

Law No. 23, of January 28, 1982, on Copyright*

(Articles 1 to 71)

CHAPTER I General Provisions

Article 1. The authors of literary, scientific and artistic works shall enjoy protection for their works as laid down by this Law and, in so far as they are compatible with it, by ordinary legal provisions. This Law shall also protect performers, producers of phonograms and broadcasting organizations with respect to their rights neighboring on copyright.

Article 2. Copyright shall subsist in scientific, literary and artistic works, which shall be understood as being all creations of the mind in the scientific, literary and artistic domain, whatever may be their mode or form of expression and purpose, such as: books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and mime; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography, including videograms; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science and, finally, any production in the scientific, literary or artistic field that can be reproduced or executed by any form of printing or reproduction, or by phonographic, radiophonic or any other known or future means.

Article 3. Copyright shall comprise the exclusive right for its owner:

- (a) to dispose of his work free of charge or for a consideration, subject to such lawful conditions as he may freely determine at his discretion;
- (b) to exploit the work with or without gainful intent, by means of printing, engraving, copying, molding, phonograms, photography, cinematograph film, videograms, and by performance, recitation, translation, adaptation, showing, transmission or any other known or future means of reproduction, multiplication or dissemination;
- (c) to exercise the prerogatives guaranteed by this Law in defense of his moral rights as specified in [Chapter II, Section 2, Article 30](#) of this Law.

Article 4. The following shall be the owners of the rights recognized by this Law:

- (a) the author, in his work;
- (b) the performer, in his performance;
- (c) the phonogram producer, in his phonogram;
- (d) the broadcasting organization, in its broadcast;
- (e) the successors in title, either specific or universal, of the aforementioned owners;

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- (f) the natural person or legal entity who by contract obtains the right, for his own account and at his own risk, to produce a scientific, literary or artistic work made by one or more authors under the conditions specified in [Article 20](#) of this Law.

Article 5. The following shall be protected as independent works, without prejudice to the copyright in the original works and in so far as they represent original creations:

- (a) translations, adaptations, arrangements of music and other transformations made to a work in the private domain with the express authorization of the owner of the original work; in that case the person who makes the adaptation, translation, transposition, etc., shall be considered the owner of the rights therein, unless otherwise agreed;
- (b) collective works such as periodical publications, anthologies, dictionaries and the like, in so far as the method or system for the selection or arrangement of the various parts or works incorporated in them constitutes an original creation; the natural person or persons or legal entity or entities that coordinate, disclose or publish the works referred to in this item under their names shall be considered the owners thereof.

The authors of the works thus used shall retain their rights in them and may reproduce them separately.

Paragraph. The publication of the works referred to in this Article shall mention the name or pseudonym of the author or authors and the titles of the original works used.

Article 6. Inventions or scientific discoveries susceptible of practical application and exploitation in industry, and the writings describing them, shall be the subject of temporary rights only, pursuant to [Article 120, paragraph 18](#), of the Constitution.

The ideas or conceptual content of literary, artistic and scientific works may not be the subject of appropriation. This Law shall protect exclusively the literary or three-dimensional form in which or the sound by which the author's ideas are described, explained, illustrated or incorporated in the literary, scientific and artistic works.

Works of art applied in industry shall be protected only in so far as their artistic value may be dissociated from the industrial character of the object or objects to which they may be applied.

Article 7. The names of periodicals, magazines, radio and television programs and other communication media shall not give rise to copyright. Reservation of rights in such names shall be effected with the Ministry of the Government (*Ministerio de Gobierno*), and the names shall be protected for one year following the last issue or broadcast, except in the case of an annual publication or program, in which case the period shall be extended to three years. The interested party shall renew his request for reservation of rights in the course of the month preceding the expiry of the above periods of one and three years, respectively.

The protection provided for in the foregoing paragraph shall not prevent the application of [Articles 209](#) and [210](#) of this Law.

Article 8. For the purposes of this Law:

- (a) "artistic, scientific and literary works" means, among other things, books, musical works, pictures in oils, water color or pastel, drawings, woodcuts, calligraphic and chrysographic works, works produced by cutting, engraving, damascening, etc., in metal, stone, wood or other materials, statues, relief's, sculptures, artistic photographs, mimed or other choreographic works;
- (b) "individual work" means a work produced by one single natural person;
- (c) "work of joint authorship" means a work produced jointly by two or more natural persons whose contributions cannot be separated;

- (d) “collective work“ means a work produced by a group of authors on the initiative and under the guidance of a person, natural or legal, who coordinates, discloses and publishes it under his name;
- (e) “anonymous work“ means a work in which the author’s name is not mentioned, either according to his wishes or because it is unknown;
- (f) “pseudonymous work“ means a work in which the author conceals his identity under a pseudonym that does not identify him;
- (g) “unpublished work“ means a work that has not been disclosed to the public;
- (h) “posthumous work“ means a work that is not made public until after the death of its author;
- (i) “original work“ means the work originally created;
- (j) “derivative work“ means a work resulting from adaptation, translation or other transformation of an original work, in so far as it constitutes an independent creation;
- (k) “performer“ means the actor, speaker, narrator, declaimer, singer, dancer, musician or any other person who performs a literary or artistic work;
- (l) “phonogram producer“ means the person, natural or legal, who first fixes the sounds of a performance or other sounds;
- (m) “phonogram“ means the fixation in a physical medium of the sounds of a performance or other sounds;
- (n) “broadcasting organization“ means the radio or television enterprise that transmits programs to the public;
- (ñ) “broadcasting“ or “transmission“ means the dissemination by means of radioelectric waves of sounds or sounds synchronized with images;
- (o) “rebroadcasting“ means the simultaneous broadcasting of one broadcasting organization’s transmission by another;
- (p) “publication“ means communication to the public by any method or system;
- (q) “publisher“ means the person, natural or legal, who is economically and legally responsible for the publication of a work and who, on his own account or under a contract concluded with the author or authors of the said work, undertakes to reproduce it by printing or any other means of reproduction and to distribute it;
- (r) “cinematographic producer“ means the person, natural or legal, who takes the initiative and assumes the coordination of and responsibility for the production of the cinematographic work;
- (s) “cinematographic work, videotape, videogram“ means the fixation in a physical medium of sounds synchronized with images or of images without sound;
- (t) “fixation“ means the embodiment of images and/or sounds in a material form sufficiently permanent or stable to permit them to be perceived, reproduced or communicated.

Article 9. The protection granted to the author by this Law originates in the fact of intellectual creation, without any registration being necessary. The formalities specified herein are for the greater legal security of the owners of the rights protected.

Article 10. In the absence of proof to the contrary, the author of a work shall be deemed to be the person whose name, pseudonym or initials, or any other conventional mark or signs known to correspond to his name, appear in print on the work or on reproductions of it, or are announced in the declamation, performance or any other form of public dissemination of the said work.

Article 11. Pursuant to [Article 35](#) of the National Constitution, “literary and artistic property shall be protected as transferable property during the lifetime of the author and for 80 years thereafter, through the formalities prescribed by law.

The same guaranty shall be extended to the owners of works published in countries where the Spanish language is spoken, provided that the principle of reciprocity is recognized by law in those countries, without any need for entering into international agreements to this end.“

This Law shall protect the works and productions of Colombian citizens and foreigners resident in the country, and also the works of foreigners published for the first time in the country. Foreigners having their residence abroad shall enjoy the protection of this Law to the extent that international conventions to which Colombia is party, or the national laws of the country concerned, assure Colombian nationals of effective reciprocity.

CHAPTER II

Content of Copyright

Section 1

Economic Rights and their Duration

Article 12. The author of a protected work shall have the exclusive right to do or authorize any one of the following acts:

- (a) reproduction of the work;
- (b) translation, adaptation, arrangement or any other transformation of the work; and
- (c) communication of the work to the public by performance or broadcasting or in any other way.

Article 13. The translator of a protected scientific, literary or artistic work, having been duly authorized by the author or his successors in title, shall acquire copyright in his translation. However, when disclosing it to the public, he shall mention the author and the title of the original work.

Article 14. The translator of a work in the public domain shall be the author of his own version, but he may not object to the making of different translations of the same work, the copyright in each of which shall vest in the person who makes it.

Article 15. Any person who, with the express permission of the author or his successors in title, adapts, transposes, modifies, takes extracts from, abridges or parodies a work in the private domain shall be owner of the copyright in his adaptation, transposition, modification, extract, abridgment or parody provided that, unless otherwise agreed, he may not disclose it to the public without mentioning the title of the original work and its author.

Article 16. Any person who takes a work in the public domain and adapts, transposes, modifies, abridges or parodies it, or in any way takes extracts from its substance, shall be the exclusive owner of his own work; he may not however object to the same work being adapted, transposed, modified or abridged in so far as such work is original and different from his own.

Article 17. The compiler of collections of poems and popular songs shall be the owner of the rights therein in so far as they are the result of direct research made by himself or his agents and conform to a special literary plan.

Article 18. For there to be joint authorship, it is not sufficient that the work be produced by two or more co authors; it is necessary in addition that the ownership of the copyright cannot be divided without altering the nature of the work.

None of the co-authors may dispose freely of the part constituting his contribution when this has been expressly stipulated on commencement of the joint work.

Article 19. The editor of a compilation is the owner of the copyright in it, and he has no obligations towards his collaborators other than those agreed upon in the contract concerned, in which conditions may be freely specified.

The collaborator who has not, by express stipulation, reserved any copyright for himself may only claim the agreed price, and the editor of the compilation to which he gives his name shall be considered the author before the law. The collaborator shall nevertheless continue to enjoy the full benefit of his moral rights.

Article 20. When one or more authors make a work under a service contract according to a plan specified by a natural person or legal entity, on behalf and at the risk of the latter, they shall only collect, for the implementation of the plan, such fees as have been agreed in the contract concerned. By that instrument alone, the author or authors shall be deemed to have assigned the rights in the work, but to have retained the prerogatives provided for in [Article 30](#) of this Law, under [\(a\)](#) and [\(b\)](#).

Article 21. Copyright shall last for the author's lifetime, and after his death it shall pass to those who have lawfully acquired it for a term of 80 years. In the case of duly established joint authorship, the term of 80 years shall be calculated as from the death of the last surviving co-author.

