

## **COPYRIGHT LAW 1912**

### **(Auteurswet 1912)**

Bern Convention. By Law dated 29 June 1911 the Queen decided to use the absolute authority to enter in the name of Netherlands and its colonies into the revised Bern Convention dated 13 November 1908 convened in Berlin.

The Netherlands joined on the 1<sup>st</sup> November 1912. The text of the revised Bern Convention 1908 is stated in S. 1914-378.

On 1 April 1913 the Netherlands entered the Bern Convention for Indonesia.

By S. 1915-463 the text was announced of a Protocol that was established in Bern on 20 March 1914, whereby authorization is given to restrict, if so desired, the scope of the revised Convention.

The Bern Convention was again revised in Rome on 2 June 1928. This revised B.C was supported among other by the Netherlands and became in force for Indonesia according to S. 31-325 on 1 August 1931. See text and translation in S. 31-135.

Participants in the Revised Bern Convention held in Rome in 1928 were:

- Australia (with Papoea, the Norfolk island and the mandate countries New Guinea and Nauru);
- Belgium (Congo, Rwanda Burundi);
- Brazil
- The United Kingdom and North Ireland (as far as not being an independent member of The United Nations and further with the exception of the non federated Malayan states);
- India and Pakistan;
- Bulgaria;
- Canada;
- Denmark including Faroer;
- Germany;
- Finland;
- France (with Algeria, colonies protectorates), and
- Tunisia (both on condition that as for artwork applied in the home industry, remain applicable the rules of previous conventions for the protection of artwork and literature);
- Greece (maintaining the right obtained by the entering the 1908 convention as art. 8 and 11 of said convention relating to the right to translate: for art. 8 of the 1908 Convention

is decided art. 5 of the original 1886 convention; and on the right for performance and exhibitions: instead of art. 11 of the 1908 convention, art. 9 of the original convention is valid);

- Hungarian;
- Irish Republic;
- Italy;
- Japan (with maintaining the previously made reserves to the right of translation, that article 8 of convention 1908 be replaced by article 5 of convention 1886 in the edition of addendum act of 1886). Japan has declared the convention of 1928 enforceable for Korea, Formosa, South Sachalin and the leased territory Kwantoeng, territories then occupied by Japan;
- Lebanon;
- Liechtenstein;
- Luxemburg;
- Morocco (the France and Spanish zone);
- Monaco;
- The Netherlands;
- Indonesia;
- Suriname and the Antilles;
- New Zealand (and West Samoa);
- Norway;
- Austria;
- Poland;
- Portugal and colonies;
- Rumania;
- Spain and colonies;
- Syria;
- Czechoslovakia;
- The Vatican;
- Iceland;
- South Africa with South-West Africa;
- South Slavia (with the reverse that provisions regarding the protection of translation rights in convention 1908 and article 8 of convention 1928 shall be replaced by article 5 of convention 1886 jo. addendum act 1896);
- Sweden;
- Switzerland;

Participation in Bern Convention held on 13 November 1908:

- Haiti;

- Palestine with Trans Jordan;
- Siam;
- Turkey;

**COPYRIGHT ACT 1912  
(NETHERLANDS)**

**CHAPTER I  
GENERAL PROVISIONS**

**Paragraph I  
Nature of copyright**

**Article 1**

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

**Article 2**

1. Copyright passes by succession and is assignable wholly or in part;
2. The delivery required by whole or partial assignment shall be effected by means of a deed of assignment. The assignment shall comprise only such rights as are recorded in the deed or necessarily derive from the nature or purpose of the title;
3. The copyright belonging to the author of a work and, after his death, to the person having acquired any unpublished work as successor or legatee of the author, shall not be liable to seizure.

**Paragraph 2  
Author of the work**

**Article 3**

(deleted)

**Article 4**

1. Unless there is proof to the contrary, the person who is named as author in or on the work or, where there is no such indication, the person who, when the work is communicated to the public, is named as the author by the party who communicates the work to the public, shall be deemed the author of the work;
2. If the author is not named, the person who delivers a recitation which has not appeared in print shall be deemed the author thereof, unless there is proof to the contrary.

#### **Article 5**

1. If a literary, scientific or artistic work consists of separate works by two or more persons, the person under whose guidance and supervision the work as a whole has been made or, if there is no such person, the compiler of the various works, shall be deemed the author of the whole work, without prejudice to the copyright in each of the works separately;
2. Where a separate work in which copyright subsists is incorporated in a whole work, the reproduction or communication to the public of each separate work by any person other than the author thereof or his successor in title shall be deemed an infringement of the copyright in the whole work;
3. Where such a separate work has not previously been communicated to the public, the reproduction or communication to the public of that separate work by the author thereof or his successors in title without mention of the whole work of which it is a part, shall be deemed an infringement of the copyright in the whole work, unless otherwise agreed between the parties.

#### **Article 6**

If a work has been made according to the draft and under the guidance and supervision of another person, that person shall be deemed the author of the work.

#### **Article 7**

Where labour carried out by an employee consists in the making of certain literary, scientific or artistic works, the employer shall be deemed the author thereof, unless otherwise agreed between the parties.

#### **Article 8**

A public institution, association, foundation or company which communicates a work to the public as its own, without naming any natural person as the author thereof, shall be regarded as the author of that work, unless it is proved that the communication to the public in such manner was unlawful.

#### **Article 9**

If a work appearing in print does not indicate the name of the author or does not indicate his true name, the person indicated in that work as the publisher or, where there is no such indication, the person whose name appears as the printer thereof may, on behalf of the copyright owner, exercise the copyright in the work against third parties.

#### **Paragraph 3**

#### **Works protected by copyright**

#### **Article 10**

1. For the purposes of this Act, literary, scientific or artistic works includes:
  - 1) books, pamphlets, newspapers, periodicals and all other writings;
  - 2) dramatic and dramatico-musical works;

- 3) recitations;
- 4) choreographic works and entertainments in dumb show;
- 5) musical works, with or without words;
- 6) drawings, paintings, works of architecture and sculpture, lithographs, engravings and the like;
- 7) geographical maps;
- 8) drafts, sketches and three-dimensional works relating to architecture, geography, topography or other sciences;
- 9) photographic works;
- 10) cinematographic works;
- 11) works of applied art and industrial designs and models;
- 12) computer programs and the preparatory material.

and generally any creation in the literary, scientific or artistic areas, whatever the mode or form of its expression. Computer programs do not fall within the category of works referred to in the first sentence sub 1).

