

**Ministry of Education and Culture
Finland**

FINLAND
COPYRIGHT LEGISLATION
2010

Unofficial Translations in English

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**Only statutes published in Statutes of Finland (Säädöskokoelma)
in Finnish and Swedish are legally binding**

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**THE PENAL CODE OF FINLAND: CHAPTER 49 Violation of certain
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COPYRIGHT DECREE (Decree No. 574, of April 21, 1995)

**DECREE on the application of the Copyright Act in certain cases to protected
items originating in States belonging to the European Economic Area
(Decree No. 575, of April 21, 1995)**

COPYRIGHT ACT 8.7.1961/404

Amendments up to 31.10.2008/663 included

CHAPTER 1

Subject matter and scope

Section 1

(1) A person who has created a literary or artistic work shall have copyright therein, whether it be a fictional or descriptive representation in writing or speech, a musical or dramatic work, a cinematographic work, a photographic work or other work of fine art, a product of architecture, artistic handicraft, industrial art, or expressed in some other manner. (24.3.1995/446)

(2) Maps and other descriptive drawings or graphically or three-dimensionally executed works and computer programs shall also be considered literary works. (11.1.1991/34)

Economic rights (14.10.2005/821)

Section 2 (14.10.2005/821)

(1) Within the limitations imposed hereinafter, copyright shall provide the exclusive right to control a work by reproducing it and by making it available to the public, in the original form or in an altered form, in translation or in adaptation, in another literary or artistic form, or by any other technique.

(2) The reproduction of a work shall comprise making copies of the work in whole or in part, directly or indirectly, temporarily or permanently and by any means or in any form whatsoever. The reproduction of a work shall also comprise the transfer of the work on to another device, by which it can be reproduced or communicated.

(3) A work is made available to the public when:

1. it is communicated to the public by wire or wireless means, including communication in a way which enables members of the public to access the work from a place and at a time individually chosen by them;
2. it is publicly performed to an audience present at a performance;
3. a copy thereof is offered for sale, rental or lending or it is otherwise distributed to the public; or
4. it is publicly displayed without the aid of a technical device.

(4) A performance and communication to the public shall also comprise performance and communication to a comparatively large closed circle for purposes of gain.

Section 3

(1) When copies of a work are made or when the work is made available to the public in whole or in part, the name of the author shall be stated in a manner required by proper usage.

(2) A work may not be altered 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 context as to prejudice the author in the manner stated.

(3) The right conferred to the author by this section may be waived by him with binding effect only in regard of use limited in character and extent.

Section 4

(1) A person who translates or adapts a work or converts it into some other literary or artistic form shall have copyright in the work in the new form, but shall not have the right to control it in a manner which infringes the copyright in the original work.

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

Section 5

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

Section 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 of them is entitled to bring an action for infringement.

Section 7

(1) The person whose name or generally known pseudonym or pen name is indicated in the usual manner on the copies of a work or when the work is made available to the public, shall be deemed to be the author, unless otherwise demonstrated.

(2) If a work is published without the name of the author being indicated in the manner described in subsection 1, the editor, if he is named, and otherwise the publisher, shall represent the author until his name is indicated in a new edition of the work or notified to the competent Ministry.

Section 8

(1) A work shall be considered to have been made public when it has lawfully been made available to the public.

(2) A work shall be regarded as published when copies thereof have, with the consent of the author, been placed on sale or otherwise distributed to the public. (31.7.1974/648)

Free works (14.10.2005/821)**Section 9** (14.10.2005/821)

(1) There shall be no copyright:

1. in laws and decrees;
2. in resolutions, stipulations and other documents which are published under the Act on the Statutes of Finland (188/2000) and the Act on the Regulations of Ministries and other Government Authorities (188/2000);
3. treaties, conventions and other corresponding documents containing international obligations;
4. decisions and statements issued by public authorities or other public bodies;
5. translations of documents referred to in paragraphs 1–4 made by or commissioned by public authorities or other public bodies.

(2) The provisions of subsection 1 shall not apply to independent works contained in the documents referred to in the subsection.

Other immaterial rights (14.10.2005/821)**Section 10** (23.8.1971/669)

(1) Notwithstanding the registration of a work as a design under other applicable statutes, its author may have copyright therein by virtue of this Act.

(2) Rights in a photographic picture shall additionally be governed by the provisions of section 49a. Legal protection of rights in layout-designs of integrated circuits has been provided separately. (24.3.1995/446)

CHAPTER 2**Limitations on copyright and provisions concerning extended collective licence**
(14.10.2005/821)***General provisions*** (14.10.2005/821)**Section 11** (14.10.2005/821)

(1) The provisions of this Chapter do not limit the rights conferred to the author by section 3 to a larger degree than as provided in section 25 e.

(2) If a work is reproduced or made available to the public under the provisions of this Chapter, the author's name and the source must be indicated to the extent and in a manner required by proper usage. The work may not be altered without the author's consent more than necessitated by the permitted use.

(3) A copy of a work made by virtue of a limitation on copyright as provided in this Chapter may be, for the purpose determined in the limitation, distributed to the public and used in a public performance.

(4) The provisions of subsection 3 shall correspondingly apply to use by virtue of extended collective licence.

(5) A limitation on copyright as provided in this Chapter does not permit the reproduction of a copy of a work which has been made or made available to the public contrary to section 2 or whose technological measures have been circumvented in violation of section 50a(1). The provisions of this subsection shall not, however, pertain to the use of works under sections 11a, 16, 16a–16c or 22 or under section 25d(2) or (5).

Temporary reproduction (14.10.2005/821)**Section 11a** (14.10.2005/821)

(1) The provisions of section 2 in regard to the right to make copies of a work shall not apply to temporary reproduction:

1. which is transient or incidental;
2. which is an integral and essential part of a technological process;
3. the sole purpose of which is to enable a transmission of a work in a network between third parties by an intermediary or a lawful use of a work; and
4. which has no independent economic significance.

(2) The provisions of subsection 1 shall not apply to a computer program or to a database.

Reproduction for private use (24.3.1995/446)**Section 12** (24.3.1995/446)

(1) Anyone may make single copies for his private use of a work that has been made public. The copies thus made may not be used for other purposes.

(2) It is also permitted to have copies made by a third party for the private use of the party ordering the copies.

(3) The provisions of subsection 2 shall not apply to the reproduction of musical works, cinematographic works, utility articles or sculptures, or the reproduction of any other work of art by artistic means.

(4) The provisions of this section shall not apply to a computer-readable computer program, to the making of a computer-readable copy of a computer-readable database, or to the construction of a work of architecture. (3.4.1998/250)

Photocopying (14.10.2005/821)**Section 13** (14.10.2005/821)

A published work may be reproduced by photocopying or by corresponding means by virtue of extended collective licence as provided in section 26.

Use for internal communication (14.10.2005/821)**Section 13a** (14.10.2005/821)

(1) A piece of writing published in a printed or by corresponding means reproduced newspaper or periodical, and an illustration accompanying the text, may be reproduced by virtue of extended collective licence, as provided in section 26, for use in the internal communication of an authority, a business enterprise and an organisation, and the copies thus made may be used for communication to the public for said purpose by means other than transmitting on radio or television. The provisions of this subsection shall not apply to reproduction by photocopying or by corresponding means.

(2) A work included in a current affairs or news programme transmitted on radio or television may be reproduced in single copies for use within a short period of time after the reproduction for internal information by an authority and a business enterprise, as well as by another person and organisation.

(3) The provisions of subsection 1 shall not apply to a work whose author has prohibited the reproduction or communication of the work.

Use of works for educational activities and scientific research (14.10.2005/821)**Section 14** (14.10.2005/821)

(1) A work made public may, by virtue of extended collective licence, as provided in section 26, be reproduced for use in educational activities or in scientific research and be used in this purpose for communication to the public by means other than transmitting on radio or television. The provisions of this subsection shall not apply to reproduction by photocopying or by corresponding means.

(2) In educational activities, a work made public, performed by a teacher or a student, may be reproduced by direct recording of sound or image for temporary use in educational activities. A copy thus made may not be used for other purposes.

(3) Parts of a literary work that has been made public or, when the work is not extensive, the whole work, may be incorporated into a test constituting part of the matriculation examination or into any other corresponding test.

(4) The provisions of subsection 1 concerning works other than transmitted on radio or television shall not apply to a work whose author has prohibited the reproduction or communication of the work.

Reproduction in certain institutions (24.3.1995/446)**Section 15** (24.3.1995/446)

In hospitals, senior citizens' homes, prisons and other similar institutions, copies of works made public, included in radio and television transmissions, may be made by audio and video recording for temporary use in the institution within a short period from the recording.

Reproduction in archives, libraries and museums (24.3.1995/446)**Section 16** (14.10.2005/821)

An archive, and a library or a museum open to the public, to be determined in a Government Decree, may, unless the purpose is to produce direct or indirect financial gain, make copies of a work in its own collections:

1. for the purpose of preserving material and safeguarding its preservation;
2. for the purpose of technically restoring and repairing material;
3. for the purpose of administering and organising collections and for other internal purposes required by the maintenance of the collection;
4. for the purpose of supplementing a deficient item or completing a work published in several parts if the necessary complement is not available through commercial distribution or communication.

Reproduction of works for the public and communication of works to the public
(14.10.2005/821)

Section 16a (14.10.2005/821)

(1) An archive, and a library open to the public, to be determined in a Government Decree, may, unless the purpose is to produce direct or indirect financial gain:

1. make copies of a work in its collections which is susceptible to damage by photocopying or by corresponding means and make them available to the public through lending if the work is not available through commercial distribution or communication;
2. where seen appropriate, make copies by photocopying or by corresponding means of individual articles in literary or artistic works of compilation, newspapers or periodicals and of short passages in other published works in its collections to be handed over to the borrowers for their private use in lieu of the volumes and booklets wherein they are contained.

(2) An archive, and a library or a museum open to the public, to be determined in a Government Decree, may, unless the purpose is to produce direct or indirect financial gain, communicate a work made public that it has in its collections, to a member of the public for purposes of research or private study on a device reserved for communication to the public on the premises of the institution. This shall be subject to the provision that the communication can take place without prejudice to the purchasing, licensing and other terms governing the use of the work and that the digital reproduction of the work other than reproduction required for use referred to in this subsection is prevented, and provided that the further communication of the work is prevented.

Use of works in libraries preserving cultural material (28.12.2007/1436)

Section 16b (28.12.2007/1436)

(1) A library entitled to a legal deposit of a copy of a work under the Act on Deposit and Preservation of Cultural Material (1433/2007) may:

1. use the copy it has in its collections in the manner referred to in sections 16 and 16a and subject to the terms laid down in these sections;
2. communicate a work made public that it has in its collections to a member of the public for purposes of research or private study on a device reserved for communication to the public, if the digital reproduction of the work other than reproduction required for use referred to in this paragraph is prevented and if the further communication of the work is prevented, on the premises of a library in whose collections the material is deposited under the Act on Deposit and Preservation of Cultural Material, and in the Library of Parliament and in the National Audiovisual Archive;
3. make copies of works made available to the public in information networks for inclusion in its collections;
4. make a copy for inclusion in its collections of a published work which it needs to acquire as part of the library collection but which is not available through commercial distribution or communication.

(2) The provisions of paragraphs 1 and 4 of subsection 1, shall also apply to libraries in whose collections the library referred to in subsection 1 deposits the material under the

Act on Deposit and Preservation of Cultural Material.

Use of works in the National Audiovisual Archive (28.12.2007/1436)

Section 16c (28.12.2007/1436)

(1) The National Audiovisual Archive may:

1. use a work in its collections in the manner referred to in sections 16 and 16a and subject to the terms laid down in these sections;
2. communicate a work in its collections to a member of the public for purposes of research or private study by means of a device reserved for communication to the public on devices located on the premises of a library referred to in section 16b, in the Library of Parliament, and in the Department of Journalism and Mass Communication of the University of Tampere, if the digital reproduction of the work other than reproduction required for the use is prevented and if the further communication of the work is prevented;
3. make copies of works made available to the public by transmission on radio or television for inclusion in its collections.

(2) The provisions of paragraphs 1 and 2 of subsection 1 shall not apply to a cinematographic work deposited by a foreign producer.