Article 22. With regard to works consisting of two or more volumes that are not published together, as with those published in the form of fascicles or periodical installments, the period of protection shall start for each volume, fascicle or installment on its date of publication.

Article 23. Where there are no heirs or successors in title, the work shall fall into the public domain on the death of the author. Where the copyright has been transferred by a transaction *inter vivos*, it shall accrue to the transferees during the author's lifetime and for 25 years following his death, and to his heirs for the time remaining thereafter up to completion of the 80 years, without prejudice to whatever the author of the work and the said transferees may have expressly stipulated.

Article 24. The protection of compilations, dictionaries, encyclopedias and other collective works shall last for 80 years calculated from the date of publication, and it shall accrue to the editors.

Article 25. Anonymous works shall be protected for a term of 80 years from the date of publication, in favor of the publisher; should the author reveal his identity, the term of protection shall accrue to him.

Article 26. Cinematographic works shall be protected for 80 years calculated as from the completion of the production, which shall be understood as being the date of its first communication to the public. If the owner of the work is a legal entity, the term of protection shall be determined by the following Article.

Article 27. In all cases where a literary, scientific or artistic work has as its owner a legal entity or an official body or any institution under public law, the term of protection shall be deemed to be 30 years as from the date of publication.

Article 28. In all cases where the applicable term of protection starts on the date of publication, the said term shall be understood to end on December 31 of the relevant year.

Article 29. The protection established by this Law in favor of performers, phonogram producers and broadcasting organizations shall be 80 years from the death of the owner of the rights, where such owner is a natural person; where the owner is a legal entity, the term shall be 30 years from the date on which the performance, or the first fixation of the phonogram, or the transmission of the broadcast took place.

Section 2 Moral Rights

Article 30. The author shall have the perpetual, inalienable and imprescriptible right:

- (a) to claim authorship of his work at any time and, in particular, to demand that his name or pseudonym be mentioned when any of the acts referred to in [Article 12](#) of this Law is performed;
- (b) to object to, and to seek relief in connection with, any distortion, mutilation or other modification of the work, where such action would be or is prejudicial to his honor or reputation or where the work is discredited thereby;
- (c) to keep his work unpublished or anonymous until his death, or after it where he has so ordered by testamentary provision;
- (d) to alter it either before or after its publication;
- (e) to withdraw it from circulation or suspend any form of use even where such use has been previously authorized.

Paragraph 1. The above rights may not be either renounced or assigned. On transferring or authorizing the exercise of their economic rights, the authors grant none other than those of benefit and disposal as referred to in the contract concerned, and retain the rights provided for in this Article.

Paragraph 2. On the death of the author, the exercise of the rights specified in [\(a\)](#) and [\(b\)](#) of this Article shall fall to his spouse and consanguineous heirs. In the absence of the author, his spouse and his consanguineous heirs, the exercise of copyright shall accrue to any person, natural or legal, who provides proof of his title to the work concerned.

Paragraph 3. The protection of the authorship, integrity and authenticity of works that have fallen into the public domain shall be the responsibility of the Colombian Institute of Culture when the works do not have owners or successors in title who can defend or represent those moral rights.

Paragraph 4. The rights mentioned in [\(d\)](#) and [\(e\)](#) may only be exercised against prior indemnification of third parties for any prejudice that such exercise might cause.

CHAPTER III Limitations on and Exceptions to Copyright

Article 31. It shall be permissible to quote an author by transcribing the necessary passages in so far as they are not of such length and continuity that they might reasonably be considered a simulated, substantial reproduction constituting a prejudice for the author of the work from which they were taken. Every quotation shall mention the name of the author of the work quoted and the title of that work.

Where the inclusion of the works of others constitutes the main part of the new work, the courts shall, at the request of any interested party, make an equitable assessment in an oral proceeding, awarding a proportional amount to each of the owners of the works included.

Article 32. It shall be permissible to make use, to the extent justified by the purpose, of literary or artistic works, or parts thereof, by way of illustration in works intended for teaching, by means of publications, broadcasts or sound or visual recordings, or to communicate, without gainful intent and for teaching purposes works broadcast for use in schools, education, universities and professional training, subject to the obligation to mention the name of the author and the title of the works thus used.

Article 33. Any title, photograph, illustration and commentary on a current event, published by the press or broadcast by radio or television, may be reproduced in so far as this has not been expressly prohibited.

Article 34. It shall be lawful to reproduce, distribute and communicate to the public news or other information on facts or events that have been publicly disseminated by the press or by broadcasting.

Article 35. Speeches delivered or read at deliberative assemblies, in the course of legal proceedings or proceedings brought before other public authorities, or any lecture, speech, sermon or other similar work delivered in public, may be published in the periodical press, or broadcast by radio or television in the form of news reports, and without any authorization, provided that the ownership of the works concerned has not been expressly reserved. It is understood that an author's works of this kind may not be published in separate collections without his permission.

Article 36. Publication of a person's portrait shall be free in so far as it is related to scientific, educational or cultural purposes in general or to facts or events of public interest or that may have occurred in public.

Article 37. It shall be lawful to reproduce, by any means, a literary or scientific work, such reproduction having been arranged or effected by the party concerned in one copy for his private use and without gainful intent.

Article 38. Public libraries may produce, for the exclusive use of their readers and where such reproduction is necessary for conservation or for exchange services with other libraries, likewise public, one copy of protected works deposited in their collections or archives and which are out of print on the local market. Such copies may also be produced singly by the library that receives them, should that be necessary for conservation, and solely for the use of readers.

Article 39. It shall be permissible to reproduce, by painting, drawing, photography or cinematography, works that are permanently located on public highways, streets or squares, and to distribute such reproductions or works and communicate them to the public. With regard to works of architecture, this provision shall be applicable solely to outward views.

Article 40. Lectures or talks given at establishments of higher, secondary or primary education may be freely noted and collected by the students to whom they are addressed, but their full or partial publication or reproduction shall be prohibited without the written authorization of the person who gave them.

Article 41. Any person shall be allowed to reproduce the Constitution, laws, decrees, ordinances, orders, regulations and other administrative texts and judicial decisions, subject to the obligation to abide strictly by the official edition, and provided that such reproduction is not prohibited.

Article 42. The reproduction of protected works or of fragments of such works shall be permitted, in so far as it is considered necessary by the competent authority, for use in the course of judicial proceedings or by the legislative or administrative bodies of the State.

Article 43. The creator of an architectural design may not prevent the owner from making alterations to it, but he shall have the right to prohibit his name from being associated with the altered work.

Article 44. The use of scientific, literary and artistic works in a private residence without gainful intent shall be free.

CHAPTER IV

Foreign Works

Section 1

Limitations on the Right of Translation

Article 45. The translation of a work into Spanish and the publication of that translation on the territory of Colombia, by virtue of a license granted by the competent authority, shall be lawful even without the authorization of the author, in accordance with the provisions contained in the following Articles.

Article 46. Any natural person or legal entity of the country, on expiration of seven years from the date of first publication of a work, may apply to the competent authority for a license to make a translation of the work into Spanish and to publish the translation in printed or analogous forms of reproduction, in so far as its translation into Spanish has not been published by the owner of the right of translation or with his authorization during that period.

Article 47. Before granting a license under the preceding Article, the competent authority shall determine that:

- (a) no translation of the work into Spanish has been published in printed or analogous forms of reproduction, by or with the authorization of the owner of the right of translation, or that all previous editions in that language are out of print;
- (b) the applicant for the license has established that he either has requested, and has been denied, authorization from the owner of the right of translation or, after due diligence on his part, he was unable to find such owner;
- (c) at the same time as addressing the request referred to in (b) above to the owner, the applicant for the license has informed any national or international information center designated for this purpose by the government of the country in which the publisher of the work to be translated is believed to have his domicile;
- (d) if he could not find the owner of the right of translation, the applicant has sent, by registered airmail, a copy of his application to the publisher whose name appears on the work and another such copy to any national or international information center, or, in the absence of such a center, to the Unesco International Copyright Information Centre.

Article 48. No license shall be granted unless the owner of the right of translation, where known or located, has been given an opportunity to be heard.

Article 49. No license shall be granted until the expiration of a further period of six months following the date on which the seven-year period referred to in [Article 46](#) ended. Such further period shall be computed from the date on which the applicant complies with the requirements mentioned in [Article 47 in \(b\)](#) and [\(c\)](#) or, where the identity or the address of the owner of the right

of translation is unknown, from the date on which the applicant also complies with the requirement mentioned in [\(d\)](#) of the same Article.

Article 50. For works composed mainly of illustrations, a license shall be granted only if the conditions of [Articles 58 et seq.](#) are fulfilled.

Article 51. No license shall be granted when the author has withdrawn all copies of the work from circulation.

Article 52. Any license under the foregoing Articles:

- (a) shall be only for the purpose of teaching, scholarship or research of the work to which the license relates;
- (b) shall only allow publication in a printed or analogous form of reproduction and only on the national territory;
- (c) shall not extend to the export of copies published under the license;
- (d) shall be non-exclusive;
- (e) shall not be transferable.

Article 53. The license referred to in the foregoing Articles shall provide for just compensation in favor of the owner of the right of translation that is consistent with standards of royalties normally operating in the case of licenses freely negotiated between persons in the country and owners of translation rights in the latter's countries.

Article 54. The competent authority shall order the cancellation of the license if the translation is not correct and if the following particulars are not included in all copies published:

- (a) the original title and name of the author of the work;
- (b) a notice in Spanish stating that the copy is available for sale or distribution only within the national territory;
- (c) if the original work was published with a copyright notice, a reprint of that notice.

Article 55. The license shall terminate if a translation of the work in Spanish, with the same content as the translation published under the license, is published in printed or analogous forms of reproduction by the owner of the right of translation, or by another entity or person with his authorization, and where copies of that translation are offered within the country at a price reasonably related to that charged for comparable works. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.

Article 56. A license under the foregoing Articles may also be granted to a domestic broadcasting organization, provided that all the following conditions are met:

- (a) the translation is made from a copy made and acquired legally;
- (b) the translation is only for use in broadcasts intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession;
- (c) the translation is used exclusively for the purposes specified in [\(b\)](#) above, through broadcasts that are lawfully made and that are intended for recipients in the country, including broadcasts made through the medium of sound or visual recordings that have been made lawfully and for the sole purpose of such broadcasts;
- (d) sound or visual recordings of the translation may not be used by broadcasting organizations other than those having their headquarters in the country;
- (e) all uses made of the translation are without any commercial purpose.