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

#### **Article 11**

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

#### **Paragraph 4**

#### **Communication to the public**

#### **Article 12**

1. The communication to the public of a literary, scientific or artistic work includes:
  - 1) the communication to the public of a reproduction of the whole or part of a work;
  - 2) the distribution of the whole or part of a 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 work, with the exception of works of architecture and works of applied art, or of a reproduction thereof which has been brought into circulation by or with the consent of the rightholder;
  - 4) the recitation, performance or presentation in public of the whole or part of a work or a reproduction thereof;
  - 5) the broadcasting of a work incorporated in a radio or television programme by satellite or other transmitter or by a closed-circuit system as referred to in article 1 sub g of the Wet op de Telecommunicatievoorzieningen.
2. Rental as referred to in paragraph 1 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 paragraph 1 sub 3) means making available for use, for a limited period of time, by establishments accessible to the public, for no direct or indirect economic or commercial advantage;
4. A recitation, performance or presentation in public includes that in a restricted 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, performance or presentation. The same shall apply to exhibitions;
5. A recitation, performance or presentation which is exclusively for the purposes of education provided on behalf of the public authorities or a non-profit-making legal person, in so far as such a recitation, performance or presentation forms part of the school work plan or curriculum where applicable, or which exclusively serves a scientific purpose, shall not be deemed public;
6. The simultaneous broadcasting of a work incorporated in a radio or television programme by the organization making the original broadcast shall not be deemed a separate communication 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 organization, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and back to earth. Where the programme-carrying signals are encrypted, this shall be deemed to constitute the broadcasting by satellite of a work incorporated in a radio or television programme if the means of decrypting the broadcast are provided to the public by or with the consent of the broadcasting organization.

#### **Article 12a**

1. If the author assigns the rental right referred to in article 12, paragraph 1, sub 3), in respect of a literary, scientific or artistic work fixed on a phonogram to the producer thereof, the latter is indebted an equitable remuneration to the author for the rental;
2. The right to an equitable remuneration as referred to in paragraph 1 may not be waived.

#### **Paragraph 5 Reproduction**

#### **Article 13**

The reproduction of a literary, scientific or artistic work includes the translation, arrangement of music, cinematographic adaptation or dramatization and generally any partial or total adaptation or imitation in a modified form, which cannot be regarded as a new, original work.

#### **Article 14**

The reproduction of a literary, scientific or artistic work includes the fixation of the whole or part of the work on an object which is intended to play a work or to show it.

#### **Paragraph 6 Limitations on copyright**

### **Article 15**

1. It shall not be deemed an infringement of copyright to take over news reports, miscellaneous reports or articles concerning current economic, political or religious topics that have appeared in a daily or weekly newspaper or weekly or other periodical or works of the same nature that have been broadcast in a radio or television programme, if:
  - 1) the taking over is effected by a daily or weekly newspaper or weekly or other periodical in a radio or television broadcast;
  - 2) the provisions of article 25 have been taken into account;
  - 3) the source is clearly indicated, together with the indication of the author if it appears in the source; and
  - 4) copyright is not explicitly reserved.
2. In the case of periodicals, a generally worded reservation placed at the head of each issue shall also be deemed an explicit reservation as referred to in paragraph 1 sub 4);
3. A reservation as referred to in paragraph 1 sub 4) cannot be made in respect of news reports and miscellaneous reports;
4. The provisions of this article shall also apply where the taking over is in a language other than the original.

### **Article 15a**

1. Quotations in an announcement, criticism, polemic or scientific treatise shall not be deemed an infringement of copyright in a literary, scientific or artistic work where:
  - 1) the work from which the quotation is taken has been lawfully communicated to the public;
  - 2) the quotation is in conformity with that which may be reasonably accepted in accordance with social custom and the number and length of the quoted passages are justified by the purpose to be achieved;
  - 3) the provisions of article 25 have been taken into account;
  - 4) the source is clearly indicated, together with the indication of the author if it appears in the source.
2. In the case of a short work or a work as referred to in article 10, paragraph 1, sub 6), 9) or 11), the entire work may be reproduced for the purpose and under the conditions stated in paragraph 1, if done in such a way that the reproduction differs appreciably in size or process of manufacture from the original work;
3. For the purposes of this article quotations includes quotations from articles that have appeared in daily or weekly newspapers, weeklies or other periodicals in the form of press reviews;
4. The provisions of this article shall also apply to quotations in a language other than the original;
5. We reserve the right to determine, by order in council, what is to be understood in paragraph 1 sub 2) by "reasonably accepted in accordance with social custom".

### **Article 15b**

The further communication to the public or reproduction of a literary, scientific or artistic work communicated to the public by or on behalf of the public authorities shall not be deemed an infringement of the copyright in such a work, unless the copyright has been explicitly reserved, either in a general manner by law, decree or ordinance, or in a specific case by a notice on the work itself or at the communication to the public. Even if no such reservation has been made, the author shall retain the exclusive right to have appear in the form of a collection his works which have been communicated to the public by or on behalf of the public authorities.

#### **Article 15c**

1. The lending as referred to in article 12, paragraph 1, sub 3), of the whole or part of a work or a reproduction thereof brought into circulation by or with the consent of the rightholder shall not be deemed an infringement of copyright, provided the person doing or arranging the lending pays an equitable remuneration. The first sentence shall not apply to a work referred to in article 10, paragraph 1, sub 12), unless that work is part of a data carrier containing data and serves exclusively to make the said data accessible;
2. Educational establishments and research institutes, the libraries attached to them, and the Koninklijke Bibliotheek are exempt from payment of a lending remuneration as referred to in paragraph 1;
3. Libraries funded by the Libraries for the Blind and Visually Impaired Fund are exempt from payment of a remuneration as referred to in paragraph 1 in respect of items lent to blind and visually impaired persons registered with the libraries in question;
4. Payment of the remuneration referred to in paragraph 1 shall not be required if the person liable for payment can demonstrate that the author or his successor in title has waived the right to an equitable remuneration. The author or his successor in title should notify the legal persons referred to in articles 15d and 15f of the waiver in writing.

#### **Article 15d**

The level of the remuneration referred to in article 15c, paragraph 1, shall be determined by a foundation to be designated by Our Minister of Justice in agreement with Our Minister of Education, Culture and Science, the board of which shall be so composed as to represent in a balanced manner the interests of the authors or the successors in title and the persons liable for payment pursuant to article 15c, paragraph 1. The chair of the board of this foundation shall be appointed by Our Minister of Justice in agreement with Our Minister of Education, Culture and Science. The number of members of this board shall be uneven.

#### **Article 15e**

Disputes concerning the remuneration referred to in article 15c, paragraph 1, shall be exclusively decided at first instance by the Arrondissementsrecht bank at The Hague.

