

ACT
of 4 February 1994
on Copyright and Related Rights ¹

Chapter 1
Subject Matter of Copyright

Article 1.

1. The subject matter of copyright is each individual creative work, embodied in any form, regardless of its value, designation, or medium of expression (work).
2. In particular, the subject matter of copyright encompasses:
 - 1) works expressed in words, mathematical symbols or graphic (literary, journalistic, scientific, cartographic and computer programs);
 - 2) artistic works;
 - 3) photographic works;
 - 4) works of string instrument craftsmanship;
 - 5) works of industrial design;
 - 6) works of architecture, urban architecture, and urban planning;
 - 7) musical works and textual and musical works;
 - 8) dramatic works, dramatic works with music, choreographic works, and pantomimes;
 - 9) audiovisual works (including motion pictures).
- 2¹. Protection shall only apply to the medium of expression; protection shall not extend to discoveries, ideas, procedures, methods and principles of operation or mathematical concepts.
3. A work is the subject matter of copyright from the moment it is fixed, even if it is unfinished.
4. An author is entitled to protection regardless of his compliance with any formal requirements.

Article 2.

1. A work deriving from another person's work, such as in particular translation, transformation or adaptation of an original work, is the subject matter of copyright, notwithstanding the right in the original work.
2. The use and disposition of a derivative work shall be subject to the permission of the author of the original work (derivative right) unless the author's economic rights to the original work have expired. In the case of databases that have the features of a work of authorship, the permission of the author of a database is also necessary to make a derivative work.
3. The author of an original work may withdraw his permission if a derivative work is not distributed within five years from the grant of the permission. The compensation paid to the author shall not be refundable.
4. A derivative work is not a work inspired by another person's work.
5. Copies of a derivative work shall present the name of the author and the title of the original work.

Article 3.

Collections, anthologies, selected works and databases that have the features of a work of authorship are the subject matter of copyright, even if they contain materials unprotected by copyright, if the resulting selection, arrangement, or compilation is of creative nature, notwithstanding the rights in the original works used.

Article 4.

The following are not the subject matter of copyright:

- 1) laws and draft laws;
- 2) official documents, materials, marks and symbols;
- 3) published descriptions of a patent or a subject matter of legal protection;
- 4) basic press information.

Article 5.

The provisions of this Act apply to works:

- 1) whose author or co-author is a Polish national, or
- 1¹) whose author is a national of a Member State of the European Union or a Member State of the European Free Trade Organisation (EFTA) - party to the Agreement on the European Economic Area, or
- 2) that were originally published in the territory of the Republic of Poland or were simultaneously published in that territory and abroad, or
- 3) that were originally published in Polish language, or

4) that are protected under international agreements, to the extent that they are protected by those agreements.

Article 6.

1. Within the meaning of this Act:

- 1) a published work means a work that has been reproduced and whose copies have been made available to the public with the author's permission;
- 2) simultaneous publication of a work means publication of the work in the territory of the Republic of Poland and abroad, within thirty days of its first publication;
- 3) a distributed work means a work that, with the author's permission, has been communicated to the public in any form;
- 4) broadcasting of a work means distribution of a work by wireless (terrestrial or satellite) or wired radio or television transmission;
- 5) rebroadcasting of a work means its distribution by an entity other than the original broadcaster by acquisition of an unabridged and unaltered broadcast of a broadcasting organisation and simultaneous and integral communication of that broadcast to the public;
- 6) marketing of a work means the making available of an original or copies of a work to the public by transfer of ownership by the rightholder or with the consent of the rightholder;
- 7) rental of copies of a work means making them available for use for a limited period and for direct or indirect financial advantage;
- 8) lending of copies of a work means making them available for use for a limited period and not for direct or indirect financial advantage;
- 9) replaying of a work means making it publicly available using sound, image or sound and image carriers on which the work is recorded, or using devices for receiving a radio or television programme in which the work is broadcast, or using devices enabling the use of a work made publicly available in a manner enabling everyone to access it from a place and at a time individually chosen by them;
- 10) technical protection means any technologies, devices or their components the purpose of which is to prevent or limit measures that enable illegal use or performance of works;
- 11) effective technical protection means technical protection that enable the rightholders to control the use of a protected work or performance through application of an access control or protection process, such as in particular encryption, scrambling or any other transformation of a work or performance, or a copy control mechanism that achieve the protection objective;
- 12) rights-management information means information that identifies the work, the author or the rightholder, or information concerning the terms and conditions of use of the work, if such information is enclosed to a copy of the work or provided in connection with its distribution, including any identification codes;
- 13) an educational institution means the organisational units referred to in Article 2 of the Education Law Act of 14 December 2016 (Journal of Laws of 2018, item 996, as amended), as well as schools, school complexes, and Polish schools referred to in Article 4 (29d) of that Act, as well as the non-commissioned officer schools and the training centres referred to in Article 127 (2) and (3) of the Act of 11 September 2003 on the Military Service of Professional Soldiers (Journal of Laws of 2019, items 330 and 730);
- 14) a collecting society shall be a collecting society within the meaning of Article 3 (2) of the Act of 15 June 2018 on the Collective Management of Copyright and Related Rights (Journal of Laws item 1293), hereinafter referred to as the "Act on the Collective Management of Copyright and Related Rights";
- 15) a collective management agreement shall be an agreement referred to in Article 29 of the Act on the Collective Management of Copyright and Related Rights;
- 16) a representation agreement shall be an agreement within the meaning of Article 3 (9) of the Act on the Collective Management of Copyright and Related Rights;
- 17) a competent copyright or related right collecting society is an organisation that manages collectively the rights of a rightholder on the basis of a collective management agreement or a representation agreement, and where the rightholder has not concluded any agreement with any organisation - an organisation representative for the given type of works or subject matters of related rights and categories of rightholders within a given field of use within the meaning of the Act on the Collective Management of Copyright and Related Rights;
- 18) a beneficiary is, regardless of any other dysfunction:
 - a) a blind person or
 - b) a visually impaired person whose visual impairment cannot be corrected to such an extent that the eyesight of this person would become essentially equivalent to the eyesight of the person without such dysfunction and who, therefore, is not able to read the works expressed in writing essentially to the same degree as a person without such dysfunction, or
 - c) a person with limited perception or reading ability who, therefore, is not able to read works expressed in writing essentially to the same degree as a person without such dysfunction, or
 - d) a person who due to any other physical dysfunction is not able to hold or use a book or focus their vision or move their eyes to a degree that would allow normal reading;
- 19) an authorised entity is a public finance sector entity, an educational institution, a university or a non-profit organisation of a public benefit activity which pursues activities related to education, training, adaptive reading or access to information to the benefit of beneficiaries as part of its statutory activity;
- 20) a copy of the work in the available format is a copy:
 - a) created as a result of an action necessary in order to ensure an equally effective and convenient access to the work for the beneficiary as the access enjoyed by a person without dysfunctions referred to in subparagraph 18,
 - b) made from a copy referred to in point a.

2. Each reference in this Act to an equivalent of an amount denominated in euro means its equivalent denominated in Polish zlotys calculated at the average euro exchange rate or its equivalent denominated in another currency, calculated at the average euro exchange rate and the average exchange rate of that other currency published by the National Bank of Poland on the day preceding a transaction.

Article 6¹.

1. Distribution of a work in the territory of the Republic of Poland by radio or television satellite broadcasting means distribution of the work in the territory of the Republic of Poland by and under the responsibility of a broadcasting organisation by transmitting it to the satellite and back to Earth.

2. If radio or television satellite broadcasting takes place in a state that is not a member of the European Union and if that state does not guarantee the level of protection determined in Chapter II of the 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 L 248 06.10.1993, p. 15; Polish special edition of OJ, Chapter 17, vol. 1, p. 134), and if:

- 1) if the signal carrying the work is transmitted to the satellite from an uplink station situated in the territory of the Republic of Poland, the work is deemed to have been distributed in the territory of the Republic of Poland by the operator of that station;
- 2) the signal carrying the work is transmitted to the satellite via an uplink station situated in the territory of a non-European Union member state, and distribution of the work is commissioned by a broadcasting organisation that is established in a Member State of the European Union and has its principal place of business in the territory of the Republic of Poland, the work is deemed to have been distributed in the territory of the Republic of Poland by that organisation.

3. If the signal carrying a work is encrypted in a way that prevents its unlimited public reception, distribution of the work within the meaning of paragraph 1 is conditional upon simultaneous provisions by the broadcasting organisation, or with its consent, of means for decrypting the signal.

4. A satellite means an artificial satellite of the Earth operating on frequency bands that, pursuant to the provisions of the Telecommunications Law Act of 16 July 2004 (Journal of Laws of 2018, items 1954 and 2354 and of 2019, items 643 and 730), are reserved for the broadcast of signals for reception by the public or are reserved for closed point-to-point communication, provided that in both cases reception of signals must take place in comparable circumstances.

Article 7.

If international agreements to which the Republic of Poland is a party provide for further reaching protection than the protection provided for of this Act the provisions of those agreements apply to unpublished works of Polish nationals or to works originally published in the territory of the Republic of Poland, or works simultaneously published in the territory of the Republic of Poland, or to originally published in Polish language.

Chapter 2 Rightholders

Article 8.

1. Unless otherwise provided for in this Act, the holder of copyright is the author.

2. It is assumed that the author is the person who is named as such on the copies of a work or whose authorship has otherwise been communicated to the public in association with distribution of a work.

3. By the time an author discloses his identity, he is represented by his producer or publisher in enforcement of his copyright, or if he has no producer or publisher - a competent collecting society.

Article 9.

1. Co-authors are joint copyright holders. It is assumed that their respective shares are equal. Each co-author may petition to the court to determine the ratio shares based on the respective creative contributions of each co-owner.

2. Each co-author may enforce copyright to his part of a work that has independent meaning, notwithstanding the rights of the other co-authors.

3. The consent of all co-authors is required to enforce copyright to the entire work. If such consent is not available, each co-author may petition to the court to resolve the issue, whereupon the court shall rule on the issue taking into account the interests of all co-authors.

4. Each co-author may pursue claims because of infringement of copyright to the entire work. All co-authors shall be entitled to the acquired benefit proportionally to the ratio of their respective shares.

5. The provisions of the Civil Code on fractional co-ownership apply accordingly to the economic rights of co-authors.

Article 10.

If authors combine their independent works for the purpose of joint distribution, each of them may request the other authors to grant permission for distribution of the resulting joint work, unless there are reasonable grounds to refuse the permission and the agreement does not stipulate otherwise. The provisions of Articles 9.2-9.4 apply accordingly.

Article 11.

Economic rights to a collective work, in particular an encyclopaedia or a periodical publication, are held by the producer or publisher, and to their respective parts that have independent meaning - by the respective authors. It is assumed that the producer or publisher hold the right to the title.

Article 12.

1. Unless otherwise provided for in this Act or an employment contract, the employer whose employee has created a work as part of his duties under the employment relationship acquires, upon acceptance of the work, all the economic rights of the author within the scope of the purpose of the employment contract and the unanimous intention of the parties.
2. If the employer does not undertake, within two years from the date of acceptance, distributing a work intended for distribution in accordance with the employment contract, the author may give the employer an additional period of time, communicated in writing, to distribute the work, failing which the rights acquired by the employer together with ownership of the material object in which the work is fixed shall return to the author, unless otherwise provided for in the employment contract. The parties may establish another time limit to undertake distribution of a work.
3. Unless otherwise provided for in an employment contract, upon acceptance of a work, the employer acquires ownership of the material object in which the work is fixed.

Article 13.

If the employer does not notify the author within six months from the delivery of a work that he rejects the work or conditions acceptance of the work on the author making certain modifications within a reasonable period of time set for that purpose, it is assumed that the work has been accepted without reservations. The parties may agree on a different time limit.

Article 14.

1. Unless otherwise provided for in an employment contract, a scientific institution has preferential right to publish a scientific work of its employee who has created that work as part of his duties under his employment relationship. The author is entitled to remuneration. The preferential right expires if no agreement to publish the work is executed with the author within six months of delivery of the work, or if the work is not published within two years from the date of its acceptance.
2. A scientific institution may, without separate remuneration, use the scientific material contained in a work referred to in paragraph 1 and make that work available to third persons, if it is in accordance with the agreed purpose of the work or if it is so agreed in the agreement.