Article 57. A license may also be granted to a domestic broadcasting organization, under all of the conditions provided in the foregoing Article, to translate any text incorporated in an audiovisual fixation that was itself prepared and published for the sole purpose of being used in connection with systematic instructional activities.

Section 2

Limitations on the Right of Reproduction

Article 58. Any natural person or legal entity may, after the expiration of the periods specified in this Article, apply to the competent authority for a license to reproduce and publish a particular edition of the work in printed or analogous forms of reproduction.

No license shall be granted until the expiration of one of the following periods, commencing on the date of first publication of the work for which the license is requested:

- (a) three years for works of technology and of the natural and physical sciences, including mathematics;
- (b) seven years for works of fiction, poetry, drama and music, and for art books;
- (c) five years for all other works.

Article 59. Before granting a license, the competent authority shall determine that:

- (a) no distribution, by or with the authorization of the owner of the right of reproduction, of copies in printed or analogous forms of reproduction of that particular edition has taken place in the country, to the general public or in connection with systematic instructional activities, at a price reasonably related to that normally charged in the country for comparable works, or that, under the same conditions, such copies have not been on sale in the country for a continuous period of at least six months;
- (b) the applicant for the license has established that he either has requested, and has been denied, authorization from the owner of the right of reproduction, or that, after due diligence on his part, he was unable to find such owner;
- (c) at the same time as addressing the request referred to in (b) above to the owner, the applicant for the license has informed any national or international information center designated for the purpose by the government of the country in which the publisher of the work to be reproduced is believed to have his domicile;
- (d) if he could not find the owner of the right of reproduction, the applicant has sent, by registered airmail, a copy of his application to the publisher whose name appears on the work and another such copy to any information center referred to in (c) of this Article, or, in the absence of such a center, to the Unesco International Copyright Information Centre.

Article 60. No license shall be granted unless the owner of the right of reproduction, where known or located, has been given an opportunity to be heard.

Article 61. Where the three-year period referred to in [\(a\) of the second paragraph of Article 58](#) applies, no license shall be granted until the expiration of six months computed from the date on which the applicant complies with the requirements mentioned in [\(a\)](#), [\(b\)](#) and [\(c\) of Article 59](#) or, where the identity or the address of the owner of the right of reproduction is unknown, from the date on which the applicant also complies with the requirement mentioned in [\(d\) of Article 59](#).

Article 62. Where the seven-year or five-year periods referred to in [\(b\)](#) and [\(c\) of Article 58](#) apply and where the identity or the address of the owner of the right of reproduction is unknown, no license shall be granted until the expiration of three months computed from the date on which the copies referred to in [\(d\) of Article 59](#) have been mailed.

Article 63. If, during the period of six or three months referred to in [Articles 61](#) and [62](#), a distribution or placing on sale as described in [\(a\) of Article 59](#) has taken place, no license shall be granted.

Article 64. No license shall be granted when the author has withdrawn from circulation all copies of the edition which is the subject of the application.

Article 65. Where the edition which is the subject of an application for license under the foregoing Articles is a translation, the license shall only be granted if the translation is in Spanish and was published by or with the authorization of the owner of the right of translation.

Article 66. Any license under [Articles 58](#) *et seq.*:

- (a) shall be only for use in connection with systematic instructional activities;
- (b) shall, subject to the provisions of [Article 70](#), only allow publication in a printed or analogous form of reproduction at a price reasonably related to that normally charged in the country for a comparable work;
- (c) shall only allow publication on the territory of the country and shall not extend to the export of copies made under the license;
- (d) shall be non-exclusive;
- (e) shall not be transferable.

Article 67. The license shall provide for just compensation in favor of the owner of the right of reproduction that is consistent with standards of royalties normally operating in the case of licenses freely negotiated between persons in the country and owners of reproduction rights in the country of the owner of the right of reproduction.

Article 68. As a condition of maintaining the validity of the license, the reproduction of that particular edition must be accurate and all published copies must include the following:

- (a) the title and name of the author of the work;
- (b) a notice in Spanish stating that the copy is available for distribution only in the country;
- (c) if the edition which is reproduced bears a copyright notice, a reprint of that notice.

Article 69. The license shall terminate if copies of an edition of the work in printed or analogous forms of reproduction are placed on sale in the country, by or with the authorization of the owner of the right of reproduction, to the general public or in connection with systematic instructional activities, at a price reasonably related to that normally charged in the country for comparable works, if such edition is in the same language and is substantially the same in content as the edition which was published under the license. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.

Article 70. Under the conditions provided in [Articles 58](#) *et seq.*, a license may also be granted:

- (a) to reproduce in audiovisual form a lawfully made audiovisual fixation, including any protected works incorporated in it, provided that the said fixation was prepared and published for the sole purpose of being used in connection with systematic instructional activities;
- (b) to translate any text incorporated in the said fixation into Spanish.

Article 71. The Articles of this Chapter shall apply to works whose country of origin is any one of the countries bound by the Universal Copyright Convention as revised in 1971.

CHAPTER V

Economic Rights

(Development and situations that may arise)

Article 72. The economic rights of the author shall operate as from the moment at which the work or production susceptible of economic valuation, whatever its purpose, is disclosed in any form or by any mode of expression.

Article 73. Whenever authors or associations of authors enter into contracts with users or with the organizations representing them concerning the copyright in the performance, showing and in general the use or exploitation of the works protected by this Law, the tariffs agreed upon in those contracts shall be applicable in so far as they are not contrary to the principles embodied in the Law.

Paragraph. Where there is no contract, or where the contract has ceased to have legal effect, the tariffs shall be those specified by the competent body, which shall take into account, among other factors, the category of establishment in which the work is to be performed, and the purpose and duration of the show; such tariffs may not be higher than those already agreed upon by the associations for similar cases.

Article 74. Only by way of a prior contract may a phonogram producer record works protected by this Law, which contract shall in no case constitute assignment of the right of public performance, the economic rights in which shall accrue exclusively to the author or performer.

Article 75. For the purposes of copyright, no type of mandate shall have a duration in excess of three years. The parties may prolong this duration by periods that may not exceed the same number of years. This provision shall apply without prejudice to the provisions of [Article 216.3](#).

Article 76. The authors of scientific, literary or artistic works and their successors in title shall have the exclusive right to authorize or prohibit:

- (a) publication, or any other form of reproduction;
- (b) translation, arrangement or any other form of adaptation;
- (c) incorporation on cinematograph film, videogram, videotape, phonogram or any other medium of fixation;
- (d) communication to the public by any process or means, including:
 - (i) performance, recitation or declamation;
 - (ii) sound or audiovisual broadcasting;
 - (iii) dissemination by loudspeakers or wire or wireless telephony, or by means of phonographs, sound or recording equipment and comparable apparatus;
 - (iv) public use by any other known or future medium of communication or reproduction.

Article 77. The different forms of use of the work shall be independent of each other; authorization by the author of one form of use shall not extend to other forms.

Article 78. The interpretation of legal transactions concerning copyright shall always be restrictive. The recognition of rights broader than those expressly granted by the author in the instrument concerned shall not be allowed.

Article 79. When there are two or more successors to the author and they disagree between themselves, either on the publication of the work or on the way of publishing, distributing or selling it, the court shall decide after having heard all the parties concerned in an oral proceeding.

Article 80. Before the term of protection has expired, the economic rights in a work that is regarded as being of great value to the country and of social interest to the general public may be expropriated, subject to equitable prior indemnification of the copyright owner. Expropriation shall be valid only where the work has been published and where the stock of copies of the work is exhausted, and a period of at least three years has elapsed following the last or only publication with little probability of the owner of the copyright publishing a new edition.

CHAPTER VI

Special Provisions on Certain Works

Article 81. The contract between the other contributors and the producer shall, unless expressly provided otherwise, imply assignment and transfer to the latter of all the economic rights in the cinematographic work, the producer being empowered to exploit it in all forms and by all processes, including reproduction, hiring and sale.

Article 82. There shall be joint authorship if the requirements of [Article 18](#) are met.

Article 83. The editor of a collective work shall be the owner of the copyright in it when the conditions of [Article 19](#) of this Law are met.

Article 84. Letters and other correspondence shall be the property of the person to whom they are sent, but not for the purposes of publication. That right shall belong to the author of the correspondence, except where any letter has to serve as proof of a legal or administrative transaction, and its publication is authorized by the competent official.

Article 85. The letters of deceased persons may not be published during the 80 years following death without the express permission of the surviving spouse and their children or descendants or, in the absence of such persons, that of the father or mother of the author of the correspondence. In the absence of spouse, children, father, mother or descendants of children, publication of the letters shall be free.

When the consent of two or more persons is necessary for the publication of letters and correspondence, and there is disagreement between them, the competent authority shall decide.

Article 86. Where the title of a work is not generic but individual and characteristic, it may not, without the appropriate permission of the author, be adapted for another comparable work.

Article 87. Any person shall have the right to prevent, subject to the limitations specified in [Article 36](#) of this Law, his bust or portrait from being exhibited or displayed commercially without his express consent or, in the event of his death, that of the persons mentioned in [Article 85](#) of this Law. The person who has given his consent may revoke that consent, subject to appropriate indemnification for prejudice.

Article 88. When the consent of two or more persons is necessary for the commercialization or display of the bust or portrait of an individual, and there is disagreement between them, the competent authority shall decide.

Article 89. The author of a photographic work that has sufficient artistic merit to be protected by this Law shall have the right to reproduce, distribute and display it and place it on sale, subject to the limitations of the foregoing Articles and without prejudice to the copyright in the case of photographs of other works of figurative art. Any print or reproduction of the photograph shall bear, visibly printed on it, the name of the author and the year in which it was made.

Article 90. The publication of photographs or cinematograph films of surgical operations, or other fixations of scientific character, shall be authorized by the patient or his heirs or by the surgeon or head of the medical team concerned.

Article 91. The copyright in works created by public employees or officials in the exercise of the constitutional and legal obligations incumbent on them shall be the property of the public body concerned.

