

The Ministry of Justice
Stockholm

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ACT ON COPYRIGHT IN LITERARY AND ARTISTIC WORKS

(Swedish Statute Book, SFS, 1960:729, as amended up to April 1, 2011)

Unofficial translation

CHAPTER 1. Subject Matter and Scope

Article 1. Anyone who has created a literary or artistic work shall have copyright in that work, regardless of whether it is

1. a fictional or descriptive representation in writing or speech,
2. a computer program,
3. a musical or dramatic work,
4. a cinematographic work,
5. a photographic work or another work of fine arts,
6. a work of architecture or applied art,
7. a work expressed in some other manner.

Maps and other works of a descriptive nature executed as drawings, engravings, or in a three-dimensional form, shall be considered as literary works.

What is prescribed in this Act concerning computer programs shall *mutatis mutandis* apply also to preparatory design material for computer programs. (Act 1994:190)

Article 2. Subject to the limitations prescribed hereinafter, copyright shall include the exclusive right to exploit the work by making copies of it and by making it available to the public, be it in the original or an altered manner, in translation or adaptation, in another literary or artistic form, or in another technical manner.

As the making of copies shall be considered any direct or indirect, temporary or permanent preparation of copies of the work, regardless of the form or through which method this is carried out and regardless of whether it concerns the work in whole or in part.

The work is being made available to the public in the following cases

1. When the work is being communicated to the public. This is deemed to include any making available of the work to the public by wire or by wireless means that occurs from a place other than that where the public may enjoy the work. Communication to the public includes also acts of communication that occur in such a way that members of the public may access the work from a place and at a time individually chosen by them.
2. When the work is publicly performed. Such public performance includes only such cases where the work is being made available to the public, with or without the use of a technical device, at the same place as the one where the public may

enjoy the work.

3. When copies of the work are publicly exhibited. Public exhibition includes only such cases where a copy of a work is being made available to the public, without the use of a technical device, at the same place as the one where the public can enjoy the copy. If a technical device is being used, the act is instead a public performance

4. When copies of the work are placed on sale, leased, lent, or otherwise distributed to the public.

As acts of communication to the public and of public performance shall be deemed also acts of communication and performance that, in the framework of commercial activities, occur to or for a comparatively large closed group of persons. (Act 2005:359).

Article 3. When copies are made of a work, or when it is made available to the public, the name of the author shall be stated to the extent and in the manner required by proper usage.

A work may not be changed in a manner which is prejudicial to the author's literary or artistic reputation or to his individuality, nor may it be made available to the public in such a form or in such as context as is prejudicial in the manner stated.

The author may, with binding effect, waive his right under this Article only in relation to uses which are limited as to their character and scope.

Article 4. A person who has made a translation or an adaptation of a work or converted it into another literary or artistic form, shall have copyright in the work in the new form, but his right to exploit it shall be subject to the copyright in the original work.

If a person, in free connection with another work, has created a new and independent work, his copyright shall not be subject to the right in the original work.

Article 5. A person who, by combining works or parts of works, creates a composite literary or artistic work shall have copyright therein, but his right shall be without prejudice to the rights in the individual works.

Article 6. If a work has two or more authors, whose contributions do not constitute independent works, the copyright shall belong to the authors jointly. However, each one of them is entitled to bring an action for infringement.

Article 7. A person whose name or generally known pseudonym or signature appears in the usual manner on copies of the work or when it is made available to the public, shall, in the absence of proof to the contrary, be deemed to be its author.

If a work is published without the name of the author being stated in the manner prescribed in the first Paragraph, the editor, if he is named, or otherwise the

publisher, shall represent the author until his name is stated in a new edition or in a notification to the Ministry of Justice.

Article 8. A work is deemed to have been made public when it has lawfully been made available to the public.

As work is deemed to have been published when copies thereof have, with the consent of the author, been placed on sale or otherwise been distributed to the public. (Act 1973:363)

Article 9. Copyright does not subsist in

1. laws and other regulations,
2. decisions by public authorities,
3. reports by Swedish public authorities,
4. official translations of texts mentioned under 1.–3.

However, copyright subsists in works of the following kinds when they form part of a document mentioned in the first Paragraph:

1. maps,
2. works of drawing, painting or engraving,
3. musical works, or
4. works of poetry. (Act 2000:92).

Article 10. Copyright subsists in a work even if it has been registered as a design.

Copyright does not subsist in layout designs in semiconductor products. Special provisions apply to the rights in such designs. (Act 1994:190).

CHAPTER 2. Limitations on Copyright

General Provisions on Limitations

Article 11. The provisions of this Chapter do not limit the author's right under Article 3, except as provided in Article 26 c.

When a work is used publicly on the basis of the provisions in this Chapter, the source shall be stated to the extent and in the manner required by proper usage, and the work may not be altered more than necessary for the use. (Act 1993:1007).

On the Making of Temporary Copies

Article 11 a. Temporary forms of copies of works may be made, if the making of the copies is an integral and essential part of a technological process and if the copies are transient or have only a secondary importance in that process. The copies must not have any independent economic importance.

The making of copies under the first Paragraph is permissible only if the sole purpose of that making is to enable

1. a transmission in a network between third parties by an intermediary, or

2. a lawful use, that is, a use that occurs with the consent of the author or his successor in title or another use that is not un-permissible under this Act.

The provisions under the first and second Paragraphs do not confer a right to make copies of literary works in the form of computer programs or compilations. (Act 2005:359)

On the Making of Copies for Private Purposes

Article 12. Anybody is entitled to make, for private purposes, one or a few copies of works that have been made public. As regards literary works in written form the making of copies may, however, concern only limited parts of works, or such works of limited scope. The copies must not be used for purposes other than private use.

The provisions in the first Paragraph do not confer a right to

1. construct works of architecture
2. make copies of computer programs, or
3. make copies in digital form of compilations in digital form.

Furthermore, the provisions in the first Paragraph do not confer a right to engage, for private purposes, another person to

1. make copies of musical works or cinematographic works
2. make utilitarian articles or sculptures, or
3. copy another person's work of fine art by means of artistic reproduction.

This Article does not confer a right to make copies of a work when the copy that constitutes the real master copy has been prepared or has been made available to the public in violation of Article 2. (Act 2005:359).

Article 13. (Constitutes, in an amended form, Article 42 c.)

On the Making of Copies for Educational Purposes

Article 14. Teachers and pupils may for educational purposes make recordings of their own performances of works. Such recordings may not be used for other purposes. (Act 1993:1007).

Article 15. (Heading and Article repealed.)

Article 15 a. (Article repealed.)

On the Making and Distribution of Copies within Certain Archives and Libraries

Article 16. Archives and libraries referred to in the third and fourth Paragraphs are entitled to make copies of works, with the exception of computer programs,

1. for purposes of preservation, completion or research
2. in order to satisfy the desires of library borrowers, for single articles or short extracts of works, or for material which, for security reasons, must not be given away in original form, or

3. for use in reading devices.

Copies that have been made on paper pursuant to the first Paragraph, item 2, may be distributed to library borrowers. Provisions on extended effect of collective licenses for the purposes of distribution to the public of copies in other cases and of communication to the public of works are contained in Article 42 d.

Entitled to the making of copies, and to the distribution, pursuant to the provisions of this Article are

1. governmental and municipal archival authorities,
2. such scientific and research libraries that are operated by public authorities, and
3. public libraries.

The Government may in specific cases decide that also certain archives and libraries other than those mentioned in the third Paragraph shall have a right to make copies pursuant to this Article. (*Act 2008:1416*).

On the Making of Copies, etc. for Persons with a Disability

Article 17. Anyone is entitled to make, by means other than recording of sounds, such copies of literary and musical works which have been made public and of works of visual art which have been made public, which persons with a disability need in order to be able to enjoy the works. The copies may also be distributed to those persons.

Libraries and organizations as decided by the Government in specific cases may also

1. communicate copies of the works that are referred to in the first Paragraph to persons with a disability who need the copies in order to be able to enjoy the work,
2. by means of sound recording make such copies of literary works that have been made public which persons with a disability need in order to be able to enjoy the works, and to distribute and communicate such sound recordings to those persons, and
3. make such copies of works transmitted on sound radio or television, and of cinematographic works, that deaf or hearing-impaired persons need in order to be able to enjoy the works, and to distribute and communicate copies of the works to those persons.

The making of copies, the distribution and the communication to the public pursuant to this Article must not be carried out for commercial purposes, nor must the copies be used for purposes other than those mentioned in the Article.