Article 15.

It is assumed that the producer is the person who is named as such on the objects in which a work is fixed or whose identity as the producer has otherwise been communicated to the public in association with distribution of the work.

Article 15a.

1. A higher education institution shall have a priority right to publish a student's diploma work. If a higher education institution does not publish a diploma work within 6 months from the diploma defence, the author may publish it, unless the diploma work is a part of a collective work.
2. The entity referred to in Article 7.1 (1), (2), and (4) to (6) of the Act of 20 July 2018-The Law on Higher Education and Science (Journal of Laws item 1668, as amended) may use, without remuneration and without the need to obtain the author's consent, a work created by a student or a person seeking the degree of doctor as a result of the performance of obligations related to studying or preparing a doctoral dissertation, make such a work available to the minister responsible for higher education and science, and use works stored in databases maintained by the minister, for the purpose of checks with the use of the Single Anti-Plagiarism System.
3. The minister responsible for higher education and science may use diploma works and doctoral dissertations stored in databases maintained by the minister to the extent necessary to ensure the proper maintenance and development of those databases and the IT systems cooperating with them.

Chapter 3
Scope of Copyright

Subchapter 1
Moral Rights of the Author

Article 16.

Unless otherwise provided for in this Act, moral rights of the author protect the perpetual, inalienable, and non-transferable link between the author and his work and, in particular, his right:

- 1) of authorship;
- 2) to put his name or pseudonym on a work, or to communicate a work anonymously;
- 3) to protect the integrity of the content and form of a work and its fair use;
- 4) to decide to communicate a work to the public for the first time;
- 5) to monitor the use of a work.

Subchapter 2
Author's Economic Rights

Article 17.

Unless otherwise provided for in this Act, the author has the exclusive rights to use or dispose of a work in all fields of use, and to receive remuneration for the use of his work.

Article 17¹.

Adaptation or reproduction of a database that has the features of a work of authorship by a legal user of the database or a copy thereof does not require the permission of the author of the database, if such adaptation or reproduction is necessary to access the content of the database or to use that content in a normal manner. If a user is only authorised to use a part of a database, this provision applies only to that part of the database.

Article 18.

1. The Author's economic rights are not subject to execution for as long as they serve the author. This does not apply to matured debts.
2. After the author's death, his heirs may oppose to execution against copyright to an unpublished work, unless such opposition is contrary to the author's disclosed will concerning distribution of the work.
3. The right to the remuneration referred to in Articles 19.1, 19¹, 20.2 to 20.4, 20¹, and 70.2¹, may not be waived, transferred, or executed. This shall not apply to matured debts.
4. The right to the remuneration referred to in Article 28.4, to which entities referred to in Article 28.5 (1) to (3) are entitled, may not be transferred or executed. This shall not apply to matured debts.

Article 19.

1. In the case of professional resale of the originals of an artistic or photographic work, the author and his heirs are entitled to remuneration being the sum of the following rates:

- 1) 5 per cent of a part of the selling price, if that part ranges up to an equivalent of EUR 50 000, and
- 2) 3 per cent of a part of the selling price, if part price ranges between an equivalent of EUR 50 000,01 and an equivalent of EUR 200 000, and
- 3) 1 per cent of a part of the selling price, if that part ranges between an equivalent of EUR 200 000,01 and an equivalent of EUR 350 000, and
- 4) 0.5 per cent of a part of the selling price, if that part ranges between an equivalent of EUR 350 000.01 and an equivalent of EUR 500 000, and
- 5) 0.25 per cent of a part of the selling price, if that part ranges beyond an equivalent of EUR 500 000

- which, however, may not exceed an equivalent of EUR 12 500.

2. The provisions of paragraph 1 do not apply, if the selling price is less than an equivalent of EUR 100.
3. For the purpose of paragraph 1, originals of a work are:
 - 1) items made personally by the author;
 - 2) items considered originals, if they were made personally, in a limited number, by the author or under his supervision, and are numbered, signed or otherwise labelled by the author.

Article 19¹.

The author and his heirs are entitled to remuneration amounting to 5 per cent of the price of professionally resold manuscripts of literary and musical works.

Article 19².

1. For the purpose of Article 19.1 and Article 19¹, resale is each sale following the first disposal of a work by the author.
2. For the purpose of Article 19.1 and Article 19¹, professional resale is each resale performed as part of business activity by sellers, buyers, agents and other entities professionally trading in works of art or manuscripts of literary or musical work.

Article 19³.

1. A seller as referred to in Article 19².2 shall be obliged to pay the remuneration referred to in 19.1 and Article 19¹, and if he is acting on behalf of a third person professionally trading in works of art or manuscripts of literary or musical work, he is jointly and severally responsible with that third person.
2. A seller shall be obliged to disclose the identity of a person as referred to in paragraph 1. He may release himself from that obligation by paying the remuneration due.
3. The author of a work as referred to in Article 19.1 and Article 19¹ and his heirs may request the persons listed in paragraph 1 to provide information and documents required to specify the remuneration due on account of resale of the original or manuscript of a work over a period of 3 years from the day of resale.

Article 19⁴.

The sale prices defined in Article 19.1 and Article 19¹ are prices after deduction of the goods and services tax due on account of resale of the original or manuscript of a work.

Article 19⁵.

The provisions of Article 19-19⁴ apply also to the originals and manuscripts of works other than those listed in Article 5, whose authors reside in the territory of the Republic of Poland on the day of resale.

Article 20.

1. Producers and importers of:

- 1) magnetic tape recorders and players, video recorders and players, and other similar devices,
- 2) photocopiers, scanners and other similar reprographic devices that enable copying of the whole or part of a copy of a published work;
- 3) blank media for fixation, for private use, of works or the subject matter of related rights, using the devices listed in subparagraph 1 and 2

- shall be obliged to pay to collecting societies defined in accordance with paragraph 5, acting for authors, performers, producers of phonograms and publishers, fees not exceeding 3 per cent of the amount due on account of sale of those devices and media.

2. The amount generated by fees on the sale of tape recorders and players and other similar devices, and blank media associated with those devices shall be allocated as follows:

- 1) 50 per cent - to authors;
- 2) 25 per cent - to performers;
- 3) 25 per cent - to producers of phonograms.

3. The amount generated by fees on the sale of video recorders and players and other similar devices, and blank media associated with those devices shall be distributed as follows:

- 1) 35 per cent - to authors;
- 2) 25 per cent - to performers;
- 3) 40 per cent - to producers of phonograms.

4. The amount generated by fees on the sale of reprographic devices and blank media associated with those devices shall be distributed as follows:

- 1) 50 per cent - to authors;
- 2) 50 per cent - to publishers.

5. The minister in charge of culture and national heritage protection, having consulted collecting societies, associations of authors or performers, organisations of producers of phonograms or producers of videograms, or publishers as well as organisations of producers or importers of the devices or blank media referred to in paragraph 1 shall determine, by regulation: the categories of devices and media and the amount of the fees referred to in paragraph 1, taking into account the capacity of a device and medium to reproduce works as well as their other functions apart from the recording of works, a method for collecting and dividing the fees and the collecting societies competent to collect the fees.

Article 20¹.

1. Owners of reprographic devices engaged in business involving reproduction of works for private use by third persons shall be obliged to pay, via a collecting society, a fee amounting to 3 per cent of revenue earned therefrom to the benefit of authors and publishers, unless works are reproduced pursuant to an agreement with the rightholder. Such fees are allocated to authors and publishers in equal parts.

2. The minister in charge of culture and national heritage protection, having consulted collecting societies, associations of authors and performers as well as the competent chamber of commerce, shall determine, by regulation, the amount of the fees referred to in paragraph 1, taking into account the proportional share of works reproduced for private use in total reproduced works, a method for collecting and dividing the fees and the collecting societies competent to collect the fees.

Article 21.

1. A broadcasting organisation may broadcast minor published musical, textual, and textual and musical works only on the basis of an agreement concluded with a competent copyright collecting society, unless a broadcasting organisation has the right to broadcast works commissioned by that organisation under a separate agreement.

2. In an agreement with a broadcasting organisation, an author may resign from the agency of a collecting society referred to in paragraph 1. Such resignation shall only be valid if made in writing.

2¹. The provisions of paragraph 1 and 2 apply accordingly to communicating a work to the public in such a way that each person may access the work from a place and at a time individually chosen by him.

3. (repealed).

4. (repealed).

Article 21¹.

1. Cable operators may retransmit through cable networks works broadcast by other broadcasting organisations only based on an agreement concluded with a competent collecting society.

1¹. The obligation of intermediation of a competent collecting society referred to in paragraph 1 shall not apply to rights used by a radio or television broadcaster in relation to its own transmissions, regardless of whether the rights in question belong to that broadcaster or whether they were transferred to it by another rightholder.

2. In the case of any disputes related to the conclusion and the terms and conditions of the agreement referred to in paragraph 1, the provision of Article 85 of the Act on the Collective Management of Copyright and Related Rights shall apply.

Article 21².

1. A broadcasting organisation may, as part of its own archival broadcasts, broadcast works and make them publicly available in a manner enabling everyone to access them from a place and at a time individually chosen by them, and may reproduce them for the purposes of such use, exclusively on the basis of an agreement concluded with a competent copyright collecting society, unless a given broadcasting organisation has the right to such use under the statute or a separate agreement. The provision of Article 21.2 shall apply accordingly.
2. An own archival broadcast, as referred to in paragraph 1, shall be a broadcast produced by a given broadcasting organisation, ordered or commissioned by it or co-produced by it before 1 January 2003.

Article 21³.

Possessors of devices for receiving a radio or television programme may publicly replay works that are broadcast in it exclusively on the basis of an agreement concluded with a competent copyright collecting society, unless such works are replayed on the basis of a separate agreement.

Article 22.

(repealed).

Subchapter 3 Permitted Use of Protected Works

Article 23.

1. An already distributed work may be used gratuitously for private purposes without the author's permission. This provision does not authorise construction based on somebody else's work of architecture or urban architecture and use of electronic databases that have the features of a work, unless for the purposes of individual research not associated otherwise than with the aim of making a profit.
2. Use for private purposes includes use of individual copies of works by a group of related persons, in particular by relatives by blood, relatives by affinity, and friendship.

Article 23¹.

The author's consent is not required for a temporary reproduction, transient or incidental in nature, that has no independent economic significance and is an integral and essential part of a technological process whose sole purpose is to enable:

- 1) the transmission of a work in an information and communications technology system between third persons by an intermediary or
- 2) lawful use of the work.

Article 23².

1. Broadcasting organisations may, using their own resources, fix works for the purposes of their own broadcasts.
2. The fixations referred to in paragraph 1 shall be destroyed within one month from the date of expiration of the right to broadcast a work.
3. The provisions of paragraph 2 do not apply to fixations that are archival materials being part of the national archive resources.

Article 24.

1. Works broadcast by another broadcasting organisation by satellite or terrestrial transmission may be distributed using a community antenna and cable network within the framework of simultaneous, integral and gratuitous distribution of radio or television broadcast addressed to a defined group of recipients in the same building or in single-family houses including up to 50 households.
2. Owners of radio or television broadcast receivers may use them to receive transmitted works even if those receivers are located in public space, if this is not associated with gaining economic benefits.
3. (repealed).
4. (expired).

Article 25.

1. It is allowed to distribute, for information purposes, in the press, radio, and television:
 - 1) already distributed:
 - a) reports on current events,
 - b) current articles on political, economic or religious issues, unless it has been expressly stated that their further distribution is prohibited,
 - c) current statements or journalism photos;
 - 2) short extracts of reports and articles as referred to in subparagraph 1 (a) and (b);
 - 3) review of publications and distributed works;
 - 4) (repealed);
 - 5) brief summaries of distributed works.
2. The author is entitled to remuneration for the use of works as referred to in paragraph 1 (1) (b) and (c).
3. Both the original and translations of works may be distributed pursuant to paragraph 1.

4. The provisions of paragraph 1-3 apply accordingly to communicating a work to the public in such a way that each person may access the work from a place and at a time individually chosen by him, provided that if remuneration as referred to in paragraph 2 is not paid under an agreement with the rightholder, it shall be paid via the competent collecting society.