This provision shall not apply to lectures or talks given by professors.

Moral rights shall be exercised by authors in so far as such exercise is not incompatible with the rights and obligations of the public bodies concerned.

Article 92. The owner of the copyright in collective works created under an employment contract or a contract for services, in which it is impossible to distinguish the individual contribution of each of the natural persons who contributed to it, shall be the publisher or the legal entity or natural person for whose account and at whose risk the contributions are made.

Article 93. The provisions contained in the foregoing Articles shall not affect the exercise of the moral rights of authors as specified by this Law.

CHAPTER VII

Cinematographic Works

Article 94. Without prejudice to the rights of the authors of the works adapted for or included in it, a cinematographic work shall be protected as an original work.

Article 95. The authors of a cinematographic work are:

- (a) the director;
- (b) the author of the scenario or script;
- (c) the composer of the music;
- (d) the cartoonist or cartoonists in the case of a cartoon film.

Article 96. Cinematographic works shall be protected for 80 years calculated from the date of their completion, except where the producer is a legal entity and the economic rights belong to it, in which case protection shall be for 30 years, in accordance with [Article 27](#).

Article 97. The cinematographic producer is the natural person or legal entity legally and economically responsible for the contracts with all the persons and bodies involved in the making of the cinematographic work.

Article 98. The economic rights in a cinematographic work shall, unless otherwise stipulated, accrue to the producer.

Article 99. The director of the cinematographic work shall be the owner of the moral rights in that work, without prejudice to those that accrue to the various authors or performers who have participated in the work in respect of their own contributions.

Article 100. A contract for cinematographic fixation is a contract under which the author or authors of the script or scenario grant the producer the exclusive right to fix the work, reproduce it or publicly exploit it, either himself or through third parties. Such contract shall stipulate:

- (a) the authorization of the exclusive right;

- (b) the remuneration owed by the producer to the other co-authors of the work and to the performers who take part in it, and also the time, place and mode of payment of that remuneration;
- (c) the period set for the completion of the work;
- (d) the responsibility of the producer towards the other authors or performers in the case of joint production of the cinematographic work.

Article 101. Each of the co-authors of a cinematographic work may dispose freely of the part of the work that constitutes his personal contribution with a view to using it for dissemination in a different medium, unless otherwise specified. If the producer does not complete the cinematographic work within the agreed period, or does not show it during the three years following its completion, the right of use referred to in this Article shall remain free.

Article 102. If one of the co-authors refuses to complete his contribution to the cinematographic work, or is prevented from doing so by circumstances beyond his control, he may not oppose the use of the part of his contribution that has already been completed for the purpose of the completion of the work, provided that he shall not lose his authorship or the rights accruing to him in respect of his contribution.

Article 103. The producer of the cinematographic work shall have the following exclusive rights:

- (a) the right to fix and reproduce the cinematographic work for distribution and showing by any means available to him in cinemas or places that serve the same purpose, or in any other medium for showing or dissemination that may become known, and to derive economic benefit therefrom;
- (b) the right to sell or hire copies of the cinematographic work, or enlarge or reduce its size for the purposes of showing;
- (c) the right to authorize translations or other cinematographic adaptations or transformations of the work, and to exploit them to the extent required for the best economic advantage to be taken of the work, and to bring action before the competent courts and judges against any unauthorized reproduction or showing of the cinematographic work, which right shall also belong to the authors, who may act individually or jointly.

Article 104. Exploitation of the cinematographic work in any medium not agreed upon in the original contract shall require prior authorization from the authors and performers, either individually or through the societies that represent them.

CHAPTER VIII

Publishing Contracts

Article 105. Under a publishing contract the owner of the copyright in a literary, artistic or scientific work undertakes to hand the work over to the publisher, and the publisher undertakes to publish it in printed form or disseminate it and distribute it for his own account and at his own risk.

This contract shall be governed by the rules laid down in the following Articles.

Article 106. Every publishing contract shall specify an agreed fee or royalty payable to the author or owner of rights in the work. Failing such specification, it shall be assumed that the author or owner is entitled to 20% of the public selling price of the copies published.

Article 107. Without prejudice to the provisions of the foregoing Article or to such additional stipulations as the parties may consider appropriate, the contract shall specify the following:

- (a) whether or not the work is unpublished;
- (b) whether or not the authorization is exclusive;
- (c) the period within which and the conditions under which the original is to be handed over;
- (d) the agreed period for placing the edition on sale;
- (e) the duration or term of the contract where the grant is made for a period of time;
- (f) the number of editions or reprints authorized;
- (g) the number of copies constituting each edition;
- (h) the manner in which the public selling price of each copy is to be fixed.

In the absence of one or more of the foregoing stipulations, the supplemental provisions of this Law shall apply.

Article 108. In the absence of express provision, it shall be understood that the publisher may only produce a single edition.

Article 109. The publisher shall publish the number of copies agreed for each edition.

The edition or editions authorized by the contract shall be started and completed during the period specified therein. If no period is specified, the edition shall be started within two months following the handing over of the originals, in the case of the first edition authorized, or within two months following the date on which the previous edition went out of print, where the contract authorizes more than one edition.

Each edition shall be completed within the period strictly necessary for making it under the conditions provided for in the contract.

If the publisher delays publication of any of the agreed editions without full justification, he shall provide indemnification for the prejudice caused to the author, who may publish the work himself or have it published by a third party if the contract so provides.

Article 110. The copyright fees or royalties shall be paid on the date and in the form and place agreed in the contract. If the remuneration consists of a fixed sum, regardless of the results achieved with the sale of the copies published, and no other provision is made, it shall be understood that it is payable as from the time at which the work in question is ready for distribution or sale.

Where remuneration has been agreed upon in proportion to the copies sold, it shall be understood that it must be paid in six-monthly installments starting on the said date, by way of accounts that shall be rendered to the author by the publisher and which may be verified by the former as provided in [Article 123](#) of this Law.

Article 111. The author shall have the right to make such corrections, additions or improvements as he considers appropriate before the work goes to press.

Similarly, the publisher may not make a new edition that has not been agreed upon without the author having authorized it and without having given him the opportunity of making whatever changes and corrections may be appropriate.

If the additions or improvements are made when the work is already at the stage of corrected proofs, the author shall allow the publisher the higher cost of printing. This rule shall apply also when the changes, corrections or additions are substantial and make the printing more costly, except in the case of works kept up to date by means of periodical supplements.

Article 112. Where the author has entered into a publishing contract for the same work at an earlier date, or the work has been published with his consent or knowledge, he shall bring these circumstances to the publisher's notice before the contract is entered into. By not doing so he makes himself responsible for any damages and injury he may cause the publisher.

Article 113. The originals shall be handed over to the publisher within the period and under the conditions agreed. In the absence of stipulation on the subject, it shall be understood that, in the case of an unpublished work, they shall be handed over in the form of typescript, double-spaced, duly corrected and suitable for reproduction by any method of composition, without insertions or additions. In the case of a printed work, the originals may be handed over in the form of a copy of that work in a suitable state of legibility, with insertions or additions made separate from the text on typescript, duly corrected and suitable for reproduction. In the same case it shall be understood that the originals have to be handed over to the publisher on the date of signature of the contract concerned. If the originals are to contain illustrations, the illustrations shall be presented in the form of drawings or photographs suitable for reproduction by the usual method associated with the type of publication concerned.

Article 114. Failure on the part of the author regarding the date and manner of handing over the originals shall give the publisher the option of rescinding the contract and returning the originals to the author so that their submission may be adjusted to the terms agreed, or of making the necessary corrections on his own account. In the case of the return of the originals, the period or periods allowed the publisher for starting and completing publication shall be prolonged by the period that elapses before the author hands over the duly corrected original.

Article 115. Unless otherwise provided, in the case of works that have to be brought up to date by periodical supplements, the publisher shall give preference to the author for the making of the updating supplements; if the author does not agree to do so, the publisher may commission a suitable person to make the supplements.

Article 116. Where the work, after having been handed over to the publisher, is destroyed through the latter's fault, he shall be obliged to pay the fees or royalties. Where the owner or author possesses a copy of the originals that have been destroyed, he shall place them at the publisher's disposal.

Article 117. Where the work is totally or partially destroyed while still in the hands of the publisher following printing, the author shall be entitled to the fees or royalties where the latter consist of a specific sum without regard to the number of copies sold.

Where the fees or royalties have been calculated according to copies sold, the author shall be entitled to those fees or royalties where the destruction or loss of the copies occurred for reasons attributable to the publisher.

Article 118. Where not specified, the public selling price shall be set by the publisher.

Article 119. The publishing contract alone shall at no time constitute transfer of the copyright; consequently, it shall be presumed that the publisher may only publish the agreed editions or, where not specified, only one edition.

Article 120. If the publishing contract has been concluded for a set period and the period expires before all the copies published have been sold, the author or his successors in title shall be entitled to purchase the unsold copies at the fixed public selling price with 30% discount. This right may be exercised within a period of 60 days following the expiration of the contract. If it is not exercised, the publisher may continue to sell the remaining copies under the conditions of the contract, which shall remain in force until the stock of copies is exhausted.

Article 121. Whatever the agreed term for a publishing contract, if the number of copies authorized by it have been sold before the contract expires, the term of the contract shall be deemed to have expired.

Article 122. The publisher may not publish a greater or lesser number of copies than that agreed for each edition; if no such number has been fixed, it shall be understood that 3,000 copies are to be made of each edition authorized. However, the publisher may print an additional number of each proof sheet, not exceeding 5% of the number authorized, to cover the risk of damage or loss during the printing or binding process. The additional copies resulting over and above the specified quantity shall be taken into consideration in the remuneration of the author where such remuneration has been agreed upon according to the number of copies sold.

Article 123. The author or right owner, his heirs or successors in title may verify the accuracy of the number of editions and copies printed, sales, subscriptions, complimentary copies, and generally all income attributable to the work, by supervising the print run in the workshops of the publisher or printer and by inspecting the publisher's storerooms and warehouses, which control may be exercised by themselves or through a person authorized in writing.