(3) A work in the collections of the National Audiovisual Archive, with the exception of a cinematographic work deposited by a foreign producer, may be used for purposes of research and higher education in cinematography.

(4) The provisions of subsections 1–3 shall also apply to material subject to legal deposit, stored in storage facilities approved in accordance with the Act on Deposit and Preservation of Cultural Material.

Use of works in archives, libraries and museums by virtue of extended collective licence (14.10.2005/821)

Section 16d (14.10.2005/821)

(1) An archive, and a library or a museum open to the public, to be determined in a Government Decree, may, by virtue of extended collective licence, as provided in section 26:

1. make a copy of a work in its collections in cases other than those referred to in sections 16 and 16a–16c;
2. communicate a work in its collections to the public in cases other than those referred to in sections 16a–16c.

(2) The provisions of subsection 1 shall not apply to a work whose author has prohibited the reproduction or communication of the work.

Further provisions concerning the use of works in archives, libraries and museums (14.10.2005/821)

Section 16e (14.10.2005/821)

(1) In cases referred to in sections 16, 16a and 16d, provisions may be issued by Government Decree regarding the archives and the libraries and museums open to the public which are authorised under these sections to use works, or who may apply the provisions on extended collective license, if

1. the activities or mission of the institution has been enacted by an Act;
2. the institution has been assigned a specific archival, preservation or service function in legislation;
3. the activities of the institution serve scientific research to a significant degree; or
4. the institution is owned by the State.

(2) Further provisions may be enacted by Government Decree concerning reproduction under section 16 and sections 16a–16c and the use of the copies thus made.

(3) Further provisions may be enacted by Government Decree concerning the communication of a work to a member of the public under sections 16a–16c.

Making works available to persons with disabilities (14.10.2005/821)

Section 17 (14.10.2005/821)

(1) Copies of a published literary work, a published musical work or a published work of fine art may be made by means other than recording sound or moving images for use by people with visual impairments and others who, owing to a disability or illness, cannot use the works in the ordinary manner. The copies thus made may be used for communication to persons referred to above by means other than transmission on radio or television.

(2) A Government Decree shall be issued concerning the institutions entitled to make copies of a published literary work by sound recording for use by visually impaired persons and others who, owing to a disability or illness, cannot use the works in the ordinary manner, to be lent, sold or used in communication by means other than radio or television transmission.

(3) A Government Decree shall be issued concerning the institutions entitled to make copies of a published work in sign language for the deaf and persons with auditory impairments who cannot use the works in the ordinary manner, to be lent, sold or used in communication by means other than radio or television transmission.

(4) The author shall have a right to remuneration for the making of copies for sale under subsections 2 and 3 or the communication of a work to a disabled or other person so that the person will permanently have a copy of the work.

(5) The provisions of subsections 1–4 shall not apply to reproduction or communication for commercial purposes.

(6) The prerequisite in regard of an institution referred to in subsections 2 and 3 is that the institution, to be determined by Decree, does not seek commercial or economic gain, that the mission of the institution includes services to persons with disabilities and that the institution has the financial and operational facilities to pursue such activity. Further provisions may be enacted by Government Decree concerning the technical properties and labelling of the copies of works made and works communicated to the public under subsections 2 and 3.

Literary or artistic works of compilation used in education (24.3.1995/446)

Section 18 (14.10.2005/821)

(1) Minor parts of literary or musical works or, if not extensive, the entire work may be incorporated into a literary or artistic work of compilation consisting of works by several authors which is printed or produced by corresponding means and intended for use in education, after five years have elapsed from the year of publication. A work of art made public may be reproduced in pictorial form in connection with the text. The provisions of this subsection shall not apply to a work created for use in education.

(2) The author shall have a right to remuneration for incorporation referred to in subsection 1.

Distribution of copies of a work (24.3.1995/446)

Section 19 (24.3.1995/446)

(1) When a copy of a work has been sold or otherwise permanently transferred with the consent of the author within the European Economic Area, the copy may be further distributed. (14.10.2005/821)

(2) The provisions of subsection 1 shall not apply to making a copy of a work available to the public by rental or by a comparable legal transaction. However, a product of architecture, artistic handicraft or industrial art may be rented to the public.

(3) The provisions of subsection 1 shall not apply to making a copy of a cinematographic

work or of computer-readable computer program available to the public by lending.

(4) The author shall have a right to remuneration for the lending of copies of a work to the public, with the exception of products of architecture, artistic handicraft and industrial art. Remuneration may be claimed only for lending which has taken place within the last three calendar years. However, the right to remuneration shall not subsist if the lending takes place in a library serving research or educational activities. The right referred to in this subsection shall be governed by the provisions of section 41. (22.12.2006/1228)

(5) A copy of a work which has, with the consent of the author, been sold or otherwise permanently transferred outside the European Economic Area may in accordance with the provisions of subsection 1, under the conditions laid down in subsection 3, be:

1. made available to the public by lending;
2. sold or otherwise permanently transferred if the copy to be transferred is one acquired by a private individual for private use;
3. sold or otherwise permanently transferred if the copy to be transferred is one acquired by an archive, or by a library or a museum open to the public, for its own collections. (14.10.2005/821)

Section 19a (22.12.2006/1228)

(1) The remuneration for the lending in a public library referred to in section 19(4) shall be paid through an organisation which has been approved by the Ministry of Education and which represents a large number of authors whose works are lent in a public library.

(2) The Ministry of Education shall approve the organisation on application for a fixed period, for a maximum of five years. The organisation to be approved shall be financially sound and capable of managing matters in accordance with the approval decision. The organisation shall annually submit an account to the Ministry of Education of the actions it has carried out pursuant to the approval decision. The organisation, or organisations, where the representation of the authors can be achieved only through the approval of several organisations, must represent a substantial proportion of the authors of works of different fields whose works are lent from the public libraries. The approval decision may also lay down terms guiding the practical operation of the organisation in general.

(3) The decision of the Ministry of Education shall be complied with, notwithstanding an appeal pending, until the matter has been resolved by means of a valid decision. The approval may be reversed if the organisation commits serious or essential breaches or dereliction of duty in breach of the approval decision and its terms and if notices to comply or warnings issued to the organisation have not led to the rectification of the shortcomings in its operation.

Display of a copy of a work (14.10.2005/821)

Section 20 (14.10.2005/821)

When a copy of a work has, with the consent of the author, been sold or otherwise permanently transferred, the copy may be used for public display of the work.

Public performance (24.3.1995/446)

Section 21 (14.10.2005/821)

(1) A published work may be publicly performed in connection with divine services and education.

(2) A published work may also be publicly performed at an event in which the performance of works is not the main feature and for which no admission fee is charged and which otherwise is not arranged for the purpose of gain.

(3) The provisions of subsections 1 and 2 shall not apply to dramatic or cinematographic works. The public performance of a cinematographic work for purposes of research and higher education on cinematography is governed by section 16c.

Quotation (24.3.1995/446)

Section 22 (24.3.1995/446)

A work made public may be quoted, in accordance with proper usage to the extent necessary for the purpose.

An article on a current topic (24.3.1995/446)

Section 23

(1) Articles in newspapers and periodicals on current religious, political, or economic topics may be included in other newspapers and periodicals, unless reproduction is expressly prohibited.

(24.3.1995/446)

(2) The author's name and the source must always be indicated. (14.10.2005/821)

Concert programmes (24.3.1995/446)

Section 24 (14.10.2005/821)

When a musical work is performed with text, the text may be made available to the audience in a concert programme or a corresponding leaflet produced by printing, photocopying or by corresponding means.

Use of works of art (14.10.2005/821)

Section 25

(1) Works of art made public may be reproduced in pictorial form in material connection with the text:

1. in a critical or scientific presentation; and
 2. in a newspaper or a periodical when reporting on a current event, provided that the work has not been created in order to be reproduced in a newspaper or a periodical.
- (24.3.1995/446)

(2) When a copy of a work of art has, with the consent of the author, been sold or otherwise permanently transferred, the work of art may be incorporated into a photograph, a film, or a television programme if the reproduction is of a subordinate nature in the photograph, film or programme. (14.10.2005/821)

Use of works of art in catalogues and in information and pictorial representation of a building (14.10.2005/821)

Section 25a (14.10.2005/821)

(1) A work of art which is included in a collection or displayed or offered for sale, may be reproduced in pictorial form for the purpose of disseminating information about the exhibition or sale or for a catalogue produced by printing, photocopying or by other corresponding means.

(2) A work of art which is included in a collection, displayed or offered for sale may be reproduced by the maintainer of the collection, the exhibitor or the vendor by virtue of extended collective licence, as provided in section 26, in cases other than those referred to in subsection 1, and the copies thus made may be used for communication to the public by means other than transmission on radio or television. The provisions of this subsection shall not apply to a work of art whose author has prohibited the reproduction or communication of the work.

(3) A work of art may be reproduced in pictorial form in cases other than those referred to in subsections 1 and 2 if the work is permanently placed at, or in the immediate vicinity of, a public place. If the work of art is the leading motive of the picture, the picture may not

be used for the purpose of gain. A picture having a material connection to the text may, however, be included in a newspaper or a periodical.

(4) A building may be freely reproduced in pictorial form.

Presentation of a current event (24.3.1995/446)

Section 25b (24.3.1995/446)

When a current event is presented in a radio or television broadcast or as a film, a work visible or audible in the current event may be included in the presentation to the extent necessary for the informational purpose.

Use of public statements (24.3.1995/446)

Section 25c (24.3.1995/446)

Oral or written statements made in a public representational body, before an authority or at a public consultation on a matter of public interest may be reproduced or communicated to the public without the author's consent. However, a statement and a written or similar work presented as evidence in a case or in a matter may be reproduced or communicated to the public only in the reporting of the case or matter and only to the extent necessary for the purposes of such reporting. The author shall have the exclusive right to publish a compilation of his statements.

Public documents and administration of justice (24.3.1995/446)

Section 25d (24.3.1995/446)

(1) Copyright shall not limit the statutory right to obtain information from a public document.

(2) A work may be used when the administration of justice or public security so requires.

(3) A work used pursuant to subsections 1 and 2 above may be quoted in accordance with section 22.

(4) Works referred to in section 9(2) of this Act may be reproduced or communicated to the public in connection with a document referred to in subsection 1 of said section and used separately from the document for the administrative or other purpose to which the document relates. (14.10.2005/821)

(5) Anyone who communicates a work to the public by radio or television transmission or by other means may make a copy or have a copy made or retain a copy of the transmitted or communicated work for the purpose of discharging a statutory duty to record or store. (14.10.2005/821)

Altering of buildings and utilitarian articles (24.3.1995/446)

Section 25e (24.3.1995/446)

Buildings and utilitarian articles may be altered by the owner without the consent of the author, if required by technical or practical reasons.

Original radio and television transmissions (14.10.2005/821)

Section 25f (14.10.2005/821)

(1) A broadcasting organisation may transmit a work under extended collective licence, as provided in Section 26. The provisions of this subsection shall not, however, apply to a dramatic work, a cinematographic work and any other work if the author has prohibited the transmission of the work.

(2) If a broadcasting organisation is entitled to transmit a work, it may make a copy of the work for use in its own broadcasts for a maximum of four times during one year.

(3) For using a work more often or over a longer period than provided in subsection 2, a

broadcasting organisation may make a copy or have a copy made of the work by virtue of extended collective licence, as provided in section 26.

(4) The provisions of subsection 1 shall not apply to the retransmission of a work in a radio or television transmission simultaneously with the original transmission without altering the transmission.

(5) The provisions of subsection 1 shall apply to radio or television transmissions by satellite only if the satellite transmission is simultaneous with a terrestrial transmission by the same broadcasting organisation.

A new transmission of a television programme stored in archives (14.10.2005/821)

Section 25g (14.10.2005/821)

(1) A broadcasting organisation may transmit anew work made public by virtue of extended collective licence, as provided in section 26, if the work is included in a television programme produced by the broadcasting organisation and transmitted before the first of January 1985.

(2) The provisions of subsection 1 shall not apply to a work whose author has prohibited the transmission.