When libraries and organisations distribute or communicate copies of works to persons with a disability in such a way that those persons may keep a copy of the work, the author has a right to remuneration. The same applies if anyone, pursuant to the first Paragraph, second sentence, transmits more than a few copies to persons with a disability. (*Act 2005: 359*).

On the Making of Composite Works for Use in Educational Activities

Article 18. Anyone who, for use in educational activities, prepares a composite work consisting of works by a comparative large number of authors may reproduce minor portions of literary or musical works and such works of a limited scope, provided that five years have elapsed from the year in which the works were published. Works of fine art may be reproduced in connection with the text, provided that five years have elapsed from the year when they were made public. The authors have a right to remuneration.

The provisions of the first Paragraph do not apply to works that have been created for use in educational activities and does not confer a right to prepare composite works for commercial purposes. (Act 2005:359).

On the Distribution of Copies

Article 19. When a copy of a work has been transferred, with the consent of its author, within the European Economic Area, that copy may be further distributed.

The provisions of the first Paragraph do not confer a right to make available to the public

1. copies of works, with the exception of buildings and works of applied art, through rental or similar legal acts
2. copies of computer programs in machine-readable form or of cinematographic works, through lending. (Act 2005:359).

On the Display of Copies

Article 20. When a work has been published, the copies thus published may be publicly displayed. The same applies in respect of copies of works of fine art that the author has transferred. (Act 2005:359).

On Works of Fine Art Included in a Film, a Television Program or a Picture

Article 20 a. Anyone is entitled to prepare, by means of a film or a television program, and distribute, copies of works of fine art, publicly perform works of fine art and communicate works of fine art to the public, if the exploitation made of the work is incidental in relation to the contents of the film or the television program. Corresponding acts of exploitation may also be carried out of works of fine art that appear in the background, or otherwise form an insignificant part, of a picture.

Exploitation as referred to in the first Paragraph may, however, take place only if the master copy for the copy made when the work of fine art is being included in the film, the television program or the picture is a copy that is covered by an act of publication or a copy that has been transferred by the author. If no making of a copy occurs, the same applies to the copy that is directly communicated to the public through the television program. (Act 2005:359).

On Public Performance

Article 21. Anyone is entitled to publicly perform works, with the exception of cinematographic works and works made for the stage, that have been made public

1. on occasions where the performance of such works is not the main feature of the event, no admission fee is charged and the event is not organised for commercial purposes
2. in the course of educational activities or divine services.

The Parliament and governmental and municipal authorities may, in cases referred to in the first Paragraph, item 1, publicly perform also cinematographic works and works made for the stage that have been made public. The works may be performed only through connection to an external network that is made available in order to satisfy a public information interest. The performance may occur only at the Parliament's or the authorities' own venues.

The provisions in the first Paragraph, item 2. do not confer a right to publicly perform, for commercial purposes, compilations in the course of educational activities. (Act 2005:359).

On Quotations

Article 22. Anyone may, in accordance with proper usage and to the extent necessary for the purpose, quote from works which have been made available to the public.

On the Use of Works of Fine Arts and of Buildings

Article 23. Works of fine art which have been made public may be reproduced

1. in connection with the text in a scientific presentation which has not been prepared for commercial purposes,
2. in connection with the text in a critical presentation, except if it is in digital form,
3. in a newspaper and a periodical in connection with a report on a current news event, except if the work has been created for reproduction in such a publication.

The provisions in the first Paragraph apply only if the use of the reproduction is carried out in conformity with proper usage and to the extent called for by the information purpose. (Act 2005:359).

Article 24. Works of fine art may be reproduced in pictorial form

1. if they are permanently located outdoors on, or at, a public place
2. if the purpose is to advertise an exhibition or a sale of the works of fine art but only to the extent necessary for the promotion of the exhibition or the sale or
3. if they form part of a collection, in catalogues, however not in digital form.

Buildings may be freely reproduced in pictorial form. (Act 2005:359).

On Information on Current Events through Sound Radio and Television, etc.

Article 25. Works which are seen or heard in the course of an event may be used in connection with information concerning the event through sound radio, television, direct transmission or film. The works may, however, be used only to the extent justified by the purpose of information. (Act 1993:1007).

Article 25 a. Works that are being seen or heard in a television broadcast may be used when a television organization transmits an extract from the broadcast pursuant to Article 48 a. (Act 2010:697).

On Public Debates, Public Documents, etc.

Article 26. Anyone is entitled to use oral or written statements

1. before public authorities,
2. in government or municipal representative bodies,
3. in public debates on public matters,
4. at public questionings on such matters.

The provisions of the first paragraph, items 1. and 2. do not however apply as regards information for which secrecy applies under Chapter 31, Article 23 of the Public Access to Information and Secrecy Act (2009:400).

In the application of the provisions in the first paragraph it shall, however, be observed,

1. that writings cited as evidence, reports and similar works may be used only in connection with a report concerning the legal proceedings or case in which they have appeared and only to the extent necessary for the purpose of such a report,
2. that the author has an exclusive right to publish compilations of his statements, and
3. that what is stated during questionings as mentioned in the first Paragraph, item 4. must not be used, on the basis of that provision, in sound radio or television broadcasts. (Act 2009:406).

Article 26 a. Anyone is entitled to use works which form part of the documents mentioned in Article 9, first paragraph, and which are of the kind mentioned in Article 9, second paragraph, items 2 to 4. The author is entitled to remuneration except when the use occurs in connection with

1. the activities of a public authority,
2. a report of a legal proceeding or a case in which the work appears and the work is used only to the extent necessary for the information purpose.

Anyone is entitled to use documents which are prepared by Swedish public authorities but which are not such as are mentioned in Article 9, first Paragraph.

The second Paragraph does not apply to

1. maps,
2. technical models,
3. computer programs,
4. works created for educational purposes,
5. works which are the result of scientific research,

6. works of drawing, painting or engraving,
7. musical works,
8. works of poetry, or
9. works copies of which are made available to the public through public authorities in connection with commercial activities. (Act 2000:92).

Article 26 b. Notwithstanding copyright therein, official documents shall be made available to the public as prescribed in Chapter 2 of the Freedom of the Press Act.

Copyright does not prevent the use of a work in the interest of the administration of justice or of public security. (Act 1997:790).

On Alterations of Buildings and of Useful Articles

Article 26 c. The owner of a building or a useful article is entitled to alter the property without the consent of the author. (Act 1993:790).

Special Provisions concerning Sound Radio and Television

Article 26 d. (*constitutes now, in amended form, Article 42 e*)

Article 26 e. A sound radio or television organisation which has the right to broadcast a work is also entitled to record the work on a material support from which it can be perceived, if this act is made

1. for use in its own broadcasts on a few occasions during a limited time,
2. to ensure evidence concerning the content of the broadcast, or
3. in order to make it possible for a governmental authority to exercise supervision over the broadcasting activities.

Recordings made in accordance with the provisions of the first Paragraph, items 2 and 3, may be used only for the purposes indicated there. Such recordings which have a documentary value may, however, be preserved in the Royal Library.

A Government authority which has as its task of supervising advertising in sound radio and television broadcasts is entitled to use broadcasts to the extent necessary for the purpose. (Act 2008:1416).

Article 26 f. (*Constitutes now, in amended form, Article 42 f*)

Special Provisions on Computer Programs, etc.

Article 26 g. Anyone who has acquired the right to use a computer program is entitled to make such copies of the program and to make such adaptations of the program which are necessary in order for him to use the program for its intended purpose. This also applies to corrections of errors.

Anyone who has the right to use a computer program is entitled to make back-up copies of the program, if this is necessary for the intended use of the program.

Copies which have been made on the basis of the provisions of the first and

second Paragraphs may not be used for other purposes and may, furthermore, not be used when the right to exploit the program has expired.

Anyone who has the right to use a computer program is entitled to observe, study or test the function of the program in order to ascertain the ideas and principles which lie behind the various details of the program. This applies provided that the act is performed in connection with such loading, display on a screen, processing, transmission or storing of the program that he is entitled to make.

Anyone who has a right to use a compilation is entitled to dispose of it in any way that is necessary in order for him to be able to use the compilation for its intended purpose.

Contractual stipulations which limit the right of the user under the second, fourth or fifth paragraphs are null and void. (Act 1997:790).

Article 26 h. The reproduction of the code of a computer program or translation of its code is permitted if those acts are required in order to obtain interoperability between the program and another program. This applies, however, provided that the following conditions are met

1. the acts are performed by a person who has the right to use the program or, on his behalf, by a person who is authorised to perform those acts,
2. the information necessary to achieve interoperability has not previously been readily available to the persons referred to in item 1,
3. the acts are confined to those parts of the original program which are necessary to achieve interoperability.