Article 124. The publisher shall have the following obligations in addition to those specified in this Law:

- (i) to advertise the work widely in the most suitable form to ensure its rapid dissemination;
- (ii) to supply the author or his successors in title free of charge with 50 copies of the current edition of the work if that edition is not less than 1,000 copies and not more than 5,000, with 80 copies if it is more than 5,000 and less than 10,000, and with 100 copies if it is more than 10,000. The copies received by the author under this provision shall remain outside the market and shall not be regarded as copies sold for the purposes of the payment of fees or royalties;
- (iii) to submit accounts or reports to the author at appropriate times, and to permit inspection by him or by his delegate, in accordance with the provisions of [Articles 110](#) and [123](#) of this Law;
- (iv) to comply with the requirement of legal deposit, if the author has not done so, and
- (v) any other obligations expressly specified in the contract.

Article 125. Any person who publishes a work within the national territory shall be obliged to state the following particulars in a prominent place on all copies:

- (a) the title of the work;
- (b) the name or pseudonym of the author or authors and of the translator, except where those persons have decided to remain anonymous;
- (c) the copyright notice and the year of first publication. This notice shall be preceded by the symbol ©;
- (d) the year and place of the edition and of earlier editions, if any, and
- (e) the name and address of the publisher and printer.

Article 126. The publisher may not alter the originals by making abridgments, additions or modifications without the express authorization of the author.

Unless otherwise provided, in the case of works that have by their nature to be brought up to date, the preparation of the new originals shall be done by the author, but, if the author cannot or will not do so, the publisher may commission a suitable person to do the work, mentioning him as such in the edition concerned, and identifying with type of a different size or style the parts of the

text that have been added or modified, without prejudice to the remuneration of the author under the contract.

Article 127. The publisher may not start a new edition authorized under the contract without the appropriate notification of the author, who shall be entitled to make such corrections and additions as he may consider necessary, subject to the obligation to acknowledge any additional cost that the publisher might thereby incur in the case provided for in [Article 111](#) of this Law.

Article 128. During the term of the publishing contract, the publisher shall have the right to demand by judicial means the withdrawal from circulation of fraudulently published copies of the same work, without prejudice to the right of the author and his successors in title to bring the same actions, which they may do jointly with the publisher or independently.

Article 129. Future intellectual production may not be the subject of a contract within the meaning of this Chapter, except in the case of one or more specific works, the characteristics of which must be precisely laid down in the contract.

Any provision shall be null and void under which the author either commits his future production in a general or indeterminate way, or undertakes to restrict his intellectual production or to abstain from such production.

Article 130. The right to publish one or more works by the same author separately shall not give the publisher the right to publish them together. Similarly, the right to publish the works of an author together shall not give the publisher the right to publish them separately.

Article 131. The publishing contract shall not extend to other means of reproducing or using the work.

Article 132. Unless a shorter period is agreed upon, the publisher shall be obliged to settle and remit to the author at six-monthly intervals the amounts accruing to him as fees or royalties, where they have been fixed in proportion to the number of copies sold. Any agreement shall be null and void that increases the six-monthly period, and failure to meet such obligations shall entitle the author to seek rescission of the contract. This shall be without prejudice to the award of any damages that might have been caused him.

Article 133. If, before completing the drafting of the originals of a work and handing them over, the author dies or is otherwise prevented from completing the work through no fault of his own, the publisher may consider the contract terminated, without prejudice to any rights that may have accrued to the author. If he decides to publish the part of the original actually received, he may reduce the agreed remuneration proportionately. If the character of the work so permits, and with the authorization of the author, his heirs or his successors in title, he may entrust the completion of the work to a third party, mentioning the fact in the edition, in which the added text shall be clearly distinguished typographically.

Article 134. Bankruptcy of the publisher or the liquidation of his assets when the work has not been printed shall cause the contract to terminate. In the case of total or partial printing, the contract shall subsist up to the number of copies printed. The contract shall continue to its term if, at the time of the bankruptcy, printing has started and the publisher or the receiver so request, subject to the provision of sufficient guarantees, at the court's discretion, for the execution of the contract up to its term.

Termination of the contract for this reason shall give a right of preference equal to that granted by the law in respect of the claims of employees for the payment of the author's fees or royalties.

Article 135. Where, after the work has been on sale to the public for five years, not more than 30% of the copies published have been sold, the publisher may consider the contract terminated and

may dispose of the remaining copies at a price lower than that agreed or initially fixed by himself, reducing the author's remuneration in proportion to the new price, if that remuneration was not agreed in proportion to the copies sold. In that case the author shall have an option to purchase the unsold copies at the public selling price less 40% discount, for which purpose he shall have a period of 60 days from the date on which the publisher informed him of his decision to dispose of the copies. If the author exercises this option, he may not collect fees or royalties for those copies if the remuneration agreed upon was proportionate to sales.

Article 136. The publisher shall be entitled to seek registration of the copyright in the work in the author's name, if the latter has not done so.

Article 137. Any disputes that may arise between the publisher and the author or his successors in title in respect of a publishing contract shall be settled by means of the oral procedure provided for in the Code of Civil Procedure, except where the parties have agreed in the contract to submit such disputes to arbitration.

Article 138. The provisions of this Chapter shall be applicable, as appropriate, to contracts for the publication of musical works. Nevertheless, if the publisher has acquired from the author a temporary or permanent share in all or any of the latter's economic rights, the contract shall be rescinded as of right in any of the following cases:

- (a) if the publisher does not place on sale a sufficient number of copies for the work to be disseminated, at the latest three months following signature of the contract;
- (b) if, in spite of the author's request, the publisher does not place on sale further copies of the work where stocks of the original printing are exhausted.

The author may seek rescission of the contract if the musical work has not generated royalties within three years and if the publisher does not show that he has taken definite action to effect its dissemination.

CHAPTER IX

Performing Contracts for Stage Performance

Article 139. Performing contracts are contracts under which the author of a dramatic, dramatico-musical, choreographic or any other similar work authorizes an impresario to cause the work to be performed in public in exchange for remuneration.

Article 140. For the purposes of this Law, public performance of a work shall be understood to mean any performance that occurs outside a private residence and even inside such a residence if it is projected or shown outside. The performance of a theatrical, dramatico-musical, choreographic or similar work by mechanical reproduction processes such as radio and television broadcasting shall be considered public.

Article 141. The impresario, who may be a natural person or a legal entity, shall be obliged to perform the work within the period set by the parties, which may not exceed one year. If the period has not been set or if a period longer than that provided for is specified, the legal period of one year shall be considered agreed upon, without prejudice to the validity of other contractual obligations. The period shall be calculated from the time at which the work is handed over to the impresario by the author.

Article 142. The impresario shall announce the title of the work to the public, always accompanied by the name or pseudonym of the author, and those of the producer and adapter as appropriate, with an indication of the characteristics of the adaptation.

Article 143. Where the author's remuneration has not been fixed by contract, he shall be entitled to a minimum of 10% of the total value of the tickets sold for each performance, and 15% thereof in the case of a first performance.

Article 144. Where the main performers of the work and the orchestra conductor or choirmaster have been chosen by common consent between the author and the impresario, the latter may not replace them without the formers prior agreement, except in chance circumstances where no delay can be allowed.

Article 145. If the impresario fails to pay the share to which the author is entitled, after having been called upon to do so by the latter or by the latter's representatives, the competent authority shall, at the request of any of those parties, order the suspension of performances of the work and the withholding of the receipts from ticket sales, without prejudice to any other legal actions that the author may be entitled to bring.

Article 146. Where the contract does not set a date for the end of performances, the impresario shall continue to put them on for as many times as is economically justified by audience levels. The authorization given in the contract shall lapse when the work ceases to be performed for want of audiences.

Article 147. Where the work is not performed within the period specified in the contract, the impresario shall return to the author the original or copy of the work received by him, and shall indemnify him for the damages and prejudice caused by his failure to comply.

Article 148. The performing contract may not be assigned by the impresario without prior or express permission from the author or his successors in title.

Article 149. It shall not be considered public performance of the works referred to in this Chapter when such performance is given for educational purposes within the premises or buildings of the public or private educational establishments concerned, provided that no admission charge whatever is made.

Article 150. Any disputes that may arise between the impresario and the author or his representatives in connection with a performing contract shall be settled by the oral procedure provided for in the Code of Civil Procedure, except where the parties have agreed in the contract to submit such disputes to arbitration.

CHAPTER X

Contracts for Phonographic Fixation

Article 151. Under a contract for phonographic fixation, the author of a musical work authorizes a natural person or legal entity, against remuneration, to record or fix a work on a phonographic disc, tape, film, paper roll or any other similar device or machine for the purposes of reproduction, dissemination or sale.

This authorization shall not include the right of public performance. The phonogram producer shall mention this reservation on the label that is to be affixed to the disc, device or machine on which the recording is to be made.

Article 152. Where a recording contract specifies that the remuneration of the author is to be proportionate to the number of copies sold, the phonogram producer shall maintain a registration system whereby that number may be verified at any time. The author or his representatives may verify the accuracy of the corresponding financial settlement by inspection of the workshops, storerooms, warehouses and offices of the producer, which inspection the author or his representatives may make either personally or through another person duly authorized in writing.

Article 153. The author or his representatives, and also the producer of phonograms, may either jointly or separately bring judicial action against unlawful production or use of the phonograms or of the devices or machines on which the work has been fixed.

Article 154. The recording contract shall not include any other means of use of the work, neither may it be assigned either entirely or in part without the authorization of the author or his representatives.

Article 155. Future production may not be the subject of a contract as provided for in this Chapter, except where the commitment is to the production of a maximum of five works of the same kind as that which is the subject of the contract and during a period that may not be longer than five years from the date thereof. Any provision shall be null and void under which the author either commits his future production in a general or indeterminate way, or undertakes to restrict such production or to abstain from such production.

Article 156. The provisions of this Chapter shall be applicable, as appropriate, to literary works that are used as text for a musical work, or for declamation or reading aloud, if the author of the said work has authorized the phonogram producer to fix or record it on a disc, tape or any other similar device or machine for the purposes of reproduction, dissemination or sale.

Article 157. Any dispute that may arise between the producer and the author in connection with a contract for phonographic fixation shall be settled by means of the oral procedure provided for in the Code of Civil Procedure, except where the parties have agreed in the contract to submit such disputes to arbitration.