Retransmission of a radio or television transmission (14.10.2005/821)

Section 25h (24.3.1995/446)

(1) A work included in a radio or television transmission may be retransmitted without altering the transmission by virtue of extended collective licence, as provided in section 26, for reception by the public simultaneously with the original transmission. (14.10.2005/821)

(2) The provisions of subsection 1 shall not apply to cable retransmission of a work included in a transmission originating in another State belonging to the European Economic Area, provided its author has assigned the right to its cable retransmission to the broadcasting organisation whose transmission the retransmission concerns.

(3) The authorisations concerning the cable retransmission of works included in a transmission referred to in subsection 2 above, shall be granted simultaneously.

(4) The provisions of subsection 1 shall be applicable to a radio and television transmission by wire only if the transmission originates in another State belonging to the European Economic Area.

Retransmission of programmes based on the must carry obligation to transmit programmes

(14.10.2005/821)

Section 25i (14.10.2005/821)

A telecommunications enterprise providing a network service in a cable television network which is primarily used to transmit television and radio programmes and which a significant number of the end-users of the network use as their primary means of receiving television and radio programmes may retransmit by wire for reception by the public a work included in the television or radio broadcast referred to in section 134 of the Communications Market Act (393/2003) simultaneously with the original transmission without altering the transmission.

Special provisions concerning computer programs and databases (3.4.1998/250)

Section 25j (24.3.1995/446)

(1) Whoever has legally acquired a computer program may make such copies of the program and make such alterations to the program as are necessary for the use of the program for the intended purpose. This shall also apply to the correction of errors.

- (2) Whoever has a right to use a computer program may make a back-up copy of the program, if necessary for the use of the program.
- (3) Whoever has a right to use a computer program shall be entitled to observe, study or test the functioning of the computer program in order to determine the ideas and principles which underlie any element of the program if he does so while performing the acts of loading, displaying, running, transmitting or storing the program.
- (4) Whoever has a right to use a database may make copies of it and perform all other acts necessary for accessing the database and for normal use of its contents. (3.4.1998/250)
- (5) Any contractual provision limiting use in accordance with subsections 2–4 shall be without effect. (3.4.1998/250)

Section 25k (24.3.1995/446)

- (1) The reproduction of the code of a program and the translation of its form shall be permissible if these acts are indispensable for obtaining information by means of which the interoperability of an independently created computer program with other programs can be achieved and that the following conditions are met:
1. these acts are performed by the licensee or by another person having the right to use a copy of the program or, on their behalf, by a person authorised to do so;
 2. the information necessary for achieving interoperability has not previously been readily available to the persons referred to in paragraph 1; and
 3. these acts are confined to the parts of the original program which are necessary for achieving interoperability.
- (2) The information obtained under the provisions of subsection 1 shall not, by virtue of these provisions:
1. be used for purposes other than to achieve the interoperability of the independently created computer program;
 2. be given to others, unless necessary for the interoperability of the independently created computer program; or
 3. be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.
- (3) Any contractual provision limiting the use of a computer program in accordance with this section shall be without effect.

Extended collective licence (24.3.1995/446)

Section 26 (14.10.2005/821)

- (1) The provisions of this Act regarding extended collective licences shall apply when the use of a work has been agreed upon between the user and the organisation which is approved by the Ministry of Education and which represents, in a given field, numerous authors of works used in Finland. A licensee authorised by virtue of extended collective licence may, under terms determined in the licence, use a work in the same field whose author the organisation does not represent.
- (2) The Ministry of Education shall approve the organisation on application for a fixed period, for a maximum of five years. The organisation to be approved must have the financial and operational prerequisites and capacity to manage the affairs in accordance with the approval decision. The organisation shall annually submit an account to the Ministry of Education of the measures it has taken pursuant to the approval decision. The organisation, or organisations, where the representation of the authors can be achieved only through the approval of several organisations, must represent a substantial proportion of the authors of works of different fields whose works are used under a given provision on extended collective licence. When several organisations are approved to grant licence for a given use of works, the terms of the approval decisions shall ensure, where needed, that the licences are granted simultaneously and on compatible terms. The approval decision may also lay down terms guiding practical licensing in general for the organisation.

(3) The decision of the Ministry of Education shall be complied with, notwithstanding an appeal pending until the matter has been resolved by means of a valid decision. The approval may be reversed if the organisation commits serious or substantial offences or dereliction of duty in breach of the approval decision and its terms and if notices to comply or warnings issued to the organisation have not led to the rectification of the shortcomings in its operation.

(4) Possible stipulations by the organisation referred to in subsection 1 concerning the distribution of remunerations for the reproduction, communication or transmission of works among the authors it represents or the use of the remunerations for the authors' common purposes shall also apply to authors whom the organisation does not represent.

(5) If the stipulations of the organisation referred to in subsection 3 do not provide the right to individual remuneration for the authors represented by the organisation, an author not represented by the organisation shall, however, have the right to claim an individual remuneration. The remuneration shall be paid by the organisation referred to in subsection 1. The right to individual remuneration shall expire if a claim concerning it has not verifiably been presented within three years from the end of the calendar year during which the reproduction, communication or transmission of the work took place.

CHAPTER 2a

Compensation for the reproduction of a work for private use (14.10.2005/821)

Section 26a (14.10.2005/821)

(1) Whenever an audio or video tape, or any other device on which sound or image can be recorded and which to a substantial extent is used for the reproduction of a work for private use, is produced or imported into the country for distribution to the public, the manufacturer or the importer shall pay a levy, determined on the basis of the playing time or the recording capacity of the device, to be used as direct compensation to the authors of said works and as indirect compensation to the authors for their common purposes. The compensations shall be paid out to the authors through an organisation representing numerous authors of works in a certain field used in Finland in accordance with a plan for the use of the funds annually approved by the Ministry of Education.

(2) Whoever offers for resale a device sold by a manufacturer or importer referred to in subsection 1 shall, upon the request of the organisation referred to in section 26b, prove that the levy on the device has been paid. If the levy has not been paid, the reseller shall pay the levy. The reseller shall, however, be entitled to request the levy he has paid from the manufacturer or the importer primarily responsible for the levy, or from another reseller from whom the device has been obtained for resale and who is secondarily responsible for the levy.

(3) Provisions shall be issued by a Government Decree, after the Ministry of Transport and Communications and the Ministry of Trade and Industry have given their opinions on the matter, to determine the devices subject to the levy referred to in subsection 1 and the amount of the levy. Before the issuing of the Government Decree, the Ministry of Education shall negotiate with the organisations representing the manufacturers and importers, as well as with the organisations representing the authors referred to in subsection 1, and the consumer authorities. The amount of the levy shall be settled at a level which can be considered a fair compensation for the reproduction of a work for private use. A maximum shall be determined for a levy per device, which may not be exceeded. The determination of the levy shall be informed by existing survey data on the prevalence of reproduction for private use and by the extent to which technological measures preventing reproduction for private use have been used to protect works made available to the public. Account shall also be taken of the extent to which each type of device can be used for reproduction of works protected by technological measures and of unprotected works. (31.10.2008/663)

Section 26b (14.10.2005/821)

(1) The levy shall be paid to the organisation, representing numerous authors of works used in Finland, which has been approved for this task by the Ministry of Education for a fixed period, for a maximum of five years. Only one organisation at a time may be approved for the task. The organisation must have the financial and operational prerequisites and capacity to manage the affairs in accordance with the approval decision. The organisation shall annually submit an account of the measures it has taken pursuant to the approval decision. The decision of the Ministry of Education shall be complied with, notwithstanding an appeal pending until the matter has been resolved by means of a valid decision. The approval shall be subject to the commitment of the organisation to using a part of the proceeds, to be annually agreed by the Ministry of Education and the organisation, as indirect compensation to the authors for their common purposes in accordance with a plan for the use of the funds annually approved by the Ministry of Education.

(2) The administrative costs shall be deducted from the levy proceeds.

Section 26c (14.10.2005/821)

(1) The Ministry of Education may issue more detailed orders regarding the management of the levies to the organisation. The Ministry shall supervise that the levy is administered in accordance with the orders and that the plan for the use of the funds is adhered to. The Ministry of Education shall have the right to obtain from the organisation any information necessary for the purposes of the supervision.

(2) The Ministry of Education may withdraw its approval of an organisation if the organisation does not comply with the orders issued to it, or with the plan for the use of the funds, or does not provide the information required for the supervision, and if the organisation commits serious or substantial offences or dereliction of duty in breach of the approval decision and its terms, and if notices to comply or warnings issued to the organisation have not led to the rectification of the shortcomings in its operation.

Section 26d

(1) The organisation shall have the right, notwithstanding the secrecy provisions of the Customs Act [(573/78)], to obtain from a customs authority any information about individual import consignments, necessary for the purposes of collection. (8.6.1984/442)

(2) The manufacturer or importer of a device and, when so separately requested by the organisation, the reseller referred to in section 26a(2) shall provide the organisation with any information necessary for the purposes of collection about the devices manufactured, imported or offered for sale by him. (16.12.1994/1254)

(3) Whoever has received information under subsections 1, 2, 5 or 6 regarding the business activities of another may not use it illegally or reveal it to others. (16.12.1994/1254)

(4) A customs authority may deliver a device to the importer only if the importer demonstrates that he has paid the levy to the organisation or has pledged to the organisation a security accepted by it for the payment of the levy. The organisation may consent, for a fixed period or until further notice, to the delivering of a device before the payment of the levy or the pledging of a security, if there is a well founded reason to assume that the importer will duly make the payment. The organisation may cancel the consent if the importer neglects to make the payment or provide the information referred to in subsection 2. (11.1.1991/34)

(5) A state provincial office may, upon application by the organisation, oblige the manufacturer, importer, or reseller referred to in section 26a(2) to fulfil the obligation referred to in subsection 2, on pain of fine. The imposition of a conditional fine and the ordering of its payment shall otherwise be governed by the provisions of the Act on the Conditional Imposition of a Fine (1113/90). (16.12.1994/1254)

(6) The state provincial office shall have the right to conduct an inspection for the purpose of supervising compliance with the payment obligation referred to in section 26a(1). The

manufacturer, importer or reseller of a device, referred to in section 26a(2) shall admit the person conducting the inspection to any business and storage premises, land areas and vehicles in his possession and, when requested, present his bookkeeping, business correspondence, data processing records and any other documents which may have relevance to supervision. The person conducting the inspection shall have the right to make copies of the documents to be inspected. The person conducting the inspection shall have the right to use a person appointed by the collecting organisation as an expert. The state provincial office shall have the right to provide the organisation with any information necessary for the purposes of collection. (16.12.1994/1254)

(7) The police shall have the duty, where necessary, to provide official assistance to the state provincial office in the execution of duties assigned to the state provincial office under subsection 6. (16.12.1994/1254)

Section 26e (14.10.2005/821)

(1) The user or exporter of a device shall be entitled to obtain from the organisation a refund corresponding to the levy paid, for devices:

1. which are exported;
2. which are used for professional reproduction or for the reproduction of material protected under this Act for educational or scientific research purposes;
3. which are used for the production of audio or video recordings intended for persons with disability;
4. which are used as data processing memory or storage devices in professional activity.

(2) Unless such repayment has verifiably been requested within three months from the end of the year during which the right to the refund came about, this right shall expire.

(3) The collecting organisation may authorise the user entitled to a refund under subsection 1(2–4) to purchase from a manufacturer, an importer or a reseller referred to in section 26a, or to import for his own use, as provided in said subsection, a device referred to in section 26a(1) without paying the levy.

Section 26f (8.6.1984/442)

Whenever it can be demonstrated that the user or the exporter would, under section 26e(1), be entitled to be refunded for all the devices included in a given batch manufactured or imported, or for a considerable proportion thereof, the levy may be left uncollected in respect to it.

Section 26g (repealed by 14.10.2005/821)

Section 26h (14.10.2005/821)

More detailed provisions regarding the implementation of sections 26a–26f shall be issued by Government Decree.

CHAPTER 2 b

Resale remuneration (24.3.1995/446)

Section 26i (5.5.2006/345)

(1) The author of a work of fine art has the right to receive a remuneration for all acts of resale involving an art market professional as a seller, a buyer, or an intermediary. However, the right does not extend to acts of resale by a private person to a museum open to the public.