The provisions of the first Paragraph do not permit that the information is

1. used for purposes other than to achieve the intended interoperability,
2. given to other persons except when necessary for obtaining the intended interoperability,
3. used for the development, preparation or marketing of a computer program substantially similar in its expression to the protected program, or
4. used for other acts which imply an infringement of the copyright.

Contractual stipulations restricting the rights of the user according to this Article are null and void. (Act 1993: 1007).

(Common Provisions Concerning Extended Collective Licenses; Heading placed before Article 42 a)

Article 26 i. *(constitutes now, in amended form, Article 42 a.)*

CHAPTER 2 a. Right to Special Remuneration

Article 26 j. *(repealed)*

Remuneration Relating to the Manufacture and Importation of Material Supports for the Recording of Sounds or Images

Article 26 k. When a businessman, in the course of his professional activities, manufactures or imports into this country material supports on which sounds or moving images may be recorded and which are especially suitable for the making of copies of works for private purposes, the authors of such protected works, that have thereafter been broadcast by sound radio or television or have been published on material supports by means of which they can be reproduced, have a right to remuneration from the businessman.

The authors have, however, no right to remuneration, where the material supports manufactured or imported are intended for

1. use for purposes other than the making of copies of works for private purposes
2. export from the country, or
3. use for the making of copies of works for persons with a disability. (Act 2005:359).

Article 26 l. The remuneration pursuant to Article 26 k is:

1. In respect of material supports for analogue recording, two and a half "Öres" for each possible recording minute on the support.
2. In respect of material supports where digital recording can be made repeatedly, 0,4 "Öres" for each megabyte storage capacity.
3. In respect of other material supports for digital recording 0,25 "Öres" for each megabyte storage capacity.

The businessman is entitled to a reduction of the amounts of the remuneration pursuant to the first Paragraph, if

1. the authors have in some other form received compensation for the making of copies of such works as referred to in Article 26 k, or
2. the remuneration is unreasonably high, taking into account the circumstances relating to the material support or other conditions on the market. (Act 2005:359).

Article 26 m. Only an organization representing a substantial number of Swedish authors and holders of neighbouring rights in the field concerned is entitled to collect the remuneration and to conclude agreements on the reduction of the remuneration pursuant to Articles 26 k and 26 l. The organisation shall collect the remuneration and distribute it to those entitled to it after deduction of a reasonable compensation to the organization for its costs. Right-owners who are not represented by the organization shall, for the purposes of the distribution, be treated in the same way as those right-owners who are represented by the organization.

The businessman referred to in Article 26 k, first Paragraph, shall give notice of himself to an organization as referred to in the first Paragraph. The businessman shall, upon request by the organization, provide an account of the number of material supports to which the right to remuneration applies, the recording time or the storage capacity, whether the supports can be used repeatedly for digital recording and when the supports were manufactured or imported. The account shall indicate the number of material supports referred to in Article 26 k, second Paragraph. (Act 2005:359).

Remuneration for resale of original copies of works of art (Resale right)

Article 26 n. When a copy of an original work of art, that has been transferred, has been re-sold within the term of copyright protection, the author has a right to remuneration (resale right) if an art market professional is the seller, intermediary or buyer at the sale. An “original work of art” means

1. a work of art that has been created by the artist himself,
2. a copy of a work of art that has been created in a limited number of copies by the artist himself or with his or her consent.

The author has, however, no right to remuneration where

1. the sales price, with the exclusion of the value added tax, does not exceed one twentieth of the price basic amount under Chapter 2, Articles 6 and 7 of the Code for Social Security,
2. the sale concerns a copy of a work of architecture in the form of a building, or
3. the sale is undertaken by a private person to a museum that is open for the public and that carries out its activity without profit-making purposes, if no art market professional took part in the sale.

Where only one person who is an art market professional took part in the sale as a seller, an intermediary or a buyer, the remuneration shall be paid by that person. Where more than one such person took part in the sale, the remuneration shall be paid by the seller. Where the seller is not an art market professional, the remuneration shall instead be paid by the intermediary. (*Act 2010:1206*).

Article 26 o. The remuneration according to Article 26 n shall be calculated on the sales price, with the exclusion of the value added tax, and be charged as follows

1. five per cent of the part of the sales price that does not exceed 50 000 Euros,
2. three per cent of the part of the sales price that lies between 50 000,01 and 200 000 Euros,
3. one per cent of the part of the sales price that lies between 200 000,01 and 350 000 Euros,
4. one half per cent of the part of the sales price that lies between 350 000,01 and 500 000 Euros,
5. 0,25 per cent of the part of the sales price that exceeds 500 000 Euros.

A remuneration according to the first Paragraph may not be charged by more than 12 500 Euros.

For the purposes of calculating what shall be paid as a resale right remuneration, the calculation of the amounts indicated in the first and second Paragraphs shall be made according to the exchange rate that the European Central Bank has decided for the date when the sale takes place, or, where the sale does not take place on a day when the Swedish banks are open, the exchange rate that has been fixed for the immediately preceding date when the Swedish banks are open.

The right to remuneration is personal and must not be transferred or waived.

However, notwithstanding the provisions of Chapter 10, Article 3, first Paragraph, of the Marriage Code, the provisions governing the division of property between spouses, inheritance and will shall apply to the right after the death of the author. (Act 2007:521).

Article 26 p. Only an organization representing a substantial number of Swedish authors in the field concerned is entitled to claim the remuneration. The organization shall claim the remuneration in respect of, and pay the amount to, the person entitled to it after a deduction has been made for a reasonable compensation to the organization for its administrative costs. If the organization does not claim the remuneration from the person liable for its payment within three years from the expiry of the calendar year when the sale took place, the claim is statute-barred.

The person who is liable for the remuneration shall, at the request of the organization, provide information about the sales for which remuneration is due and which have taken place during the immediately preceding three calendar years.

The claim of the person entitled to the remuneration as against the organization shall be statute-barred ten years after its coming into being, however only where the organization has undertaken reasonable measures in order to find the person entitled to the remuneration. (Act 2007:521).

CHAPTER 3. Transfer of Copyright

General Provisions on Assignments

Article 27. Subject to the limitation which follows from Article 3, copyright may be transferred entirely or partially.

The transfer of a copy does not include a transfer of the copyright. In the case of a portrait executed on commission, the author may, however, not exercise his right without the consent of the person who commissioned it or, after the death of such a person, the surviving spouse and heirs.

Provisions governing the transfer of copyright in certain specific cases are included in Articles 30–40 a §. Those provisions apply, however, only in the absence of an agreement to the contrary. (Act 1992:1687).

Article 28. In the absence of an agreement to the contrary, the person to whom a copyright has been transferred may not alter the work or transfer the copyright to others. If the copyright forms part of a business activity, it may be transferred together with the business activity or of part thereof; the transferor remains liable for the fulfilment of the agreement.

Article 29. Where an author transfers to a producer of sound recordings or recordings of moving images his right to make a work available to the public through rental of such recordings, the author shall have a right to an equitable remuneration.

Contractual stipulations invalidating this right are null and void. (Act 1997:309).

On Contracts Relating to Public Performance, etc.

Article 30. Where the right to communicate a work to the public or to perform it publicly has been transferred, the transfer shall be valid for a period of three years and shall not confer exclusivity. Where a longer term than three years has been determined and exclusivity has been agreed on, the author may nevertheless himself communicate the work or perform it or transfer rights in these respects to another person, if the right has not been exercised within a period of three years.

The provisions of this Article do not apply to cinematographic works. (Act 2005:309).

On Publishing Contracts

Article 31. By means of a publishing contract the author transfers to the publisher the right to reproduce a literary or artistic work by printing or a similar process and the right to publish it.

The manuscript or other copy from which the work is being reproduced shall remain the property of the author.

Article 32. The publisher shall have the right to publish one edition, which may not exceed, in the case of a literary work, 2 000 copies, in the case of a musical work 1 000 copies, and in the case of a work of fine art 200 copies.

An edition shall be understood as what the publisher produces at one and the same time.

Article 33. The publisher has the duty to publish the work within a reasonable time, to ensure the distribution of it in the usual manner, and to follow up the publishing to the extent determined by marketing conditions and other circumstances. In the case of default, the author may rescind the contract and keep the remuneration received. If the author has suffered damage which is not covered by the remuneration, such damage shall also be compensated.

Article 34. If the work has not been published within two years or, if it is a musical work, four years, from the time when the author has delivered the manuscript or other copy for reproduction, the author may, even if there is no fault on the part of the publisher, rescind the contract and keep the remuneration received. The same applies when the copies of the work are exhausted and the publisher has the right to publish a new edition but he fails to do so within one year from the time of the request by the author to do so.