CHAPTER XI

Public Performance of Musical Works

Article 158. Public performance by any means, including broadcasting, of a musical work with or without words shall require express prior authorization from the owner of the rights or his representatives.

Article 159. For the purposes of this Law, public performances shall be understood as being those made in theaters, cinemas, concert or dance halls, bars, clubs of any kind, sports grounds, circuses, restaurants, hotels, commercial, banking and industrial establishments and finally any place in which musical works are performed or transmitted by radio and television, either with the participation of performers or by mechanical or electronic sound or audiovisual processes.

Article 160. The administrative authorities of the locality shall not authorize the holding of shows or public performances without the person responsible for them presenting the program thereof, together with the authorization of the owners of the rights or their representatives.

Article 161. The administrative authorities of all kinds shall withhold the grant of operating licenses to those establishments in which musical works are performed in public until such time as the applicant for the license in question presents the necessary evidence of his having fully paid the corresponding copyright fees to the authors or their representatives or successors in title.

Article 162. The Ministry of Communications shall not permit broadcasting organizations to make use in their broadcasts of scientific, literary or artistic works and artistic productions that have not been expressly authorized beforehand by their owners or owners' representatives.

Article 163. The person who has the responsibility of managing the entities or establishments specified in [Article 159](#) of this Law in which public performance of musical works takes place shall be obliged:

- (i) to display the daily program of those works in a public place;

- (ii) to keep a record on daily planning sheets, in strict order, of the title of each musical work performed, the name of the author or composer thereof, those of the performers who perform in it, or that of the leader of the group or orchestra conductor, as appropriate, and the name or trademark of the recording firm where the public performance is made by means of a phonomechanical fixation; and
- (iii) to submit an authentic copy of the above planning sheets to the authors or performers or to the producers of the phonograms that are involved in them, or to their legal or contractual representatives on request.

The planning sheets referred to in this Article shall be dated and signed and made available to interested parties, or to the competent administrative or judicial authorities when they ask to examine them;

- (iv) not to use performances made by persons whom the author or his representatives have prohibited from performing his work or a collection of his works on the grounds of copyright infringements.

Article 164. For the purposes of this Law, it shall not be considered public performance when a performance is made for strictly educational purposes within the grounds or buildings of the educational establishments concerned, provided that no admission charge whatever is made.

CHAPTER XII

Neighboring Rights

Article 165. The protection afforded by the provisions in this Chapter shall in no way affect the protection of the copyright in literary, scientific and artistic works provided for in this Law. Consequently, none of the provisions of this Chapter may be interpreted as diminishing such protection.

Article 166. Performers or their representatives shall have the right to authorize or prohibit the fixation, recording, communication to the public, transmission or any other form of use of their performances. Consequently, without the authorization of the performers, no person may do any of the following acts:

- (a) broadcasting and communication to the public of their performance, except where it is made from a previously-authorized fixation, or where the transmission is one that has been authorized by the broadcasting organization that transmits the first performance;
- (b) fixation of their performance not previously fixed on a physical medium;
- (c) reproduction of a fixation of their performance in the following cases: (1) where the performance was initially fixed without their authorization; (2) where the reproduction is made for purposes different from those for which the performers gave their authorization; and (3) where the performance was initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes different from those specified.

Article 167. Unless otherwise provided, it shall be understood that:

- (a) the authorization to broadcast does not imply an authorization to license other broadcasting organizations to transmit the performance;
- (b) the authorization to broadcast does not imply an authorization to fix the performance;
- (c) the authorization to broadcast and fix the performance does not imply an authorization to reproduce the fixation; and

- (d) the authorization to fix the performance and to reproduce the fixation does not imply an authorization to broadcast the performance from the fixation or any reproduction of such fixation.

Article 168. Once the performers have authorized the incorporation of their performance in a visual or audiovisual fixation, the provisions of [\(b\)](#) and [\(c\) of Article 166](#) and [\(c\) of Article 167](#) above shall cease to apply.

Article 169. Nothing in the foregoing Articles shall be construed as depriving performers of the right to agree by contract on terms and conditions more favorable to them for any use of their performances.

Article 170. When two or more performers take part in the same performance, it shall be understood that the consent provided for in the foregoing Articles has been given by the legal representative of the group, if any, or, if there is none, by the leader of the group.

Article 171. Performers shall have the moral rights specified in [Article 30](#) of this Law.

Article 172. The producer of a phonogram shall have the right to authorize or prohibit the direct or indirect reproduction of that phonogram.

An unlawful copy shall be understood to be one which, with or without imitating the outward characteristics of the lawful copy, incorporates all or part of the producer's phonogram without his authorization.

Article 173. When a phonogram published for commercial purposes, or a reproduction of such phonogram, is used directly for broadcasting or for any other form of communication to the public, a single equitable remuneration for the performers and the producer of the phonogram shall be paid by the user to the producer.

Article 174. Half of the amount received by the producer under the foregoing Article shall be paid by the producer to the performers, or to those who represent them, unless it is agreed that they shall be paid a higher amount.

Article 175. The producer of the phonogram shall be under the obligation to state on the label of the disc or equivalent device or machine, or on its wrapper, the name of the author and those of the main performers, the title of the work, the year of the cutting of the original matrix, the name, corporate name or distinguishing mark of the producer and the fact that the rights legally accruing to him are reserved. Choirs, orchestras and composers shall be designated by their proper name and by the name of the leader, if any.

Article 176. The use of phonographic discs and other devices or machines referred to in [Article 151](#) of this Law in public performance by means of broadcasting, cinematography, jukeboxes or similar apparatus, in any public place, whether open or enclosed, shall give rise to the collection of royalties in favor of the authors, performers and phonogram producers under the conditions specified in this Law.

Article 177. Broadcasting organizations shall have the exclusive right to authorize or prohibit the following acts:

- (a) rebroadcasting of their broadcasts;
- (b) fixation of their broadcasts;
- (c) reproduction of a fixation of their broadcasts:
 - (1) where the fixation used to make the reproduction was made without authorization;
 - (2) where the broadcast was initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes different from those specified.

Article 178. The preceding Articles of this Law shall not apply where the acts referred to in those Articles are concerned with:

- (a) private use;
- (b) the reporting of current events, provided that no more than short excerpts of a performance, phonogram or broadcast are used;
- (c) use solely for the purposes of teaching or scientific research;
- (d) quotations in the form of short excerpts of a performance, phonogram or broadcast, provided that such quotations are compatible with fair practice and are justified by the informatory purpose of such quotations.

Article 179. Broadcasting organizations may make ephemeral recordings of works and performances whose owners have consented to the broadcasting thereof, for the sole purpose of using them for a specified number of times in their own broadcasts, and they shall be obliged to destroy the recordings immediately after the last authorized transmission.

Article 180. As a condition of protection of phonograms under the foregoing Articles, all copies in commerce shall bear a notice consisting of the circled P symbol, accompanied by the year date of the first publication, placed in such a manner as to give reasonable notice of claim of protection. If the copies or their containers do not identify the producer or the licensee of the producer by carrying his name, trademark or other appropriate designation, the notice shall also include the name of the owner of the rights of the producer. If the copies or their containers do not identify the principal performers, the notice shall also include the name of the person who owns the rights of such performers under this Law.

Article 181. Nothing in this Law shall prejudice the right of natural persons or legal entities to use, in accordance with the requirements of this Law, fixations and reproductions made in good faith before the date of its coming into force.

CHAPTER XIII

Transfer of Copyright

Article 182. The owners of copyright and neighboring rights may transfer their rights to third parties either wholly or in part, universally or in particular.

Paragraph. The transfer of rights, whether whole or partial, shall not include the moral rights specified in [Article 30](#) of this Law.

Article 183. Any instrument disposing of copyright, whether wholly or in part, shall be evidenced by a public deed, or by a private deed executed before a notary, which deeds shall, in order to be binding on third parties, be registered at the Office of Copyright Registrations, according to the formalities specified in this Law.

Article 184. Where the contract refers to the making of a photograph, painting, drawing, portrait, engraving or other similar work, the completed work shall be the property of the person who commissioned it.

Article 185. Unless otherwise provided, transfer of a pictorial work, sculpture or work of figurative art in general shall not confer on the acquirer the right of reproduction, which shall continue to belong to the author or his successors in title.

Article 186. The remittance of the negative shall presume assignment of the photograph to the acquirer, who shall also have the right of reproduction.

CHAPTER XIV

The Public Domain

Article 187. The following shall belong to the public domain:

- (i) works whose term of protection has expired;
- (ii) works of folklore and traditional works by unknown authors;
- (iii) works whose authors have renounced their rights; and
- (iv) foreign works that do not enjoy protection in the Republic.

Article 188. For the purposes of [item \(iii\)](#) of the foregoing Article, renunciation, by authors or heirs, of the economic rights in the work shall be presented in writing and made public, always provided that such renunciation is not contrary to previously contracted obligations.

Article 189. Indigenous art in all its manifestations, including dances, songs, crafts, drawings and sculptures, shall belong to the cultural heritage.

CHAPTER XV

National Register of Copyrights

Article 190. The necessary registers shall be kept at the Office of Registration for the recording of the various works and productions, instruments and contracts relating thereto, and also for the registration of authors' associations.

The main books of the register and the indexes shall be bound and shall contain as many leaves as are calculated to be necessary for the operations for which they are intended during the period of their validity. The leaves shall in addition be numbered.

Article 191. The established provisions in force for notarial books and registers shall be applicable, in so far as their nature and subject matter permit, to the books kept for these purposes.

Article 192. The following shall be subject to registration:

- (i) all scientific, literary and artistic works in the private domain, according to this Law;
- (ii) all artistic productions fixed on a physical medium;
- (iii) any instrument of disposal and any contract for translation, publication and participation, and any other instrument or contract associated with copyright;
- (iv) the associations specified in [Chapter XVI](#) of this Law;
- (v) the powers of attorney granted to natural persons or legal entities for dealings with the competent body relating to matters governed by this Law.

Article 193. The purpose of the registration of the works and instruments subject to the formalities specified in the foregoing Article shall be:

- (a) to publicize the rights of the owners and the instruments and contracts that transfer or alter the ownership covered by the Law; and
- (b) to give a guarantee of authenticity and security to the titles of intellectual property and to the instruments and documents referring thereto.