Article 26.

Reports on current events may quote works communicated during those events, however, only to the extent justified by the purpose of information.

Article 26¹.

Political speeches and speeches given in public trials, as well as fragments of public speeches, lectures, and sermons, can be used to the extent justified by the informative purpose. The provision does not give the right to the publication of collections of works of this type.

Article 27.

1. Educational institutions and the entities referred to in Article 7.1 (1), (2), and (4) to (8) of the Act of 20 July 2018-The Law on Higher Education and Science may, for the purpose of illustrating the content conveyed for educational purposes or for the purpose of conducting scientific activity, use the originals and translations of distributed works and reproduce for these purposes distributed minor works or parts of larger works.

2. In the case of making works publicly available in a manner enabling members of the public to access it from a place and at a time individually chosen by them, the use referred to in paragraph 1 is allowed only for a limited number of persons who are learners or who teach or conduct scientific research, identified by the entities listed in paragraph 1.

Article 27¹.

1. For educational and scientific purposes, distributed minor works or fragments of larger works may be quoted in textbooks, extracts from literature, and anthologies.

2. In the cases referred to in paragraph 1, the author shall be entitled to remuneration.

Article 28.

1. Educational institutions, universities, research institutes pursuing the activity referred to in Article 2.3 of the Act of 30 April 2010 on Research Institutes (Journal of Laws of 2018, items 736 and 1669 and of 2019, item 534), research institutes of *Polska Akademia Nauk* [the Polish Academy of Sciences] pursuing the activity referred to in Article 50.4 of the Act of 30 April 2010 on the Polish Academy of Sciences (Journal of Laws of 2018, items 1475 and 1669 and of 2019, item 534), libraries, museums, and archives may:

- 1) lend, as part of their statutory tasks, copies of distributed works,
- 2) reproduce works being part of their own collections for the purposes of supplementing, preserving, or protecting their own collections,
- 3) make their collections available for research or cognitive purposes via the end points (terminals) of information technology systems located on their premises

- if these activities are not for direct or indirect financial advantage.

2. The reproduction referred to in paragraph 1 (2) may not result in an increase in the number of copies of works and an expansion of their collections, lent and made available, respectively, pursuant to paragraph 1 (1) and (3).

3. The provision of paragraph 1 (3) shall not be applied if works are made available using the method described therein pursuant to a prior agreement with a rightholder.

4. For lending copies of works expressed in words, created or published in the Polish language in print, by public libraries within the meaning of the Act of 27 June 1997 on Libraries (Journal of Laws of 2018, items 574 and 1669), hereinafter referred to as "public libraries", remuneration specified and paid in accordance with Subchapter 4 shall be payable.

5. After the condition defined in Article 35².1 is met, the remuneration referred to in paragraph 4 shall be payable to:

- 1) an author of a work expressed in words, created and published in the Polish language;
- 2) a translator into Polish language of a work expressed in words, created in a foreign language and published in the Polish language;
- 3) a co-author of a work, as referred to in subparagraph (1), whose contribution is a graphic or photographic work;
- 4) a publisher of a work expressed in words and published in the Polish language.

6. The remuneration referred to in paragraph 4 shall not be payable for lending a copy of a work if it is to be used exclusively on the premises of a public library.

7. The provision of paragraph 4 shall not be applied to lending copies by the National Library.

Article 29.

Works constituting an independent whole may quote fragments of distributed works and entire distributed graphic works, photographic works, and minor works, to the extent that it is justified by the purpose of the quotation, such as explanation, polemics, critical or scientific analysis or teaching, or by the rights of an artistic genre.

Article 29¹.

Works may be used for the purposes of parody, pastiche, or caricature, to the extent that it is justified by the rights of these artistic genres.

Article 29².

A work may be unintentionally incorporated into another work, as long as the work incorporated has no significance for the work into which it has been incorporated.

Article 30.

(repealed).

Article 30¹.

Article 27¹ and Article 28 do not apply to databases having the features of a work.

Article 31.

1. Works may be used during religious ceremonies and official ceremonies organised by public authorities if this is not associated with obtaining a direct or indirect financial benefit.
2. Distributed works may be publicly performed or displayed free of charge using devices or mediums located at the same site as the audience during school and academic events, if this is not associated with obtaining a direct or indirect financial benefit and if the performers and the persons displaying the works do not receive remuneration.
3. The provisions of paragraphs 1 and 2 do not apply to using works during advertising, promotional, and electoral campaign events.

Article 32.

1. The owner of a copy of an artistic work may display the work in public, if such display is not associated with gaining economic benefits.
2. If a decision is made to destroy the original of an artistic work located in public space, the owner shall be obliged to submit an offer to sell the work to the author or his relatives, if it is impossible to contact the author in order to submit the offer to him. The upper limit of the price shall be determined by the value of materials. If sale is not possible, the owner shall enable the author to make a copy or - depending on the type of the work - relevant documentation.

Article 33.

The following may be distributed:

- 1) works permanently displayed at public roads, streets, or gardens, however not for the same use;
- 2) (repealed);
- 3) in encyclopaedias or atlases - published artistic or photographic works, if obstacles hindering attempts at contacting the author in order to receive his authorisation are hard to overcome. In such a case, the author is entitled to remuneration.

Article 33¹.

1. Already distributed works may be used for the benefit of disabled persons, if such use is directly associated with their disability, has non-profit nature and is limited to the extent justified by the nature of disability.
2. The use referred to in paragraph 1, consisting in the reproduction of works expressed in writing, mathematical symbols, graphic marks or notations as well as related artistic or photographic works, made publicly available in any way, and distribution of these works for the benefit of beneficiaries shall be carried out on the terms set out Subchapter 3a.

Article 33².

Works may be used for the purposes of public safety or administrative, court or employment proceedings, and reports on those proceedings.

Article 33³.

1. Works may be used for the purpose of advertising a publicly accessible exhibition or a public sale of works, to the extent justified by the promotion of that exhibition or sale and excluding other commercial use.
2. The use referred to in paragraph 1 concerns in particular publicly accessible exhibitions in museums, galleries, and exhibition halls, and includes using works in advertisements, catalogues, and other materials distributed to promote an exhibition or sale and exhibiting copies of works or making them available in any other manner for these purposes.

Article 33⁴.

Works may be used in association with presentation or repair of devices.

Article 33⁵.

A work in the form of a building, its drawing, plan, or another document may be used to reconstruct or renovate the building.

Article 34.

Works may be used within the limits of permitted use on condition of naming the author and the source. The author and the source shall be named taking into account the existing possibilities. The author is not entitled to remuneration, unless otherwise provided for in this Act.

Article 35.

Permitted use may not affect normal use of a work or the author's reasonable interests.

Subchapter 3a

Permitted use for the benefit of beneficiaries

Article 35a.

1. A beneficiary or a person acting on their behalf may reproduce works in order to make copies of works in available formats.
2. An authorised entity may:
 - 1) reproduce works for the purpose of making copies of works in available formats;
 - 2) disseminate copies of works in available formats, made independently or received from another authorised entity, among beneficiaries and authorised entities.
3. The activities referred to in paragraphs 1 and 2 may be performed solely for the purpose of ensuring that a beneficiary has equally effective and convenient access to the work as a person without dysfunctions referred to in Article 6.1 (18).
4. In the case of dissemination among beneficiaries referred to in paragraph 2 (2), the beneficiary shall prove the existence of circumstances referred to in Article 6.1 (18), in particular by means of a statement made in writing or as a document, submission of a medical certificate, a disability certificate or a certificate on the degree of disability.
5. The provisions of agreements concluded between the authorised entity who holds author's economic rights and the beneficiary, a person acting on their behalf or an authorised entity that are contrary to paragraph 1 or 2 shall be invalid.

Article 35b.

An authorised entity undertakes:

- 1) activities referred to in Article 35a.2 with due diligence and records their progress;
- 2) appropriate measures aimed to discourage unauthorised reproduction and dissemination of copies of works in available formats.

Article 35c.

1. An authorised entity shall make available on its website and update on an on-going basis:
 - 1) the list of works whose copies in available formats are held by the authorised entity and information on the types of these formats;
 - 2) names and contact details of authorised entities with whom the authorised entity exchanges copies of works in available formats;
 - 3) information on the manner in which duties referred to in Article 35b are performed.
2. The list, information, names and details referred to in paragraph 1 may be additionally provided in a manner customarily adopted for the relevant authorised entity.

Article 35d.

1. At the request of the beneficiary, authorised entity or holder of author's economic rights, an authorised entity shall provide the requesting entity with the list, information, names and details referred to in Article 35c.1 (1) and (2).
2. The list, information, names and details referred to in Article 35c.1 (1) and (2) shall be provided to the beneficiary in a form that enables the beneficiary to acquaint themselves with its content.

Article 35e.

1. When requested by an authorised entity, the minister responsible for culture and national heritage protection shall provide the European Commission with the name and contact details of that entity.
2. The minister responsible for culture and national heritage protection shall adjudicate, by way of a decision, that the entity reporting the name and contact details is not an authorised entity.

Subchapter 4

The Rules for the Determination and Payment of Remuneration for Lending Copies of Works by Public Libraries

Article 35¹.

1. Remuneration for lending copies of works, as referred to in Article 28.4, by public libraries, hereinafter referred to as "remuneration for lending", shall be paid by an organisation for collective management of copyright appointed by the minister responsible for culture and national heritage protection from co-financing funds provided to it by the minister responsible for culture and national heritage protection from the resources of *Fundusz Promocji Kultury* [the Culture Promotion Fund] referred to in Article 87 of the Gambling Act of 19 November 2009 (Journal of Laws of 2019, item 847).
2. The organisation for collective management, referred to in paragraph 1, is appointed by the minister responsible for culture and national heritage protection for a period of not more than five years, following a competition taking into account the following criteria:
 - 1) representativeness;

- 2) organisational capacity necessary for the fulfilment of the task in a manner ensuring effective collection and payment of remunerations for lending;
 - 3) effectiveness and correctness of operation;
 - 4) the reasonableness and amount of the planned costs of determining the amount of and paying remunerations for lending.
3. The minister responsible for culture and national heritage protection announces the competition referred to in paragraph 2 and its result in *Biuletyn Informacji Publicznej* [the Public Information Bulletin] on the minister's website.
 4. An organisation for collective management of copyright participating in the competition referred to in paragraph 2 may lodge to the minister responsible for culture and national heritage protection, within 7 days from the date of announcement of the result of that competition, an appeal against that result due to an infringement of a provision of law.
 5. The appeal referred to in paragraph 4 shall be examined by the minister responsible for culture and national heritage protection within 14 days from the date of its receipt. In the event of the appeal being upheld, the minister responsible for culture and national heritage protection shall cancel the competition referred to in paragraph 2.
 6. The co-financing for the payment of remuneration for lending, payable to the entities referred to in Article 28.5, shall be allocated for the payment of remuneration for lending and for covering reasonable and documented costs of determining the amount of and paying remuneration for lending.
 7. Co-financing for the payment of remuneration for lending in a given calendar year equals to 5% of the value of the purchases of library materials made by public libraries in the preceding calendar year, with 75% of that amount, after the deduction of costs of determining the value of and paying remuneration for lending, being paid to the entities referred to in Article 28.5 (1) to (3), and 25% being paid to the entities referred to in Article 28.5 (4).
 8. Co-financing for the payment of remuneration for lending shall be provided pursuant to an agreement concluded every year between the minister responsible for culture and national heritage protection and the organisation for collective management referred to in paragraph 1.
 9. The agreement referred to in paragraph 8 shall specify in particular:
 - 1) the amount of the co-financing allocated for the payment of remuneration for lending, with the costs of determining the amount of and paying that remuneration in a given year indicated;
 - 2) dates and procedures for the provision of the co-financing;
 - 3) an obligation of the organisation for collective management to undergo controls performed by the minister responsible for culture and national heritage protection;
 - 4) the method of settlement of the co-financing;
 - 5) the conditions under which and the method by which an unused or misused part of the co-financing is returned.
 10. Co-financing for the payment of the remuneration for lending in the part allocated for covering reasonable and documented costs of determining the amount of and paying the remuneration for lending, incurred by the organisation for collective management referred to in paragraph 1, may not, in a given calendar year, exceed 10% of the amount of the co-financing determined in accordance with paragraph 7.
 11. The minister responsible for culture and national heritage protection performs controls of fulfilment of the tasks related to the payment of remuneration for lending, comprising in particular the determination of the amount of the remuneration and the payment of that remuneration, the use of the co-financing provided for that purpose, and the maintenance of required documentation.