#### **Article 15f**

1. The remuneration referred to in article 15c should be paid to a legal person to be designated by Our Minister of Justice in agreement with Our Minister of Education, Culture and Science who is, in their opinion, representative and who shall be exclusively

entrusted with the collection and distribution of such remunerations. The legal person referred to in the preceding sentence shall represent the rightholder at law and otherwise in matters relating to the level and collection of the remuneration and the exercise of the exclusive right;

2. The legal person referred to in paragraph 1 shall be subject to supervision by a supervisory board, the members of which shall be appointed by Our Minister of Justice in agreement with Our Minister of Education, Culture and Science. Further rules concerning supervision shall be laid down by order in council;
3. The remunerations collected shall be distributed on the basis of regulations drawn up by the legal person referred to in paragraph 1 and approved by Our Minister of Justice in agreement with Our Minister of Education, Culture and Science. To this end Our Minister of Justice shall seek the opinion of the supervisory board referred to in paragraph 2.

### **Article 15g**

Persons required to pay the remuneration referred to in article 15c, paragraph 1, shall be obliged to submit, by 1 April of every calendar year unless otherwise agreed, to the legal person referred to in article 15f, paragraph 1, the number of juristic acts as referred to in article 15c. They shall also be obliged to give the said legal person, on request, immediate access to the documents and other data carriers needed to establish liability and the level of the remuneration.

### **Article 16**

1. The following shall not be deemed an infringement of copyright in a literary, scientific or artistic work:
  - a. the taking over of parts of works in publications or sound or visual recordings made for use as illustrations for teaching purposes, provided:
    - 1) the work from which was taken over has been lawfully communicated to the public;
    - 2) the taking over is in conformity with that which may be reasonably accepted in accordance with social custom;
    - 3) the provisions of article 25 have been taken into account;
    - 4) the source is clearly indicated, together with the indication of the author if it appears in the source; and
    - 5) an equitable remuneration be paid to the author or his successors in title;
  - b. communication to the public of parts of works by broadcasting a radio or television programme made to serve as an illustration for teaching purposes, provided:
    - 1) the work from which is taken over has been lawfully communicated to the public;
    - 2) the communication to the public is in conformity with that which may be reasonably accepted in accordance with social custom;
    - 3) the provisions of article 25 have been taken into account;
    - 4) the source is clearly indicated, together with the indication of the author if it appears in the source; and

- 5) an equitable remuneration be paid to the author or his successors in title.
2. In the case of a short work or a work as referred to in article 10, paragraph 1, sub 6), 9) or 11), the entire work may be taken over for the same purpose and subject to the same conditions;
3. Where the taking over in a compilation is concerned, only short works or short passages of works by one and the same author may be taken over and, in the case of works referred to in article 10, paragraph 1, sub 6), 9) or 11), only a small number of those works and only if they are reproduced in such a way that they differ considerably in size or process of manufacture from the original work, with the proviso that where two or more such works were communicated to the public together, the reproduction of only one of them shall be permitted;
4. The provisions of this article shall also apply where the reproduction is in a language other than the original;
5. We reserve the right to lay down rules by order in council concerning the equitable remuneration to be paid in accordance with paragraph 1 sub a, 5) and sub b, 5), and also to determine, by order in council, what is to be understood in paragraph 3 by "short works or short passages of works".

#### **Article 16a**

It shall not be deemed an infringement of the copyright in a literary, scientific or artistic work to make a short recording, showing or announcement thereof in public in a photographic, film, radio or television report, provided this is necessary in order to give a proper account of the current affairs that are the subject of the report.

#### **Article 16b**

1. It shall not be deemed an infringement of the copyright in a literary, scientific or artistic work to reproduce it in a limited number of copies for the sole purpose of private practice, study or use of the person who makes the copies or orders the copies to be made exclusively for himself;
2. In the case of a work as referred to in article 10, paragraph 1, sub 1), including the score or parts of a musical work, the reproduction shall furthermore be limited to a small portion 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. In the case of a work as referred to in article 10, paragraph 1, sub 6), the reproduction must differ considerably in size or process of manufacture from the original work;
4. The provisions of paragraph 1 concerning a reproduction made to order shall not apply to a reproduction made by fixing a work or part thereof on an object which is intended to play a work or to show it;
5. In the case of a reproduction permitted under this article, the copies made may not be given to third parties without the consent of the copyright owner, except in connection with judicial or administrative proceedings;

6. We may determine by order in council that, with respect to the reproduction of works as referred to in article 10, paragraph 1, sub 1) the provisions of one or more of the preceding paragraphs may be departed from for the purposes of the public service and the performance of the tasks with which institutions serving the general interest have been charged. Further rules and conditions may be laid down to this end;
7. The preceding provisions of this article shall not apply to the imitating of works of architecture.

#### **Article 16c**

1. A remuneration is owed to the author or his successor in title for the reproduction in accordance with article 16b, paragraph 1, for personal practice, study or use, of a work or part thereof by fixing it on an object which is intended to show the images or play the sounds recorded upon it;
2. The manufacturer or importer of the objects referred to in paragraph 1 shall be liable for payment of the remuneration;
3. The manufacturer shall be obliged to pay the remuneration at the time that the objects manufactured by him can be brought into circulation. The importer shall be obliged to pay the remuneration at the time of import;
4. The obligation to pay the remuneration shall lapse if the person liable for payment pursuant to paragraph 2 exports the objects referred to in paragraph 1;
5. The remuneration shall be paid only once for each object.

#### **Article 16d**

1. The remuneration referred to in article 16c shall be paid to a legal person to be designated by Our Minister of Justice who is, in his opinion, representative and who shall be entrusted with the collection and distribution of such remunerations on the basis of regulations approved by Our Minister. The legal person referred to in the preceding sentence shall represent the authors or their successors in title at law and otherwise in matters relating to the collection of the remuneration. The said legal person shall be subject to supervision by Our Minister of Justice;
2. Further regulations regarding the exercise of supervision over the legal person referred to in paragraph 1 may be laid down by order in council.

#### **Article 16e**

1. The level of the remuneration referred to in article 16c shall be determined by a foundation to be designated by Our Minister of Justice, the board of which shall be so composed as to represent in an balanced manner the interests of the authors or their successors in title and the persons liable for payment pursuant to article 16c, paragraph 2. The chair of the board of the said foundation shall be appointed by Our Minister of Justice;
2. The running or playing time of the object in question shall be of particular importance in determining the level of the remuneration.

