

Decree Nº 9/1969. COPYRIGHT Decree

Implementing Act No. III of 1969 on Copyright ¹

As last amended by Decree No. 24/1994. (XII.28.) MKM

Art. 1.–

(1) All literary, scientific and artistic works—whether or not specified by Act No. III—shall enjoy the protection under Act No. III, in particular:

- literary works (of science, fiction, trade, journalism, etc.),
- speeches delivered in public,
- dramatic works, dramatico-musical works, choreographic works or entertainment in dumb show, musical works with or without words,
- radio and television plays,
- cinematographic works,
- drawings, paintings, sculpture, engravings, works reproduced by lithography or printing and drawings therefor;
- works of architecture, building complexes and town planning projects,
- designs for engineering structures,
- works of applied art and drawings therefor;
- costume and scenery designs,
- drawings for works of industrial design,
- artistic photographs,
- computer programs and related documentation (hereinafter: software).

(2) Copyright protection shall be independent of any other protection available for specific works (e.g., innovations, inventions, trademarks, industrial designs) under other legislation and in accordance with other provisions and shall not prejudice the scope of such special provisions.

(3) Copyright protection shall not extend to measures or draft measures taken and enforced in any form in the course of the administrative activities forming part of the scope of the tasks or activities of economic organizations and of legal entities other than economic

organizations.

Art. 2. The jurisdiction of courts acting in copyright matters shall not be affected by the fact that a dispute arises in connection with a work created under an employment relationship.

Art. 3.–

(1) The name of the author of the original work shall be mentioned on an altered, adapted or translated work.

(2) A word-for-word, rough translation of a work shall not be eligible for copyright protection.

(3) Article 4(2) of Act No. III shall apply to the transcription of software from its original language to a different programming language.

Art. 3A. A joint work shall be deemed to consist of independent parts if such parts can be separated from one another and can be used (displayed, published, etc.) independently.

Art. 3B. Article 5(3) of Act No. III shall also apply to databases operated by computer devices.

Art. 4.–

(1) An author wishing to remain unknown may notify in writing the Hungarian Bureau for the Protection of Authors' Rights of the assumed name he wishes to use in disclosing his work and of the works he has disclosed anonymously. The Hungarian Bureau for the Protection of Authors' Rights shall keep a register of such notifications, the particulars in which may be disclosed by the Bureau only at the request of the author or his heir or at the request of a court or other authority. Such court or other authority shall be required to treat the particulars provided by the Bureau confidentially.

(2) The Hungarian Bureau for the Protection of Authors' Rights shall be entitled to take action on behalf of the pseudonymous author of a work not disclosed through publication.⁸

Art. 5.–

(1) If not otherwise provided, the conclusion of a contract for use shall imply the author's consent to provision by the user of information on the contents of the work to the public.

(2) If a work becomes known after the author's death, it shall be presumed—failing other declaration by the author or his successor in title—that the author intended his work to be disclosed to the public.

Art. 6.–

(1) Any communication in relation to a work (posters, newspapers, programs, films, radio, television, etc.) shall be treated in the same way as a review; the author of the work shall be named in such communication, as appropriate to the nature of the communication.

(2) An author may request, in the event of a new authorized exploitation of a work disclosed under his name, that his work be used subsequently without mention of his name.

Art. 7.–

(1) Use shall be deemed unlawful, in particular, if no statutory license has been granted or no authorization has been given by the person entitled to grant exploitation licenses or if the user exploits the work beyond the limits of the license, i.e. in a broader range, in a larger number of copies, etc., than agreed to. A change, not agreed to by the author, in the design of an architectural work or engineering structure such that the appearance, intended use or operation of such work is affected shall also be deemed an unauthorized alteration.

(2) A user shall be required to notify the author or his successor in title on request of the mode or extent of use.

Art. 8. The withdrawal of an authorization or the prohibition of further use of a work already disclosed shall require by a written declaration giving good reason, therefor.

Art. 9.–

(1) The provisions of Act No. III relating to the author's moral rights shall not prejudice or prevent the application of the general rules of the Civil Code affording legal protection to personal rights.

(2) After the expiration of the term of protection, the Hungarian Bureau for the Protection of Authors' Rights and the competent representative organizations may take actions to protect the moral rights of the deceased author.

Art. 10.–

(1) For the purposes of Act No. III, use shall be deemed to mean an act whereby the work or part of it is communicated to the public. This shall also apply to alterations, adaptations and translations.