(2) The remuneration for the resale of a work of fine art shall be:

- a) 5 per cent for the portion of the sale price up to EUR 50 000;
- b) 3 per cent for the portion of the sale price exceeding EUR 50 000 but not exceeding EUR 200 000;

- c) 1 per cent for the portion of the sale price exceeding EUR 200 000 but not exceeding EUR 350 000;
- d) 0,5 per cent for the portion of the sale price exceeding EUR 350 000 but not exceeding EUR 500 000; and
- e) 0,25 per cent for the portion of the sale price exceeding EUR 500 000.

(3) The resale remuneration shall be calculated from the net sale price of the work of fine art, not including value added tax. Resale remuneration shall not be collected for a sale price up to EUR 255, not including value added tax. The total amount of remuneration calculated in accordance with subsection 2 may not exceed EUR 12 500.

(4) The right to receive a remuneration for the sale of a work of fine art shall come into effect when the author or his successor in title has sold or otherwise permanently transferred a work of fine art or copies of a work made in limited numbers by the artist himself or under his authority.

(5) The resale right does not extend to the resale of products of architecture.

(6) The resale right shall subsist for the term of copyright protection. The right is personal, and it cannot be transferred to a third party or waived. However, what is provided in section 41(1) shall be applied to the right. If there are no successors in title surviving the author, the remunerations shall be used for the common purposes of authors.

Section 26j (5.5.2006/345)

(1) The resale remuneration shall be collected and distributed by an organisation representing the authors of the works sold, approved for this function by the Ministry of Education for a fixed period, for a maximum of five years. Only one organisation at a time can be approved for the function. The approved organisation must have the financial and operational prerequisites and capacity to manage the affairs in accordance with the approval decision. The organisation must give an annual report to the Ministry of Education on the measures taken pursuant to the decision of approval.

(2) The decision of the Ministry of Education shall be complied with, notwithstanding an appeal pending until the matter has been resolved by means of a valid decision. The approval may be reversed if the organisation commits serious or substantial offences or dereliction of duty in breach of the approval decision and its terms and if notices to comply or warnings issued to the organisation have not led to the rectification of the shortcomings in its operation.

(3) The Ministry of Education may issue to the organisation more detailed orders regarding the collection of the remuneration and the distribution to the authors. The Ministry of Education shall have the right to obtain from the organisation any information necessary for the purposes of supervision.

Section 26k (5.5.2006/345)

(1) The payment of the remuneration is the responsibility of the seller and the intermediary referred to in Section 26i(1). The buyer is responsible for the payment of the remuneration if the act of resale involves no other art market professionals besides the buyer.

(2) The seller, the intermediary, and the buyer are obliged to submit to the organisation referred to in section 26j an annual account of the sales of works. The seller, the intermediary, and the buyer are obliged, at the request of the organisation, to submit to the organisation any information necessary for the verification of the correctness of the payments for the year of the payments and for the preceding three calendar years.

Section 26l (24.3.1995/446)

(1) A state provincial office may, upon application by the organisation, oblige the seller to fulfil the obligation referred to in section 26k(2) on pain of fine. The imposition of a conditional fine and the ordering of its payment shall otherwise be governed by the provisions of the Act on the Conditional Imposition of a Fine (1113/90).

(2) The state provincial office shall have the right to conduct an inspection for the purpose of supervising compliance with the obligation to provide information and submit an

account referred to in section 26k(2). For the purpose of the inspection, the seller shall admit the person conducting the inspection to any business premises in the possession of the seller and, when so requested, present his bookkeeping, his business correspondence and any documents concerning the sales subject to the payment of remuneration, as well as any other documents which may have relevance to the supervision. The person conducting the inspection shall have the right to make copies of the documents inspected. The person conducting the inspection shall have the right to use a person appointed by the collecting organisation as an expert. The state provincial office shall have the right to provide the organisation with any information necessary for the purposes of collection.

(3) The police shall have the duty, where necessary, to provide official assistance to the state provincial office in the execution of duties assigned to the state provincial office under subsection 2.

(4) Whoever has received information under section 26k(2) or the present section regarding the business activities of another may not use it illegally or reveal it to others.

CHAPTER 3

Transfer of copyright

General provisions governing transfer of copyright

Section 27

(1) Copyright may be transferred entirely or partially, subject to the limitations of section 3.

(2) The transfer of a copy shall not include the transfer of copyright. In the case of a commissioned portrait, the author may not, however, exercise his right without the consent of the person who commissioned it or, after his death, the surviving spouse and heirs.

(3) Provisions concerning the transfer of copyright in certain cases are issued in sections 30–40 and 40b. The said provisions shall, however, apply only where not otherwise agreed. (7.5.1993/418)

Section 28

Unless otherwise agreed, the person to whom a copyright has been transferred may not alter the work or transfer the copyright to others. When copyright is held by a business, it may be transferred in conjunction with the business or a part thereof; however, the transferor shall remain liable for the fulfilment of the agreement.

Section 29 (17.12.1982/960)

The adjustment of an unreasonable condition in an agreement on a transfer of copyright shall be governed by the provisions of the Contracts Act (228/29).

Right to remuneration for rental of a copy of a film or a sound recording (31.10.1997/967)

Section 29a (31.10.1997/967)

An author who has transferred to the producer of a film or a sound recording the right to distribute a sound recording or a film by rental shall be entitled to receive an equitable remuneration for the rental from the producer. The author may not waive his right to remuneration.

Contract on public performance

Section 30

(1) Where the right to perform a work publicly has been transferred, the transfer shall be valid for a period of three years and shall not provide exclusive right. If a duration longer

than three years and an exclusive right have been agreed upon, the author may nevertheless perform the work himself or transfer the performance right to others if the right has not been exercised during the period of three years.

(2) The provisions of subsection 1 shall not apply to cinematographic works.

Publishing contract

Section 31

(1) By 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.

(2) The manuscript or other copy from which the work is to be reproduced shall remain the property of the author.

Section 32

(1) The publisher shall have the right to publish an edition, which may not exceed 2000 copies in the case of a literary work, 1000 copies in the case of a musical work, and 200 copies in the case of a work of art.

(2) An edition means the number of copies which the publisher produces at one time.

Section 33

The publisher shall publish the work within a reasonable time, take care of its distribution in the usual manner, and follow up the publishing to the extent determined by marketing conditions and other circumstances. In case of default, the author may rescind the contract and keep the remuneration received; the author shall also be entitled to compensation for any damage not covered by the remuneration.

Section 34

If a work has not been published within two years or, if it is a musical work, within four years from the date on which the author submitted a complete manuscript or other copy for reproduction, the author may rescind the contract and keep the remuneration received, even if there is no dereliction on the part of the publisher. The same shall apply when the copies of the work are sold out and the publisher, although he has the right to publish a new edition, fails to use the said right within one year from the date on which the author requested a reprint.

Section 35

(1) The publisher shall provide the author with a certification from the printer, or whoever else reproduces the work, concerning the number of copies produced.

(2) If, during a fiscal year, sale or rental has taken place for which the author is entitled to be remunerated, the publisher shall render account to him within nine months from the end of the year concerning the sales or rentals during the year and the number of copies in stock at the end of the year. The author shall moreover have the right to obtain information, at his own request, about the number of copies in stock at the end of a year even after the end of the accounting term.

Section 36

If the production of a new edition is commenced later than one year after the publication of the previous edition, the author shall be given an opportunity before the production to make such alterations in the work as can be made without unreasonable cost and without changing the character of the work.

Section 37

(1) The author may not publish the work again in the form and manner determined in the contract, until the edition or editions which the publisher has the right to publish have been

sold out.

(2) A literary work may nevertheless be incorporated by the author in an edition of his collected or selected works after fifteen years from the year during which the publishing of the work commenced.

Section 38

The provisions concerning publishing contracts shall not apply to contributions to newspapers and periodicals. Sections 33 and 34 shall not apply to contributions to other literary or artistic work of compilation.

Film contracts

Section 39

(1) A transfer of the right to make a film on the basis of a literary or artistic work shall comprise the right to make the work available to the public by showing the film in cinemas, on television or by any other means, and the right to provide the film with subtitles and to dub the film in another language. (31.7.1974/648)

(2) The provisions of subsection 1 shall not, however, apply to musical works.

Section 40

(1) When 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 neglected, the author may rescind the contract and keep any remuneration received; the author shall also be entitled to compensation for any damage not covered by the remuneration.

(2) If the film has not been produced within five years from the time at which the author fulfilled his obligations, the author may rescind the contract and keep any remuneration received, even if there is no dereliction on the part of the transferee.

Computer programs and databases (3.4.1998/250)

Section 40a (Repealed by Act 418/1993)

Section 40b (11.1.1991/34)

(1) If a computer program and a work directly associated with it has been created in the scope of duties in an employment relation, the copyright in the computer program and the work shall pass to the employer. The same shall correspondingly apply to a computer program and a work directly associated therewith, created within the scope of a civil service post.

(2) The provisions of subsection 1 above shall not apply to a computer program, or to a work directly associated therewith, created by an author independently engaged in teaching or research in an institution of higher education, with the exception of institutions of military education. (7.5.1993/418)

(3) The provisions of subsections 1 and 2 above shall correspondingly apply to a database which is created in the scope of duties in private and public employment relation. (3.4.1998/250)

A portrait made by photographic means (24.3.1995/446)

Section 40c (24.3.1995/446)

A person commissioning a photographic portrait shall, even if the photographer has retained the right in the work, have the right to authorise the inclusion of the portrait in a newspaper, a periodical or a biographical writing, unless the photographer has separately retained for himself the right to prohibit this.

*Transfer of copyright upon the author's death and the foreclosure of copyright***Section 41**

(1) After the author's death, copyright shall be governed by provisions pertaining to marital right to property, inheritance and will.

(2) The author may give directions in his will for the exercise of copyright, with binding effect also on the surviving spouse and direct descendants, adopted children and their descendants, or authorise someone else to give such directions.

Section 42

Copyright shall not be subject to foreclosure as long as the copyright remains with the author or with a person to whom the copyright has been transferred by virtue of marital right to property, inheritance or will. The same shall apply to manuscripts and works of art which have not been exhibited, offered for sale, or otherwise authorised for being made public.

CHAPTER 4**Term of Copyright****Section 43** (22.12.1995/1654)

Copyright shall subsist until seventy years have elapsed from the year of the author's death or, in the case of a work referred to in section 6, from the year of death of the last surviving author. Copyright in a cinematographic work shall subsist until seventy years have elapsed from the year of the death of the last of the following to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic work.

Section 44 (22.12.1995/1654)

(1) The copyright in a work made public without mention of the author's name or generally known pseudonym or pen name shall subsist until the end of the seventieth year after the year in which it was made public. If the work is published in parts, the duration of copyright shall be calculated separately for each part.

(2) If the identity of the author is disclosed during the period referred to in subsection 1, the provisions of section 43 shall apply.

(3) The copyright in a work not made public, whose author is unknown, shall subsist until seventy years have elapsed from the year in which the work was created.

Section 44a (22.12.1995/1654)

Anyone who for the first time publishes or makes public a previously unpublished work or a work not made public, which has been protected under Finnish law and the protection of which has expired, shall obtain a right in the work as provided in section 2 of this Act. The right shall subsist until twenty-five years have elapsed from the year in which the work was published or made public.