#### **Article 16f**

Persons required to pay the remuneration referred to in article 16c shall be obliged to submit to the legal person referred to in article 16d, paragraph 1, either immediately or within a period agreed with the said legal person, the number and running or playing time of the objects imported or manufactured by him as referred to in article 16c, paragraph 1. They shall also be obliged to give the said legal person, at the latter's request, immediate access to the documents needed to establish indebtedness and the level of the remuneration.

#### **Article 16g**

Disputes concerning the remuneration referred to in article 16c shall be exclusively decided at first instance by the Arrondissementsrechtbank at The Hague.

#### **Article 17**

1. Without prejudice to the provisions of the preceding article, it shall not be deemed an infringement of the copyright in the works referred to in article 10, paragraph 1, sub 1), to reproduce, on behalf of an enterprise, organization or other establishment, individual articles, reports or other texts which have appeared in a daily or weekly newspaper or weekly or other periodical, or short passages from books, pamphlets or other writings, in so far as they are scientific works, provided the reproduction is limited to the number of copies which the enterprise, organization or establishment may reasonably need. Copies may only be given to persons employed by the enterprise, organization or establishment;
2. The person who makes copies or orders the making of copies shall pay an equitable remuneration to the author of the work thus reproduced or his successors in title;
3. We may lay down rules by order in council concerning the maximum number of copies, the maximum size of copies, the level of the remuneration, the mode of payment and the number of copies for which no remuneration need be paid.

#### **Article 17a**

1. Rules may be laid down by order in council, in the general interest, concerning the exercise by the author of a literary, scientific or artistic work or his successors in title of copyright with respect to the communication to the public of such a work by the broadcasting of a radio or television programme. The said order in council may state that such a work may be communicated to the public without the prior consent of the author or his successors in title. Persons who are thus entitled to communicate a work to the public shall nevertheless respect the rights of the author referred to in article 25 and pay the author or his successors in title an equitable remuneration which, in absence of agreement, shall be determined, upon demand of the most interested party, by the court, which may at the same time order that security be given;
2. The provisions of the preceding paragraph shall apply mutatis mutandis to the making and bringing into circulation of objects, with the exception of reproductions of cinematographic works, intended to play the whole or part of a musical work by mechanical means, where in connection with the same musical work such objects have already been made and brought into circulation either by or with the consent of the author or his successors in title;
3. Paragraph 1 shall not apply to:

- a. the simultaneous, unaltered and unabridged broadcasting by a closed-circuit system, as referred to in article 1 sub g of the Wet op de Telecommunicatievoorzieningen, of a work incorporated in a radio or television programme broadcast by satellite or other transmitter for reception by the public from another Member State of the European Union or a State party to the Agreement on the European Economic Area of 2 May 1992;
- b. the broadcasting by satellite of a work incorporated in a radio or television programme.

#### **Article 17b**

1. Unless otherwise agreed, the right to communicate to the public by broadcasting a radio or television programme does not include the right to fix the work;
2. The broadcasting organization authorised to communicate to the public a work as referred to in the preceding paragraph shall nevertheless be entitled to fix the work intended for broadcasting, using its own facilities and solely for the purposes of broadcasting its own radio or television programmes, provided the fixation of sounds or images is destroyed within 28 days after the date on which it was first used to broadcast a radio or television programme, and in any event within six months after its manufacture. The broadcasting organization thus entitled to fix a work shall nevertheless be obliged to respect the rights of the author referred to in article 25;
3. It may be laid down by order in council that recordings thus made which possess exceptional documentary value may be kept in official archives, subject to the conditions specified in such order.

#### **Article 17c**

Congregational singing and the instrumental accompaniment thereof during a religious service shall not be deemed an infringement of the copyright in a literary or artistic work.

#### **Article 17d**

An order in council as referred to in articles 16, paragraph 2, 16b, paragraph 6, 17, paragraph 3, or 17a, paragraphs 1 and 2, or any amendment thereto, and all decisions arising therefrom shall not enter into force until two months after the date of their publication in the Statute Book.

#### **Article 18**

It shall not be deemed an infringement of the copyright in a work as referred to in article 10, paragraph 1, sub 6), which is permanently displayed on or along a public road, to reproduce or communicate to the public such a reproduction, provided the work does not constitute the main part and the reproduction differs considerably in size or process of manufacture from the original work and that, with regard to works of architecture, it is limited to the exterior thereof.

#### **Article 19**

1. The reproduction of a portrait by or on behalf of the person portrayed or, after his death, by or on behalf of his relatives, shall not be deemed an infringement of copyright;

2. If the portrait is of two or more persons, reproductions thereof by or on behalf of one of the persons portrayed shall not be lawful without the consent of the other persons or, during the ten years after their death, without the consent of their relatives;
3. Furthermore it shall not be deemed an infringement of copyright to communicate to the public a photographic portrait in a newspaper or periodical by or with the consent of one of the persons referred to in paragraph 1, provided the name of the author is indicated if it appears on the portrait;
4. This article shall apply only to portraits which the author was commissioned to make by or on behalf of the persons portrayed.

#### **Article 20**

1. Unless otherwise agreed, the owner of the copyright in a portrait shall not be entitled to communicate such a portrait to the public without the consent of the person portrayed or, during the ten years after his death, without the consent of his relatives;
2. If an image contains the portrait of two or more persons, the consent of all the persons portrayed is needed, or, during the ten years following their death, the consent of their relatives;
3. The last paragraph of the preceding article shall apply.

#### **Article 21**

If a portrait is made without having been commissioned by or on behalf of the persons portrayed, the copyright owner shall not be allowed to communicate it to the public, in so far as the person portrayed or, after his death, his relatives have a reasonable interest in opposing its communication to the public.

#### **Article 22**

In the interest of public safety and for the purpose of the investigation of criminal offences, images of any nature may be reproduced, publicly exhibited and distributed by or on behalf of the judicial authorities.

#### **Article 23**

Unless otherwise agreed, the owner of a drawing, painting, work of architecture, sculpture or work of applied art shall be entitled, without the consent of the copyright owner, to exhibit the said work publicly or to reproduce it in a catalogue in order to sell it.

#### **Article 24**

Unless otherwise agreed, the author of a painting continues, notwithstanding the assignment of his copyright, to be entitled to make similar paintings.