(2) The remuneration due to an unknown author or to an author (his heir) whose place of residence is unknown shall be paid by the user to the Hungarian Bureau for the Protection of Authors' Rights or, in the case of a work of fine art, applied art, photography or industrial design, to the Public Foundation of Hungarian Creative Arts. The sums paid shall be transferred to the right holder at his request within the period determined by the Civil Code. Unpaid remuneration shall be used to support culture and the welfare of authors.

Art. 11.–

(1) In the event of a dispute as to whether the creation of a work is the author's duty under his employment relationships, a decision shall take into consideration the contract of employment and the instructions given to the author in relation to his duties. The employer shall lay down and define in writing—either in the contract of employment or in some other form—the responsibility of the author under his employment relationship and also as the scope of the right to use belonging to the employer.

(2) The employer may refuse, giving good reasons, to approve the use of the work outside his field of activity if such use is liable to prejudice or jeopardize his legitimate interests.

(3) If the right to use a work belongs to the employer, but the author makes a declaration of withdrawal of his work, the employer may not mention the name of the author. The author may also require that his name not be mentioned if the employer avails himself of his right

of disposal under the contract of employment and effects an alteration to the work to which the author does not give his consent.

(4) Termination of employment relationships shall not prejudice the rights the employer may exercise under Article 14 of Act No. III.

(5) The employer shall be entitled to use a software product for his own purposes and to include such product in a program library.

Art. 12.–

(1) If the employer exercises his right to use under Article 14 of Act No. III and concludes a contract for use with a third party regarding the work, between 60 and 80 percent of the amount of the remuneration, or between 10 and 30 percent thereof in the case of software, to be determined by the employer, shall be due to the author, and shall be paid to him by the employer within eight days from the date of collection of the royalty. Where software is involved, the deadline for such payment may be determined otherwise by the employer—in the contract of employment or in any other manner—or may be made subject to conditions. If a contract for use concluded with a third party with respect to the work falls within the employer's field of activity, the employer may determine the remuneration due to the author—taking into consideration the expenses connected with the creation of the work—at a rate lower than 60 percent of the royalty or lower than 10 percent in the case of software.

(2) When the right to use the work created in the course of employment is exercised by the author—whether with the approval of the employer or following termination of use by the employer—the full amount of the remuneration shall be due to the author.

Art. 13.–

(1) The year of the first disclosure for a work disclosed in parts shall be computed part by part, unless the contents of the work are coherent to an extent which justifies computing the term from the year the final part was disclosed.

(2) The first showing of a film in public shall be deemed the first showing, whether it occurs in the country of creation or not.

Art. 13A. [Repealed]

Art. 14.–

(1) Textbooks, manuals, notes and educational aids (e.g., audiovisual aids) prepared for education in accordance with the curricula designed for use in kindergartens, primary schools, secondary schools, vocational schools, specialized schools, primary education in arts, as well as higher-level educational establishments governed by the law on higher education shall be deemed to serve the purposes of school education.

(2) The inclusion of a disclosed work, in another work to an extent that exceeds quotation (Article 17(1) of Act No. III) shall be deemed reproduction.

Art. 14A. [Repealed]

Art. 15. The television organizations' right of free use shall not extend to works made for purposes of background setting or costume.

Art. 16. A broadcast which provides information on or a presentation of a specific event related to a given date and makes only incidental use, within the framework of that broadcast, of minor parts of various works, shall be deemed a current affairs program.

Art. 17. A program including a performance given on a specific occasion and organized within the educational framework referred to in Article 14(1) with the participation of those involved in education shall be deemed a school celebration. A program including a performance organized by an institution forming part of the educational system, which is accessible to the public against an entrance fee shall also be deemed to serve school purposes if the sums collected as entrance fees are used for educational or training purposes. This provision shall not apply to dances held at schools.

Art. 18.–

(1) A use shall be deemed to serve the purpose of increasing revenue if it is likely to attract more patrons or customers to the establishment (shop, place of entertainment) using the work or is intended to entertain the customers visiting the establishment. The collection of entrance fees shall be deemed to serve the purpose of producing revenue even if the money collected is not referred to as an entrance fee (paying for the invitation card, paying for attendance, cloakroom fee higher than is customary, etc.). Compensation paid for the performance in excess of reasonable expenses shall be deemed the payment of fees.

(2) Gatherings organized by business entities and legal entities exclusively for their members, officials and employees and which are not business gatherings shall be deemed private gatherings.

