once it is ready for showing. Unless otherwise agreed in writing, the producer decides when it is ready for showing.

Section 45d

1. Unless the authors and the producer of a film have agreed otherwise in writing, the authors are deemed to have assigned to the producer, from the time referred to in Section 45c, the right to rent out the film and to disclose it to the public in any other way, to reproduce it within the meaning of Section 14, to subtitle it and to dub the dialogue. The foregoing does not apply to whoever composed the music for the film and to whoever wrote the words to the music. Irrespective of the manner of assignment, the producer owes the authors fair compensation for the assignment of rights and the exploitation of the film. The right to fair compensation cannot be waived.
2. Without prejudice to the provisions of Section 26a, anyone who broadcasts the film, or who has it broadcast, or who communicates it to the public in any other manner, whether by wire or wireless, with the exception of making the film available in such a manner that the film is accessible to members of the public in a place and at a time individually chosen by them, owes proportionate fair compensation to the principal director and the screenplay writer of the film who has assigned these rights to the producer. The right to fair compensation cannot be waived.
3. The right to the compensation referred to in the second subsection is exercised by representative legal persons which, according to their bylaws, aim to represent the interests of principal directors or screenplay writers through the exercise of that right. Section 26a (2) and (3) apply equally.
4. The person who owes the compensation referred to in the second subsection is obliged to provide the legal person referred to in the third subsection with access to the documents or other data carriers required to establish the liability for and the level of the compensation and its distribution.
5. By order in council, further rules may be issued concerning the exercise of the right referred to in the second subsection.
6. The right to proportionate fair compensation referred to in the second subsection does not apply to a film if its exploitation as such is not the main purpose.
7. Section 25d and Section 25e apply equally. Section 25c (2) to (6) and Section 25g apply equally to the fair compensation referred to in the first subsection.

Section 45e

In addition to the rights referred to in Section 25 (1)(b), (c) and (d), each author of a film has the right:

- a. to have his name mentioned in the film in the usual manner, with reference to his capacity or his contribution to the film;
- b. to claim that the part of the film referred to sub (a) also be shown;

c. to oppose the mentioning of his name in the film, unless such opposition would be unreasonable.

Section 45f

Unless otherwise agreed in writing, the author is assumed to have waived to the producer the right to oppose alterations to his contribution as referred to in Section 25 (1)(c).

Section 45g

Unless otherwise agreed in writing, each author retains the copyright in his contribution if it constitutes a work that can be separated from the film. Unless otherwise agreed in writing, after the time referred to in Section 45c, each author may separately disclose his contribution to the public and reproduce it, provided that he does not thereby harm the exploitation of the film.

Part VI

Special provisions concerning computer programs

Section 45h

Disclosure to the public by means of rental of the whole or part of a work as referred to in Section 10 (1) sub 12°, or of a reproduction of it put into circulation by or with the consent of the rightholder, requires the consent of the author or his successor in title.

Section 45i

Without prejudice to the provisions of Section 13, the act of reproducing a work as referred in Section 10 (1) sub 12°, includes its loading, displaying, running, transmission or storage, insofar as these acts necessitate the reproduction of that work.

Section 45j

Unless otherwise agreed, it is not regarded as an infringement of the copyright in a work referred to in Section 10 (1) sub 12° for the lawful acquirer of a copy of that work to reproduce it where this is necessary for the intended use of the work. When made in connection with loading, displaying or the correction of errors, the reproduction referred to in the first sentence may not be prohibited by contract.

Section 45k

It is not regarded as an infringement of the copyright in a work referred to in Section 10 (1) sub 12° for the lawful user of that work to reproduce it and for this reproduction to serve as a back-up copy, where this is necessary for the intended use of the work.

Section 45l

Any person who is entitled to perform the acts referred to in Section 45i is also entitled, while performing them, to observe, study and test the functioning of the work concerned in order to determine the ideas and principles which underlie it.

Section 45m

1. Making a copy of a work as referred to in Section 10 (1) sub 12° and translating the form of its code is not regarded as an infringement of the copyright if these acts are indispensable for obtaining the information necessary to achieve the interoperability of an independently created computer program with other computer programs, provided that:

- a. these acts are carried out by a person who has lawfully obtained a copy of the computer program or by a third party authorised by him;
- b. the information necessary to achieve interoperability has not previously been readily available to the persons referred to sub a; and
- c. these acts are confined to the parts of the original program which are necessary to achieve interoperability.