#### **Article 25**

1. Even after assignment of his copyright, the author of a work has the following rights:
  - a. the right to oppose the communication to the public of the work without acknowledgement of his name or other indication as author, unless such opposition would be unreasonable;

- b. the right to oppose the communication to the public of the work under a name other than his own, and any alteration in the name of the work or the indication of the author, in so far as it appears on or in the work or has been communicated to the public in connection with the work;
  - c. the right to oppose any other alteration of 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 name or reputation of the author or to his dignity as such.
2. Upon the death of the author, the rights referred to in paragraph 1 shall belong, until the expiry of the copyright, to the person designated by the author in his last will and testament or in a codicil thereto;
  3. The right referred to in paragraph 1, sub a, may be waived. The rights referred to sub b and c may be waived in so far as alterations to the work or its title are concerned;
  4. If the author of the work has assigned his copyright, he shall continue to be entitled to make such alterations to the work as he may make in good faith in accordance with social custom. As long as copyright subsists, the same right shall belong to the person designated by the author in his last will and testament or in a codicil thereto, if it may reasonably be assumed that the author would have approved such alterations.

#### **Article 25a**

For the purposes of this division relatives means a person's parents, spouse and children. Each of the relatives may exercise individually the rights belonging to him or her. In the event of a dispute, the court may render a decision which shall be binding on them.

## **CHAPTER II**

### **THE EXERCISE AND ENFORCEMENT OF COPYRIGHT AND CRIMINAL LAW PROVISIONS**

#### **Article 26**

Where the copyright in a work belongs jointly to two or more persons, it may be enforced by any one of them, unless otherwise agreed.

#### **Article 26a**

1. The right to authorise the simultaneous, unaltered and unabridged broadcasting by a closed-circuit system, as referred to in article 1 sub g of the Wet op de Telecommunicatievoorzieningen, of a work incorporated in a radio or television programme may be exercised exclusively by legal persons whose aim in accordance with their bylaws is to protect the interests of rightholders through the exercise of the right belonging to them as referred to above;
2. The legal persons referred to in paragraph 1 shall also be entitled to protect the interests of rightholders who have not instructed them to do so, where they are exercising the rights defined in their bylaws. Where there is more than one legal person whose aim according to their bylaws is to protect the interests of the same category of rightholders, the rightholder may designate one of them as being authorised to protect his interests.

In the case of rightholders who have not issued instructions as referred to in the second sentence, the rights and obligations arising from an agreement concluded in respect of the broadcast referred to in paragraph 1 by a legal person entitled to exercise the same rights shall fully apply;

3. Claims against the legal person referred to in paragraph 1 in respect of the remunerations it has collected shall lapse 3 years after the beginning of the day following that on which the broadcast referred to in paragraph 1 took place;
4. This article shall not apply to rights as referred to in paragraph 1 belonging to a broadcasting organization in respect of its own broadcasts.

#### **Article 26b**

Parties shall be obliged to conduct negotiations regarding consent for the simultaneous, unaltered and unabridged broadcasting, referred to in article 26a, paragraph 1, in good faith and shall not prevent or hinder negotiations without valid justification.

#### **Article 26c**

1. If agreement cannot be reached on the simultaneous, unaltered and unabridged broadcasting of a work as referred to in article 26a, paragraph 1, each party may call upon the assistance of one or more mediators. The mediators shall be selected in such a way that their independence and impartiality are beyond reasonable doubt;
2. The mediators shall assist in the conducting of the negotiations and shall be entitled to serve notice of the proposals to the parties. Each party may serve notice to the other party of its objections to such proposals within three months of the date of receipt of the proposals. The mediators' proposals shall be binding on the parties unless one of them has served notice of its objections within the time-limit referred to in the previous sentence. Notice of the proposals and the objections shall be served on the parties in accordance with the provisions of Book 1, Title 1, Part 1 of the Code of Civil Procedure.

#### **Article 27**

1. Notwithstanding the assignment of his copyright wholly or in part, the author shall retain the right to bring an action for damages against persons who infringe the copyright;
2. After the death of the author, the right to bring actions for damages as referred to in paragraph 1 shall belong to his successors or legatees until the copyright expires.

#### **Article 27a**

1. In addition to claiming damages, the author or his successor in title may request the court to order anyone who has infringed the copyright to hand over the profits originating from the infringement and to render account therefor;
2. The author or his successor in title may also file one or both of the claims referred to in paragraph 1 partly or wholly on behalf of a licensee without prejudice to the latter's right to intervene in proceedings instituted independently or partly or wholly 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 file one or both of the claims referred to in paragraph 1 only if he has obtained the authority to do so from the author or his successor in title.

#### **Article 28**

1. Copyright shall entitle the rightholder to claim as his property any goods that are not filed in the public records and which have been communicated to the public in violation of copyright or are unauthorised reproductions, or to apply for them to be destroyed or rendered useless. The rightholder may bring a claim for the handing over of the said goods so that they can be destroyed or rendered useless;
2. The same right to claim goods exists:
  - a. with respect to entrance money paid by persons attending a recitation, performance, exhibition or presentation which infringes copyright;
  - b. with respect to other monies that may be assumed to have been obtained by or as a result of an infringement of copyright.
3. The same right to apply for the destruction or rendering unusable of goods shall apply to goods that are not filed in the public records and which have been used to effect an infringement of copyright. The rightholder may apply for the handing over of the said goods so that they can be destroyed or rendered unusable;
4. The provisions of the Code of Civil Procedure concerning seizure and execution for the purposes of handing over goods that are not filed in the public records shall apply. In the event of cumulation of seizure the person seizing pursuant to this article shall take precedence;
5. The court may order that the handing over be conditional on payment by the plaintiff of a compensation to be determined by the court;
6. In the case of 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;
7. Unless otherwise agreed, the licensee shall have the right to exercise the rights referred to in paragraphs 1 up and to included 6 in so far as their purpose is to protect the rights he is entitled to exercise.

#### **Article 29**

1. The right referred to in article 28, paragraph 1, may not be exercised in respect of goods in the possession of persons who do not trade in such goods and who have obtained them exclusively for private use, unless they have infringed the copyright themselves;
2. The claim referred to in article 28, paragraph 6, may be made against the owner or holder of the goods that are guilty for the infringement of copyright concerned.

#### **Article 29a**

(deleted)

#### **Article 30**

If a person communicates a portrait to the public without being authorised to do so, the provisions of articles 28 and 29 on copyright shall apply with respect to the right of the person portrayed.