Article 35. The publisher shall provide the author with a certification from the printer or whoever else reproduces the work concerning the number of copies produced.

If during the fiscal year sales have taken place for which the author is entitled to remuneration, the publisher shall render account to him within nine months from the end of the year, stating the number of copies sold during the year and the number in stock at the end of the year. At his request, the author is also otherwise entitled to obtain a statement of the number in stock by the end of the year.

Article 36. If the production of a new edition is commenced more than a year from the publication of the previous edition, the author shall be entitled to make, before the production starts, such changes in the work which can be made without unreasonable costs and without altering the character of the work.

Article 37. The author is not entitled to publish the work again in the form or manner covered by the contract, before the edition or editions which the publisher is entitled to publish have been exhausted.

When fifteen years have elapsed from the commencement of the publication, the author is, however, entitled to include a literary work in an edition of his collected or selected works.

Article 38. The provisions concerning publishing contracts shall not apply to contributions to newspapers or periodicals. Articles 33 and 34 shall not apply to contributions to other composite works.

On Film Contracts

Article 39. A transfer of the right to record a literary or artistic work on a film shall include the right to make the work available to the public, through the film, in cinemas, on television or otherwise and to make spoken parts of the film available in textual form or to translate them into another language. This provision does not apply to musical works. (Act 1973:363).

Article 40. If the right to use a literary or musical work for a film intended for public showing is transferred, the transferee shall produce the film and make it available to the public within a reasonable time. If this is not done, the author may rescind the contract and keep the remuneration received. If the author has suffered damage which is not covered by the remuneration, also such damage shall be compensated.

If the cinematographic work has not been produced within five years from the time when the author fulfilled his obligations, the author may rescind the contract and keep the remuneration received, even if there is no fault on the part of the transferee.

On Computer Programs Created in Employment Relations

Article 40 a. The copyright in a computer program created by an employee as a part of his tasks or following instructions by the employer is transferred to the employer unless otherwise agreed in contract. (Act 1992:1687).

On Transfer of Copyright at the Death of the Author, etc.

Article 41. Notwithstanding the provisions in Chapter 10, Article 3, first Paragraph, of the Marriage Code the provisions governing the division of property between spouses, inheritance and will shall, after the death of the author, apply to copyright. An administrator of the estate may not, without the consent of the heirs, exploit the work in a manner other than that in which it has been previously exploited.

The author may, with binding effect for the surviving spouse and heirs of his body, give directions in his will concerning the exercise of copyright or authorise somebody else to give such directions. (Act 1987:800).

Article 42. Copyright shall not be subject to legal seizure as long as it remains with the author or with any other person who has acquired the copyright by virtue of division of property between spouses, inheritance or will. The same shall apply to manuscripts and to such works of art which have not been exhibited, placed on sale or otherwise authorised to be made available to the public. (Act 1987:800).

CHAPTER 3 a. On the Extended Effect of Collective Licenses

Common Provisions concerning Extended Effect of Collective Licenses

Article 42 a. An extended collective license as referred to in Articles 42 b–42 g applies to the exploitation of works in a specific manner, when an agreement has been concluded concerning such exploitation of works with an organization representing a substantial number of Swedish authors in the field concerned. The extended collective license confers to the user the right to exploit works of the kind referred to in the agreement despite the fact that the authors of those works are not represented by the organization.

In order for a work to be exploited pursuant to Article 42 c, the agreement must have been concluded with someone who carries out educational activities in organised forms.

When a work is being exploited pursuant to Article 42 e, the author has a right to remuneration.

When a work is being exploited pursuant to Articles 42 b, 42 c, 42 d, 42 f or 42 g, the following applies. The conditions concerning the exploitation of the work that follow from the agreement apply. In respect of the remuneration deriving from the agreement and in respect of other benefits from the organization that are essentially paid for out of the remuneration, the author shall be treated in the same way as those authors who are represented by the organization. Without prejudice to what has been said now, the author has, however, always a right to remuneration for the exploitation, provided he or she forwards his or her claims within three years from the year in which the work was exploited. Claims for remuneration may be directed only towards the organization.

As against the user exploiting a work pursuant to Article 42 f claims for remuneration may be forwarded only by the contracting organizations. All such claims shall be forwarded at the same time. (Act 2011:94).

On the Making of Copies within Public Authorities, Enterprises, and Organizations, etc.

Article 42 b. The Parliament, decision-making municipal assemblies, governmental and municipal authorities as well as enterprises and organizations may, in order to satisfy the need for information within their field of activities, make copies, by means of reprographic reproduction, of published literary works and works of fine art reproduced in connection with the text in such a work, where an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the reproduction with any of the contracting parties. (Act 2005:359).

On the Making of Copies within Educational Activities

Article 42 c. Copies may be made for educational purposes of works which have been made public, where an extended collective license applies pursuant to Article 42 a. The copies may be used only in such educational activities that are covered by the agreement constituting the basis for the coming into being of the extended collective license.

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the reproduction with any of the contracting parties. (Act 2005:359).

On the Possibilities for Archives and Libraries to Communicate Works to the Public, etc.

Article 42 d. The archives and libraries referred to in Article 16, third and fourth Paragraphs, are, where an extended collective license applies pursuant to Article 42 a, entitled to

1. communicate works, with the exception of computer programs, to library borrowers in so far as concerns single articles, short portions or material which, for security reasons, should not be delivered in its original form, and
2. distribute copies which have been prepared pursuant to Article 16, first Paragraph, item 2, to library borrowers in cases other than those referred to in Article 16, second Paragraph,

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the communication or the distribution with any of the contracting parties. (Act 2005:359).

On Sound Radio or Televisions Broadcasts

Article 42 e. Sound radio and television organizations as decided in specific cases by the Government are entitled to broadcast published literary and musical works and works of fine art which have been made public, provided that an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply to works made for the stage, nor to other works if the author has filed a prohibition with the organization to broadcast the work or there are otherwise special reasons to assume that he would oppose the broadcast. The provisions of the first Paragraph do not apply to re-transmissions referred to in Article 42 f.

As regards transmissions via satellite, the extended collective license applies only if the broadcasting organization simultaneously carries out a broadcast through a terrestrial transmitter. (Act 2005:359).

On Re-transmissions of Works Contained in Sound Radio or Television Broadcasts

Article 42 f. Anyone is entitled to transmit to the public (re-transmit), simultaneously and in an unaltered form, by wireless means or by wire, works which form part of a wireless sound radio or television broadcast, provided that an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply to works where the re-transmission right belongs to the sound radio or television organization that carries out the original transmission. (Act 2005:359).

Re-use of works in Sound radio or Television

Article 42 g. A sound radio or television organisation may, if an extended collective license applies under Article 42 a, communicate to the public works that have been made public, if the works form part of the organisation's own productions or of productions that have been commissioned by the organisation and which have been broadcast before July 1, 2005. The organisation may also make such copies of the works that are necessary for the communication.

The first Paragraph does not apply if the author has filed with any of the contracting parties a prohibition against the communication or the reproduction or if, for other reasons, there is special reason to assume that the author would oppose the exploitation. (Act 2011:94).

CHAPTER 4. Term of Copyright

Article 43. Copyright in a work shall subsist until the end of the seventieth year after the year in which the author deceased or, in the case of a work referred to in Article 6, after the year in which the last surviving author deceased. However, copyright in a cinematographic work subsists, instead, to the end of the seventieth year after the death of the last deceased of one of the following persons, namely the principal director, the author of the screenplay, the author of the dialogue or the composer of the music specifically created for the work. (Act 1995:1273).

Article 44. In the case of a work which has been made public without mention of the author's name or generally known pseudonym or signature, the copyright shall subsist until the end of the seventieth year after the year in which the work was made public. If the work consists of two or more interconnected parts, the term shall be calculated separately for each part.

If the author reveals his identity within the term mentioned in the first Paragraph, the provisions of Article 43 shall apply.

For works which have not been made public and whose author is not known, the copyright subsists until the end of the seventieth year after the year in which the work was created.

Article 44 a. Where a work has not been published within the term referred to in Articles 43 or 44, the person who thereafter for the first time publishes or makes public the work shall benefit from such a right in the work which corresponds to the economic rights of the copyright. The right subsists until the end of the twenty-fifth year after the year in which the work was published or made public. (Act 1995:1273).

CHAPTER 5. Certain Rights Neighbouring to Copyright

Performing Artists

Article 45. Subject to the limitations prescribed in this Act, a performing artist has the exclusive right to exploit his performance of a literary or artistic work or of an expression of folklore, by

1. fixing the performance on a gramophone record, a film or another material support from which it can be reproduced,
2. making copies of a fixation of the performance, and
3. making the performance or a fixation of it available to the public.