Article 35².

1. Remuneration for lending shall be payable after an entity referred to in Article 28.5 submits a written statement of intent to receive remuneration for lending, hereinafter referred to as "statement".
2. The statement is filed with the organisation for collective management referred to in Article 35¹.1. The statement produces effects in a given year if it is filed by 31 August of that year. A filed statement produces effects in the next years until it is withdrawn.
3. Within 14 days of the date of signature of the agreement referred to in Article 35¹.8, the organisation for collective management referred to in 35¹.1 publishes on its website, and the minister responsible for culture and national heritage protection publishes on the minister's website in *Biuletyn Informacji Publicznej* [the Public Information Bulletin], information about the possibility of filing statements.
4. The amount of remuneration for lending payable in a given calendar year to particular entities referred to in Article 28.5 is determined by the organisation for collective management referred to in Article 35¹.1, proportionally to the number of copies of works by those entities lent by public libraries in the preceding year and based on statements filed by those entities before 31 August of a given calendar year and in the previous years.
5. The amount of remuneration for lending, payable to an entity referred to in Article 28.5 (2) in a given calendar year, equals 30% of the amount of remuneration payable to the author of a work expressed in words created and published in the Polish language.
6. The maximum amount of remuneration for lending payable to an entity referred to in Article 28.5, for lending, in a given calendar year, copies of all works of that entity indicated in the statement, shall equal five times the average monthly remuneration in the business enterprise sector, including profit-sharing payments, for the last quarter of the preceding calendar year, announced by the President of *Główny Urząd Statystyczny* [the Central Statistical Office of Poland].
7. Remuneration for lending shall not be payable to an entity referred to in Article 28.5 in a given calendar year if, following the division of the amount referred to in Article 35³.2, the amount of the remuneration for lending copies of all works of that entity by public libraries payable to that entity is lower than one two hundredth of the average monthly remuneration referred to in paragraph 6.

Article 35³.

1. The basis for the calculation of the amount of remuneration for lending payable to particular entities referred to in Article 28.5 shall be information regarding the lending of copies of works in a given calendar year, provided by public libraries included in the list referred to in

Article 35⁴ (2) to the organisation for collective management referred to in Article 35¹.1 and to the minister responsible for culture and national heritage protection within 3 months from the end of the calendar year for which the remuneration for lending is being paid.

2. Based on the information referred to in paragraph 1, the organisation for collective management referred to in Article 35¹.1 shall divide proportionally the amount provided for remuneration for lending payable to particular entities referred to in Article 28.5, and subsequently, not later than by the end of a given calendar year, pays that remuneration.

Article 35⁴.

The minister responsible for culture and national heritage protection, after consultation with the organisation for collective management of copyright or related rights, associations of authors, public library organisations, and appropriate chambers of commerce, shall define, by way of a regulation:

- 1) the procedure for the division and payment of remuneration for lending, having regard to the number of times copies of works in public library collections were lent and the costs referred to in 35¹.9, as well as the need to ensure that the costs are reasonable and documented and that expenditure is carried out in an effective and transparent manner;
- 2) the scope of information referred to in 35³.1 and the list of public libraries obliged to provide that information, having regard to the need to estimate the number of times copies of works in public library collections were lent, taking into account the influence of the geographical criterion, including the size of localities in which the public libraries indicated operate, on differences in that number;
- 3) the required scope of information included in the statement referred to in Article 35².1, having regard to the need to provide the organisation for collective management referred to in Article 35¹.1 with data enabling it to pay the remuneration for lending, including the name and surname or pseudonym of the author or the name of another entity referred to in Article 28.5, and the number of the bank account to which the remuneration is to be paid;
- 4) the required scope of information to be included in the notice of the competition referred to in Article 35¹.2, having regard to the fact that the minimum scope of such information is to comprise at least the conditions for participation in the competition, the time limit for the submission of offers, and the criteria for offer assessment;
- 5) the scope of competition documentation, having regard to the fact that the scope of such documentation is to determine at least the conditions for participation in the competition referred to in Article 35¹.2, the requirements that need to be met by offers, and the criteria for offer assessment;
- 6) the competition procedure, having regard to the transparency, reliability, and objectivity of that procedure.

Subchapter 5

Permitted Use of Orphan Works

Article 35⁵.

1. Orphan works are:

- 1) works published in books, daily newspapers, periodicals, or other forms of publication in print,
- 2) audiovisual works and works ordered or incorporated into audiovisual works or fixed in videograms, within the scope of using an audiovisual work or a videogram as a whole,
- 3) works fixed in phonograms

- being part of the collections of entities referred to in paragraph 2, if the rightholders, having the author's economic rights to those works within the fields of use listed in paragraph 2, have not been identified or located despite the search referred to in Article 35⁶ being carried out.

2. Archives, educational institutions, universities, research institutes pursuing the activity referred to in Article 2.3 of the Act of 30 April 2010 on Research Institutes, research institutes of *Polska Akademia Nauk* [the Polish Academy of Sciences] pursuing the activity referred to in Article 50.4 of the Act of 30 April 2010 on the Polish Academy of Sciences, libraries and museums, as well as cultural institutions whose statutory task is to assemble, protect, and popularise collections of film or phonographic heritage, and public-service broadcasting organisations, may reproduce published orphan works, and in the absence of publication - works broadcast for the first time in the territory of the European Union or the European Economic Area, and may make them publicly available in a manner enabling members of the public to access it from a place and at a time individually chosen by them.

3. The use of orphan works pursuant to paragraph 2 is allowed for the purposes of fulfilment of the statutory tasks, being in the public interest, of the entities listed in paragraph 2, in particular for the purpose of preserving, renewing, or making available works being part of their collections for cultural and educational purposes. The entities may earn revenues from such use as long as such revenues are earmarked for covering the direct costs of digitisation of orphan works and making them publicly available.

4. It is also allowed, in accordance with paragraph 2, to use orphan works which have not been published or broadcast, if with the consent of the rightholders that had the author's economic rights to such works within the fields of use listed in paragraph 2 the works have been made publicly available by one of the entities listed in paragraph 2, as long as it can be assumed that the rightholders would not object to such use.

5. If there is more than one rightholder having the author's economic rights to an orphan work, within the fields of use listed in paragraph 2, the work is considered as orphan in respect of the rights of the rightholders that have not been identified or located despite the search referred to in Article 35⁶ having been carried out. The use of such a work pursuant to paragraph 2 is allowed on condition that the consent of the other identified and located rightholders, having the author's economic rights to that work within the fields of use referred to in paragraph 2, is obtained.

6. In the case of public-service broadcasting organisations, the provisions of this Subchapter apply to works referred to in paragraph 1 (2) and (3) which were produced, ordered, or commissioned by those organisations or co-produced with those organisations before 1 January 2003, in order for the organisations to acquire exclusive rights.

7. The provisions of Article 34 sentence one and two and of Article 35 shall apply to the use of orphan works pursuant to paragraph 2.

Article 35⁶.

1. Before using a work that can be considered an orphan work, the entities listed in Article 35⁵.2 shall carry out carefully and in good faith a search of each of the rightholders that have the author's economic rights to that work within the fields of use listed in Article 35⁵.2, consisting in consulting sources appropriate for the category of works in question for information about those rightholders, hereinafter referred to as "diligent search".

2. A diligent search shall be carried out in that Member State of the European Union or member state of the European Free Trade Agreement (EFTA) - party to the European Economic Area (EEA) Agreement, in which the work was published for the first time, and in the absence of publication - broadcast for the first time.

3. In the case of an audiovisual work, diligent search shall be carried out in that Member State of the European Union or member state of the European Free Trade Agreement (EFTA) - party to the European Economic Area (EEA), in which the headquarters or habitual residence of the producer is located.

4. In the case of the works referred to in Article 35⁵.4, diligent search shall be carried out in that Member State of the European Union or member state of the European Free Trade Agreement (EFTA) - party to the European Economic Area (EEA), in which the headquarters of the entity that made the work in question publicly available is located.

5. If it becomes probable during a diligent search that information about the rightholders referred to in paragraph 1 may be found in countries other than those specified in paragraphs 2 to 4, appropriate sources in those countries need to be consulted for such information.

6. The entities listed in 35⁵.2 may commission a diligent search from a third party, including an organisation for collective management of copyright or related rights.

7. Diligent search shall be considered as carried out in respect of works that have been listed as orphan works in the database referred to in Article 35⁷.1.

8. The entities listed in Article 35⁵.2 keep records confirming that a diligent search has been carried out.

9. The minister responsible for culture and national heritage protection, after consultation with the organisation for collective management of copyright or related rights, associations of authors, performers, and producers, and nationwide organisations of entities referred to in Article 35⁵.2, shall define, by way of a regulation:

1) the list of sources that need to be checked as part of a diligent search, comprising at least the sources listed in the Annex to Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5), taking into account the need for a diligent search to be carried out carefully and the availability of information on rightholders in particular sources;

2) the method of documentation of information on the results of diligent searches by the entities listed in Article 35⁵.2, taking into account the need to ensure a uniform standard of diligent search documentation.

Article 35⁷.

1. Upon application of an entity listed in Article 35⁵.2, made before using an orphan work, the minister responsible for culture and national heritage protection shall register that entity in an orphan work database maintained by the Office for Harmonization in the Internal Market as part of the European Observatory on Infringements of Intellectual Property Rights.

2. The minister responsible for culture and national heritage protection shall declare, by way of a decision, that the applicant is not one of the entities listed in Article 35⁵.2, which are authorised to use an orphan work.

3. Entities listed in Article 35⁵.2 that are registered in the database referred to in paragraph 1 communicate to the minister responsible for culture and national heritage protection and enter into that database information on:

1) the results of the diligent searches that the entities have carried out;

2) the use that the entities make of orphan works;

3) any changes in the orphan work status, in accordance with Article 35⁸;

4) their contact details.

4. The applications and information referred to in paragraphs 1 and 3 shall be provided by means of an ICT system used to operate the database referred to in paragraph 1.

Article 35⁸.

1. A rightholder that has, within the fields of use listed in Article 35⁵.2, the author's economic rights to a work considered to be orphan may request the entity that entered that work into the database referred to in 35⁷.1 or its legal successor to acknowledge the expiry of the orphan work status of the work to the extent to which the rightholder demonstrates his or her rights to that work.

2. The admissibility of use of an orphan work pursuant to Article 35⁵.2 shall cease if the orphan work status of the work has been acknowledged as expired within the scope of the rights of a given rightholder and if information on this fact has been entered into the database referred to in Article art. 35⁷.1.

3. If the request of a rightholder referred to in paragraph 1 who has demonstrated his or her rights to an orphan work is not accepted within the period of a month from the date of its service, the admissibility of use of the orphan work by the entity to which the request is addressed shall cease on the date of expiry of that period.

4. If the entity which entered an orphan work into the database referred to in 35⁷.1 no longer exists and has no legal successor, the rightholder referred to in paragraph 1 may submit to the minister responsible for culture and national heritage protection a request for acknowledgement of the expiry of the orphan work status of the work to the extent to which the rightholder demonstrates his or her rights to that work. The refusal to acknowledge the expiry of the orphan work status of a work shall take place by way of a decision. The provision of paragraph 3 shall not apply.
5. The rightholder referred to in paragraph 1 may request from an entity listed in Article 35⁵.2 a fair compensation for the use of the rightholder's work as an orphan work. The amount of the compensation shall take into account the nature and scope of the use of that work, the amount of revenues earned pursuant to Article 35⁵.3 sentence two, and the harm caused to the rightholder in relation to that use.

Article 35⁹.

The provisions of Subchapter 5 shall not apply in the case referred to in Article 8.3.

Subchapter 6
Certain Uses of Commercially Unavailable Works

Article 35¹⁰.