#### **Article 30a**

1. Acting as a commercial agent, for profit or otherwise, in matters of copyright in musical works shall be subject to the permission of Our Minister of Justice;
2. Acting as a commercial agent in matters of copyright in musical works shall include: the conclusion or carrying out, in the name of the agent or otherwise, on behalf of the authors of musical works or their successors in title, of agreements concerning the public performance or the broadcasting in a radio or television programme by signs, sounds or images of such works or reproductions thereof, wholly or in part;
3. The performance or broadcasting in a radio or television programme of dramatico-musical works, choreographic works and entertainments in dumb show, and reproductions thereof, where such works are played without being shown, shall be equated to the performance or broadcasting in a radio or television programme of musical works;
4. Agreements as referred to in paragraph 2 which are entered into without the permission of Our Minister required pursuant to paragraph 1 shall be null and void;
5. Further rules shall be laid down by order in council concerning inter alia the supervision of those who have obtained the permission of Our Minister of Justice. The costs of such supervision may be charged to them;
6. The supervision referred to in the preceding paragraph may only concern the way in which the agent carries out the tasks assigned to him. Interested parties shall be involved in the implementation of such supervision.

#### **Article 30b**

1. Upon the request of one or more commercial or professional organizations which Our Minister of Justice and Our Minister of Economic Affairs deem representative, which are legal persons with full legal capacity and whose aim is to protect the interests of persons who import into the Netherlands, communicate to the public or reproduce literary, scientific or artistic works on a professional or commercial basis, said Ministers may jointly provide that members of the profession or industry concerned, designated by them, are obliged to keep their records in a manner to be indicated by them;
2. A person who fails to fulfil the obligation referred to in the preceding paragraph is liable to a fine of the second category. Such failure shall constitute a lesser offence.

#### **Article 31**

A person who intentionally infringes another person's copyright is liable to a term of imprisonment of not more than six months or a fine of the fourth category.

#### **Article 31a**

A person who intentionally:

- a. publicly offers for distribution;
- b. has in his possession for the purpose of reproduction or distribution;

- c. imports, conveys in transit or exports; or
- d. keeps for profit.

an object containing a work infringing another person's copyright is liable to a term of imprisonment of not more than six months or a fine of the fourth category.

#### **Article 31b**

A person who commits the criminal offences referred to in articles 31 and 31a as his profession or business is liable to a term of imprisonment of not more than four years or a fine of the fifth category.

#### **Article 32**

A person who:

- a. offers for public distribution;
- b. has in his possession for the purpose of reproduction or distribution;
- c. imports, conveys in transit or exports; or
- d. keeps for profit.

an object having reasonable grounds to know that it contains a work which infringes another person's copyright is liable to a fine of the third category.

#### **Article 32a**

A person who intentionally:

- a. offers for public distribution;
- b. has in his possession for the purpose of reproduction or distribution;
- c. imports, conveys in transit or exports, or
- d. keeps for profit

any means designed exclusively to facilitate the removal or overriding, without the consent of the author or his successor in title, of a technical device for the protection of a work as referred to in article 10, paragraph 1, sub 12), is liable to a term of imprisonment of not more than six months or a fine of the fourth category.

#### **Article 33**

Acts defined in articles 31, 31a, 31b, 32 and 32a shall constitute serious offences.

#### **Article 34**

1. A person who intentionally makes any unlawful alterations in a literary, scientific or artistic work protected by copyright, or in its title or the indication of the author or impairs such a work in any other way that could be prejudicial to the name or reputation of the author or his dignity as such is liable to a term of imprisonment of not more than six months or a fine of the fourth category;
2. Such an act shall constitute a serious offence.

#### **Article 35**

1. A person who, without being authorised to do so, publicly exhibits a portrait or communicates it to the public in any other manner is liable to a fine of the fourth category;
2. Such an act shall constitute a lesser offence.

#### **Article 35a**

1. A person who, without having obtained the necessary permission from Our Minister of Justice, performs acts amounting to acting as a commercial agent as referred to in article 30a is liable to a fine of the fourth category;
2. Such an act shall constitute a lesser offence.

#### **Article 35b**

1. A person who intentionally furnishes false or incomplete information in a written application or submission on the basis of which the amounts due are determined by the person who, with the permission of Our Minister of Justice, acts as a commercial agent in matters of copyright on musical works, is liable to a term of detention of not more than three months or a fine of the third category;
2. Such an act shall constitute a lesser offence.

#### **Article 35c**

A person who intentionally omits a submission in writing to the legal person referred to in article 16d, paragraph 1, on the basis of which the amounts due pursuant to article 16c are determined or intentionally provides false or incomplete information in such a submission is liable to a term of detention of not more than three months or a fine of the third category. Such an act shall be deemed to constitute a lesser offence.

#### **Article 35d**

A person who intentionally omits a submission as referred to in article 15g or intentionally provides false information in such a submission shall be liable to a term of detention of not more than three months or a fine of the third category. Such an act shall be deemed to constitute a lesser offence.

#### **Article 36**

1. Reproductions declared forfeit by the criminal court shall be destroyed; the court may, however, provide in its judgment that they be handed over to the copyright owner if the latter applies to the office of the Clerk within one month of the judgment becoming final and conclusive;
2. Upon such handing over, ownership of the reproductions shall be assigned to the rightholder. The court may order that handing over be conditional on payment by the rightholder of a compensation that shall accrue to the State.

#### **Article 36a**

Investigating officers may at any time, for the purposes of investigating offences punishable under this Act, require access to any documents or other data carriers in the possession of

persons who in the exercise of their profession or business import into the Netherlands, communicate to the public or reproduce literary, scientific or artistic works, where inspection of such documents or data carriers may reasonably be deemed necessary for the performance of their duties.

#### **Article 36b**

1. Investigating officers shall be authorised, for the purposes of investigating offences punishable under this Act and seizing that what is subject to seizure, to enter any premises;
2. If they are denied access, they may effect entry, if necessary with the assistance of the police;
3. They shall not enter a house against the will of the occupant except on presentation of a special warrant in writing from or in the presence of a public prosecutor or an assistant public prosecutor. An official report of such entry shall be drawn up by them within twenty-four hours.

#### **Article 36c**

(deleted)

### **CHAPTER III DURATION OF COPYRIGHT**

#### **Article 37**

1. Copyright shall expire 70 years after 1 January of the year following the year of the death of the author;
2. The duration of the copyright belonging jointly to two or more persons in their capacity as co-authors of a work shall be calculated from 1 January of the year following the year of the death of the last surviving co-author.

#### **Article 38**

1. The copyright in a work of which the author has not been indicated or has not been indicated in such a way that his identity is beyond doubt shall expire 70 years after 1 January of the year following that in which the work was first lawfully communicated to the public;
2. The same shall apply to works of which a public institution, association, foundation or company is deemed the author, unless the natural person who created the work is indicated as the author on or in copies of the work which have been communicated to the public;
3. If the author discloses his identity prior to the end of the term referred to in paragraph 1, the duration of the copyright in the work concerned shall be calculated in accordance with the provisions of article 37.