The rights referred to in the first Paragraph, 2 and 3, last until the expiry of the fiftieth year from the year when the performance took place or, if the fixation has been published or made public within fifty years from the performance, from the year when the fixation was first published or made public.

The provisions of Article 2, second–fourth Paragraphs, 3, 6–9, 11–12, 16, 17, 21, 22, 25–26 b, 26 e, 26 k–26 m, and 27–29, 39, first sentence, 41, 42, 42 a, 42 c, 42 d, 42 f and 42 g shall apply in respect of performances referred to in this Article.

When a copy of a fixation pursuant to this Article has been, with the consent of the performing artist, transferred within the European Economic Area, the copy may be distributed further.

The provisions of the fourth Paragraph do not confer a right to make available to the public

1. copies of a fixation, through rental or similar legal acts, or

2. copies of a film or another material support on which moving images have been recorded, through lending. (Act 2011:94).

Producers of Recordings of Sounds and Images

Article 46. Subject to the limitations prescribed in this Act, a producer of recordings of sounds or of moving images has an exclusive right to exploit his recording by

1. making copies of the recording, and
2. making the recording available to the public.

The rights referred to in the first Paragraph last until fifty years have elapsed after the year in which the recording was made. If a sound recording is being published within this period, the rights last, instead, until the expiry of the fiftieth year after the year in which the sound recording was first published. If the sound recording is not published during the said period but is made public during the same period, the rights last, instead, until the expiry of the fiftieth year after the year in which the sound recording was first made public. If a recording of moving images has been published or made public within fifty years after the recording was made, the rights last until fifty years have expired after the year in which the recording of moving images was first published or made public.

The provisions of Article 2, second–fourth Paragraphs, 6–9, 11, second Paragraph, 11 a, 12, 16, 17, 21, 22, 25 - 26 b, 26 e, 26 k–26 m, 42 a, 42 c, 42 d and 42 g shall apply to recordings referred to in this Article. In addition, Article 42 f shall apply to recordings other than such referred to in Article 47.

When a copy of a recording pursuant to this Article has been, with the consent of the producer, transferred within the European Economic Area, that copy may be distributed further.

The provisions in the fourth Paragraph do not confer a right to make available to the public

1. copies of a recording through rental or other similar legal acts, or
2. copies of a film or other material support on which moving images have been recorded, through lending. (Act 2011:94).

Use of Sound Recordings for Public Performance, etc.

Article 47. Notwithstanding the provisions in Article 45, first Paragraph, and Article 46, first Paragraph, sound recordings may be used

1. for a public performance, or
2. for a communication to the public, except in cases where the communication occurs in such a way that members of the public may access the sound recordings from a place and at a time individually chosen by them.

When exploitation occurs as referred to in the first Paragraph, the producer and the performing artists whose performances appear in the recording, have a right to remuneration. Where two or more performing artists have cooperated in the performance, their right may be claimed by them only jointly. As against the user

of the recording, the claims of the performers and those of the producer shall be forwarded at the same time.

If a sound recording is used for a communication in the form of a wireless sound radio or television broadcast which is re-transmitted to the public by wire or by wireless means simultaneously and without alteration (further transmission) the following applies. As against the person who carries out the retransmission, the claim for remuneration may be forwarded only through organisations representing a substantial number of Swedish performing artists or producers. The organizations shall forward their claims at the same time as the claims referred to in Article 42 a., fifth Paragraph.

The provisions in Article 11, second Paragraph, shall apply to the cases referred to in this Article

This Article does not apply to sound films. (Act 2005:359).

Sound Radio and Television Organizations

Article 48. Subject to the limitations prescribed in the third Paragraph, a sound radio or television organization has an exclusive right to exploit a sound radio or television broadcast by

1. fixing the broadcast on a material support from which it can be reproduced,
2. making copies of a fixation of the broadcast,
3. distributing copies of a fixation of the broadcast to the public,
4. permitting a re-broadcast or a communication to the public in places accessible to the public against the payment of an entrance fee, or
5. permit that a fixation of the broadcast is being communicated, by wire or wireless means, to the public in such a way that members of the public may access the fixation from a place and at a time individually chosen by them.

The rights referred to in the first Paragraph, 2, 3 and 5, last until the expiry of the fiftieth year from the year in which the broadcast took place.

The provisions in Article 2, second Paragraph, 6 - 9, 11, second Paragraph, 11 a, 12, 16, 17, 21, 22, 25 - 26 b, 26 e and 42 g shall apply to sound radio and television broadcasts referred to in the Article.

When a copy of a fixation pursuant to this Article has been transferred within the European Economic Area with the consent of the organization, the copy may be distributed further.

If a sound radio or television organization has a claim for remuneration for such a retransmission as referred to in Article 42 f and which has been carried out with the consent of the organization, the claim shall be forwarded at the same time as the claims referred to in Article 42 a, fifth Paragraph. (Act 2011:94).

Article 48 a. If a television organization has alone a right to broadcast an event that is of significant public interest, other television organizations that are established within a country member of the European Economic Area may, notwithstanding Article 48, make use of extracts from the television broadcast of

the event in such of its own television broadcasts that constitute general news programs. The television organization may also make use of the extract when a recording of the news program is later made available to the public in such a way that members of the public may access the recording from a place and at a time individually chosen by them.

The extract may not be longer than what is justified by the information purpose. Nor may any use be made of it for a longer time after the event than may be justified by the news interest.

The provisions in Article 11, second Paragraph, shall apply in the cases referred to in the first Paragraph. (Act 2010:697).

Producers of Catalogues, etc.

Article 49. Anyone who has produced a catalogue, a table or another similar product in which a large number of information items have been compiled or which is the result of a significant investment, has an exclusive right to make copies of the product and to make it available to the public.

The right under the first Paragraph lasts until fifteen years have elapsed from the year in which the product was completed. If the product has been made available to the public within fifteen years from the completion of the product, the right shall, however, last until fifteen years have elapsed from the year in which the product first was made available to the public.

The provisions of Article 2, second–fourth Paragraphs, 6–9, 11, second Paragraph, 12, first, second and fourth Paragraphs, 14, 16–22, 25 - 26 b, 26 e, 26 g, fifth and sixth Paragraphs, and Articles 42 a–42 g shall apply to products referred to in this Article. If a product of this kind, or a part of it, is the subject of copyright, also this right may be claimed.

Contractual stipulations that extend the rights of the producer pursuant to the first Paragraph, are null and void. (Act 2011:94).

Photographers

Article 49 a. Anyone who has prepared a photographic picture has an exclusive right to make copies of the picture and to make it available to the public. The right applies regardless of whether the picture is used in its original form or an altered form and regardless of the technique used.

A picture that has been prepared by a process analogous to photography is also considered to be a photographic picture.

The right under the first Paragraph lasts until fifty years have elapsed after the year in which the picture was prepared.

The provisions of Articles 2, second–fourth Paragraphs, 3, 7–9, 11 and 11 a, 12, first and fourth Paragraphs, 16–20 a, 23, 24, first Paragraph, 25–26 b, 26 e,

26 k–28, 31–38, 41, 42, 42 a–42 g and 50–52 shall apply to pictures referred to in this Article. If such a picture is the subject of copyright, also this right may be claimed. (Act 2011:94).

CHAPTER 6. Special Provisions

Article 50. A literary or artistic work may not be made available to the public under such a title, pseudonym or signature that the work or its author may be easily confused with a work which has previously been made available to the public or with its author.

Article 51. If a literary or artistic work is performed or reproduced in a manner which violates cultural interests, a court may, upon action by an authority appointed by the Government, issue an injunction prohibiting such use, under penalty of a fine. This provision shall not apply during the lifetime of the author. (Act 1978:488).

Article 52. In connection with the adjudication of a fine, the Court may prescribe reasonable measures in order to prevent misuse of copies which are the subject of a prohibition under Article 51 and devices which can be used only for the production of such copies. Such a measure may prescribe that the property shall be destroyed or altered in a specific manner.

The provisions of this Article do not apply in relation to a person who has acquired the property, or a right therein, in good faith.

The property referred to in the first Paragraph may be taken into custody awaiting the measures mentioned in that Article; the general provisions on custody in criminal actions shall apply.

Article 52 a. Anyone wanting to carry out a retransmission by wire of works forming part of a wireless sound radio or television broadcast and who requests an agreement with an organisation representing Swedish right-owners or with a sound radio or television organisation carrying out emissions within the European Economic Area but is denied such an agreement on the terms requested, is, upon request, entitled to negotiations with the organisation or the sound radio or television organisation, respectively.