Article 194. The registration of works and instruments shall where possible be adapted to the form and terms laid down in ordinary legal provisions on the registration of public or private deeds.

All such entries shall be signed in the corresponding book or books by the competent official.

Article 195. In order to effect registration, the interested party shall address a written request to the competent body, in which he shall express clearly:

- (i) the surname, given name and identity card number of the applicant, and his address, including a statement as to whether he is speaking in his own name or as the representative of another, in which case he shall also submit proof of his representative capacity and state the surname, given name, title and address of the person represented;
- (ii) the surnames, given names and addresses of the author, producer, publisher and printer, and identification of each one of them;
- (iii) the title of the work or production, the place and date of its publication and, in the case of literary or scientific works, the number of volumes, their format, the number of pages that they contain, the number of copies, the dates on which printing was completed, and all other circumstances that in any way contribute towards perfect knowledge of it.

Article 196. If the literary or scientific work is printed, six copies of it shall be submitted as follows: two to the National Library, one to the Library of the National University, one to the Library of Congress, one to the *Instituto Caro y Cuervo*, and another one, together with prior receipts and the request for registration, to the Office of Registration. This deposit shall be effected by the publisher within a period of 60 days following the publication of the work concerned.

No request for registration of literary or scientific works shall be processed without prior proof that the copies specified in the foregoing paragraph and that corresponding to [Article 207](#) have been presented.

Article 197. The same requirements as in the foregoing Article shall apply to the registration of phonograms and videograms.

Article 198. If the work is unpublished, the Office of Registration shall be presented with a single copy of it, typewritten, without alterations, deletions or insertions, with the authenticated signature of the author, and properly bound.

If the unpublished work is a theatrical or musical work, it shall be sufficient to submit a copy of the manuscript, also with the authenticated signature of the author, and properly bound.

Article 199. If the work is a single artistic work, such as a canvas, bust, portrait, painting, drawing, work of architecture or sculpture, the deposit shall be effected by means of a description of the work, accompanied by a photograph which, in the case of works of architecture and sculpture, shall show both frontal and lateral views.

In order to effect the deposit of plans, sketches, maps and photographs, a copy thereof shall be filed with the Office of Registration. For models and works of art, a copy or photograph of the model or work shall be filed together with a detailed written description of the characteristics that cannot be evaluated on the copy or photograph.

Article 200. If the work is a cinematographic work or an audiovisual fixation obtained by a comparable process, the request referred to in [Article 195](#) shall be accompanied by:

- (a) an account of the plot, dialogue, scenario and music;
- (b) the surnames and given names of the producer, scriptwriter, composer, director and main performers;
- (c) a statement of the meterage of the film; and
- (d) as many photographs as the film comprises main scenes, in such a form that it may be judged that the work is original.

Article 201. In the case of anonymous or pseudonymous works, the rights shall be entered under the name of the publisher, except where the pseudonym is registered.

If the work is posthumous, registration may be effected in the name of the author or of the heirs that have been recognized under the Law.

Article 202. For the registration of instruments of disposal and contracts for translation, publication and participation, and for that of any other instrument or contract associated with copyright, the Office of Registration shall be presented with a copy of the instrument or title concerned, which shall not be considered authentic if this requirement is not met.

Article 203. Where copyright has been transferred or otherwise passed on by way of total or partial disposal, in accordance with a judgment issued by a competent court or for any other reason, the Office of Registration, on request and on receipt of the relevant documents, shall record the operation in the appropriate book.

Article 204. Registration or recording shall be set down in a minute, which shall show:

- (a) the day, month and year in which it is effected;
- (b) the surname, given name, identity card number and address of the applicant, with a mention of whether he is acting in his own name or as the representative of another person, in which case it shall mention the document evidencing representation and the surname, given names, identity card number and address of the person represented;
- (c) the surnames, given names and addresses of the author, publisher and printer, and their identification;
- (d) a description of the work or production, with all identifying details.

Article 205. Immediately after registration has been effected, a certificate shall be made out and issued to the party concerned.

This certificate shall contain the date on which the registration was accomplished; the book or books and the folio or folios in which the registration was effected; the title of the work registered and any other circumstances that may afford accurate knowledge thereof and serve to identify it at any time; the surname, given names, identification and address of the owner in whose name the intellectual rights have been registered.

Article 206. Applicants shall not pay any fees for the first extract from the Register or certificate of registration of a work; for any further certificate, copy or extract that they require, however, they shall pay whatever fees are specified for the production of each such document.

Article 207. The publisher shall deposit with the Office of Registration a copy of any printed work that is published in Colombia within 60 working days following its publication. Failure to effect this deposit and comply with the provisions of [Article 196](#) of this Law shall be punished by a fine equal to ten times the commercial value of each copy not deposited. Any person may report such infringements.

Article 208. In the case of foreign works that are protected by international conventions or treaties in force or by mere legislative reciprocity, their registration shall be optional for the owner concerned.

Article 209. The managers or directors of journals, reviews and in general all periodical publications shall be obliged to send three copies of each of their publications, one to the Government Ministry, one to the National Library and the third to the National University. When the managers and directors of these publications fail to comply with this obligation on three consecutive occasions, the registration of the title of the publication shall be cancelled by a decision accompanied by a statement of grounds.

Article 210. The directors of official publications, whether journals or reviews or publications of any other kind, shall have the same obligations as other publishers, and they shall effect deposits of works at the offices referred to in the foregoing Article. In the absence of a director, this obligation shall be incumbent on the person responsible for publication.

CHAPTER XVI

Authors' Associations

Article 211. The owners of copyright may form non-profit-making associations with legal personality and their own resources for the defense of their interests in accordance with the provisions laid down in this Law.

Article 212. The recognition of the legal personality of such associations shall be granted by the National Copyright Directorate, which may supervise its operation.

Article 213. Authors' associations may neither be set up nor function with fewer than 25 authors, who must belong to the same area of activity.

Article 214. Authors may belong to two or more authors' associations, depending on the diversity of their works.

Article 215. Authors' associations shall have the following main purposes:

- (a) to promote the intellectual production of their members and the furtherance of national culture;
- (b) to administer the economic rights of their members, in accordance with their statutes;
- (c) to secure better economic rewards and social security for their members.

Article 216. The responsibilities of authors' associations shall be the following:

1. To represent their members before the judicial and administrative authorities in all matters of general and particular interest to them; members may assist the representatives of their association personally before the judicial authorities in business conducted by the said representatives that affects them.

2. To enter into contracts on behalf of their members and of other authors in strictly copyright matters, according to the terms of the mandates that the latter confer on them and without disregarding the limitations imposed by this Law.

3. To collect and hand over to their members, and to foreign authors in the same area of activity, the remuneration accruing to them from their copyrights; for the exercise of this function the associations shall be regarded as the agents of their associates for all legal purposes, by the simple fact of the latter's affiliation to them.

4. To enter into contracts or agreements as the representatives of their members in connection with matters of general or specific interest.

5. To enter into agreements with foreign authors' societies in the same or corresponding areas of activity on the basis of reciprocity.

6. To represent foreign authors' societies or their members within the country, either on specific instructions or under reciprocal arrangements.

7. To ensure the safeguarding of national intellectual and artistic traditions.

8. Such other responsibilities as are authorized by this Law and the associations' statutes.

Article 217. Authors' associations shall be organized and shall operate according to the following provisions:

1. They shall admit as members authors who so request and who provide due evidence of their status as such in the area concerned and of the fact that their works are exploited or used as provided in this Law.

Persons who are owners of works that are out of use or exploitation shall cease to form part of an association. The statutes of the association shall determine the form and conditions of their withdrawal from it, and also the cases of expulsion and suspension of membership rights.

2. Associations shall have the following bodies and officer: General Assembly, Management Council, Supervisory Committee and Treasurer.

In cases where the authors' associations represent their members individually before the administrative or judicial authorities or any other person in matters relating to this Law, representation shall be by agreement; in such a situation there shall be agreement on the fees payable for the mandate concerned.

Article 218. The Assembly shall be the supreme body of the association and shall elect the treasurer and the members of the Management Council and Supervisory Council. Its powers, functions and the manner of its convening shall be specified in the statutes of the association concerned.

Article 219. The Management Council shall be composed of a number of active members of the association, not lower than three or higher than nine, who shall be elected by the General Assembly according to the electoral quotient system. When alternates are elected, they shall be personal.

Article 220. The Management Council shall be the managing and administrative body of the association, responsible to the General Assembly, whose instructions it shall carry out. Its powers shall be specified in the statutes.

Article 221. The Management Council shall elect a Manager, who shall implement the decisions and agreements of the Management Council. His powers shall be specified in the statutes.

Article 222. The Supervisory Committee shall be composed of three active members of the association.

Article 223. Agreements, conventions or contracts entered into by Colombian authors' associations with foreign societies shall not be effective unless they are registered with the competent authority.

Article 224. Any contractual dealings engaged in by authors that in any way modify, transfer, encumber or extinguish the economic rights conferred on them by this Law shall not be effective until they have been registered with the competent authority.

Authors' associations may not in any way restrict the contractual freedom of their members.

Article 225. Authors' associations shall draw up their expenditure budgets for periods not exceeding one year in General Assembly.

After this Law has been enforced for five years, the amounts of such budgets may not in any event exceed 30% of the sums collected by the association for members established in the country and of the amounts collected for authorization within the national territory in respect of works by authors, national or other, established abroad.

Only the General Assemblies of authors' associations may authorize distributions that are not originally provided for in each budget, without exceeding the limits mentioned above, the directors of the association being collectively liable for infringements of this Article.

Article 226. Claims for fees or royalties collected by associations and notified personally to their members shall be barred by limitation after three years in favor of associations. In the case of royalties or fees of authors from abroad, the principle of reciprocity shall apply.

Article 227. The statutes of authors' associations shall contain the following as a minimum:

- (a) denomination, domicile and territorial area of activity;
- (b) object of activities;
- (c) requirements and procedures for the acquisition, suspension and loss of membership;
- (d) rights and obligations of and prohibitions affecting members, and manner of exercise of voting rights;
- (e) details of the system and procedure for electing managing bodies;
- (f) forms of management, organization, administration and internal supervision;
- (g) composition of managing bodies, supervision and determination of their functions;
- (h) forms in which working capital is constituted and increased;
- (i) duration of each accounting period;
- (j) rules for the dissolution and liquidation of the association;
- (k) rules for the administration of its assets, approval and implementation of budgets and presentation of balance sheets;
- (l) procedure for the revision of the statutes;
- (m) such other provisions as are considered necessary for the proper and normal operation of the association.