1. Commercially unavailable works are works published in books, daily newspapers, periodicals, or other forms of publication in print that are not commercially available for recipients with the consent of the rightholders having the author's economic rights to those works within the fields of use listed in paragraph 2, are not available in the form of copies placed on the market in a number meeting reasonable needs of recipients, and are not made available to the public in a manner enabling members of the public to access them from a place and at a time individually chosen by them. Trading in copies of works for which the exhaustion of the right referred to in Article 51.3 has occurred shall not be taken into account in the determination of work availability.
2. Archives, educational institutions, the entities referred to in Article 7.1 (1), (2), and (4) to (8) of the Act of 20 July 2018-The Law on Higher Education and Science, and cultural institutions may, on the basis of an agreement concluded with an organisation for collective management of copyright designated by the minister responsible for culture and national heritage protection, reproduce commercially unavailable works being part of their collections that were published in the territory of the Republic of Poland for the first time before 24 May 1994 and may make them publicly available in a manner enabling anyone to access them from a place and at a time individually chosen by them. The provision of Article 35⁵.3 shall apply accordingly.
3. The organisation for collective management referred to in paragraph 2 shall be considered authorised to manage the rights of the rightholders referred to in paragraph 1 who have not granted such authorisation to that organisation if a work is put on the list of commercially unavailable works and the rightholders do not file with that organisation a written objection to the management of their rights by that organisation within 90 days from the date of revealing the entry.
4. The rightholders referred to in paragraph 1 who have not filed an objection in accordance with paragraph 3 may, after the lapse of the period specified in that provision, waive the agency of the organisation for collective management referred to in paragraph 2 in respect of certain works by filing with that organisation a written statement on the cessation of the authorisation referred to in paragraph 3 with three months' notice, with effect at the end of a given calendar year. Written notification of such a statement is given by the organisation without delay to the minister responsible for culture and national heritage protection and the entities referred to in paragraph 2 with which the organisation has concluded agreements concerning such works.
5. The provisions of paragraphs 1 to 4 shall not apply to translations into the Polish language of works expressed in words that were created in a foreign language.

Article 35¹¹.

1. A list of commercially unavailable works, hereinafter referred to as "list of works", shall be drawn up and maintained in an ICT system. The list of works shall be maintained by the minister responsible for culture and national heritage protection.
2. The list of works includes the following information:
- 1) the title of work;
 - 2) the name and surname or the pseudonym of the author or a mention of anonymity;
 - 3) the publisher of work;
 - 4) the date of the first publication of work;
 - 5) an indication of the organisation for collective management of copyright that filed the application for the inclusion of a given work in the list;
 - 6) information about the filing of the objection referred to in Article 35¹⁰.3 or the statement referred to in 35¹⁰.4, with indication of the date from which it is effective, and information about the withdrawal of such an objection or statement.
3. The list of works shall be public and freely available in *Biuletyn Informacji Publicznej* [the Public Information Bulletin] on the website of the minister responsible for culture and national heritage protection.
4. Inclusion in the list of works shall be effected upon application of the organisation for collective management referred to in Article 35¹⁰.2. Immediately after the receipt of the objection referred to in Article 35¹⁰.3 or the statement referred to in 35¹⁰.4, the organisation for collective management referred to in Article 35¹⁰.2 files an application for the inclusion of information on this fact in the list of works.
5. If an application for inclusion in the list of works does not contain all information listed in paragraph 2 (1) to (5), the minister responsible for culture and national heritage protection calls upon the applicant to complete the application within a period of not less than 7 days, on pain of the return of the application.

6. The minister responsible for culture and national heritage protection shall define, by way of a regulation, a specimen application for inclusion in the list of works, having regard to the information specified in paragraph 2 and the need for the uniformity of filed applications.

Article 35¹².

1. The organisation for collective management referred to in Article 35^{10.2} shall be appointed by the minister responsible for culture and national heritage protection for a period of not more than five years, following a competition taking into account the following criteria:

- 1) representativeness;
- 2) organisational capacity necessary for the determination of work availability referred to in Article 35^{10.1};
- 3) organisational capacity necessary for effective payment and settlement of remunerations;
- 4) effectiveness and correctness of operation;
- 5) reasonableness of the planned costs of management of rights to commercially unavailable works, and their amount.

2. The minister responsible for culture and national heritage protection may, by way of the competition referred to in paragraph 1, appoint more than one organisation for collective management of copyright on condition that they operate jointly.

3. The minister responsible for culture and national heritage protection announces the competition referred to in to in paragraph 1 in *Biuletyn Informacji Publicznej* [the Public Information Bulletin] on the minister's website.

4. An organisation for collective management of copyright participating in the competition referred to in paragraph 1 may lodge to the minister responsible for culture and national heritage protection, within 7 days from the date of announcement of the result of that competition, an appeal against that result due to an infringement of a provision of law.

5. The appeal referred to in paragraph 4 shall be examined by the minister responsible for culture and national heritage protection within 14 days from the date of its receipt. In the event of the appeal being upheld, the minister responsible for culture and national heritage protection shall cancel the competition referred to in paragraph 1.

6. The minister responsible for culture and national heritage protection, after consultation with the organisation for collective management of copyright, shall define, by way of a regulation:

- 1) the required scope of information to be included in the notice of the competition referred to in paragraph 1, having regard to the fact that the minimum scope of such information is to comprise at least the conditions for participation in the competition, the time limit for the submission of offers, and the criteria for offer assessment;
- 2) the scope of competition documentation, having regard to the fact that the scope of such documentation is to determine at least the conditions for participation in the competition referred to in paragraph 1, the requirements that need to be met by offers, and the criteria for offer assessment;
- 3) the competition procedure, having regard to the transparency, reliability, and objectivity of that procedure.

Chapter 4

Duration of Author's Economic Rights

Article 36.

Subject to the exceptions provided for in this Act, author's economic rights expire after the lapse of seventy years:

- 1) from the death of the author, and in the case of works of joint authorship - from the death of the last surviving co-author;
- 2) in the case of a work whose author is not known - from the date of the first distribution, unless the pseudonym adopted by the author leaves no doubt as to his identity, or unless the author has disclosed his identity;
- 3) in the case of a work the economic rights to which are vested, by operation of this Act, in a person other than the author - from the date of distribution of the work, or if the work has not been distributed - from the date of its creation;
- 4) in the case of an audiovisual work - from the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue, the composer of music created for use in the audiovisual work;
- 5) in the case of a textual and musical work, if the textual work and the musical work were created especially for the given textual and musical work - from the death of the later deceased of the following persons: the author of the textual work or the composer of the musical work.

Article 37.

Where the term of expiry of author's economic rights begins upon distribution of a work and the work is distributed in parts, instalments, issues or episodes, the term of expiry runs for each such item separately/

Article 38.

(repealed).

Article 39.

The duration of author's economic rights is calculated in full years following that in which an event that gave rise to the terms defined in Article 36 and Article 37 took place.

Article 40.

(repealed).

Chapter 5

Transfer of Author's Economic Rights

Article 41.

1. Unless otherwise provided for in this Act:

- 1) author's economic rights may be transferred to other persons by way of inheritance or pursuant to an agreement;
- 2) In the absence of specific contractual provisions, the acquirer of author's economic rights may transfer those rights to other persons.

2. An agreement to transfer author's economic rights or an agreement to use a work, hereinafter referred to as a "licence", covers the fields of use explicitly named therein.

3. An agreement shall be invalid to the extent that it concerns all the works or all the works of a specific type that will be created by the same author in the future.

4. An agreement may concern only those fields of use that are known at the time of its conclusion.

5. The author of a work used or incorporated in an audiovisual work or of a work forming part of a collective work may not, after emergence of new forms of use of works, refuse without just cause his permission to the use of that work in the audiovisual work or collective work in the fields of use unknown upon conclusion of an agreement.

Article 42.

If the economic rights of one of co-authors are to be transferred to the State Treasury as the statutory heir, that part is transferred to the surviving co-authors or their legal successors proportionally to the value of their respective shares.

Article 43.

1. Unless an agreement provides for gratuitous transfer of author's copyright or gratuitous grant of a license, the author is entitled to remuneration.

2. If an agreement does not establish the amount of the author's remuneration, the amount of the remuneration is determined taking into account the extent of the right granted and the benefits associated with the use of the work.

Article 44.

In the case of gross disproportion between the author's remuneration and the benefits of the acquirer of the author's economic rights or the licensee, the author may request his remuneration to be adequately raised by a court.

Article 45.

In the absence of specific contractual provisions, the author shall be entitled to separate remuneration for the use of a work in each separate field of use.

Article 46.

In the absence of specific contractual provisions, the author maintains the exclusive right to authorise enforcement of derivative copyright, even if the agreement provides for the transfer of the author's entire economic right.

Article 47.

If the author's remuneration depends on the value of receipts for the use of a work, the author shall be entitled to receive information and review, to the extent necessary, any documentation that is of major importance for determining the amount of that remuneration.

Article 48.

1. If the author's remuneration is expressed as a percentage of the selling price of a copy of a work and if that price is increased, the author shall be entitled to the agreed percentage of the copies sold at the increased price.

2. Unilateral reduction of the selling price of copies of a work before the lapse of one year from the commencement of distribution of the work does not affect the value of remuneration. The parties may extend that period.

Article 49.

1. If an agreement does not specify the form of use of a work, the work shall be used in accordance with the nature and intended use of the work as well as customary practice.

2. A legal successor, even if he has acquired the author's entire economic rights, may not without the author's consent make any changes in a work, unless those changes are evidently necessary and the author would not have a just cause to object to them. This applies accordingly to works whose term of protection of author's economic rights has expired.

Article 50.

Separate fields of use shall be in particular:

- 1) with respect to fixing and reproducing a work - using a specific technique to make copies of the work, including printing, reprographic, magnetic recording and digital technique;
- 2) with respect to trading in an original or copies of the object on which a work is fixed - marketing, lending or rental of the original or copies;
- 3) with respect to other forms of distribution of a work than that referred to in subparagraph 2 - public performance, display, screening, replaying and broadcasting and rebroadcasting as well as communicating a work to the public in such a way that each person may access the work from a place and at a time individually chosen by him.

Article 51.

1. (expired).
2. (expired).
3. Marketing of an original or copy of a work in the territory of the European Economic Area exhausts the right to authorise further trading in that copy in the territory of the Republic of Poland, except rental or lending.

Article 52.

1. In the absence of specific contractual provisions, transfer of ownership of a copy of a work does not cause transfer of author's economic rights to the work.
2. In the absence of specific contractual provisions, transfer of author's economic rights does not cause transfer of ownership of a copy of a work.
3. The acquirer of the original of a work shall be obliged to make it available to the author to the extent necessary to enforce his copyright. However, the acquirer of the original of a work may request the author to provide adequate security and remuneration for use.

Article 53.

An agreement to transfer author's economic rights shall only be valid if made in writing.

Article 54.

1. The author shall deliver his work within the time limit established in an agreement, or, if no time limit is established in an agreement - immediately upon completion of the work.
2. If the author fails to deliver his work within the established time limit, the commissioning party may set a reasonable additional time limit the non-observance of which may lead to his withdrawal from the agreement, and withdraw from the agreement if the author fails to comply with that additional time limit.

Article 55.

1. If a commissioned work contains defects, the commissioning party may set a reasonable time limit for the author to remove the defects, and if the author fails to comply with that time limit, the commissioning party may withdraw from the agreement or request appropriate reduction of the agreed remuneration, unless the defects are due to circumstances beyond the author's control. In any case, the author maintains his right to the part of remuneration already received by him, not higher than 25 per cent of the contractual remuneration.
2. If a work contains legal defects, the commissioning party may withdraw from the agreement and request redress of the damage suffered.
3. Claims as referred to in paragraph 1 expire upon acceptance of the work.
4. If the commissioning party does not notify the author within six months from the delivery of a work that he accepts or rejects the work, or conditions acceptance of the work on the author making certain modifications within a reasonable period of time set for that purpose, it is assumed that the work has been unconditionally accepted. The parties may agree on a different time limit.

Article 56.

