

## **Database Act.**

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Act of 8 July 1999 relating to the adaptation of the Dutch legislation to Directive 96/9/EC of the European Parliament and the Council of 11 March 1996 on the legal protection of databases

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that the need exists to adapt the Dutch legislation with a view to Directive 96/9/EC of the European Parliament and the Council of 11 March 1996 on the legal protection of databases (OJ EC L77);

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

### **ARTICLE I. Database Act ➡**

#### **Article 1**

1. For the purposes of this Act and provisions laid down pursuant to this act:

- a. database: a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means and for which the acquisition, control or presentation of the contents, evaluated qualitatively or quantitatively, bears witness to a substantial investment;
- b. producer of a database: the person who bears the risk of the investment for creating the database;
- c. extraction: the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;
- d. re-utilization: any form of making available to the public of all or a part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission.

2. The making available by institutions accessible to the public for a limited period and without direct or indirect economic or commercial advantage shall not be regarded as extraction or re-utilisation.

3. The relevant provisions of the Copyright Act 1912 shall not apply to computer programs used for the production or operation of databases accessible by electronic means.

## **Article 2**

1. The producer of a database shall have the exclusive right to authorize the following acts:
  - a. the extraction or re-utilization of all or a substantial part of the content of the database, evaluated qualitatively or quantitatively,
  - b. the repeated and systematic extraction or re-utilization of insubstantial parts of the content of a database, evaluated qualitatively or quantitatively, where this does not conflict with the normal exploitation of that database or unreasonably prejudice legitimate interests of the producer of the database.
2. This shall be without prejudice to the copyright or other rights to the database or works, data or other materials included in the database.
3. Where a copy of a database has been brought into circulation for the first time by or with the consent of the producer or his rightholders in one of the Member States of the European Union or in a state that is party to the Agreement on the European Economic Area of 2 May 1992, the bringing into circulation of that copy in those States shall otherwise not infringe the right referred to in paragraph 1.
4. The right referred to in paragraph 1 shall be transferred upon hereditary succession and is eligible for full or partial transfer. The conveyance required for full or partial transfer shall be executed in a deed intended for this purpose.

## **Article 3**

1. The producer of a database which is made available to the public in whatever manner may not prevent the lawful user of the database from extracting or re-utilizing insubstantial parts of its contents, evaluated qualitatively or quantitatively. Where the lawful user is authorized to extract or re-utilize only part of the database, paragraph 1 shall apply only to that part.
2. By agreement no exception may be made to paragraph 1 to the detriment of the lawful user.

## **Article 4**

The legal user of a database which is made available to the public in whatever manner, may not perform acts which conflict with the normal exploitation of the database or unreasonably prejudice the producer.

## **Article 5**

The lawful user of a database which is made available to the public in whatever manner may not without the authorization of the producer of the database extract or re-utilize a substantial part of the contents of the database:

- a.

in the case of extraction for private purposes of the contents of a non-electronic database;

- b. in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
- c. in the case of extraction or re-utilization for the purposes of public security or an administrative or judicial procedure.

## **Article 6**

1. The right, referred to in Article 2, paragraph 1, shall run from the date of completion of the making of the database. It shall expire fifteen years from 1 January of the year following the date of completion.

2. If a database is made available to the public before the date of completion of the making of the database, the right provided for in Article 2, paragraph 1, shall expire fifteen years from 1 January of the year following the date when the database was first made available to the public.

3. Any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, in particular resulting from successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively or quantitatively, shall qualify the database resulting from that investment for a new right referred to in Article 2, paragraph 1.

## **Article 7**

The right referred to in Article 2, paragraph 1, shall apply to:

- a. the producer of the database or his rightholders who are nationals of or who have their habitual residence in the territory of a Member State of the European Union or a state which is a party to the Agreement on the European Economic Area of 2 May 1992;
- b. the producer of the database or his rightholders that are a company or firm formed in accordance with the legislation of a Member State of the European Union or a state which is a party to the Agreement on the European Economic Area of 2 May 1992 and having their registered office, central administration or place of business within the territory of one of these states; if such a company or firm has only its registered office in the territory of one of these states, its operations must be genuinely linked on an ongoing basis with the economy of this state;
- c. the producer of the database or his rightholders that can derive a right from an agreement that the Council of the European Union has signed with countries other than those referred to under a. or b.

## **Article 8**

1. The public authority shall not have the right referred to in Article 2, paragraph 1, with respect to databases of which it is the producer and for which the contents are formed by laws, orders and resolutions promulgated by it, legal decisions and administrative

decisions.

2. The right, referred to in Article 2, paragraph 1 shall not apply to databases for which the public authority is the producer, unless the right is expressly reserved either in general by law, order or resolution or in a particular case as evidenced by a notification in the database itself or when the database is made available to the public.

## **Article 9**

This act shall be cited as: the Databases Act.

## **Article II** ➡

[Contains amendments to other legislation].

## **Article III** ➡

- A.
  - 1. Article I shall also apply to databases which were completed after 1 January 1983, provided this is without prejudice to acts performed and rights acquired before 1 January 1998.
  - 2. The right, referred to in Article 2, paragraph 1, in that case expires on 1 January 2014.
- B. Article II shall also apply to collections referred to in Article 10, paragraph 3, of the Copyright Act 1912 that were made before 1 January 1998, provided this is without prejudice to acts performed and rights acquired before that date.
- C. The provisions of Chapter III of the Copyright Act 1912 on the duration of copyright shall apply to collections referred to in Article 10, paragraph 3, of the Copyright Act 1912 that on 27 March 1996 belonged to the documents mentioned in Article 10, paragraph 1, sub-section 1°, of the Copyright Act 1912.

## **Article IV** ➡

This Act shall enter into force with effect from the day after the date of publication in the Official Journal in which it is placed.

Signature

Direct and ordain that these presents shall be placed in the Official Journal and that all the ministries, authorities, bodies and officials who may be concerned, shall strictly enforce its execution.

Given in the Hague, 8 July 1999.

Beatrix

The Minister of Justice,

A.H. Korthals

Published on the twentieth of July 1999

The Minister of Justice,

A.H. Korthals