CHAPTER 5**Rights related to copyright** (14.10.2005/821)*Performing artist* (14.10.2005/821)**Section 45** (14.10.2005/821)

(1) Without the performing artist's consent, a performance of a literary or artistic work or

folklore shall not:

1. be recorded on a device by means of which the performance can be reproduced;
 2. be made available to the public on radio or television or by direct communication.
- (2) A performance referred to in subsection 1 which has been recorded on a device referred to in section 46 shall not, without the performing artist's consent, until 50 years have elapsed from the year in which the performance took place:
1. be transferred on to a device by means of which it can be reproduced;
 2. be performed publicly to an audience present at the performance;
 3. be communicated to the public by wire or by wireless means, including communication of the recorded performance to the public in a manner which enables members of the public to access the work from a place and at a time individually chosen by them;
 4. be distributed to the public.
- (3) A performance referred to in subsection 1 which has been recorded on a device referred to in section 46a shall not, without the performing artist's consent, until 50 years have elapsed from the year in which the performance took place:
1. be transferred to a device by means of which it can be reproduced;
 2. be communicated to the public in a manner which enables members of the public to access the work from a place and at a time individually chosen by them;
 3. be distributed to the public.
- (4) If the recording of the performance is published or made public before 50 years have elapsed from the year of performance, the protection conferred by subsections 2 and 3 shall subsist until 50 years have elapsed from the year during which the recorded performance was published or made public for the first time.
- (5) The procedure which under subsections 1–4 requires the performing artist's consent shall be correspondingly governed by the provisions of section 2(2–4), sections 3, 6–9, 11 and 11a, section 12(1–3), section 13a(2), section 14(1, 3 and 4), sections 15, 16 and 16a–16e, section 17(2, 3 and 5), section 19(1, 2 and 5), sections 21, 22 and 25b–25d, section 25f(2 and 3), sections 25h, 25i, 26, 26a–26f and 26h, section 27(1–2), and sections 28, 29, 29a, 41 and 42.

Producer of a sound recording (14.10.2005/821)

Section 46 (14.10.2005/821)

- (1) A phonograph record or any other device on which sound has been recorded shall not, without the consent of the producer, until 50 years have elapsed from the year during which the recording took place:
1. be transferred on to a device by means of which it can be reproduced;
 2. be performed publicly to an audience present at the performance;
 3. be communicated to the public by wire or by wireless means, including communication of the recorded material to the public in a manner which enables members of the public to access the work from a place and at a time individually chosen by them;
 4. be distributed to the public.
- (2) If the recording is published before 50 years have elapsed from the year of recording, the protection conferred by subsection 1 shall subsist until 50 years have elapsed from the year during which the recording was published for the first time. If the recording is not published but is legally made available to the public by means other than the distribution of copies of the recording before 50 years has elapsed from the year of recording, the protection shall subsist until 50 years have elapsed from the year during which the recording was made available to the public in said manner for the first time.
- (3) The procedure which under subsections 1–2 requires the producer's consent shall be correspondingly governed by the provisions of section 2(2–4), sections 6–9, section 11(2–5), section 11a, section 12(1–3), section 13a(2), section 14(1, 3 and 4), sections 15, 16 and 16a–16e, section 19(1, 2 and 5), sections 21, 22, 25b and 25d, section 25f(2 and 3),

sections 26, 26a–26f and 26h, section 27(1–2), and section 29.

(4) The provisions of this section shall not apply to a device referred to in section 46a.

Producer of a video recording (14.10.2005/821)

Section 46a (14.10.2005/821)

(1) A film or any other device on which moving images have been recorded shall not, without the producer's consent, until 50 years have elapsed from the year during which the recording took place:

1. be transferred on to a device by means of which it can be reproduced;
2. be distributed to the public;
3. be communicated to the public by wire or by wireless means in a manner which enables members of the public to access the work from a place and at a time individually chosen by them.

(2) If the recording is published or made public before 50 years have elapsed from the year of recording, the protection conferred by subsection 1 shall subsist until 50 years have elapsed from the year during which the recording was published or made public for the first time.

(3) The procedure which under subsections 1–2 requires the producer's consent shall be correspondingly governed by the provisions of section 2(2–3), sections 6–9, section 11(2–5), section 11a, section 12(1–3), section 13a(2), section 14(1, 3 and 4), sections 15, 16 and 16a–16e, section 19(1, 2 and 5), sections 22, 25b and 25d, section 25f(2–3), sections 26, 26a–26f and 26h, section 27(1–2), and section 29.

Use of an audio recording and a music recording containing images (14.10.2005/821)

Section 47 (14.10.2005/821)

(1) Notwithstanding the provisions of section 45(2 and 4) and section 46(1–2), a performance referred to in section 45, which has been recorded on a device referred to in section 46, and a device referred to in said section, which has been published for commercial purposes and the copies of which have been distributed or which has been communicated to the public, may be used:

1. directly or indirectly in a public performance;
2. in original communication to the public in a manner other than one enabling members of the public to access the recorded performance or material at a place and time chosen by them;
3. for simultaneous and unaltered retransmission of a radio or television broadcast for reception by the public.

(2) A remuneration shall be paid to the producer and the performing artist whose performance is recorded on a device used in a performance, communication or retransmission referred to in subsection 1. No remuneration shall, however, be paid for retransmission referred to in section 25i.

(3) If a music recording containing images, which has been published for commercial purposes and copies of which have been distributed or which has been communicated to the public is used in a manner referred to in paragraph 1 or 2 of subsection 1 during the period determined in section 46a(2), the performing artist whose performance of a composition is recorded on the device shall have a right to remuneration for the use of the recorded performance.

(4) Cases referred to in subsections 1–3 above shall be correspondingly governed by the provisions of sections 21, 22, and 25b, section 27(1–2) and section 29 and additionally, in regard of a performing artist, by the provisions of section 11(2) and sections 28, 41 and 42.

(5) The provisions of subsections 1 and 2 shall not apply to a device referred to in section 46a.

Remuneration for use (14.10.2005/821)**Section 47a** (14.10.2005/821)

(1) The remuneration for the use of a phonograph record under paragraphs 1–2 of section 47(1) shall be paid through an organisation which has been approved by the Ministry of Education and which represents numerous performing artists and sound recording producers whose performances recorded on a device and whose recordings are used in Finland.

(2) The remuneration for retransmission under section 47(1)(3) shall be paid through the organisation referred to in section 26(1).

(3) The remuneration for the use of a music recording containing images under section 47(3) shall be paid through an organisation which has been approved by the Ministry of Education and which represents numerous performing artists whose performances recorded on a device are used in Finland.

(4) The right to remuneration of a performing artist or a producer shall expire if a claim concerning it has not verifiably been presented to the organisation within three years from the end of the calendar year during which the performance recorded on a device and the device were used.

(5) The Ministry of Education shall approve the organisation referred to in subsections 1 and 3 on application for a fixed period, for a maximum of five years. Only one organisation representing the rightholders at a time may be approved for each task. The organisation to be approved shall be financially sound and be capable of managing matters in accordance with the approval decision. The organisation shall annually submit an account to the Ministry of Education of the measures it has taken pursuant to the approval decision. The decision of the Ministry of Education shall be complied with, notwithstanding an appeal pending until the matter has been resolved by means of a valid decision. The approval may be reversed if the organisation commits serious or substantial offences or dereliction of duty in breach of the approval decision and its terms and if notices to comply or warnings issued to the organisation have not led to the rectification of the shortcomings in its operation.

(6) If the user of the device does not pay the remuneration referred to in subsections 1 or 3, the amount of which he has agreed upon with the performing artists and, in cases referred to in section 47(1), also with the producers, or the amount of which has been determined in a procedure referred to in section 54, a court of justice may rule, when a claim is made by a party concerned, that the use may continue only with the consent of the performing artists or the producers until the remuneration has been paid.

Radio and television organisation (14.10.2005/821)**Section 48** (14.10.2005/821)

(1) A radio or television transmission shall not, without the consent of the transmitting organisation, be retransmitted or recorded on a device by means of which it can be reproduced or communicated to the public. Nor shall a television broadcast, without the consent of the transmitting organisation, be made audible or visible to the public on premises to which the public has admission in return for payment.

(2) A recorded transmission shall not, without the consent of the transmitting organisation, until 50 years have elapsed from the year of transmission:

1. be transferred on to a device by means of which it can be reproduced or communicated to the public;
2. be transmitted anew;
3. be distributed to the public;
4. be communicated to the public by wire or wireless means in a manner which enables members of the public to access the work from a place and at a time individually chosen by them.

(3) The provisions of subsections 1 and 2 shall correspondingly apply to any other

programme-conveying signal besides radio or television transmissions.

(4) Cases referred to in subsections 1–2 above shall be correspondingly governed by the provisions of section 2(2–3), sections 6–8, section 11(2–5), section 11a, section 12(1–2), section 13a(2), section 14(1, 3, and 4), sections 15, 16 and 16a–16e, section 19(1), sections 21, 22, 25b and 25d, section 25f(2–3), section 26, section 27(1–2) and section 29. In addition the retransmission of a broadcast by cable shall be correspondingly governed by the provisions of section 25h(1) and section 25i, unless the broadcast originates in another country in the European Economic Area, in which case the provisions to be applied are section 25h(3), instead of the above.

Producer of a catalogue and a database (14.10.2005/821)

Section 49

(1) A person who has made

1. a catalogue, a table, a program or any other product in which a large number of information items are compiled, or
2. a database the obtaining, verification or presentation of which has required substantial investment,

shall have the exclusive right to control the whole or, in qualitative or quantitative terms, a substantial part thereof, by making copies of it and by making it available to the public.

(14.10.2005/821)

(2) The right conferred by subsection 1 above shall subsist until 15 years have elapsed from the year in which the product was completed or, if the product was made available to the public before the end of that time, until 15 years have elapsed from the year in which the product was made available to the public for the first time. (3.4.1998/250)

(3) A product referred to in subsection 1 above shall be correspondingly governed by the provisions of section 2(2–4), sections 7–9, section 11(2–5), section 12(1, 2 and 4), sections 13 and 13a, section 14(1, 3 and 4), sections 15, 16, 16a–16e, 17 and 18, section 19(1, 2 and 5), sections 22, 25b–25d and 25f–25i, section 25j(4–5), sections 26 and 27–29. If the product or a part thereof is subject to copyright, that right may be invoked. (14.10.2005/821)

(4) Any contractual provision under which the maker of the product that has been made public, referred to above in subsection 1, prevents the lawful user from using insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purpose whatsoever, or restricts such a use, shall be without effect. (3.4.1998/250)

Photographer (14.10.2005/821)

Section 49a

(1) A photographer shall have the exclusive right to control a photographic picture, be it in an original form or in an altered form:

1. by making copies thereof;
2. by making it available to the public. (14.10.2005/821)

(2) The right to a photographic picture shall be in force until 50 years have elapsed from the end of the year during which the photographic picture was made. (24.3.1995/446)

(3) Photographs referred to in this section shall be correspondingly governed by the provisions of section 2(2–4), section 3(1–2), sections 7–9, 11 and 11a, section 12(1–2), sections 13 and 13a, section 14(1, 3 and 4), sections 15, 16 and 16a–16e, section 17(1), section 18, section 19(1, 2 and 5), sections 20, 22 and 25, section 25a(1–2), and sections 25b, 25d, 25f–25i, 26, 26a–26f, 26h, 27–29, 39, 40, 40c, 41 and 42. If a photographic picture is subject to copyright, copyright may be invoked. (14.10.2005/821)

Press reports (14.10.2005/821)

Section 50

A press report which is supplied by a foreign press agency or by a correspondent abroad by virtue of a contract, may not be made available to the public by the medium of a newspaper or radio without the consent of its recipient, until twelve hours have elapsed from its making public in Finland.

Chapter 5a(14.10.2005/821)

Technological measures and electronic rights management information

Prohibition to circumvent a technological measure

Section 50a (14.10.2005/821)

(1) An effective technological measure protecting a work protected under this Act, which has been installed as protection for the work by the author or some other person with the author's permission in making the work available to the public, shall not be circumvented.

(2) An *effective technological measure* means technology, a device or a component which, in the normal course of its operation, is designed to prevent or restrict acts in respect of the work without the author's or other rightholder's authorisation and by means of which the protection objective is achieved.

(3) The provisions of subsection 1 shall not apply if the technological measure is circumvented in course of research or education relating to cryptology or if a person who has lawfully obtained the work circumvents the technological measure in order to be able to listen to or view the work. A work in which the technological measure has been circumvented for the purposes of listening or viewing shall not be reproduced.

(4) The provisions of subsections 1–3 shall not apply to a technological measure protecting a computer program.

Prohibition to produce and distribute devices for circumventing technological measures

Section 50b (14.10.2005/821)

(1) Devices, products or components enabling or facilitating the circumvention of an effective technological measure shall not be manufactured or imported for distribution to the public; brought onto the territory of Finland for the purpose of exportation to a third country; distributed to the public; sold; rented; advertised for sale or rental; or held in possession for commercial purposes. Nor shall services enabling or facilitating the circumvention of an effective technological measure be offered.