#### **Article 39**

Copyright in works for which the duration of copyright is not calculated in accordance with article 37 and which have not been lawfully communicated to the public within 70 years from their creation shall expire.

#### **Article 40**

The copyright in a cinematographic work shall expire 70 years after 1 January of the year following the year of death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of the music created for use in the work.

#### **Article 41**

For the purposes of article 38, where a work is published in volumes, parts, instalments, issues or episodes, each volume, part, instalment, issue or episode shall be deemed a separate work.

#### **Article 42**

Notwithstanding the provisions of this chapter, the term of copyright which has already expired in the country of origin of the work may not be invoked in the Netherlands. The first sentence shall not apply to works whose author is a national of a Member State of the European Union or a State party to the Agreement on the European Economic Area of 2 May 1992.

### **CHAPTER IV**

#### **Articles 43-45**

(deleted)

### **CHAPTER V**

#### **SPECIAL PROVISIONS CONCERNING CINEMATOGRAPHIC WORKS**

##### **Article 45a**

1. Cinematographic work means a work consisting 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 articles 7 and 8, the natural persons who have made a contribution of a creative nature to the making of a cinematographic work shall be considered the authors of said work;
3. The natural or legal person responsible for the making of a cinematographic work with a view to its exploitation shall be considered the producer of the said work.

##### **Article 45b**

Where one of the authors is unwilling or unable to complete his contribution to the cinematographic work, he may not oppose the use by the producer of that contribution, in so far as it has already been created, for the purposes of completing the cinematographic work, unless otherwise agreed in writing. He shall be considered the author as meant in article 45a of the contribution that he has made.

#### **Article 45c**

A cinematographic work shall be deemed completed once it is ready for showing. Unless otherwise agreed in writing, the producer shall decide when the cinematographic work is ready for showing.

#### **Article 45d**

Unless otherwise agreed in writing by the authors and the producer, the authors shall be deemed to have assigned to the producer as from the time referred to in article 45c the right to communicate the work to the public, to reproduce it as meant in article 14, to add subtitles to it and to dub the dialogue. The above shall not apply to those who have composed music for use in the cinematographic work or those who have written the lyrics belonging to the music. The producer is indebted an equitable remuneration to the authors or their successors in title for all forms of exploitation of the cinematographic work. The producer is also indebted an equitable remuneration to the authors or their successors in title if he effects exploitation in a form that did not exist or was not reasonably foreseeable at the time referred to in article 45c or if he gives the right to effect such exploitation to a third party. The remunerations referred to in this article shall be agreed in writing. The right to an equitable remuneration for rental cannot be waived by the author.

#### **Article 45e**

In addition to the rights referred to in article 25, paragraph 1, sub b, c and d, each author shall be entitled, in relation to a cinematographic work to:

- a. have his name appear in the usual place in the work in question, together with his capacity or the nature of his contribution to the cinematographic work;
- b. require that the part of the film referred to sub b is shown;
- c. oppose to indication of his name in the cinematographic work, unless such objection would be unreasonable.

#### **Article 45f**

The author shall be assumed to have waived the right to oppose alterations as referred to in article 25, paragraph 1, sub c, to his contribution vis-a-vis the producer, unless otherwise agreed in writing.

#### **Article 45g**

Each author shall, unless otherwise agreed in writing, retain copyright in his contribution where the latter constitutes a work that can be separated from the cinematographic work. After the moment referred to in article 45c, each author may, unless otherwise agreed in writing, communicate his contribution to the public and reproduce it separately, provided that he does not thereby prejudice the exploitation of the cinematographic work.

### **CHAPTER VI**

### **SPECIAL PROVISIONS CONCERNING COMPUTER PROGRAMS**

#### **Article 45h**

The communication to the public by renting the whole or part of a work as referred to in article 10, paragraph 1, sub 12), or a reproduction thereof brought into circulation by or with the consent of the rightholder shall be subject to the consent of the author or his successor in title.

#### **Article 45i**

Without prejudice to the provisions of article 13, the reproduction of a work as referred to in article 10, paragraph 1, sub 12), shall include the loading, displaying, running, transmission and storage, in so far as these acts are necessary for the reproduction of the said work.

#### **Article 45j**

Unless otherwise agreed, the reproduction of a work as referred to in article 10, paragraph 1, sub 12) by the lawful acquirer of a copy of said work, where this is necessary for the use of the work for its intended purpose, shall not be deemed an infringement of copyright.

Reproduction, as referred to in the first sentence, in connection with loading, displaying or correcting errors cannot be prohibited by contract.

#### **Article 45k**

The reproduction of a work as referred to in article 10, paragraph 1, sub 12), by the lawful user of said work serving as a back-up copy, where this is necessary for the use of the work for its intended purpose, shall not be deemed an infringement of copyright.

#### **Article 45l**

A person who is entitled to perform the acts referred to in article 45i shall also be entitled, while performing them, to observe, study or test the functioning of the work concerned in order to determine the ideas and principles underlying it.

#### **Article 45m**

1. The making of a copy of a work as referred to in article 10, paragraph 1, sub 12), and the translation of the form of its code shall not be deemed an infringement of copyright if these acts are indispensable for obtaining information necessary to achieve the interoperability of an independently created computer program with other 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 to carry them out;
  - b. the information necessary to achieve interoperability is not already readily available to the persons referred to sub a.; and
  - c. these acts are limited to the parts of the original program which are necessary to achieve interoperability.
2. The information obtained pursuant to paragraph 1 may not:
  - a. be used for any other purpose than to achieve the interoperability of the independently created computer program;

- b. be given to third parties 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 other acts which infringe copyright.

#### **Article 45n**

Articles 16b, paragraph 1, and 17, paragraph 1, shall not apply to the works referred to in article 10, paragraph 1, sub 12).

### **CHAPTER VII**

#### **PROTECTION OF WORKS COMMUNICATED TO THE PUBLIC AFTER EXPIRY OF THE TERM OF PROTECTION**

#### **Article 45o**

1. Any person who, after the expiry of the term of copyright protection, for the first time lawfully communicates to the public a previously unpublished work shall enjoy the exclusive right referred to in article 1;
2. The right referred to in paragraph 1 shall expire 25 years after 1 January of the year following that in which the work concerned was lawfully communicated to the public for the first time;
3. The provisions of paragraphs 1 and 2 shall also apply to previously unpublished works which have never been protected by copyright, the author of which died more than 70 years ago.

### **CHAPTER VIII**

#### **TRANSITORY AND FINAL PROVISIONS**

#### **Article 46**

1. With the entry into force of this Act, the act of 28 June 1881 on copyright (Statute Book 124) is repealed;
2. However, article 11 of the latter Act remains in force in respect of works and translations deposited prior to the date of entry into force.