A party which has a duty to participate in such negotiations shall personally or through a representative attend a meeting for such negotiations and, if so is deemed necessary, put forward a reasoned proposal for the solution of the question which the negotiation concerns. The parties may agree on another form for negotiations than a meeting.

Anyone not complying with the provisions of the second Paragraph shall pay a compensation for the damage incurred. In the considerations concerning if and to what extent a damage has been caused to someone, also his interest in that the provision is applied and to circumstances other than such of a purely economic character shall be taken into account. (Act 1995:447).

CHAPTER 6 a. On the Protection of Technological Measures, etc.

Introductory Provisions

Article 52 b. This Chapter contains provisions on the protection of technological measures and of electronic information on the management of rights.

The expression “Technological measure” as used in this Chapter, means any effective technology, device or component designed to prevent or restrict, in the normal course of its operation, the reproduction or the making available to the public of a copyright-protected work without the consent of the author or his successor in title.

The expression “Information on the management of rights” means any information, also in the form of numbers or codes, that is linked to a copy of a copyright-protected work or appears in connection with the communication to the public of such a work and which aims at identifying the work or the author or his successor in title or at informing about the conditions of use of the work. The information must have been provided by the author or his successor in title. (Act 2005:359).

Article 52 c. The provisions on protection of technological measures in this Chapter do not apply to computer programs. Nor do they apply to the making available of official documents pursuant to Chapter 2 of the Freedom of the Press Act, to such use of works in the interest of the administration of justice or of public security that is referred to in Article 26 b, second Paragraph, or to research into cryptography.

The Act (2000:171) on Prohibition of Certain Decoding Equipment contains provisions aiming at preventing unauthorised access to certain services. As regards technological measures or arrangements used in connection with such conditional access to services in the form of such sound radio or television broadcasts as referred to in Article 2, item 1, in that Act, the provisions on technological measures in this Chapter do not apply. (Act 2005:359).

On the Protection of Technological Measures

Article 52 d. It is prohibited to circumvent, without the consent of the author or his successor in title, any digital or analogue lock which prevents or limits the making of copies of a work protected by copyright, to circumvent a technological process, such as encryption, that prevents or limits the making available to the public of a work protected by copyright, or to circumvent any other technological measure that prevents or limits such acts of making available.

The provisions of the first Paragraph do not apply when someone, who in a lawful way has access to a copy of a work protected by copyright, circumvents a technological measure in order to be able to watch or listen to the work. (Act 2005:359).

Article 52 e. It is prohibited to manufacture, import, transfer, distribute by, for

instance, sale or rental, or to possess for commercial purposes any devices, products or components, or to make available services, which

1. are promoted, advertised or marketed for the purpose of circumvention of a technological measure,
2. other than to circumvent a technological measure, have only a limited interest from a commercial point of view, or a limited scope of commercial use, or
3. are primarily designed, constructed, adapted or produced for the purpose of enabling or facilitating a circumvention of a technological measure. (Act 2005:359).

On the Right to Use, in Certain Cases, Works Protected by Technological Measures

Article 52 f. Anyone who, pursuant to the provisions in Articles 16, 17, 26, 26 a. or 26 e, is entitled to exploit a work protected by copyright shall be entitled to make use of a copy of a work that he lawfully has access to as referred to in the relevant provision, notwithstanding the fact that the copy is protected by a technological measure.

Where a technological measure prevents such a use, a Court may, at the request by a user entitled to that use, order, upon penalty of a fine, the author or his successor in title to make it possible for the user to exploit the work in the way prescribed in the provision referred to.

The provisions in the first and the second Paragraphs do not apply to works that have been made available to the public in accordance with agreed contractual stipulations in a way that makes it possible for members of the public to get access to the work by means of a communication from a place and a time that they themselves have chosen. (Act 2005:359).

On the Protection of Electronic Rights Management Information

Article 52 g. It is, without the consent by the author or his successor in title, prohibited to

1. remove or alter any electronic rights management information relating to a work protected by copyright,
2. exploit a work protected by copyright, or a copy of it, that has been altered in violation of item 1, by distributing it, importing it for the purpose of distribution or communicating it to the public.

The provisions of the first Paragraph apply only if the measure undertaken induces, enables, facilitates or conceals an infringement of a right protected under this Act. (Act 2005:359).

On the Application of the Provisions on Neighbouring Rights

Article 52 h. The provisions in this Chapter relating to works shall apply correspondingly to subject matter protected pursuant to Articles 45, 46 and 48 as well as to such compilations and photographs which are protected under Articles 49 and 49 a. (Act 2005:359).

CHAPTER 7. On Penal and Civil Liability

Article 53. Anyone who, in relation to a literary or artistic work, commits an act which infringes the copyright enjoyed in the work under the provisions of Chapters 1 and 2 or which violates directions given under Article 41, second paragraph, or Article 50, shall, where the act is committed wilfully or with gross negligence, be punished by fines or imprisonment for not more than two years.

Anyone who for his private use copies a computer program which is published or of which a copy has been transferred with the authorisation of the author shall not be subject to criminal liability, if the master copy for the copying is not used in commercial or public activities and he or she does not use the copies produced of the computer program for any purposes other than his private use. Anyone who for his private use has made a copy in digital form of a compilation in digital form which has been made the public shall, under the same conditions, not be subject to criminal liability for the act.

The provisions of the first Paragraph also apply if a person imports copies of a work into Sweden for distribution to the public, if such a copy has been produced abroad under such circumstances that a similar production here would have been punishable under that Paragraph.

Anyone who has violated an injunction issued under penalty of a fine pursuant to Article 53 b, may not be held liable under criminal law for the infringement covered by the injunction.

Attempts to commit acts implying violations referred to in the first and third Paragraphs, and preparations for such acts are punishable pursuant to Chapter 23 of the Criminal Code. (Act 2005:360).

Article 53 a. Property in relation to which a violation has occurred pursuant to this Act shall be declared forfeited, if that is not considered obviously unreasonable. Instead of the property itself, its value may be declared forfeited. Also profits from such a violation shall be declared forfeited, if it is not obviously unreasonable. The same applies to what someone has received in compensation for costs related to such a violation, or the value of what has been received, where the act of receiving constitutes a violation pursuant to this Act.

Property that has been used as a tool in connection with a violation under this Act may be declared forfeited, where this is needed in order to prevent violations or where there are otherwise special reasons. The same applies to property that has been intended to be used as a tool in connection with such a violation, where the violation has been carried out or has constituted a punishable attempt or a punishable preparation. Instead of the property itself, its value may be forfeited. (Act 2005:360)

Article 53 b. Upon a petition by the author or his or her successor in title or by a party that, on the basis of a license, has the right to exploit the work, the Court may issue an injunction prohibiting, on penalty of a fine, a party that commits, or

contributes to, an act constituting an infringement or a violation referred to in Article 53 to continue that act.

If the plaintiff shows a probable cause that an act constituting an infringement or a violation referred to in Article 53, or a contribution to that act, takes place and if it can reasonably be expected that the defendant, through the continuation of the act, or the contribution thereto, diminishes the value of the exclusive right that copyright confers, the Court may issue an injunction, on penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided. No injunction may be issued before the defendant has been given an opportunity to respond, unless a delay would entail a risk for damage.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements or violations referred to in Article 53.

An injunction mentioned in the second Paragraph may be issued only if the plaintiff deposits a security with the Court for the damage that may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him or her from it. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition issued pursuant to the second Paragraph shall continue to apply.

As regards appeals against decisions under the second or fourth Paragraph and as regards the proceedings in higher Courts the provisions on appeal against decisions in Chapter 15 of the Code of Judicial Procedure apply.

An action for the imposition of a fine may be brought by the party that has requested the injunction and shall be processed in accordance with the provisions in the Code of Judicial Procedure relating to actions in cases where a higher penalty than fines is not prescribed.

In connection with such an imposition, an action may be brought for a new injunction to be issued on penalty of a fine. (Act 2009:109)

Article 53 c. If the applicant shows a probable cause that someone has committed an infringement or a violation referred to in Article 53, the Court may order, on penalty of a fine, one or several of the parties referred to in the second Paragraph to provide information to the applicant concerning the origin and distribution networks for the goods or services in respect of which the infringement or the violation has been committed (*order to provide information*). Such an order may be issued upon a petition by the author or the successor in title of the author or by a party that, on the basis of a license, has the right to exploit the work. It may be issued only if it can be assumed that the information would facilitate an inquiry into the infringement or the violation related to the goods or services.