1. The author may withdraw from or terminate an agreement for reasons of his important artistic interests.
2. If, within two years from withdrawal from or termination in accordance with paragraph 1, the author intends to start using his work, he shall offer that use to the acquirer or licensee, granting him a reasonable period of time for that purpose.
3. If withdrawal from or termination of an agreement takes place after acceptance of a work, the other party may condition effectiveness of withdrawal or termination on securing the costs incurred by that party in association with the agreement. However, reimbursement of costs may not be requested if failure to distribute the work is due to circumstances beyond the author's control.
4. The provisions of paragraph 1 do not apply to works of architecture or urban architecture, audiovisual works and works commissioned within the framework of their use in an audiovisual work.

Article 57.

1. If the acquirer of author's economic rights or licensee who have undertaken to distribute a work do not start distributing the work within the agreed time limit, and if no time limit has been established - within two years from acceptance of the work, the author may withdraw from or terminate the agreement and request redress of damage if the work is not distributed within an additional time limit no shorter than six months.

2. If, as a result of circumstances for which the acquirer or the licensee are responsible, a work is not communicated to the public, the author may request, instead of redress of the damage suffered, double the value of the remuneration established in the agreement to distribute the work, unless the license is non-exclusive.
3. The provisions of paragraph 1 and 2 do not apply to works of architecture or urban architecture.

Article 58.

If a work is communicated to the public in a wrong form or with such modifications that the author may reasonably object to, he may, if the breach is not repaired despite his request, withdraw from or terminate the agreement. The Author shall be entitled to the remuneration determined by the agreement.

Article 59.

Unless otherwise provided for in this Act each party withdrawing from or terminating an agreement may request the other party to return everything received under the agreement.

Article 60.

1. The user of a work shall enable the author, before distribution of the work, to review the work. If changes made in the work as a result of the author's review are necessary and are due to circumstances beyond the author's control, the costs of making those changes shall be charged to the acquirer of the author's economic rights or the licensee.
2. If the author does not review a work within the appropriate time limit, it is assumed that he has given his consent to distribution of the work.
3. Unless otherwise provided for in this Act or in an agreement, the author is not entitled to separate remuneration for reviewing a work.
4. The author of an artistic work has the right to remuneration for reviewing his work.
5. The author's supervision of works of architecture or urban architecture is governed by separate provisions.

Article 61.

In the absence of specific contractual provisions, acquisition from the author of a copy of an architectural design or urban architectural design acquires the right to use it only for one construction.

Article 62.

1. The author may include in a collective publication of his works the works for whose publication he has concluded a separate agreement.
2. An agreement for publication of a collection of works shall not include the right to publish the respective works, unless otherwise provided for in the agreement.

Article 63.

If an agreement covers the making of copies to be made available to the public the author shall be entitled to a number of copies determined in the agreement.

Article 64.

An agreement imposing the obligation to transfer author's economic rights transfers to the acquirer, upon his coming into possession of a work, the exclusive right to use the work in the field of use determined in the agreement, unless otherwise provided for in the agreement.

Article 65.

If the transfer of a right is not explicitly provided for in an agreement, it is assumed that the author has granted a license.

Article 66.

1. A license agreement authorises the use of a work over a period of five years in the territory of the state where the licensee is incorporated, unless otherwise provided for in the agreement,
2. The right acquired under a license agreement expires after the end of the time limit referred to in paragraph 1.

Article 67.

1. The author may authorise the use of a work in the fields of use determined in an agreement, specifying the scope, place, and time of that use.
2. If an agreement does not provide for exclusive use of a work in a specific manner (exclusive license), the granting of a license does not limit the author's right to authorise other persons to use the work in the same field of use (non-exclusive license).
3. In the absence of specific contractual provisions, the licensee may not authorise another person to use a work within the framework of the license granted to him.
4. In the absence of specific contractual provisions, an exclusive licensee may pursue his claims because of breach of author's economic rights within the framework of the license agreement.
5. An exclusive license agreement shall only be valid if made in writing.

Article 68.

1. In the absence of specific contractual provisions and if a license is open-ended, the author may terminate the agreement in accordance with the notice periods established therein, or if no notice periods have been established - at one year's notice, as of the end of a calendar year.
2. A license granted for a period longer than five years is considered to be open-ended after the lapse of that period.

Chapter 6

Specific Provisions Concerning Audiovisual Works

Article 69.

The co-authors of an audiovisual work are persons who have creatively contributed to its creation, and in particular: the director, image operator, author of the adaptation of a literary work, author of musical or textual and musical works created for use in an audiovisual work and author of the screenplay.

Article 70.

1. It is assumed that the producer of an audiovisual work acquires, pursuant to an agreement to create a work or an agreement to use an already existing work, exclusive author's economic rights to use those works within the framework of an individual work as a whole.
2. (expired).
- 2¹. The co-authors of an audiovisual work and performers are entitled to:
 - 1) remuneration proportionate to the receipts from cinema screening of an audiovisual work;
 - 2) appropriate remuneration for rental of copies of an audiovisual work and their communication to the public;
 - 3) appropriate remuneration for broadcasting the work in the television or via other means of public communication of works;
 - 4) appropriate remuneration for reproducing an audiovisual work for individual use.
3. The user of an audiovisual work pays remuneration as referred to in paragraph 2¹ via a competent collecting society.
4. Appropriate remuneration for the use of a Polish audiovisual work abroad or a foreign audiovisual work in the Republic of Poland may be determined on a flat-rate basis.

Article 71.

The producer may have an audiovisual work translated into different languages without the author's permission.

Article 72.

The author of a work commissioned for use in an audiovisual work may, after the lapse of five years from acceptance of the commissioned work, give his permission to distribute that work in another audiovisual work if the audiovisual work containing his work was not distributed in that period. The parties may reduce that period.

Article 73.

The author may enforce his right to review a work only with respect to the final version of an audiovisual work.

Chapter 7

Specific Provisions Concerning Computer Programs

Article 74.

1. Unless otherwise provided for in this Chapter, computer programs are covered by the same protection as literary works.
2. Protection applies to the expression in any form of a computer program. Ideas and principles that underline any elements of a computer program, including those that underline its interfaces are not protected.
3. In the absence of specific contractual provisions, the employer shall be entitled to economic rights to a computer program created by an employee in execution of his duties under an employment relationship.
4. Subject to the provisions of Article 75.2 and Article 75.3, economic rights to a computer program include the right to:
 - 1) permanent or temporary reproduction of a computer program by any means and in any form, in part or in whole; insofar as loading, displaying, running, transmission or storage of a computer program necessitate its reproduction, such acts shall be subject to authorisation by the rightholder;
 - 2) translation, adaptation, arrangement and any other alteration of a computer program, without prejudice to the rights of the person who alters the program;
 - 3) distribution, including rental or lending of a computer program or copies thereof.

Article 75.

1. In the absence of specific contractual provisions, the acts listed in Article 74.4 (1) and (2) do not require authorisation by the rightholder where they are necessary for the use of a computer program by the lawful acquirer in accordance with its intended purpose, including for error correction.
2. The authorisation of the rightholder is not required to:

1) make backup copies, insofar as necessary to use a computer program. In the absence of specific contractual provisions, such copy may not be used simultaneously with the computer program;

2) observe, study or test the functioning of a computer program in order to determine its ideas and principles by the authorised user of a copy of a computer program, if he does so while performing any of acts of the loading, displaying, running, transmitting or storing the program that he is entitled to do;

3) reproduce a code or translate its form within the meaning of Article 74.4 (1) and (2), if it is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:

a) these acts are performed by the licensee or by another person having a right to use a copy of a computer program, or on their behalf by a person authorised to do so;

b) the information necessary to achieve interoperability has not previously been readily available to the persons referred in point (a),

c) these acts are confined to the parts of the original computer program that are necessary to achieve interoperability.

3. The information referred to in paragraph 2 (3) may not be:

1) used for goals other than to achieve the interoperability of the independently created computer program;

2) given to others, except when necessary for the interoperability of the independently created computer program;

3) used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act that infringes copyright.

Article 76.

Contractual provisions contrary to Article 75.2 and Article 75.3 shall be invalid.

Article 77.

1. The provisions of Articles 16 (3) to (5), Article 20, Article 23, Article 231, Article 27, Article 28, Articles 332 to 335, Article 49.2, Article 56, Article 60 and Article 62 do not apply to software.

2. The provision of Article 331 shall apply to software only insofar as referred to in Article 331.2.

Article 77¹.

The rightholder may request the user of a computer program to destroy any technical means in his possession (including computer programs) the sole intended purpose of which is to facilitate unauthorised removal or circumvention of any technical devices that may be applied to protect the program.

Article 77².

Protection of databases that have the features of a work does not extend to computer programs used to create or operate databases that may be accessed by electronic means.

Chapter 8

Author's Moral Rights Protection

Article 78.

1. The author whose moral rights are threatened by the actions of another person may request cessation of those actions. In the case of actual infringement, he may also request the person who infringed his moral rights to take such actions as may be necessary to remove the effects of the infringement, in particular to make a public statement of the appropriate content and form. If infringement was intentional, the court may award to the author an appropriate amount of money to compensate the damage suffered by him or, at the author's request, oblige the violator to pay an appropriate amount of money for the social benefit identified by the author.

2. In absence of the author's specific will after his death, an action for the protection of the moral rights of the deceased may be brought by the author's spouse or, if there is none, by the following persons in the order they are listed: the descendants, parents, siblings, and descendants of sibling.

3. In absence of the author's specific will, the persons listed in paragraph 2 are authorised, in the same order of priority, to enforce the moral rights of the deceased author.

4. In absence of the author's specific will, an action as referred to in paragraph 2 may also be brought by an association of authors representing the appropriate kind of artistic activity or the collecting society that enforced the copyright of the deceased author.

Chapter 9

Author's Economic Rights Protection

Article 79.

1. The rightholder whose economic rights have been infringed may request the person who has infringed those rights:

1) stop the infringement;

2) remove the effects of the infringement;

- 3) redress the damage caused:
 - a) in accordance with general practice, or
 - b) by paying an amount of money equal to double, or in the case of intentional infringement - triple the value of relevant remuneration which, at the time of its enforcement, would be due on account of the rightholder's consent to use a work;
- 4) surrender of any benefits gained.

2. Notwithstanding the claims referred to in paragraph 1, the rightholder may request the publication of one or more than one press statements having the appropriate content and form or the public announcement of the whole or part of a ruling issued by the court in the case concerned, in the manner and to the extent prescribed by the court.

3. The court may order a person who infringed economic rights, at the request of that person and subject to the rightholder's consent, if the infringement was not intentional, to pay an appropriate amount of money to the rightholder, if stopping the infringement or removing its effects would be disproportionately severe to that person.

4. The court, when ruling on the infringement of economic rights, may rule, at the rightholder's request, on illegally produced objects and means and materials used to produce them, in particular the court may rule that they be removed from the market, awarded to the rightholder on account of the compensation due to him, or destroyed. In its ruling, the court shall take into account the gravity of the infringement and third person interests.

5. It is assumed that the means and materials referred to in paragraph 4 are the property of the person who has infringed economic rights.

6. The provisions of paragraph 1 apply accordingly in the event of removal or circumvention of technical devices applied to protect a work from access, reproduction, or distribution, if those actions are aimed at illegal use of the work.

7. The provisions of paragraph 1 and 2 apply accordingly in the case of unauthorised removal or alteration of any electronic copyright or related rights management information as well as to intentional distribution of a work from which or in which such information has been illegally removed or altered.

Article 80.

1. In cases concerning civil law claims related to the protection of copyright and related rights which do not fall within the competence of other authorities, the court shall consider a petition to:

- 1) freeze evidence;
- 2) disclose or release evidence;
- 3) issue an order to provide information.

2. Cases referred to in paragraph 1 are settled in proceedings concerning intellectual property.

Chapter 10

Protection of Image, Addressee of Letters and Secrecy of the Source of Information

Article 81.

1. Distribution of an image requires authorisation of the person presented by that image. Unless distribution has been explicitly forbidden, an authorisation is not required if that person has received remuneration for posing.

2. An authorisation is not required to distribute the image of:

- 1) public persons, if the image has been made in association with the public functions held by them, in particular political, social, or professional functions;
- 2) a person being only an element of a larger whole, such as a gathering, landscape, or public event.

Article 82.

Unless otherwise intended by the person to whom letters are addressed, distribution of letters within the period of twenty years from that person's death requires authorisation of his or her spouse, or if there is none, of the descendants, parents or siblings, in the order they are listed.