#### **Article 47**

1. This Act shall apply to all literary, scientific or artistic works published in the Netherlands for the first time or during the 30 days following first publication in another country, either before or after its entry into force, and to all such works not published, or not thus published, of which the authors are Dutch nationals;
2. For the purposes of the application of the preceding paragraph, authors who are not Dutch nationals but are normally resident in the Netherlands shall be equated with Dutch nationals in respect of unpublished works or works that have been published after the author has taken up residence in the Netherlands;

3. A work shall be deemed to have been published within the meaning of this article when it has appeared in print with the consent of the author or, in general, when a sufficient number of copies thereof, of whatever kind, have been made available with the consent of the author, to meet the reasonable needs of the public, given the nature of the work;
4. The performance of a dramatic, dramatico-musical or musical work, the showing of a cinematographic work, the recitation or broadcasting in a radio or television programme of a work and the exhibition of a work of art shall not be deemed a publication;
5. With regard to works of architecture and works of art constituting an integral part thereof, the construction of the work of architecture or the incorporation of the work of art shall be deemed a publication;
6. Without prejudice to the provisions of the preceding paragraphs, this Act shall apply to cinematographic works if the producer thereof has his registered office or normal place of residence in the Netherlands.

#### **Article 47a**

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

#### **Article 47b**

1. This Act shall apply to the broadcasting by satellite of a work incorporated in a radio or television programme if the act referred to in article 12, paragraph 7, takes place in the Netherlands;
2. This Act shall also apply to the broadcasting by satellite of a work incorporated in a radio or television programme if:
  - a. the act referred to in article 12, paragraph 7, takes place in a country that is not a Member State of the European Union or a State party to the Agreement on the European Economic Area of 2 May 1992;
  - b. the country where the act referred to in article 12, paragraph 7, takes place does not offer the level of protection provided for in chapter II of directive no. 93/83/EEC of the Council of the European Communities of 27 September 1993 on the coordination of certain rules concerning copyright and neighbouring rights applicable to satellite broadcasting and cable retransmission (OJ EC L 248); and
  - c. either the programme-carrying signals are transmitted to the satellite from an uplink station in the Netherlands or a broadcasting organization with its principal establishment in the Netherlands has commissioned the broadcasting and no use is made of an uplink station situated in a Member State of the European Union or a State party to the Agreement on the European Economic Area of 2 May 1992.

#### **Article 48**

This Act does not recognise copyright in works in which, at the time of its entry into force, copyright had expired under articles 13 or 14 of the Act of 28 June 1881 on copyright (Statute Book, 124) or in works in respect of which, on the said date, copyright had expired under article 3 of the Act of 25 January 1817 (Statute Book, 5) relating to the rights exercisable in the Netherlands in respect of the printing and publication of literary and artistic works.

#### **Article 49**

Copyright acquired under the Act of 28 June 1881 on copyright (Statute Book, 124) and kopijrecht or any right of this nature acquired under earlier legislation and maintained by the said Act shall continue after the entry into force of this Act.

#### **Articles 50-50b**

(deleted)

#### **Article 50c**

1. Anyone who, prior to 1 September 1912, without contravening the provisions of the Act of 28 June 1881 governing copyright (Statute Book, 124) or of any treaty, published in the Netherlands or in the Dutch East Indies a reproduction of a literary, scientific or artistic work, which did not constitute a reprinting of the whole or part of a work as referred to in article 10, paragraph 1 sub 1), 2), 5) or 7), shall 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 inheritance and shall be assignable wholly or in part. Article 47, paragraph 2, shall apply *mutatis mutandis*;
2. The court may, however, in response to a written application by the owner of the copyright in the original work, either abolish wholly or in part the right provided for in paragraph 1 or award the applicant compensation for the exercise of said right, in both cases in accordance with the provisions of the following two articles.

#### **Article 50d**

1. An application for the abolishment wholly or in part of the right referred to in article 50c may be made only if a new edition of the reproduction was published after 1 November 1915. Article 47, paragraph 2, shall apply *mutatis mutandis*;
2. The application shall be filed with the Arrondissementsrechtbank in Amsterdam before the end of the calendar year following that in which publication took place. The Clerk shall summon the parties to appear at a time to be determined by the court. The matter shall be heard in chambers;
3. The application for abolishment of this right shall only be granted if and in so far as the court is of the opinion that the moral interests of the applicant are being harmed by the distribution and sale of the reproduction. If the application has not been lodged by the author of the original work, the court shall refuse to grant it if it is satisfied that the author approved the said publication of the reproduction. The court shall 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 abolishment of the right would excessively injure the person exercising it in proportion to the interests of the applicant, which should be protected. If the court abolishes the said right wholly or in part, it shall specify the date on which the abolition shall enter into force;
4. In its decision the court shall make whatever provisions it deems fair in the light of the interests of both parties and third parties. The court shall estimate the costs to both parties and stipulate how the costs shall be borne by them. Decisions made by the court

pursuant to this article shall not be open to appeal. No court fees shall be charged in respect of the application of this article.

#### **Article 50e**

1. Compensation may be awarded for the exercise of the right referred to in article 50c only if a new edition of the reproduction was published after 1 May 1915. Article 47, paragraph 2, applies *mutatis mutandis*;
2. Paragraphs 2 and 4 of the preceding article apply.

#### **Article 50e**

(deleted)

#### **Article 51**

1. The terms of protection provided for in this Act shall apply, from the date on which this article enters into force, to works which were protected by national legislation on copyright on 1 July 1995 in at least one Member State of the European Union or one State party to the Agreement on the European Economic Area of 2 May 1992;
2. This Act cannot reduce a term of protection already in existence on the day before the date of entry into force of this article;
3. This Act does not affect lawful acts of exploitation carried out or rights acquired before the date of entry into force of this article;
4. Anyone who, prior to 24 November 1993, carried out lawful acts of exploitation in relation to a work, the term of protection for which had expired before the entry into force of this article and to which this Act again applies with the entry into force of this article, shall be entitled to continue such acts of exploitation with effect from the date of entry into force of this article;
5. Until they expire, rights which are revived or extended with the entry into force of this article shall be held by the person who would have been the last rightholder if the said rights had not been revived or extended, unless otherwise agreed.

#### **Article 52**

This Act may be cited as the Copyright Act 1912.

#### **Article 53**

This Act shall enter into force in the Kingdom in Europe on the first day of the month following that in which it is promulgated.

STATE GAZETTE NO.600 OF 1912