(3) [Repealed]

Art. 19. [Repealed]

Art. 20. Contracts for the exploitation of authors' rights with regard to single uses of specific works under which author's rights cannot be exercised individually in the cases determined by law, in particular contracts licensing the non-stage public performance of musical and literary works, the sound recording of non-stage performances of already disclosed musical works and their lyrics and the reproduction of such recordings, the broadcast and other long-distance transmission of musical works with or without words performed otherwise than on stage, may be concluded only through the Hungarian Bureau for the Protection of Authors' Rights.

Art. 21. The conclusion of a written contract shall not be compulsory if the contract is concluded for the purposes of publication in newspapers or periodicals.

Art. 22. The rights of the user shall pass to his successor in title where succession of title is based on the law or on official orders.

Art. 23.–

(1) The time allowed for acceptance of the work shall be two months—unless otherwise provided by law in specific fields (e.g., putting a literary work on the screen, publication of a literary work)—to be computed as from the date of delivery of the work. If the user makes no declaration within the time allowed for acceptance, the work shall be considered accepted.

(2) If the user returns the work for corrections to be made to it, the period of time shall be

computed as from delivery of the corrected work.

Art. 24. [Repealed]

Art. 25. A Hungarian author or Hungarian user may also conclude a publication contract with a foreigner for an unlimited period of time.

Art. 26. For the purposes of Article 36 of Act No. III, a lawfully published work shall be considered a disclosed work, and the Hungarian Bureau for the Protection of Authors' Rights shall be entitled to collect, in its own name, on behalf of the authors, the remuneration due for public performance. To ensure the distribution of remuneration among authors, the Hungarian Bureau for the Protection of Authors' Rights shall be entitled to check the public performances on the spot against the program communicated by the user.

Art. 27. If the author has authorized publication of his work with the inclusion of pictures (illustrations), he may refuse the use (publication) of specific pictures only by reference to good grounds.

Art. 28. A manuscript shall be deemed to be used lawfully if the author has delivered it to the Hungarian Bureau for the Protection of Authors' Rights or to an organization appointed for that purpose by the Minister for Culture and Education, in order that the dramatic work may be performed by amateur theatrical groups to which the manuscript shall be made available by the above-mentioned organization.

Art. 29. The Hungarian Bureau for the Protection of Authors' Rights shall be entitled to collect, in its own name, on behalf of the authors, the remuneration referred to in Article 40(1) of Act No. III. To ensure the distribution of remuneration among authors, the Hungarian Bureau for the Protection of Authors' Rights shall be entitled to check public performances on the spot against the program communicated by the user.

Art. 30.–

(1) The rights afforded with respect to cinematographic works in Article 42(1) of Act No. III shall belong exclusively to the film studio unless otherwise provided in the contract.

(2) Production of a cinematographic work shall be deemed completed on the date of issue of the document authorizing distribution or, if no such document is issued, on the date of receipt of the standard copy by the user.

Art. 31. Television plays, cartoons and documentary films shall be classified as cinematographic works, irrespective of their mode of fixation.

Art. 32. –

(1) Act No. III shall afford copyright protection, as author's works to the designs of architectural or engineering structures—including standard designs of buildings—if they are deemed works from an artistic or scientific point of view; copyright protection may be extended to other designs under Article 51 of Act No. III.

(2) The designs, of engineering structures that are independent and original technical works other than buildings (e.g., road bridges, hydroelectric power stations) or the designs of original coherent solutions for the complete mechanical equipment of an industrial plant (or part of a plant) shall enjoy copyright protection. Otherwise, the provisions of the above Act

relating to works of architecture shall also extend to engineering structures.

(3) The employer's authorization shall be required for the use of a design created in the course of an employment relationship in any way that falls within the employer's field of activity (including construction, remodeling, repeated construction) by another person (Article 14(1) of Act No. III); alterations to the design may only be approved by the employer after consultation with the designers.

Art. 33.–

(1) The designer shall have the right to determine the place and manner of mentioning of his name and the date (year) of design on the building (structure). However, this right may not prejudice the reasonable interests of the owner (operator).

(2) In the case of a design created in the course of an employment relationship, the employer shall determine the group of the persons whose names are to be mentioned on the design and the structure. Any dispute shall be decided by the courts.

(3) The name of the employer shall also be mentioned, at his request, on the design created in the course of an employment relationship as well as on the building (structure) constructed on the basis of that design.

(4) Should the author decide not to require the continued mention of his name, the inscription that includes his name shall be removed within 60 days of his request. However, this shall not prejudice the right of the employing firm to have its name mentioned.

Art. 34.–

(1) The name of the author must be mentioned on the image if it serves to present a specific work of fine art, architecture, engineering or applied art. If it is used for the purposes of the work, reference must likewise be made to the author.