The obligation to provide information relates to any party that

1. has committed, or contributed to, the infringement or committed, or contributed to, the violation,
2. has on a commercial scale been exploiting the goods that the infringement or the violation concerns,
3. has on a commercial scale been exploiting the service that the infringement or the violation concerns,
4. has on a commercial scale made available an electronic communication service or another service that has been used in connection with the infringement or the violation, or
5. has been indicated by a party referred to in items 2 to 4 as being involved in the production distribution of the goods, or the making available of the service, that the infringement or the violation concerns.

The information on the origin or distribution network of goods or services may, in particular, include

1. the names and addresses of producers, distributors, suppliers and others who have previously held the goods or made available the services,
2. the names and addresses of intended wholesalers and retailers,
3. information on how much has been produced, delivered, received or ordered and the price obtained for the goods or services.

The provisions in the first to third Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements or violations referred to in Article 53. (Act 2009:109).

Article 53 d. An order to provide information may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

The obligation to provide information pursuant to Article 53 c does not include information the revelation of which would disclose that the provider of the information or any person closely related to him or she as referred to in Chapter 36, Article 3, of the Code of Judicial Procedure has committed a criminal offence.

The Act (1998:204) on Personal Data contains provisions that limit the use that can be made of personal data received. (Act 2009:109).

Article 53 e. A decision on an order to provide information may be rendered by the Court where a trial on the infringement or the violation is pending. In other respects, the issue of the competence of the Court is governed by Article 58 in respect of cases referred to there, and by the provisions for civil cases in the Code of Civil Procedure in respect of other cases related to infringements or violations. The provisions in the Code of Judicial Procedure relating to limitation of the competence of a Court in disputes that has to be initiated in a way other than before a Court shall, however, not apply.

If the application for an order to provide information is directed against the applicant's opposing party in a case related to an infringement or a

violation, the provisions on court procedures for that case apply. Decisions on orders to provide information may be appealed separately.

If the petition for an order to provide information is directed against a party other than the one referred to in the second Paragraph, the provisions in the Act (1996:242) on Court Matters shall apply. For the purpose of the consideration of the issue, also an oral hearing may be held pursuant to Chapter 37 of the Code of Judicial Procedure. The Court may decide that each party shall bear its own litigation costs.

An action for the imposition of a fine may be brought by the party that has applied for the order and shall be processed in accordance with the provisions in the Code of Judicial Procedure on actions in criminal cases for which no higher penalty than a fine is prescribed. In connection with such an action, an action may be brought for a new order to provide information. (Act 2009:109).

Article 53 f. Anyone who pursuant to the provisions in Article 53 c, second Paragraph, items 2 to 5, has been ordered to provide information pursuant to the first Paragraph of the same Article, has a right to a reasonable compensation for the costs and inconvenience caused. The compensation shall be paid by the party that has applied for the order to provide information.

Anyone who makes available an electronic communication service and who has, pursuant to an order to provide information, delivered information referred to in Chapter 6, Article 20, of the Act (2003:389) on Electronic Communication, shall send a written notice on this to the person whom the information concerns not earlier than one month and not later than three months from the delivery of the information. Costs for the notice shall be compensated in accordance with the first Paragraph. (Act 2009:109).

Article 53 g. Notwithstanding the prohibition in Article 21 of the Act (1998:204) on Personal Data, personal data on violations of the law that constitute criminal offences pursuant to Article 53 may be processed if this is necessary in order for a legal claim to be established, asserted or defended (Act 2009:109).

Article 53 h. At the petition of the plaintiff, the Court may, in cases of infringements or violations referred to in Article 53, order the party that has committed, or contributed to, the infringement or committed, or contributed to, the violation to pay a pecuniary compensation for appropriate measures to disseminate information about the judgement in the case.

The provisions in the first Paragraph apply also to acts constituting attempts, and to preparatory acts, referred to in Article 53. (Act 2009:109).

Article 54. Anyone who exploits a work in violation of this Act or of directions pursuant to Article 41, second Paragraph, shall pay to the author or his or her successor in title a reasonable compensation for the exploitation.

Where it has been carried out wilfully or with negligence, compensation shall be paid also for the further damage that the infringement or the violation has caused. When the amount of the compensation is decided, particular consideration shall be given to

1. lost profit,
2. profit that has been made by the party that committed the infringement or the violation,
3. damage caused to the reputation of the work,
4. moral damage, and
5. the interest of the author or the right holder in that infringements are not committed.

The provisions of the second Paragraph apply also to anyone who otherwise wilfully or with negligence commits an act constituting an infringement or a violation pursuant to Article 53.

The obligation to pay compensation pursuant to the first or second Paragraph does not apply to the person who, in connection with the making of copies for private purposes, violates only Article 12, fourth Paragraph, unless this violation is carried out wilfully or with gross negligence. (Act 2009:109)

Article 55. Upon petition by the author or his or her successor in title, the Court may, in so far as is reasonable, decide that property in respect of which an infringement or a violation referred to in Article 53 exists shall be recalled from the channels of commerce, be altered or destroyed or that some other measure shall be taken in respect of it. The same applies to implements that have been, or have been intended to be, used in connection with the infringement or the violation.

The provisions of the first Paragraph apply also to acts constituting attempts, and to preparatory acts, relating to an infringement or a violation pursuant to Article 53.

The provisions of the first Paragraph do not apply if the illegal action has involved the construction of a work of architecture.

A decision on a measure pursuant to the first Paragraph must not imply that the author or his or her successor in title will be ordered to pay compensation to the party against which the measure is directed.

Any measures pursuant to the first Paragraph shall be paid for by the defendant where there are no specific reasons against it.

A decision referred to in this Article shall not be rendered, if forfeiture or a measure for the prevention of wrongful acts shall be decided pursuant to Article 53 a. or the Criminal Code. (Act 2009:109).

Article 56. Notwithstanding Article 55, the Court may, if this is reasonable in view of the artistic or economic value of a copy of a work or of other circumstances, upon a petition by a party that has acted in good faith permit, issue a permission to the effect that the copy may, against the payment of a specific compensation to the author or his or her successor in title, be made available to the public or used

for other intended purpose. (Act 2009:109).

Article 56 a. Where it can reasonably be assumed that someone has committed, or contributed to, an infringement or committed, or contributed to, a violation referred to in Article 53, the Court may, for the purpose of preserving evidence relating to the infringement or the violation, order that an investigation be undertaken in respect of that party in order to search for objects or documents that can be assumed to be of importance for the inquiry into the infringement or the violation (*infringement investigation*).

An order for an infringement investigation may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or any other opposite interest.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements of violations referred to in Article 53. (Act 2009:109).

Article 56 b. An order for an infringement investigation is issued by the Court where proceedings relating to the infringement are conducted. Where legal proceedings have not yet been initiated, the issue of the competence of the Courts is governed by the provisions in Article 58 in respect of cases referred to there, and by the provisions for civil cases in the Code of Judicial Procedure in respect of other cases related to infringements or violations. The provisions in the Code of Judicial Procedure relating to limitation of the competence of a Court in disputes that have to be initiated otherwise than before a Court shall, however, not apply.

Issues relating to infringement investigations may be taken up for consideration only upon a petition by the author or the author's successor in title or by a party that, on the basis of a license, has a right to exploit the work. Where legal proceedings have not yet been initiated, the petition shall be submitted in writing.

The opposite party shall be given an opportunity to respond before an order for an investigation is issued. Where a delay would entail a risk that objects or documents of importance for the inquiry of the infringement would be removed, destroyed or distorted, the Court may, however, immediately issue an order to be valid until otherwise decided.

In other respects, any issue relating to an infringement investigation which arises before legal proceedings have been initiated shall be processed in the same way as if the issue had arisen in the course of legal proceedings. (Act 2009:109).

Article 56 c. An order for an infringement investigation may be issued only where the applicant posts a bond at the Court for the injury which may be caused to the opposite party. Where the applicant is not able to post a bond, the Court may liberate him from it. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court, unless the opposite party has accepted it.

As regards appeals against the decision by the Court relating to an infringement investigation and as regards the proceedings in higher Courts the provisions concerning appeal against decisions prescribed in Chapter 15 of the Code of Judicial Procedure apply. (Act 1998:1454).

Article 56 d. Any order for an infringement investigation shall contain information about

1. the purpose of the investigation,
2. the objects and document which may be searched for, and
3. which venues may be searched.

Where necessary, the Court shall set also other conditions for the execution of the order. (Act 1998:1454).

Article 56 e. An order for an infringement investigation is immediately enforceable. If an application for its execution has not been filed within one month from the order, the order becomes invalid.