Article 83.

The provisions of Article 78.1 apply accordingly to claims in the case of distribution of the image of a person presented by that image and distribution of letters without the required authorisation of the addressee of those letters; those claims may not be pursued after the lapse of twenty years from the death of those persons.

Article 84.

1. The author, or the publisher or producer, if requested by the author, shall keep secret the sources of information used in a work and shall not disclose any relevant documents.

2. A secret may be disclosed if authorised by the person who revealed the secret or based on a decision of the competent court.

Chapter 11

Related Rights

Subchapter 1

Rights to Performances

Article 85.

1. Each performance of a work or work of folklore is protected irrespective of its value, purpose, or medium of expression.
2. Performances within the meaning of paragraph 1 are in particular: the actions of actors, declaimers, conductors, instrument musicians, singers, dancers, and pantomime artists who creatively contribute to the creation of performance.

Article 86.

1. Within the limits established by the provisions of this Act, a performer shall have the exclusive right to:
 - 1) moral rights protection, in particular:
 - a) to be identified as the performer, except where omission is dictated by custom,
 - b) decide how the performer shall be identified, in particular decide to remain anonymous or use a pseudonym,
 - c) object to any distortion, mutilation or other modification of his performance that would be prejudicial to his reputation;
 - 2) use his performance and enforce the rights to his performance in the following fields of use:
 - a) with respect to fixing and reproducing - using a specific technique to make copies of the performance, including magnetic recording or digital technique,
 - b) with respect to trading in the copies on which the performance is fixed - marketing, lending or rental of those copies,
 - c) with respect to other forms of distribution of a performance than that referred to in point b) - broadcasting, rebroadcasting and replaying, unless this is done using a marketed copy, as well as communicating the performance to the public in such a way that each person may access the performance from a place and at a time individually chosen by him.
2. A performer is entitled to remuneration for the use of a performance or administration of rights to a performance, established in a contract, or provided for by this Act.
3. In the case of broadcasting, rebroadcasting or replaying a performance by means of a marketed copy, the performer is entitled to appropriate remuneration.

Article 87.

In the absence of specific contractual provisions, conclusion by the performer and producer of an audiovisual work of an agreement to cooperate in the production of an audiovisual work transfers to the producer the rights to administer and use a performance within the framework of an audiovisual work on all fields of use known upon execution of the agreement.

Article 88.

The performer's right does not affect the copyright to the performed work.

Article 89.

1. The right referred to in Articles 86.1 (2) and 86.2 shall expire after the lapse of fifty years following the year in which the performance was fixed.
2. If the publication or other form of distribution of a performance fixed otherwise than in a phonogram occurs during the period referred to in paragraph 1, the term of protection is calculated from that event, and if both occur - from the earlier of those events.

Article 89¹.

If the publication or other form of distribution of a performance fixed in a phonogram occurs during the period referred to in Article 89.1, the right referred to in Articles 86.1 (2) and 86.2 shall expire after the lapse of seventy years following that event, and if both occur - from the earlier of those events.

Article 90.

The provisions of this Act apply to performances that:

- 1) were performed by a Polish national or a person residing in the territory of the Republic of Poland, or
- 1¹) were performed by a national of a Member State of the European Union or a Member State of the European Free Trade Organisation (EFTA) - party to the Agreement on the European Economic Area, or
- 2) were for the first time determined in the territory of the Republic of Poland, or
- 3) were for the first time published in the territory of the Republic of Poland, or
- 4) are protected under international agreements, to the extent that they are protected by those agreements.

Article 91.

It is assumed that the head of a team is authorised to represent the rights to a team performance. This assumption applies accordingly to the parts of a performance that have an independent meaning.

Article 92.

The provisions of Articles 8 to 10, Article 12, Article 18, Articles 21 to 213, Articles 41 to 45, Articles 47 to 49, Articles 52 to 55, Articles 57 to 59, Articles 62 to 68, Article 71, and Article 78 shall apply accordingly to performances.

Article 93.

The provisions of Article 15a and Article 33 (10) of the Family and Guardianship Code apply accordingly to rights to performance.

Subchapter 2

Rights to Phonograms and Videograms

Article 94.

1. A phonogram means the first fixation of the sounds of a performance or other sounds.
2. A videogram is the first fixation of a sequence of moving images, with or without sound, whether or not it constitutes an audiovisual work.
3. It is assumed that the producer of a phonogram is the person under whose name or business name a phonogram or a videogram has been made for the first time.
4. Notwithstanding the rights of authors or performers, the producer of a phonogram or videogram has the exclusive right to administer and use a phonogram or videogram within the framework of:
 - 1) reproduction using a specific technique;
 - 2) marketing;
 - 3) rental or lending of copies;
 - 4) making a phonogram or videogram available to the public in such a way that each person may access it from a place and at a time individually chosen by him.
5. In the case of broadcasting, rebroadcasting or replaying of a marketed phonogram or videogram the producer is entitled to appropriate remuneration.

Article 95.

1. The right referred to in Article 94.4 and 94.5, expires after the lapse of fifty years following that in which a phonogram or videogram was made.
2. If a phonogram is published during the period referred to in paragraph 1, the right referred to in Articles 94.4 and 94.5 shall expire after the lapse of seventy years following the year in which the phonogram was published.
3. If a phonogram is not published during the period referred to in paragraph 1 and if it is distributed otherwise during that period, the right referred to in Articles 94.4 and 94.5 shall expire after the lapse of seventy years following the year in which the phonogram was distributed.
4. If a phonogram is published or distributed during the period referred to in paragraph 1, the right referred to in Article 94.4 and 94.5 expires after the lapse of fifty years following that in which the first of the two events took place.

Article 95¹.

1. The provisions of Article 21.1 apply accordingly to phonograms, unless they are broadcast pursuant to an agreement with the rightholder.
2. The provisions of Articles 211 to 213 shall apply accordingly to phonograms and videograms.

Article 95².

1. If, after the lapse of fifty years after the publication of a phonogram or its distribution otherwise, the producer of the phonogram does not market a sufficient number of copies of the phonogram, which number, taking into account the character of the phonogram, would meet reasonable needs of recipients, or does not make the phonogram available to the public in a manner enabling members of the public to access it from a place and at a time individually chosen by them, the performer or his or her heir may terminate the agreement by which the rights to performances were transferred within that scope to the producer of the phonogram, or the agreement by which an exclusive license for the use of a performance was granted within that scope to the producer.
2. The termination of an agreement referred to in paragraph 1 becomes effective if the producer of the phonogram does not begin to use the phonogram in any manner referred to in paragraph 1 within one year from the date of service of the performer's or his or her heir's statement regarding the termination of the agreement.
3. Where a phonogram contains the fixation of performances of a plurality of performers, each of those performers has the right to the termination of an agreement referred to in paragraph 1.
4. In the case of the effective termination of agreements concluded in respect of all performances fixed in a phonogram, the right of the producer to that phonogram, referred to in Articles 94.4 and 94.5, shall expire.
5. The right to the termination of an agreement, referred to in paragraph 1, may not be waived or transferred.

Article 95³.

1. If the rights to a performance are transferred to a phonogram producer or if an exclusive license for the use of a performance is granted to a phonogram producer against a one-off remuneration, the performer has the right to receive an annual supplementary remuneration from the phonogram producer for every year after the lapse of fifty years from the year of publication of the phonogram or its distribution otherwise.

2. The amount of the supplementary remuneration referred to in paragraph 1 shall be 20% of the revenues of the producer of the phonogram, derived during the preceding year from the reproduction and distribution of that phonogram and making it publicly available in a manner enabling members of the public to access it from a place and at a time individually chosen by them.
3. The right to the supplementary remuneration referred to in paragraph 1 may not be waived or transferred.
4. The payment of the supplementary remuneration referred to in paragraph 1 is made through an organisation for collective management of related rights to performances, appointed for a period of not more than five years by the minister responsible for culture and national heritage protection, following a competition taking into account the criteria specified below:
 - 1) representativeness;
 - 2) organisational capacity necessary for the fulfilment of the task in a manner ensuring effective collection and payment of the remunerations referred to in paragraph 1;
 - 3) effectiveness and correctness of operation;
 - 4) reasonableness of the planned costs of paying the remunerations referred to in paragraph 1, and their amount.
5. The minister responsible for culture and national heritage protection announces the competition referred to in paragraph 4 and its result in *Biuletyn Informacji Publicznej* [the Public Information Bulletin] on the minister's website.
6. An organisation for collective management of related rights to performances participating in the competition referred to in paragraph 4 may lodge to the minister responsible for culture and national heritage protection, within 7 days from the date of announcement of the result of that competition, an appeal against that result due to an infringement of a provision of law.
7. The appeal referred to in paragraph 6 shall be examined by the minister responsible for culture and national heritage protection within 14 days from the date of its receipt. In the event of the appeal being upheld, the minister responsible for culture and national heritage protection shall cancel the competition referred to in paragraph 4.
8. A performer or an organisation for collective management, as referred to in paragraph 4, may request a phonogram producer to provide all information and documents necessary for the determination of the amount of the supplementary remuneration referred to in paragraph 1 that is payable to them and for the payment of that remuneration.
9. An organisation for collective management, as referred to in paragraph 4, has the right to allocate not more than 10% of the supplementary remuneration referred to in paragraph 1 for covering reasonable and documented costs of obtaining and paying that remuneration incurred by that organisation.
10. The minister responsible for culture and national heritage protection, after consultation with an organisation for collective management of related rights to performances and an organisation of phonogram producers, shall define, by way of a regulation:
 - 1) the method of collecting the supplementary remuneration referred to in paragraph 1, making deductions from such remuneration and making payments of that remuneration, having regard to the need to ensure that the collection and payment of that remuneration are performed in an effective and transparent manner and that deductions are reasonable and documented;
 - 2) the required scope of information to be included in the notice of the competition referred to in paragraph 4, having regard to the fact that the minimum scope of such information is to comprise at least the conditions for participation in the competition, the time limit for the submission of offers, and the criteria for offer assessment;
 - 3) the scope of competition documentation, having regard to the fact that the scope of such documentation is to determine at least the conditions for participation in the competition referred to in paragraph 4, the requirements that need to be met by offers, and the criteria for offer assessment;
 - 4) the competition procedure, having regard to the transparency, reliability, and objectivity of that procedure.

Article 95⁴.

If the rights to a performance are transferred to a phonogram producer or if an exclusive license for the use of a performance is granted to a phonogram producer against a remuneration paid to the performer by the phonogram producer periodically, no advance payments or other deductions specified in the agreement are deducted from such remuneration after the lapse of fifty years from the year of publication of the phonogram or its distribution otherwise.

Article 96.

The provisions of this Act apply to phonograms and videograms:

- 1) whose producer resides or is established in the territory of the Republic of Poland, or
- 1¹) whose producer resides or is established in the territory of the European Economic Area, or
- 2) that are protected under international agreements, to the extent that they are protected by those agreements.

Subchapter 3 Broadcasting Rights

Article 97.

Notwithstanding the rights of authors, performers, phonogram or videogram producers, a broadcasting organisation has the exclusive right to administer and use its broadcasts within the framework of:

- 1) fixation;
- 2) reproduction using a specific technique;
- 3) broadcasting by another broadcasting organisation;

- 4) rebroadcasting;
- 5) marketing of their fixations;
- 6) replaying in public places and charging entrance tickets;
- 7) making their fixations available in such a way that each person may access them from a place and at a time individually chosen by him.

Article 98.

The right referred to in Article 97 expires after the lapse of fifty years following that in which a programme was broadcast for the first time.

Article 99.

The provisions of this Act apply to the broadcasts of:

- 1) a broadcasting organisation established in the territory of the Republic of Poland; or
- 2) a broadcasting organisation established in the territory of the European Economic Area;
- 3) that are protected under international agreements, to the extent that they are protected by those agreements.

Subchapter 3¹

Rights to First Publications and Scientific and Critical Publications

Article 99¹.

The publisher who for the first time lawfully publishes or otherwise distributes a work whose term of protection was already expired and whose copies have not yet been made available to the public has the exclusive right to administer and use that work in all field of use over a period of twenty-five years from the date of its first publication or distribution.