(2) Devices, products or components or services referred to in subsection 1 are those

1. which are promoted, advertised or marketed for the purpose of circumventing effective technological measures;

2. whose purpose or use other than circumvention has only limited commercial significance; or

3. which are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures protecting works protected under this Act.

(3) The provisions of subsection 1 shall not apply to a technological measure protecting a computer program.

Use of works protected by technological measures

Section 50c (14.10.2005/821)

(1) Anyone who is lawfully in possession of or has legal access to a work protected by an effective technological measure and who, pursuant to section 14(3), sections 15, 16,

16a–16c or 17, section 25d(2) or section 25f(2) is entitled to use the work must be able to use the work to the extent necessary to avail himself of the limitations of copyright laid down in said provisions.

(2) The author shall offer the user referred to in subsection 1 the means to use the work in accordance with the provisions referred to in the subsection, if the user lacks the means to use the work owing to the technological measures. If the author does not offer the means referred to above or if the use of the work is not made possible by voluntary measures, such as agreements between the authors and users of the works or other arrangements, the matter shall be resolved by an arbitration procedure referred to in section 54.

(3) The provisions of subsections 1 and 2 above shall not apply to a work communicated to the public on agreed terms so that members of the public may access the work from a place and at a time individually chosen by them.

(4) The provisions of subsections 1 and 2 concerning the author shall also apply to a person who with the author's consent makes the work available to the public.

(5) The provisions of subsections 1 and 2 shall not apply to a computer program.

Electronic rights management information

Section 50d (14.10.2005/821)

(1) Electronic rights management information contained in a copy of a work protected under this Act or indicated in the communication of the work to the public, which identify the work, the author or some other rightholder or which provide information about the terms governing the use of the work, shall not be removed or altered.

(2) A copy of a work protected under this Act shall not be distributed to the public or imported for distribution to the public or the work shall not be communicated to the public in a form in which the electronic management information has been removed from the work or have been altered without authorisation.

(3) The rights management information referred to in this section are information which the author or a person on his behalf or with his authorisation has installed in the work.

Application to the rights related to copyright referred to in Chapter 5

Section 50e (14.10.2005/821)

The provisions of sections 50a–50d concerning the work and the author shall correspondingly apply to the protected subject matter referred to in the provisions of Chapter 5 and to the holders of rights therein.

CHAPTER 6

Special provisions

Section 51

A literary or artistic work may not be made available to the public under such a title, pseudonym or pen name that the work or its author may easily be confused with a work previously made public or its author.

Section 52

(1) The name or signature of the author may be inscribed on a copy of a work of art by another person only when so instructed by the author.

(2) The name or signature of the author shall not be inscribed on a copy of a work of art in such a manner that the copy could be confused with the original work.

(3) Whoever makes or distributes to the public a copy of a work of art shall mark the copy in such a manner that the copy cannot be confused with the original work. (24.3.1995/446)

Section 52a (24.3.1995/446)

(1) The author of a work of fine art shall have the right of access to see the work he has transferred, unless this causes unreasonable detriment to the owner or holder of the work, and provided this is necessary:

1. for the author's artistic activity; or
2. for the purpose of exercising his economic rights, as defined in section 2.

(2) The right referred to in paragraph 2 of subsection 1 above shall be governed by the provisions of section 41.

Section 53

(1) If, after the death of the author, a literary or artistic work is publicly treated in a manner which violates cultural interests, the authority to be designated by Decree shall have the right to prohibit such an action, notwithstanding that the copyright therein is no longer in force, or that copyright has never existed.

(2) If the person whom the prohibition concerns is dissatisfied with the prohibition, he may submit the matter to a court of justice for decision.

Arbitration (14.10.2005/821)**Section 54** (14.10.2005/821)

(1) In the event of a dispute, the matter shall be settled by an arbitration procedure whenever the question concerns:

1. remuneration referred to in section 17(4), section 18(2), section 19(4) or section 47(2 or 3);
2. the granting of an authorisation referred to in section 26 and the terms thereof as provided in section 13, if the matter relates to the making of copies for use in educational activities;
3. the granting of an authorisation referred to in section 26 and the terms thereof, as provided in section 14(1), if the matter relates to the making of copies for use in educational activities;
4. the granting of an authorisation referred to in section 26, and the terms thereof, for simultaneous and unaltered retransmission of a radio or television broadcast in accordance with section 25h(1);
5. the granting of an authorisation referred to in section 26, and the terms thereof, for simultaneous and unaltered retransmission of a radio or television broadcast by cable in accordance with section 25h(2) or section 48(1), if the broadcast originates in a country belonging to the European Economic Area; the authorisation may be granted if the transmitting organisation, without a well-founded reason, prohibits cable retransmission or sets unreasonable terms thereupon;
6. the settling of a matter between the author and the user in a case referred to in section 50c(2).

(2) Each party shall appoint an arbitrator for the arbitration, and those thus appointed invite a third arbitrator as a chairperson. If one of the parties has proposed the use of arbitration to the adversary and appointed an arbitrator but the adversary has not appointed an arbitrator within one month of the notification thereof, he shall be considered to have refused the settling of the matter by arbitration.

(3) The parties concerned may also agree to submit the matter to arbitrators to be settled in accordance with the Arbitration Act (967/1992).

(4) Any authorisation granted pursuant to this section shall have the same effect as the granting of authorisation referred to in section 26 in accordance with section 13, section 14(1), section 25h(1 or 2) or section 48(1).

(5) If a party concerned refuses the arbitration of a matter referred to in subsection 1, the matter may, upon application by a party concerned, be submitted to a court of justice for settling. The competent court of justice shall be the District Court of Helsinki. If the Court has granted authorisation in a matter referred to in paragraphs 2–4 of said subsection and

the decision is appealed, the authorisation and its terms shall be in force until the matter has been settled with finality or until a higher court rules otherwise in regard of the appeal.

Education for the purpose of gain (14.10.2005/821)

Section 54a (19.12.1980/897)

The provisions of this Act regarding educational activities shall not apply to educational activities conducted for purpose of gain.

Remuneration for the use of a sound recording and a music recording containing images

(14.10.2005/821)

Section 54b (24.3.1995/446)

(1) If there is a risk that remuneration referred to in section 47 cannot be paid to the person entitled to it, a court of justice may, upon the request of said person, prohibit the user of devices referred to in section 46 from using said devices until he posts an acceptable security for the payment of remunerations or until a court of justice orders otherwise upon the request of a party concerned. The matter shall be governed, where appropriate, by the provisions of sections 4, 5, 7, 8, 11 and 14 of Chapter 7 of the Code of Judicial Procedure.

(2) If the remuneration referred to in section 47(2) has not been agreed upon before the use referred to in subsection 1 of said section, the remuneration shall fall due after 30 days from the day on which the device referred to in section 46 was used in accordance with the provisions of section 47(1). (14.10.2005/821)

(3) The provisions of subsections 1 and 2 shall correspondingly apply to remuneration referred to in section 47(3) and a music recording containing images. (14.10.2005/821)

Copyright Council (14.10.2005/821)

Section 55 (8.6.1984/442)

(1) The Government shall appoint a Copyright Council to assist the Ministry of Education in the handling of copyright matters and to issue statements regarding the application of this Act.

(2) Further provisions regarding the Copyright Council shall be issued by Government Decree. (14.10.2005/821)

CHAPTER 7

Penal Sanctions and Liability

Sanctions in the Penal Code (14.10.2005/821)

Section 56 (14.10.2005/821)

Penal sanctions for the copyright offence are laid down in section 1 of Chapter 49 of the Penal Code (39/1889); for circumvention of a technological measure in section 3 of the Chapter; for the offence of a device for circumventing a technological measure in section 4 of the Chapter; and for the offence of electronic rights management information in section 5 of the Chapter.

Copyright violation (14.10.2005/821)

Section 56a (14.10.2005/821)

(1) Anyone who

1. wilfully or out of gross negligence makes a copy of a work, or makes a work available to the public contrary to the provisions of this Act or infringes the

provisions of section 3 concerning moral rights,

2. otherwise violates a provision protecting copyright in the present Act or acts contrary to a direction issued under section 41(2), or to a provision of section 51 or section 52, or to a prohibition referred to in section 53(1) or section 54b(1), or

3. imports into the country or brings onto the territory of Finland for transportation to a third country copies of a work which he knows or has well founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under this Act,

shall be sentenced to a fine for a *copyright violation*, unless the act is punishable as a copyright offence under section 1 of Chapter 49 of the Penal Code.

(2) The making of single copies for private use of a computer-readable computer program or a database which has been published or copies of which have been sold or otherwise permanently transferred with the consent of the author, or the making of single copies for private use of a work contrary to section 11(5) shall not be considered to constitute a copyright violation.

Breach of confidentiality (14.10.2005/821)

Section 56b (21.8.1995/1024)

A violation of confidentiality referred to in section 26d(3) or section 26l(4) shall be punishable under section 1 or 2 of Chapter 38 of the Penal Code, unless the act is punishable under section 5 of Chapter 40 of the Penal Code or unless a more severe punishment for the act has been laid down elsewhere in the law.

Illegal distribution of a device for removing a technological measure protecting a computer program

(14.10.2005/821)

Section 56c (14.10.2005/821)

Anyone who distributes to the public for the purpose of gain or for such a purpose keeps in his possession any device whose sole purpose is unauthorised removal or circumvention of a technological device protecting a computer program shall be sentenced to a fine for *unauthorised distribution of a device for removing a technological measure protecting a computer program*.

Breach of the obligation to provide information (14.10.2005/821)

Section 56d (24.3.1995/446)

Anyone who wilfully or out of gross negligence violates the provision of section 26d(2) or the obligation to provide information or to give account, laid down in section 26k(2), shall be sentenced to a fine for a *violation of the obligation to provide information as provided in the Copyright Act*, unless a more severe punishment for the act has been laid down elsewhere in the law.

Violation of a technological measure (14.10.2005/821)

Section 56e (14.10.2005/821)

Anyone who wilfully or out of gross negligence infringes

1. the prohibition to circumvent a technological measure, as provided in section 50a, or

2. the prohibition to produce or distribute devices for circumventing technological measures, as provided in section 50b,

shall be sentenced, unless the act is punishable as a circumvention of a technological measure under section 3 of Chapter 49 of the Penal Code or as a offence of a device for circumventing a measure under section 4 of the Chapter, to a fine for a *violation of a technological measure*.

Violation of electronic rights management information (14.10.2005/821)**Section 56f** (14.10.2005/821)

Anyone who wilfully or out of gross negligence infringes the prohibition to remove or alter electronic rights management information referred to in section 50d(1) or the prohibition referred to in subsection 2 of said section to distribute to the public or import a copy of a work for distribution to the public or communicate a work to the public in a form in which the electronic management information has been removed from the work or altered without authorisation, shall be sentenced unless the act is punishable as an offence of electronic rights management information under section 5 of Chapter 49 of the Penal Code, to a fine for a *violation of electronic rights management information*, if the perpetrator knows or has well-founded reason to suspect that his act causes, enables or conceals an infringement of the rights conferred by this Act or facilitates the infringement thereof.

Prohibition to infringe (21.7.2006/679)**Section 56g** (21.7.2006/679)

If a person infringes the copyright, the Court of Justice may prohibit him to proceed with or repeat the act.

Compensation and remuneration (14.10.2005/821)**Section 57** (14.10.2005/821)

(1) Anyone who in violation of this Act or a direction given under section 41(2) uses a work or imports a copy of work into the country or brings a copy of work onto the territory of Finland for transportation to a third country shall be obliged to pay a reasonable compensation to the author. The illegal reproduction of a work for private use shall be subject to compensation only in the case that the maker of the copy has known or should have known that the material copied has been made available to the public in violation of this Act.

(2) If the work is used wilfully or out of negligence, the infringer shall, in addition to compensation, pay damages for any other loss, including mental suffering and other detriment.

(3) Anyone who, otherwise than by using a work, is guilty of an act punishable under section 1, 3 or 5 of Chapter 49 of the Penal Code, or section 56a, paragraph 1 of section 56e or section 56f of this Act, shall be obliged to pay the author damages for any loss, mental suffering or other detriment caused by the crime.