2. The information obtained pursuant to the first subsection may not:

- a. be used for any purpose other than to achieve the interoperability of the independently created computer program;
- b. be communicated to others except where necessary for the interoperability of the independently created computer program;
- c. be used for the development, production or marketing of a computer program that cannot be regarded as a new, original work or for any other acts that infringe copyright.

Section 45n

Sections 16b and 16c do not apply to works referred to in Section 10 (1) sub 12°.

Part VII

Protection of works disclosed to the public following expiry of the term of protection

Section 45o

1. Any person who, for the first time, lawfully discloses to the public a previously unpublished work after the term of copyright protection has expired, enjoys the exclusive right referred to in Section 1.
2. The right referred to in the first subsection expires after 25 years, calculated from 1 January of the year following the year in which the work was first lawfully disclosed to the public.
3. The provisions of subsections 1 and 2 also apply to previously unpublished works that have never been protected by copyright, the author of which died more than 70 years previously.

Part VIII

Transitional and final provisions

Section 46

1. With the entry into force of this Act, the Regulation of Copyright Act of 28 June 1881 (Bulletin of Acts and Decrees 124) is repealed.
2. However, Section 11 of the latter Act remains in force in respect of works and translations submitted prior to that date.

Section 47

1. This Act applies to all literary, scientific or artistic works which have been published for the first time, or within 30 days of first publication in another country, in the Netherlands, either before or after this Act's entry into force, and also to all such works not published, or not thus published, the authors of which are Dutch nationals.
2. For the purposes of the preceding subsection, authors who are not Dutch nationals but who are habitually resident in the Netherlands are equated with Dutch nationals in respect of unpublished works or works published after the author became habitually resident in the Netherlands.
3. A work is published within the meaning of this section when it has appeared in print with the consent of the author or, in general, when the number of copies of it, of whatever kind, made available with the consent of the author, satisfy the reasonable requirements of the public, having regard to the nature of the work.
4. The performance of a dramatic, dramatic-musical or musical work, the showing of a film, the recitation or broadcast of a work in a radio or television programme and the exhibition of a work of art is not regarded as a publication.
5. With regard to works of architecture and works of visual art constituting an integral part thereof, the construction of the work of architecture or the installation of the work of visual art is regarded as publication.
6. Without prejudice to the provisions of the preceding subsections, this Act applies to films if their producer has his seat or habitual residence in the Netherlands.

Section 47a

This Act remains in force for all literary, scientific or artistic works published for the first time by or on behalf of the author in the Dutch East Indies prior to 27 December 1949, or in Dutch New Guinea prior to 1 October 1962.

Section 47b

1. This Act applies to the broadcasting by satellite of a work incorporated in a radio or television programme, if the act referred to in Section 12 (7) takes place in the Netherlands.
2. This Act also applies to the broadcasting by satellite of a work incorporated in a radio

or television programme if:

- a. the Act referred to in Section 12 (7) takes place in a country that is not a Member State of the European Union or a State that is party to the Agreement on the European Economic Area of 2 May 1992;
- b. the country where the act referred to in Section 12 (7) takes place, does not provide the level of protection provided for under Chapter II of Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ EC L 248); and
- c. either the program-carrying signals are transmitted to the satellite from an uplink station situated in the Netherlands, or a broadcasting organisation which has its principal establishment in the Netherlands has commissioned the broadcast and no use is made of an uplink station situated in a Member State of the European Union or a State that is party to the Agreement on the European Economic Area of 2 May 1992.

Section 48

This Act does not recognise copyright in works in which, at the time of its entry into force, copyright had expired pursuant to Sections 13 or 14 of the Regulation of Copyright Act of 28 June 1881 (Bulletin of Acts and Decrees 124) or in works in which, on that date, copyright had expired under Section 3 of the Act of 25 January 1817 on the rights exercisable in the Netherlands in respect of the printing and publication of literary and artistic works (Bulletin of Acts and Decrees 5).