Article 99².

Anyone who, after the lapse of the term of copyright protection of a work has prepared its critical or scientific publication that is not a work in itself has the exclusive right to administer and use that publication within the scope referred to in Article 50 (1) and (2) over a period of thirty years from the date of publication.

Article 99³.

The provisions of Article 99¹ and 99² apply accordingly to works and texts that, because of the time of their creation and their nature, have never been protected by copyright.

Article 99⁴.

The provisions of Article 37 and Article 39 apply accordingly to determination of the protection period referred to in Article 99¹ and in Article 99².

Article 99⁵.

1. The provisions of this Act apply to the first publications:

- 1) whose publisher has his place of residence or registered office in the territory of the Republic of Poland, or
- 2) whose publisher has his place of residence or registered office in the territory of the European Economic Area, or
- 3) that are protected under international agreements, to the extent that they are protected by those agreements.

2. The provisions of this Act apply to scientific and critical publications that:

- 1) were prepared by a Polish national or a person residing in the territory of the Republic of Poland, or
- 2) were for the first time determined in the territory of the Republic of Poland, or
- 3) were for the first time published in the territory of the Republic of Poland, or
- 4) are protected under international agreements, to the extent that they are protected by those agreements.

Article 99⁶.

The provisions of Chapter 3 Subchapter 6 shall not apply to first publications and scientific and critical publications.

Subchapter 4

Common Provisions Concerning Related Rights

Article 100.

Administration of rights to performances, phonograms, videograms, broadcasts as well as first publications and scientific and critical publications is subject to applicable limitations arising from the provisions of Article 23-35.

Article 101.

The provisions of Article 1.4, Article 6, Article 6¹, Article 8.2, Articles 35⁵ to 35⁹, Articles 35a to 35e, Article 39, Article 51, Article 79 and Article 80 shall apply accordingly to artistic performances, phonograms, videograms, programme broadcasts, first editions as well as scientific and critical editions.

Article 102.

1. Apart from designation of the authors and performers, each copy of a phonogram or videogram shall display: the titles of works and the date of their creation, the name (business name) of the producer and-in the case of fixation of a broadcast-the name of the broadcasting organisation.

2. It is assumed that copies that do not comply with the requirements established in paragraph 1 have been made illegally.

Article 103.

Disputes concerning related rights fall under the jurisdiction of regional courts.

Chapter 12

(repealed)

Article 104.

(repealed).

Article 105.

(repealed).

Article 106.

(repealed).

Article 107.

(repealed).

Article 107¹.

(repealed).

Article 108.

(repealed).

Article 109.

(repealed).

Article 110.

(repealed).

Chapter 12¹

(repealed)

Subchapter 1

(repealed)

Article 110¹.

(repealed).

Article 110².

(repealed).

Article 110³.

(repealed).

Article 110⁴.

(repealed).

Article 110⁵.
(repealed).

Article 110⁶.
(repealed).

Article 110⁷.
(repealed).

Article 110⁸.
(repealed).

Article 110⁹.
(repealed).

Article 110¹⁰.
(repealed).

Subchapter 2
(repealed)

Article 110¹¹.
(repealed).

Article 110¹².
(repealed).

Article 110¹³.
(repealed).

Article 110¹⁴.
(repealed).

Article 110¹⁵.
(repealed).

Article 110¹⁶.
(repealed).

Subchapter 3
(repealed)

Article 110¹⁷.
(repealed).

Subchapter 4
(repealed)

Article 110¹⁸.
(repealed).

Subchapter 5
(repealed)

Article 110¹⁹.
(repealed).

Subchapter 6

(repealed)

Article 110²⁰.
(repealed).

Article 110²¹.
(repealed).

Article 110²².
(repealed).

Article 110²³.
(repealed).

Chapter 12²
(repealed)

Article 110²⁴.
(repealed).

Article 110²⁵.
(repealed).

Article 110²⁶.
(repealed).

Article 110²⁷.
(repealed).

Article 110²⁸.
(repealed).

Article 110²⁹.
(repealed).

Article 110³⁰.
(repealed).

Chapter 13
(repealed)

Article 111.
(repealed).

Article 111¹.
(repealed).

Article 112.
(repealed).

Article 113.
(repealed).

Article 113¹.
(repealed).

Article 114.

(repealed).

Chapter 14

Criminal Liability

Article 115.

1. Anyone who appropriates the authorship or misleads as to the authorship of the whole or a part of a third person's work or performance, is liable to a fine, restriction of personal liberty or imprisonment for up to 3 years.
2. The same penalty may be imposed on a person who distributes, without giving the name or pseudonym of the author, a third person's work in its original version or as a derivative work, or a performance, or deforms such work or a performance, phonogram, videogram or broadcast in public.
3. Anyone who, in order to achieve financial benefits in a manner other than that defined in paragraph 1 or 2, infringes a third person's copyright or related rights established in Articles 16, 17, 18, 19.1, 19¹, 86, 94.4, or 97, or does not perform the obligations defined in Article 19³.2 or Articles 20.1 to 20.4, shall be liable to a fine, restriction of personal liberty, or imprisonment for up to a year.

Article 116.

1. Anyone who, without an authorisation or in defiance of the conditions of an authorisation, distributes a third person's work in its original version or as a derivative work, a performance, a phonogram or a broadcast, is liable to a fine, restriction of personal liberty or imprisonment for up to 2 years.
2. If a person commits the act defined in paragraph 1 in order to gain economic benefit, he is liable to imprisonment for up to 3 years.
3. Anyone who has turned the crime defined in paragraph 1 into a source of permanent income or who organises or manages the criminal activity defined in paragraph 1, is liable to imprisonment for a period from 6 months up to 5 years.
4. Anyone who commits the act defined in paragraph 1 unintentionally is liable to a fine, restriction of personal liberty, or imprisonment for up to one year.

Article 117.

1. Anyone who, without an authorisation or in defiance of the conditions of an authorisation, fixes or reproduces a third person's work in its original version or as a derivative work, a performance, a phonogram or a broadcast, for the purpose of their distribution, is liable to a fine, restriction of personal liberty or imprisonment for up to 2 years.
2. Anyone who has turned the crime defined in paragraph 1 into a source of permanent income, or who organises or manages the criminal activity defined in paragraph 1 is liable to imprisonment for up to 3 years.

Article 118.

1. Anyone who, in order to gain economic benefit, acquires or helps to sell, or receives or helps to hide an object that is the medium of a work, performance, phonogram or videogram distributed or reproduced without an authorisation or in defiance of the conditions of an authorisation, is liable to imprisonment for a period from 3 months up to 5 years.
2. Anyone who has turned the crime defined in paragraph 1 into a source of permanent income, or who organises or manages the criminal activity defined in paragraph 1 is liable to imprisonment for up to 5 years.
3. If a person who commits the crime defined in paragraph 1 or 2 may and should presume, based on the accompanying circumstances, that the object was obtained through an offence, that person is liable to a fine, restriction of personal liberty or imprisonment for up to 2 years.

Article 118¹.

1. Anyone who produces devices or components of devices for the purpose of unauthorised removal or circumvention of effective technical devices applied to protect a work or the subject matter of related rights from replaying, copying or reproduction or trades in such devices or components of such devices, or advertises their sale or rental, is liable to a fine, restriction of personal liberty or imprisonment for up to 3 years.
2. Anyone who owns, stores or uses devices or components of devices as referred to in paragraph 1, is liable to a fine, restriction of personal liberty or imprisonment for up to a year.

Article 119.

Anyone who hinders or prevents enforcement of the right to control the use of a work, performance, phonogram or videogram, or refuses to provide the information referred to in Article 47, is liable to a fine, restriction of personal liberty or imprisonment for up to a year.

Article 120.

(repealed).

Article 121.

1. In the case of adjudication for an act defined in Article 115, 116, 117, 118, or 118¹, the court shall declare forfeiture of the objects obtained through a crime, even if they are not the property of the person who committed the crime.
2. In the case of adjudication for an act defined in Article 115, 116, 117, 118 the court may declare forfeiture of the objects that were used to commit a crime, even if they are not the property of the person who committed the crime.

Article 122.

The crimes defined in Article 116.1, 116.2 and 116.4, Article 117.1, Article 118.1, Article 118¹ and Article 119 shall be prosecuted at the request of the aggrieved party.

Article 122¹.

In cases involving the crimes defined in Article 115-119, the aggrieved party may also be the competent collecting society.

Article 123.

The Minister of Justice may designate, by regulation, the district courts competent to hear cases involving the crimes referred to in Article 115-119 within the area of jurisdiction of a given regional court.

Chapter 15

Final and Transitional Provisions

Article 124.

1. The provisions of this Act apply to works:
 - 1) embodied for the first time after the entry into force of this Act;
 - 2) the copyright to which has not expired pursuant to the previous provisions;
 - 3) the copyright to which has expired pursuant to the previous provisions, but which, according to this Act, enjoy continued protection, except in the period between expiration of protection pursuant to the previous Act and the entry into force of this Act. This Act does not affect the ownership of copies of works distributed before the day of the entry into force of this Act.
2. The provisions of paragraph 1 (3) apply to the works of foreign nationals permanently residing abroad, on the condition of reciprocity.
3. (repealed).
4. Provisions of agreements concluded before the day of the entry into force of this Act that are contrary to the provisions of Article 75.2 and 75.3 shall be invalid.

Article 125.

1. The provisions of this Act apply to performances:
 - 1) embodied for the first time after the entry into force of this Act;
 - 2) with respect to their use after the entry into force of this Act, if they continue to enjoy protection pursuant to the provisions of this Act.
2. This Act does not affect the ownership of copies on which a performance was fixed before the day of the entry into force of this Act.

Article 126.

1. The provisions of this Act apply to:
 - 1) phonograms and videograms created after the entry into force of this Act;
 - 2) radio and television broadcasts from after the entry into force of this Act;
 - 3) phonograms and videograms, and radio and television broadcasts that, pursuant to the provisions of this Act, enjoy continued protection.
2. The principle referred to in paragraph 1 (3) does not apply to the use by schools for educational purposes of broadcasts, phonograms and videograms created before the entry into force of this Act other than fiction films or theatre performances, nor to the use of performances fixed on phonograms or videograms.

Article 127.

1. If the use of a work, performance, phonogram, videogram or radio or television broadcast that started before the entry into force of this Act was allowed by the previous provisions, but requires an authorisation after that date, that use may be continued, on condition that the rightholder receives adequate remuneration.
2. Subject to paragraph 3, legal transactions associated with copyright and performed before the day of the entry into force of this Act are effective and shall be evaluated pursuant to the provisions of the previous law; this also applies to events other than legal transactions.
3. This Act also applies to long-term agreements concluded before the day of the entry into force of this Agreement, with respect to the period after that date, and to liabilities incurred before the day of the entry into force of this Act, with respect to the legal effects of events taking place after that date, not associated with the substance of a liability.
4. Agreements concluded before the day of the entry into force of this Act do not extend to related rights, unless the parties have decided otherwise.

Article 127¹.

The President of the Council of Ministers, at the request of the minister in charge of culture and national heritage protection, shall create, by regulation, a team to counteract infringement of copyright and related rights, and shall specify the composition, tasks and operating methods of that team.

Article 128.

The Copyright Act of 10 July 1952 (Journal of Laws, item 234, of 1975, item 184 and of 1989, item 192) shall lose effect.

Article 129.

This Act shall enter into force 3 months from the date of its publication, except the provisions of Article 124.3, which shall enter into force on the day of publication.

¹ This Act, to the extent provided for herein, shall implement the following directives of the European Community: 1) Directive 91/250/EC of 14 May 1991 on the legal protection of computer programs (OJ L 122, 17.05.1991), 2) Directive 92/100/EC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 346, 27.11.1992), 3) Directive 93/83/EC 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 L 248, 06.10.1993), 4) Directive 93/98/EC of 29 October 1993 on harmonising the term of protection of copyright and certain related rights (OJ L 290, 24.11.1993), 5) Directive 96/9/EC of 11 March 1996 on the legal protection of databases (OJ L 77, 27.03.1996). Data concerning the publication of the European Union laws contained herein - as of the date of membership of the Republic of Poland in the European Union - refer to their publication in the Official Journal of the European Union - special edition.