Where the applicant does not, within a month from the conclusion of the execution, file an action or initiate in some other manner a proceeding relating to the issue, any measure which has been undertaken in the context of the execution of the infringement investigation shall be invalidated to the extent possible. The same applies where an order for an infringement investigation is invalidated after the execution has been concluded. (Act 1998:1454).

Article 56 f. An order for an infringement investigation is executed through the local Enforcement Authority in accordance with the conditions prescribed by the Court and in applying Chapters 1 to 3, Chapter 16, Article 10, Chapter 17, Articles 1 to 5, and Chapter 18 of the Enforcement Code. The applicant's opposite party shall be informed about the execution only if the order for an infringement investigation has been issued after hearing the opposite party. The Authority has the right to take photographs and to make video and sound recordings of such objects for which it is authorised to search. The Authority may also make copies of, and extracts from, such documents for which it is authorised to search.

An infringement investigation must not concern written documents referred to in Chapter 27, Article 2, of the Code of Judicial Procedure. (Act 2006:680).

Article 56 g. The opposite party has the right to summon an attorney when an order for an infringement investigation is to be executed. The execution must not begin before the attorney has arrived. This does, however, not apply if

1. the investigation is thereby unnecessarily delayed, or
2. there is otherwise a risk that the purpose of the measure will not be achieved.

In the course of the execution the Enforcement Authority is authorised to engage, as necessary, the services of an expert.

The Authority may permit the applicant or a representative of the applicant to attend the investigation in order to provide information. If such permission is granted, the Authority shall see to it that the applicant or the representative is

not being informed about the findings at the investigation more than can be justified by the execution. (Act 2006:680).

Article 56 h. Photographs and video and sound recordings of objects as well as copies of, and extracts from, documents shall be listed and shall be held available for the applicant and the opposite party. (Act 1998:1454).

Article 57. The provisions of Articles 53–56 h shall apply also to rights protected by the provisions in Chapter 5. (Act 1998:1454).

Article 57 a. Anyone who, in cases other than those referred to in Article 53, sells, leases or possesses for sale, lease or other commercial purposes a device intended solely for facilitating unauthorised removal or circumvention of a device placed in order to protect a computer program against unauthorised reproduction, shall be punished by fines or imprisonment for not more than six months. (Act 1992:1687).

Article 57 b. Anyone who, in cases other than those referred to in Article 53, wilfully or with gross negligence violates Articles 52 e or 52 g, shall be punished by fines or imprisonment for not more than six months.

Anyone who, in cases other than those referred to in Article 53, wilfully or with gross negligence violates Article 52 d, shall be punished by fines. (Act 2005:359)

Article 58. The District Court of Stockholm shall have jurisdiction in cases involving sound radio or television broadcasts in violation of this Act. The same shall apply in cases involving claims for compensation under Articles 17 and 18, 26 a, first Paragraph, 42 a, third Paragraph, or 47, and in cases where a corresponding compensation is claimed on the basis of a reference in Articles 45, 46, 48, 49 or 49 a, and in cases concerning compensation for retransmissions referred to in Article 42 f. (Act 2005:359).

Article 59. Violations referred to in Article 57 b, second Paragraph may be the subject of a criminal action by a public prosecutor only if this is called for in the public interest. Criminal actions for other violations of this Act may be initiated by a public prosecutor if there is a complaint from an injured party or if such an action is called for in the public interest.

An action relating to a violation of the provisions in Article 3 or of directions given under Article 41, second Paragraph, may always be initiated by the surviving spouse of the author, by his relatives in the direct ascending or descending line or by his brothers or sisters.

If there is reason to believe that a criminal violation under this Act has occurred, property referred to in Article 55 may be taken into custody. In such cases the rules governing custody in criminal cases in general apply. (Act 2005:359).

CHAPTER 8. Applicability of the Act

Article 60. The provisions on copyright apply to:

1. works of Swedish nationals or of persons who have their habitual residence in Sweden,
2. works first published in Sweden or simultaneously in Sweden and outside the country,
3. cinematographic works whose producer has his headquarters or habitual residence in Sweden,
4. works of architecture constructed here,
5. works of fine art incorporated in a building situated here or in some other way permanently fixed to the ground.

For the purposes of the application of the first Paragraph, item 2, a simultaneous publication shall be considered to have taken place if the work has been published in Sweden within thirty days from its publication abroad. For the purposes of the application of the first Paragraph, item 3, the person whose name appears on copies of a cinematographic work in the usual manner shall, in the absence of a proof to the contrary, be deemed to be the producer of the said work.

The provisions of Articles 26 k to 26 p apply to works by persons who are Swedish nationals or who have their habitual residence in Sweden.

The provisions of Article 44 a. apply to acts of publication or of making public by persons who are Swedish nationals or who have their habitual residence in Sweden. The provisions apply also to acts of publication or of making public by legal entities having their headquarters in Sweden.

The provisions of Articles 50 and 51 apply to all literary or artistic works regardless of their origin. (*Act 2007:521*).

Article 61. The provisions of Articles 45, 47 and 48 apply to performances, sound recordings and sound radio and television broadcasts which take place in Sweden. In addition, the provisions of Article 45 apply to performances of persons who are Swedish nationals or have their habitual residence in Sweden, the provisions of Article 47 to sound recordings whose producer is a Swedish national or a Swedish legal entity or a person who has his habitual residence here, and the provisions in Article 48 to broadcasts by sound radio and television organisations having their headquarters in this country. The provisions of Article 46 apply to sound recordings and to recordings of moving images whose producer is a Swedish national or a Swedish legal entity or has his habitual residence in Sweden as well as to such recordings of moving images which take place in Sweden. However, the provision of Article 46 applies, as regards reproduction, to all sound recordings.

The provisions of Article 49. apply to productions whose producer is a Swedish citizen or has his habitual residence in Sweden. The provisions also apply to productions whose producer is a Swedish legal entity and have its registered office, its main headquarters or its principal place of business in Sweden. If the legal entity has its registered office in Sweden but does not have its main headquarters or its principal place of business here, the provisions apply, however, only where the production forms part of an economic activity established in Sweden.

Of the provisions in Article 49 a, the reference to Articles 50 and 51 applies to all photographic pictures and the other provisions to photographic pictures,

1. whose producer is a Swedish national or has his habitual residence in Sweden,
2. that have been first published in Sweden or simultaneously in Sweden and abroad,
3. that have been incorporated in a building or another construction which is permanently fixed to the ground, if the building or the construction is located in Sweden.

For the purposes of the application of the third Paragraph, item 2, the publication shall be considered to have taken place simultaneously if the picture has been published in Sweden within thirty days from its publication abroad.

Of the provisions in Article 45, the reference to Articles 26 k to 26 m applies only to performances by someone who is a Swedish national or has his habitual residence in Sweden. Of the provisions in Article 46, the reference to Articles 26 k to 26 m applies only to recordings whose producer is a Swedish national or a Swedish legal entity or has his habitual residence in Sweden. Of the provisions in Article 49 a, the references to Articles 26 k to 26 p apply only to photographic pictures whose maker is a Swedish national or has his habitual residence in Sweden. (*Act 2007:521*).

Article 61 a. When a work or another subject matter protected under this Act is communicated to the public via satellite, the act which is relevant from the point of view of copyright and neighbouring rights shall be deemed to take place in the country where the broadcasting organisation, under its control and its responsibility, introduces the subject matter into an uninterrupted chain of communication to the satellite and from there down towards the earth.

What has been said now does not apply if the introduction has taken place in a country which is not part of the European Economic Area and which does not apply the level of protection provided for in Chapter 2 of the Directive of the European Communities No 93/83/EEG of September 27, 1993.

If, in cases referred to in the second Paragraph, the transmission to the satellite takes place in a country member of the European Economic Area, the act which is relevant from the point of view of copyright and neighbouring rights shall be deemed to occur in the country from where the transmission takes place. If the transmission to the satellite does not take place in a country member of the European Economic Area but the sound radio or television organisation which has decided the transmission has its registered office in a country member of that Area, the act relevant from the point of view of copyright and neighbouring rights shall be deemed to occur in that country. (*Act 1995:1273*).

Article 62. On condition of reciprocity, or where this follows from such an agreement with a foreign State or with an intergovernmental organisation which has been approved by the Parliament, the Government may provide for the application of this Act in relation to other countries. The Government may also provide for the application of the Act to works and photographic pictures first published by an intergovernmental organisation and to unpublished works and

photographic pictures which such an organisation may publish. *(Act 1995:1273)*.

CHAPTER 9. Provisions Governing the Entry into Force and Transitional Provisions

Article 63. This Act enters into force on July 1, 1961.

(Other provisions on the entry into force of this Act and of subsequent amendments to the Act are not included).