(4) The compensation referred to in subsections 2 and 3 above shall also be governed by the provisions of the Tort Liability Act (412/1974).

Forfeiture (14.10.2005/821)**Section 58** (14.10.2005/821)

(1) If a copy of a work has been produced, imported into the country or brought onto the territory of Finland for further transportation to a third country, or made available to the public or altered contrary to this Act or to a direction given under section 41(2) or to the provision of section 51 or 52 or to a prohibition issued under section 53(1), or if a prohibition referred to in section 50a or 50b has been violated, the court may, upon the demand of the injured party or, in a case referred to in section 50b, of a public prosecutor, order, as it deems reasonable, that the copy and any composition, printing block, mould or other piece of equipment or illegal device for circumventing technological measures be destroyed, or that such property be altered in specified ways or be transferred to the injured party against a compensation corresponding to the cost of its manufacture, or be

rendered unfit for unauthorised use. The provisions of this subsection shall apply to reproduction for private use only if the maker of the copy has known or should have known that the material reproduced has been made available to the public in violation of this Act.

(2) If a copy of a work has been made or distributed contrary to this Act, or imported to the country or brought onto the territory of Finland in a manner referred to in paragraph 3 of section 56a(1), and it is ordered to be forfeited to the State under the Summary Penal Procedures Act (692/1993), the copy of the work may be ordered to be destroyed upon the demand of the injured party. In summary penal procedures, a court may also order a device intended for circumvention of a technological measure referred to in section 50b to be forfeited to the State or destroyed if it has been manufactured, made available to the public, imported into the country for distribution to the public or brought onto the territory of Finland for transportation to a third country contrary to the provisions of section 50b(1).

(3) The provisions of subsections 1 and 2 shall not apply to a person who has acquired the property or some specific right therein in good faith, or to a work of architecture. A building may, however, be ordered to be modified as indicated by the specific features of the case and the circumstances.

Section 59

Notwithstanding the provisions of section 58(1) the court may, upon a request to that effect and if deemed reasonable in view of the artistic or economic value of the copies referred to in said subsection or other circumstances, permit that the copy be made available to the public or otherwise used for the intended purpose in consideration of specific remuneration to the injured party.

Publication of judgment (21.7.2006/679)

Section 59a (21.7.2006/679)

(1) A court of justice may, in a civil matter concerning copyright and upon the request of plaintiff, order a defendant to recompense costs incurred from the dissemination, by using appropriate measures, of an information about the non-appealable judgment in which the defendant has been found to infringe copyright. The order shall not be issued, if the dissemination of the information is limited elsewhere in the law. When considering the issuing of the order and the contents of it, a court of justice shall take into account the general relevance of the dissemination to the public, the quality and extent of the infringement, the costs which are caused by the dissemination and other corresponding matters.

(2) A court of justice shall order a maximum amount of the reasonable dissemination costs to be recompensed by the defendant. The plaintiff is not entitled to compensation, if the information about the judgment has not been disseminated within the time that a court of justice ordered to be run from a passed non-appealable judgment.

Application of provisions on sanctions and compensation to certain rights related to copyright (14.10.2005/821)

Section 60 (21.7.2006/679)

The provisions of sections 56a, 56e–56g, 57–59 and 59a shall correspondingly apply to the rights protected under Chapter 5.

Prevention of access to material infringing copyright (14.10.2005/821)

Section 60a (14.10.2005/821)

(1) In individual cases, notwithstanding confidentiality provisions, an author or his representative shall be entitled, by the order of the court of justice, to obtain contact information from the maintainer of a transmitter, server or a similar device or other service

provider acting as an intermediary about a tele-subscriber who, unauthorised by the author, makes material protected by copyright available to the public to a significant extent in terms of the protection of the author's rights. The information shall be supplied without undue delay. The handling of the matter concerning the information to be supplied shall be governed by the provisions of Chapter 8 of the Code of Judicial Procedure.

(2) The author or his representative who has obtained contact information referred to in subsection 1 above shall be governed by the provisions of sections 4, 5, 8, 19, 31, 41 and 42 of the Act on the Protection of Privacy in Electronic Communications (516/2004) pertaining to confidentiality and the protection of privacy in communications, the handling of messages and identification data, information security, guidance and supervision, coercive measures and sanctions.

(3) An author or his representative referred to in this section shall defray the costs incurring from the enforcement of an order to supply information and recompense the maintainer of the transmitter, server or other similar device or other service provider acting as an intermediary for possible damage.

Section 60b (14.10.2005/821)

For the purpose of prohibiting continued violation, the author or his representative has the right to take legal action against the person who makes the allegedly copyright-infringing material available to the public. In allowing the action, the court of justice shall at the same time order that the making available of the material to the public must cease. The court of justice may impose a conditional fine to reinforce the order.

Section 60c (21.7.2006/679)

(1) In trying a case referred to in section 60b, the court of justice may, upon the request of the author or his representative, order the maintainer of the transmitter, server or other device or any other service provider acting as an intermediary to discontinue, on pain of fine, the making of the allegedly copyright-infringing material available to the public (*injunction to discontinue*), unless this can be regarded as unreasonable in view of the rights of the person making the material available to the public, the intermediary and the author.

(2) Before legal action referred to in section 60b is taken, the court of justice referred to in said section may, upon the request of the author or his representative, issue an injunction to discontinue, if the conditions mentioned in subsection 1 for its issue are met and if it is apparent that the author's rights would otherwise be seriously prejudiced. The court of justice shall reserve an opportunity to be heard both for the person against whom the injunction is sought and for the person making the allegedly copyright-infringing material available to the public. A service of a notice to the person against whom the injunction is sought may be delivered by posting it or by using fax or electronic mail. The handling of the matter shall otherwise come under the provisions of Chapter 8 of the Code of Judicial Procedure.

(3) Upon the request the court may issue an interim injunction to discontinue referred to subsection 2 without hearing the alleged infringer, if deemed necessary for the urgency of the case. The injunction shall remain in force until further notice. After the injunction has been issued, the alleged infringer shall be reserved an opportunity to be heard without delay. After hearing the alleged infringer, the court shall decide without delay whether it retains the injunction in force or cancels it.

(4) An injunction to discontinue issued pursuant to this section shall not prejudice the right of a third person to send and receive messages. The injunction to discontinue shall enter into force when the applicant provides the security referred to in [section 16 of Chapter 7 of the Enforcement Act (37/1895)]¹ to the execution officer, unless otherwise provided in section 7 of Chapter 7 of the Code of Judicial Procedure. The injunction to discontinue issued by virtue of subsection 2 or 3 of this section shall expire, if a legal action has not

¹ Enforcement Code (705/2007), Section 2 of Chapter 8

been taken within one month from the issuing of the injunction.

(5) If the legal action referred to in section 60b is dismissed or ruled inadmissible or the case is discontinued due to that plaintiff has cancelled his legal action or failed to appear in court of justice, the person requesting the injunction to discontinue must recompense the person against whom the injunction is issued, as well as alleged infringer for damage caused by the enforcement of the injunction and for the costs incurring in the matter. The same shall apply when the injunction to discontinue is cancelled by virtue of subsection 3 or expires by virtue of subsection 4. The taking of legal action for the compensation of damages and costs shall be governed by the provisions of section 12 of Chapter 7 of the Code of Judicial Procedure.

Section 60d (14.10.2005/821)

The provisions of sections 60a–60c above shall correspondingly apply to the holder of a right related to copyright conferred by Chapter 5 and his representative.

Forum (14.10.2005/821)

Section 61

The competent court in cases involving radio or television transmissions which violate this Act shall be the District Court of Helsinki.

Right to institute criminal proceedings (14.10.2005/821)

Section 62

(1) A public prosecutor may not bring criminal action in cases other than a copyright violation in breach of section 51 or section 52 or a violation of a technological measure referred to in paragraph 2 of section 56e, unless the injured party has filed for prosecution on the matter. (14.10.2005/821)

(2) An action for a breach of section 3 or of a direction given under section 41(2) may be brought by the surviving spouse, by heirs in the ascending or descending line or by brothers and sisters, or by a person similarly related to the author by adoption. The lawsuit for a breach of a prohibition mentioned in section 53(1) above shall be filed by the authority referred to in said section.

CHAPTER 8

Applicability of the Act

Section 63 (31.7.1974/648)

(1) The provisions of this Act relating to copyright shall apply:

1. to works the author of which is a Finnish national or a person having his habitual residence in Finland;
2. to works first published in Finland or published in Finland within thirty days of having first been published in another country;
3. to a cinematographic work the producer of which has his headquarters or habitual residence in Finland;
4. to works of architecture located in Finland; and
5. to works of art incorporated in a building located in Finland or otherwise fixed to the ground in Finland.

(2) In the application of paragraph 3 of subsection 1 above, unless otherwise proved, the producer of the cinematographic work shall be deemed to be the person or company whose name is mentioned in the usual manner in the cinematographic work.

(3) The provisions of Chapter 2b above shall be applied to the resale of works of fine art taking place in Finland. If the author of the work is a national of a state not belonging to

the European Economic Area and has no habitual residence within the European Economic Area, the provisions of Chapter 2b shall be applied only if the author is a national of a state that reciprocally applies provisions concerning a corresponding royalty to the resale taking place in that country. The Commission of the European Communities shall publish a list of these countries. The provisions of Chapter 2b shall be applied to those entitled under such author only if they are nationals of a country included in the Commission's list. (5.5.2006/345)

(4) The provisions of sections 51–53 above shall apply regardless of who created the work and where the work was published. (24.3.1995/446)

Section 63a (22.12.1995/1654)

The provisions of section 44a shall apply to a person who is a national of a State belonging to the European Economic Area or has habitual residence in such a State, and to a legal entity having its statutory domicile in a State belonging to the European Economic Area.

Section 64 (24.3.1995/446)

(1) The provisions of section 45 above shall apply if:

1. the performance takes place in Finland;
2. the performance has been recorded on a device referred to in subsection 2; or
3. the performance, which has not been recorded on a phonogram, is included in a transmission referred to in subsection 6.

(2) The provisions of section 46 above shall apply to a device the sound on which has been recorded in Finland.

(3) The provisions of section 46a above shall apply to a device the moving images on which have been recorded in Finland.

(4) The provisions of section 47(1) and (2) shall apply to a public performance which takes place in Finland, to other original communication to the public than on-demand communication which takes place in Finland, and to retransmission which takes place in Finland, if a device referred to in subsection 2 of this section is used in the performance, communication or retransmission. (14.10.2005/821)

(5) The provisions of section 47(3) shall apply to a public performance and to other communication to the public than on-demand communication which takes place in Finland if the performance or communication involves a music recording containing images which has been distributed or communicated to the public in the commercial market and which contains a performance of a musical work recorded in Finland. (14.10.2005/821)

(6) The provisions of section 48 above shall apply:

1. to a radio and television transmission which takes place in Finland; and
2. to a radio and television transmission which takes place elsewhere, if the headquarters of the transmitting organisation is in Finland.

(7) The provisions of paragraph 1 of section 49(1) above shall apply to a product which was first published in Finland. The provisions of paragraph 2 of section 49(1) above shall apply to a product the maker of which is a national of a State belonging to the European Economic Area or the maker of which habitually resides in such a State. The provisions of paragraph 2 of section 49(1) above shall also apply to a product the maker of which is a company or a firm set up in accordance with the law of a State belonging to the European Economic Area and having its statutory domicile, central administration or principal place of business in a State belonging to the European Economic Area. If such a company or firm only has its statutory domicile in a State belonging to the European Economic Area, the provisions of paragraph 2 of section 49(1) above shall apply only if its operations have actual and continuous links with the economy of a State belonging to the European Economic Area. (3.4.1998/250)

(8) The provisions in paragraphs 1, 2 and 5 of section 63(1) regarding a work shall correspondingly apply to a photographic picture referred to in section 49a.

(9) The provisions of section 50 above shall apply to a press report which has been received in Finland.