Section 49

Copyright acquired under the Regulation of Copyright Act of 28 June 1881 (Bulletin of Acts and Decrees 124) and the right to copy or any right of such nature acquired under earlier legislation and maintained by the aforementioned Act will continue to exist after the entry into force of this Act.

Section 50

[repealed as of 07-01-1973]

Section 50a

[repealed as of 07-01-1973]

Section 50b

[repealed as of 01-08-1985]

Section 50c

1. Any person who prior to 1 September 1912 has published in the Netherlands or in

the Dutch East Indies a reproduction of a literary, scientific or artistic work, not being a reprint of the whole or part of a work as referred to in Section 10 (1) sub 1°, 2°, 5° or 7°, without contravening the provisions of the Regulation of Copyright Act of 28 June 1881 (Bulletin of Acts and Decrees 124) or of any treaty, does not, as a result of the entry into force of this Act, lose the right to distribute and sell a reproduction published before that date and any copies subsequently made. This right passes by succession and is assignable in whole or in part. Section 47 (2) applies equally.

2. Nevertheless, upon a written application by the person who holds the copyright in the original work, the court may either revoke in whole or in part the right referred to in the first subsection, or award the applicant compensation for the exercise of that right, in accordance with the provisions of the following two Sections.

Section 50d

1. An application for the revocation of the whole or part of the right referred to in Section 50c can only be made if a new edition of the reproduction was published after 1 November 1915. Section 47 (2) applies equally.

2. The application is to be filed with the District Court in Amsterdam before the end of the calendar year following that in which publication took place. The court registry will summon the parties to appear at an expedient time, to be determined by the court. The case will be heard in chambers.

3. The application for revocation of this right will only be granted if and insofar as the court is of the opinion that the distribution and sale of the reproduction harm the moral interests of the applicant. If the application has not been made by the author of the original work, the court will dismiss it if it considers it likely that the author would have approved the said publication of the reproduction. The court will also dismiss the application if the applicant has attempted to obtain compensation from the person exercising the right in question. The court may dismiss the application if, compared to the applicant's interest to be protected, the person exercising the right would be disproportionately disadvantaged by its revocation. If the court revokes this right, in whole or in part, it will specify the time from which the revocation has effect.

4. In its decision the court makes whatever provisions it deems fair in view of the interests of both parties and third parties. The court estimates the costs for both parties and stipulates how the costs are to be borne by them. Any court decisions made pursuant to this section are not subject to appeal. No court fees are due in matters where this section applies.

Section 50e

1. Compensation may only be awarded for the exercise of the right referred to in Section 50c if a new edition of the reproduction was published after 1 May 1915. Section 47 (2) applies equally.

2. Subsections 2 and 4 of the preceding section apply.

Section 50f

[repealed as of 07-01-1973]

Section 51

1. From the date on which this section enters into force, the terms of protection provided for in this Act apply to works which were protected pursuant to national provisions on copyright on 1 July 1995 in at least one Member State of the European Union or a State that is party to the Agreement on the European Economic Area of 2 May 1992.
2. This Act does not have the effect of shortening the term of protection that already applies on the day before the date of entry into force of this section.
3. This Act is without prejudice to any lawful acts of exploitation performed, and any rights acquired, before the date of entry into force of this section.
4. Any person who, prior to 24 November 1993, performed lawful acts of exploitation in relation to a work, the term of protection for which had expired before the entry into force of this section and to which this Act again applies with the entry into force of this section, is entitled to continue such acts of exploitation with effect from the date of entry into force of this section.
5. Until they expire, rights which are revived or extended with the entry into force of this section vest in the person who would have been the last rightholder had these rights had not been revived or extended, unless otherwise agreed.

Section 52

This Act may be cited as the "Copyright Act".

Section 53

This Act enters into force in the Kingdom in Europe on the first day of the month following that in which it is pronounced.

Mandate and order that this will be printed in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, councils and civil servants concerned will ensure its precise implementation.

Done at Soestdijk, the 23rd of September 1912

WILHELMINA.

The Minister of Justice,
E.R.H. Regout.

The Minister of Colonies,
De Waal Malefijt.

Issued on the fifth of October 1912, The Minister of Justice,
E.R.H. Regout.

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