Article 228. The statutes that have been approved by the authors' association in General Assembly shall be submitted to the competent authority for verification of legality.

Once revised and found to be in conformity with the law, registration of the statutes shall be ordered and recognition of legal personality shall be recognized by resolution.

Article 229. Only those authors' associations that are set up and registered according to the provisions of this Law may be considered such and may exercise the responsibilities specified therein.

Article 230. The Treasurer and the persons who form part of the Management Council or of the Supervisory Committee of an authors' association may not form part of comparable bodies in other authors' associations.

Article 231. In the exercise and accomplishment of their functions and responsibilities, authors' associations shall abide by the provisions of this Chapter, and they shall be subject to inspection and supervision by the competent authority.

CHAPTER XVII

Sanctions

Article 232. The following persons shall be liable to imprisonment for three to six months without remission and to a fine of 50,000 to 100,000 pesos:

- (i) those who, in relation to an unpublished work or artistic production and without the authorization of the author, artist or producer, or their successors in title, enter the work or production in the Register or publish it by any means of reproduction, multiplication

or dissemination, as if it were their own or that of another person different from the real author, or with the title altered or removed, or with the text altered fraudulently;

- (ii) those who, in relation to a published and protected production, commit any of the acts specified in the foregoing paragraph or, without the permission of the owner of the copyright, reproduce, adapt, transpose, amend, recast or condense it, and publish or disclose any of the said works by any means of reproduction, multiplication or dissemination;
- (iii) those who, in relation to a pictorial work, sculpture or comparable work of art that belongs to the private domain, enter it in the Register as being their own or reproduce it without the permission of the copyright owner;
- (iv) those who, in relation to legally protected plans, sketches and similar works, enter them in the Register as being their own or publish them or have them reproduced, or use them for works that the author did not take into account when making them, or dispose of them without the permission of the copyright owner;
- (v) those who reproduce a work that has already been published and display fraudulently on the infringing edition the name of the authorized publisher;
- (vi) those who, being the authorized publisher, printer or any other person, produce or reproduce a greater number of copies than that requested or authorized by the owner of the copyright in the work;
- (vii) those who reproduce, import or distribute phonograms without the authorization of the owner of rights therein;
- (viii) those who, in any manner or by any means, make use of a work without the authorization of its author or the right owners, granted in any of the forms provided for in this Law;
- (ix) those who arrange or undertake the fixation, performance or reproduction, showing, distribution, commercialization, dissemination or representation of the said work without due authorization;
- (x) those who publish, sell or reproduce or disseminate a published work or phonogram, incorrectly mentioning the names of the author, authorized publisher, performers or producer;
- (xi) those who reproduce, disseminate, perform or distribute one or more works after expiration of the term of any authorization granted for the purpose;
- (xii) those who make false statements directly or indirectly intended for the payment or distribution of authors' economic rights, by altering data relating to audiences, the type, price and number of tickets sold for a show or gathering or the number of tickets distributed free of charge, in a manner that might be prejudicial to the author;
- (xiii) those who make false statements directly or indirectly intended for the payment or distribution of authors' economic rights, by altering the number of copies produced, sold or distributed free of charge, in a manner that might be prejudicial to the author;
- (xiv) those who make false statements intended for the distribution of authors' economic rights, by omitting, replacing or wrongly inserting information on the works concerned;
- (xv) those who commit acts intended to falsify the real proceeds from a show or gathering;
- (xvi) liability for the acts described in this Article shall extend to any person who orders or arranges for them to be done, to the legal representatives of legal entities and to all

those who, being aware of the unlawfulness of the act, were party to it, promoted it or concealed it.

Article 233. The following shall be liable to a fine of 20,000 to 50,000 pesos:

- (i) any person who abuses the right of quotation referred to in [Article 31](#);
- (ii) any person who commits an act of fraud or the act provided for in [Article 87](#); and
- (iii) the person responsible for the public performance of theatrical and musical works or phonograms without the authorization of the owner of the copyright, or without appropriate remuneration for the economic rights involved.

Article 234. The fines specified in the foregoing Articles shall be increased up to half the amount of the material prejudice caused when the amount of the infringement is greater than 100,000 pesos or if, although smaller, it has caused the victim serious difficulty in ensuring his livelihood.

Article 235. Any person who, without being an author or publisher or the successor in title or representative of any such person, falsely attributes any of those titles to himself, and causes the authorities to suspend the public performance of the latter's work, shall be punished with arrest for two to six months and with a fine of 2,000 to 20,000 pesos.

Article 236. Any unlawful publication or reproduction shall be confiscated and, in the criminal sentence imposed on the offender, awarded to the owner whose copyright was defrauded by that act.

Article 237. The actions to which such infringements give rise shall be brought before the ordinary criminal authorities according to the general rules on jurisdiction; with respect to both summary proceedings and judgments, the formalities laid down in the Code of Criminal Procedure shall be observed without any modification, except as specified in the following Article.

Article 238. Civil action for redress of damages or prejudice caused by violation of this Law may be exercised within the criminal process or separately, before the competent civil jurisdiction, at the option of the injured party.

In the second of the above cases, the civil and criminal judgments shall be independent, and the final ruling in one of them shall not justify *res judicata* exception in the other.

Article 239. Criminal action resulting from infringements of this Law shall be public in all cases and shall be instituted *ex officio*.

Article 240. The associations referred to in [Chapter XVI](#) may plead on their own behalf in both civil and criminal proceedings in defense of the economic rights of their principals, provided that they present a certificate issued by the competent authority proving that they are legally registered.

Article 241. The owner, associate, manager or director of, or the person responsible for activities carried on in, the places mentioned in [Article 159](#) of this Law in which theatrical or musical shows are held shall be jointly liable with the organizer of the show for any copyright violations that occur in those places.

CHAPTER XVIII

Procedure before the Civil Courts

Article 242. Questions raised in connection with this Law, either concerning the application of its provisions or as a consequence of legal acts and circumstances connected with authors' rights, shall be decided by the ordinary courts of law.

Article 243. Notwithstanding the provisions of the foregoing Article, the municipal civil judges shall hear civil questions arising from the payment of fees for the public performance of works and from the obligations written into [Article 163](#) of this Law in a single, oral proceeding.

Article 244. The author, publisher, performer, phonogram producer, broadcasting organization, their successors in title and any person representing them either legally or contractually may apply to the judge for preventive seizure of:

- (i) any work, production, publication and copies;
- (ii) the proceeds from the sale and hiring of such works, productions, publications or copies;
- (iii) the proceeds from the sale and hiring of theatrical, cinematographic, musical and other similar shows.

Article 245. The same persons as those mentioned in the [first paragraph](#) of the foregoing Article may apply to the judge for the prohibition or suspension of the performance or showing of a theatrical, musical, cinematographic or other similar work which is about to be performed or shown in public without due authorization from the owner or owners of the copyright.

Article 246. For action under [Article 244](#) to be valid, the party applying for the measure shall be required to assert that he has sued or is going to sue the person against whom the measure is sought for legal acts and facts associated with copyright, which acts and facts he shall specify in the suit.

Article 247. The measures referred to in [Articles 244](#) and [245](#) shall be ordered immediately by the judge in so far as the party seeking them has provided sufficient security to guarantee the organizer or impresario responsible for the theatrical, cinematographic or musical show against any prejudice that it might cause him, and presented *prima facie* evidence in support of his right. The measure may be a preventive measure ordered by the municipal or circuit judge of the place in which the show is to take place, even where he is not competent to hear the action. The show shall be suspended without any possibility of appeal, and in other respects the relevant provisions shall be complied with.

Article 248. The provisions covered by [Book 4, Title 35](#), of the Code of Civil Procedure on preventive seizure and confiscation shall be applicable to this Chapter.

Article 249. The person who applies for the measures provided for in the foregoing Articles shall not be obliged to file, with his application, proof of legal capacity or of representation, which is referred to in his action.

Article 250. The creditors of a theatrical or other similar person may not confiscate the share of the proceeds from shows that accrues to the author or performer, neither shall that part be deemed to form part of the decree ordering seizure, except where seizure has been ordered against the author himself.

Article 251. The petition shall meet all the requirements and contain all the particulars provided for in [Articles 75](#) and [398](#) of the Code of Civil Procedure.

Article 252. When the petition has been allowed, the oral proceeding referred to in [Articles 443](#) and [449](#) of the Code of Civil Procedure shall take place.

CHAPTER XIX

Final Provisions

Article 253. A Copyright Directorate shall function in the capital of the Republic which shall be responsible for the Office of Registration and for such other departments as are necessary for the

implementation of and supervision of compliance with this Law and any further corresponding provisions that may be enacted by the National Government by virtue of its executive powers.

The Copyright Directorate shall be the “competent authority“ referred to in various parts of this Law ([Articles 45](#), [46](#), [47](#), [54](#), [59](#), [85](#), [88](#), etc.).

Article 254. In order to be National Director of Copyright, the candidate has to be a qualified attorney, to have acquired specialized experience in the subject area and to possess the minimum qualifications under the laws in force for the title of Registrar of Public Deeds.

Article 255. The organizations of copyright owners that already exist, regardless of their specialized area of concern, shall adjust their statutes, structure and functions to the provisions of this Law within a non-renewable period of six months calculated from the date of its entry into force.

Article 256. Contracts in force that have been concluded by copyright owners in matters to which this Law refers shall, in so far as they contain clauses contrary to it, be fully adapted to its provisions within six months following its publication.

Article 257. In the case of dispute or doubt as to the application of the provisions of this Law, the provision most favorable to the copyright owner shall be applied.

Article 258. The National Government is hereby empowered to enact such provisions of administrative, financial and budgetary character as are necessary for the due implementation of this Law.

Article 259. This Law shall repeal Law 86 of 1946 and any other provisions they may be contrary to it.

Article 260. This Law shall come into force on the date of its promulgation.