(2) In the case of a renewed, but unchanged, use of the design of a work of architecture or engineering or the renewed use of a standard design, the name alone of the author of the original design shall be mentioned.

Art. 35.–

(1) The author's authorization shall also be required to exhibit the design, or a part of the design, of a work of architecture or engineering.

(2) Museums, public collections at museums, libraries and archives shall be deemed public collections that conserve works.

(3) The author's name shall be mentioned in the case of the exhibition of a work.

Art. 35A.–

(1) The remuneration laid down in Article 46A of Act No. III shall be transferred by the business entity engaged in trading activities on a quarterly basis–up to the twentieth day of the month following the end of the quarter–to the Public Foundation of Hungarian Creative Arts (hereinafter: the Public Foundation). The notice accompanying the transfer shall include the name of the author–or refer to the lack of a name on the work–the title of the

work, the technique used for its creation and the amount of remuneration for each work.

(2) The Public Foundation shall pay the remunerations collected to the author of the work or to his successor in title.

Art. 35B. For the purposes of Article 50G of Act No. III, the simultaneous transmission by a device or in a manner suitable for communication to the public shall also be deemed simultaneous communication by cable to the public.

Art. 36.–

(1) The protection of illustrations and visual aids shall cover the following works not considered artistic or scientific works:

- text illustrations,
- geographic and topographic figures, sketches,
- architectural, engineering and other technical or structural designs, drawings and sketches,
- visual aids (mock-ups, pictures in relief, models),
- professional photographs and films.

(2) The provisions of Article 14 of Act No. III shall also apply to the use of photographs, figures and other visual aids.

Art. 37.–

(1) The fine imposed by the court—except as referred to in paragraph (2)—shall be paid to the benefit of the National Cultural Foundation.

(2) The fine imposed by the court in the case of unlicensed use of software shall be paid to the Central Statistical Office. The amount accumulated through the collection of fines shall be used for software development purposes.

Art. 37A.–

(1) The provisions of Article 35A shall apply to the payments due after the expiration of the term of protection with the proviso that the Public Foundation shall be required to administer, and keep account of, the amounts collected as a special item.

(2) The Public Foundation shall inform the general public of the utilization of the payments annually, by means of *Művelődési Közlöny* (Cultural Gazette).

Art. 38.–

(1) The members of the Board of Copyright Experts shall be appointed by the Minister for Culture and Education from among the members of scientific institutions, the art federation and other concerned organizations on the basis of proposals made by these same persons and the supervisory authorities, as also from among the specialists concerned with the theory and practice of copyright. The President of the Board and the members of its

Presidium shall likewise be appointed by the Minister for Culture and Education.

(2) The Hungarian Bureau for the Protection of Authors' Rights shall be responsible for the administrative management of the Board of Copyright Experts.

(3) The Board of Copyright Experts shall establish a panel of between three and five members to formulate advisory opinions, on a majority.

(4) Upon request, the Board of Copyright Experts may also give advisory opinions in extrajudicial procedures on issues connected with the exercise of the right to use.

(5) Other matters concerning the organization and operation of the Board of Copyright Experts shall be included in the Rules issued by the Minister for Culture and Education.

Art. 39.—

(1) The amount of the royalty shall be agreed by the parties, unless otherwise provided by law.

(2) The royalty due for the public performance of disclosed musical works, for their fixation on equipment serving the purposes of mechanical performance (e.g., fixation of sound recordings, radio and television performance, film and video background music), for the sound recording of disclosed literary work, and—unless otherwise agreed between the parties—for the public performance of dramatic works, and the royalty due to persons other than legal entities on the basis of contracts concluded for the exploitation of software shall be paid to the Hungarian Bureau for the Protection of Authors' Rights.

Art. 40.—

(1) This Decree shall enter into force on the first day of January of 1970; no departures from Article 7(2), Article 11(1) and (3), Article 12, Article 23, Article 30(2), Article 33(1), Article 34(1), and Article 35(1) and (3) of this Decree shall be admissible to the prejudice of the author's interests.

(2) On the date of the entry into force of this Decree, Decree No. 58230/1922. (III.7.) on the procedure to be observed in effecting embodiments as provided in Act No. LIV of 1921 on Copyright and Decree No. 44348/1933. (VII.27.) KM amending the previous Decree shall cease to have effect.

1: Entry into force (of last amending Decree): January 1, 1995.

Source: Translation by the International Bureau of WIPO on the basis of an English translation communicated by the Hungarian authorities.

Note: For the text of Act No. III of 1969 on Copyright, as amended, see Copyright and Neighboring Rights Laws and Treaties, HUNGARY — Text 1-01.

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