Section 64a (24.3.1995/446)

(1) When programme-carrying signals intended for reception by the public and carrying a work protected under this Act are introduced in Finland into an uninterrupted chain of communication leading to a satellite and back down towards the earth under the control and responsibility of a broadcasting organisation, this satellite communication to the public shall be governed by the provisions of section 2 on making available to the public and other provisions of this Act on radio and television transmissions.

(2) If the communication to the public by satellite referred to in subsection 1 takes place in a State not belonging to the European Economic Area where the level of legal protection does not correspond to the level of protection provided by Chapter 2 of the Council Directive (93/83/EEC) on the Coordination of Certain Rules Concerning Copyright and Rights Related to Copyright Applicable to Satellite Broadcasting and Cable Retransmission, and

1. the signals are transmitted towards the satellite from a transmission station situated in Finland, or,
2. in a case in which a transmitting station situated in Finland is not used, a broadcasting organisation established in Finland has commissioned others to carry out the act of communication,

the communication to the public by satellite shall be deemed to take place in Finland. The satellite communication shall be governed by the provisions of section 2 on making available to the public and other provisions of this Act on radio and television transmissions.

Section 64b (14.10.2005/821)

(1) The injunctions provided for in sections 50a, 50b and 50d shall apply to a procedure referred to in said sections which takes place in Finland.

(2) The provisions of section 50c shall apply to the use of works in Finland.

Section 65

On a condition of reciprocity, the President of the Republic may issue orders for the application of this Act in relation to other countries and to works first published by an international organisation and to unpublished works which such organisation has a right to publish.

Section 66

Subject to the provisions of sections 67–71, this Act shall also apply to literary or artistic works completed before the Act comes into force.

Section 67

Copies of a work made under a previous Act may be freely distributed and displayed. The rental of sheet music and the right to provide for a payment by decree shall, however, be governed by the provisions of section [23].

Section 68

Type matter, printing blocks, moulds and other devices produced under the previous law for the reproduction of a particular work may be used according to their purpose until the end of 1962, notwithstanding the provisions of the present Act. The provisions of section 67 shall correspondingly apply to copies produced in the course of such use.

Section 69

Copyright in newspapers, periodicals, and other works which consist of independent contributions by several contributors and which are published before this Act comes into force shall belong to the editor in accordance with section 5, and the term of protection shall be calculated according to section 44.

Section 70

(1) A contract on the transfer of copyright concluded before the coming into force of the present Act shall come under the previous Act, but even such contracts shall be governed by the provisions of section 29.

(2) Any privileges and injunctions applicable at the time of the coming into force of the present Act shall remain in force.

Section 71

If, before the coming into force of this Act, an author has transferred a work of art, or has executed a drawing on commission, his right to transfer a duplicate of the same work of art to a third party or to make for a third party a work based upon the same drawing, shall be governed by the provisions of the previous law. The previous law shall also apply to a portrait executed before the coming into force of this Act, insofar as concerns the rights of the author in respect thereof.

Section 72

(1) The provisions of sections 66–68 shall correspondingly apply to the rights protected under Chapter 5. (22.12.1995/1654)

(2) An agreement referred to in section 45 concerning recording on a device which has been concluded before this Act comes into force shall correspondingly come under the provision of section 70(1).

Section 73

This Act shall come into force on September 1, 1961. It abrogates the Act of June 3, 1927 (No. 174/27) on Copyright in Products of Intellectual Activity, as well as section 28 of the Decree of March 15, 1880 (No. 8/80) Relating to the Rights of Writers and Artists in Respect of the Products of Their Labour.

Implementing provisions of Copyright Act amendments:

July 8, 1961 / 404 (Published July 18, 1961)

August 23, 1971 / 669 (Published September 6, 1971)

July 31, 1974 / 648 (Published August 8, 1974):
This Act shall come into force on October 1, 1974.

December 19, 1980 / 897 (Published December 23, 1980):
This Act shall come into force on December 29, 1980.

December 17, 1982 / 960 (Published December 22, 1982):
This Act shall come into force on January 1, 1983. It shall also be applied to any agreements on the transfer of copyright made before the coming into force of the Act.

June 8, 1984 / 442 (Published June 13, 1984):
This Act shall come into force on June 15, 1984.

July 27, 1984 / 578 (Published August 3, 1984):
This Act shall come into force on October 1, 1984.

January 24, 1986 / 54 (Published January 28, 1986):
This Act shall come into force on February 1, 1986.

March 13, 1987 / 309 (Published March 20, 1987):
This Act shall come into force on June 1, 1987.

January 11, 1991 / 34 (Published January 16, 1991):

- (1) This Act shall come into force on January 16, 1991.
- (2) Section 23(2) of this Act shall not be applied to a computer program created before the coming into force of this Act insofar as the lending of the computer program to the public is concerned. In other respects, provisions regarding the application of this Act to a computer program created before the coming into force of this Act shall be prescribed separately. (419/1993) (According to the Implementing Decree 1395/1993, issued on December 22, 1993, the amendment shall come into force on January 1, 1994).
- (3) A performance of a literary or artistic work by a performing artist, a device on which sound has been recorded, and a radio or television transmission which has been recorded or transmitted after September 1, 1961 shall be protected as provided in this Act.
- (4) Whoever has taken steps to use, in the manner defined in sections 45, 46 or 48 of the Copyright Act, a performance, phonogram, or radio or television transmission the protection of which has expired before the coming into force of this Act shall, notwithstanding the provisions of subsection 3, be permitted to use the said performance, phonogram or transmission for two years after the end of the calendar year during which this Act came into force.
- (5) If 15 years have elapsed from the end of the year during which a production, defined in section 49 of the Copyright Act and enjoying protection at the time of the coming into force of the present Act, was completed, that protection shall lapse at the time the present Act comes into force.

May 7, 1993 / 418 (Published May 12, 1993):

- (1) This Act shall come into force at a time to be prescribed by decree. section 23(3) of the Act shall, however, come into force on June 1, 1993.
- (2) This Act shall also be applied to a computer program created before the coming into force of this Act. However, provisions in force at the time of the coming into force of this

Act shall be applied to any acts done and any rights acquired before the coming into force of this Act.

(3) Whatever is provided in subsection 2 shall, after the coming into force of this Act, also apply to the application of provisions regarding computer programs in the Act (34/91) amending the Copyright Act, issued on January 11, 1991, with the exception of the provisions regarding the lending of computer programs to the public.

Decree No. 1395, December 22, 1993 (Published December 28, 1993):

Section 1

The following Acts shall come into force on January 1, 1994: ---

2) Act (418/93), issued on May 7, 1993, amending the Copyright Act; and

3) Act (419/93), issued on May 7, 1993, amending the implementing provision of the Act amending the Copyright Act.

December 16, 1994 / 1254 (Published December 22, 1994):

This Act shall come into force on January 1, 1995.

March 24, 1995 / 446 (Published March 30, 1995):

(1) This Act shall come into force on May 1, 1995.

(2) This Act shall also be applied to any works and any protected items, defined in sections 45, 46, 48 and 49a, which were created, recorded or produced before the coming into force of this Act and which continue to be protected. However, the provisions in force at the time of the coming into force of this Act shall be applied to any acts done and any rights acquired before the coming into force of this Act.

(3) An agreement on filming or sound recording, made by a performing artist before the coming into force of this Act shall cover the right to distribute copies of the film or phonogram to the public, unless otherwise agreed.

(4) An agreement on the inclusion of a phonogram in a film, made by the producer of the phonogram before the coming into force of this Act, shall cover the right to distribute copies of the film to the public, unless otherwise agreed.

(5) The provisions of sections 25f and 64a of this Act shall be applied as of January 1, 2000 to any agreements on satellite broadcasting of works and performances which were made before the coming into force of this Act.

April 21, 1995 / 715 (Published April 28, 1995):

This Act shall come into force on September 1, 1995.

August 21, 1995 / 1024 (Published August 22, 1995):

(1) This Act shall come into force on September 1, 1995.

(2) This Act repeals section 56a(1) and section 56b in the Act (715/95), amending the Copyright Act, issued on April 21, 1995.

December 22, 1995 / 1654 (Published December 28, 1995):

(1) This Act shall come into force on January 1, 1996.

(2) This Act shall also be applied to works created before the coming into force of this Act.

(3) The provisions in force on the entry into force of this Act shall be applied to any contracts concluded and any rights acquired before the coming into force of this Act.

(4) Copies of a work which have been produced before the coming into force of this Act under provisions in force on the entry into force of this Act, may further be distributed to the public and publicly exhibited. The provisions of section 19(2–4) and Chapter 2b of this Act shall, however, be applied also to copies produced before the coming into force of this Act.

(5) Notwithstanding the provisions of this Act, any person who before the coming into force of this Act has commenced to use a work, the term of protection of which has

expired before the coming into force of this Act, by making copies thereof or making the work available to the public in a manner which has required substantial measures, may proceed to complete the commenced use to a normal extent necessary for the said use by January 1, 2003. Provisions on the completion of commenced use above shall also apply to any person who, under similar circumstances, has taken substantial measures to make copies of a work or to make a work available to the public. Copies made by virtue of the provisions in this subsection may further be distributed to the public and publicly exhibited, subject to the provisions of section 19(2–4) and Chapter 2b of this Act.

(6) Notwithstanding the provisions of this Act, if a work is incorporated in a recording made by a transmitting organisation after the expiry of the protection and before the coming into force of this Act, with a particular view to use in radio or television transmissions, the work may further be used in transmissions until January 1, 2003. This subsection shall also apply to the public performance of a work which has been incorporated in a recording containing film.

(7) The provisions of subsections 2–6 above shall apply correspondingly to subject matter protected pursuant to sections 45, 46, 46a and 48 of this Act.

(8) The provisions of subsections 2–6 above shall apply

1. to works originating in a State belonging to the European Economic Area,

2. to subject matter referred to in subsection 7 above originating in a State belonging to the European Economic Area, in regard to the protection of which special provisions have been enacted in Finland, and

3. to rights in phonograms referred to in Article 14, first, second and fourth paragraphs of the Agreement on Trade-Related Aspects of Intellectual Property Rights annexed to the Agreement Establishing the World Trade Organization, as prescribed in paragraph 6 of the aforesaid Article.

(9) This Act shall apply to works and subject matter other than those referred to in subsection 8 above only in so far as they are protected at the time of the coming into force of this Act.

April 25, 1997 / 365 (Published April 30, 1997):

This Act shall come into force on May 15, 1997.

October 31, 1997 / 967 (Published November 5, 1997):

(1) This Act shall come into force on November 10, 1997.

(2) This Act shall also be applied to works created before the coming into force of this Act and which continue to be protected.

(3) The provisions in force at the time of the coming into force of this Act shall be applied to any acts done before the coming into force of this Act.

(4) The provision of section 29a shall be applied to agreements made at earliest on November 19, 1992. However, the right to remuneration based on the agreements made before July 1, 1994, shall stand only, if the author has presented a claim concerning it before January 1, 1997.

(5) The provisions of subsections 2–4 shall apply correspondingly to performing artists and subject matter protected pursuant to section 45 of this Act.

April 3, 1998 / 250 (Published April 9, 1998):

(1) This Act shall come into force on April 15, 1998.

(2) This Act shall also be applied to works created before the coming into force of this Act, and to subject matter protected pursuant to section 49, which has been made before the coming into force of this Act.

(3) The subject matter protected pursuant to section 49, which has been made after December 31, 1982, shall be protected until January 1, 2013.

(4) The provisions in force at the time of the coming into force of this Act shall be applied to any acts done, any rights acquired and any agreements made before the coming into force of this Act.

(5) Copies of the subject matter protected pursuant to section 49, which have been made before the coming into force of this Act under provisions in force at the time of the coming into force of this Act, may further be distributed to the public and publicly exhibited. However, the provisions of section 19(2) of the Copyright Act shall also be applied in accordance with section 49(3) of this Act to the copies of the protected subject matter, which have been made before the coming into force of this Act.

(6) Notwithstanding the provisions of this Act, any person who, before the coming into force of this Act, has commenced to use the subject matter protected pursuant to section 49 not protected before the coming into force of this Act, by making copies thereof or by making it available to the public in a manner which has required substantial measures, may proceed to complete the commenced use to a normal extent necessary for the said use by the end of the year 1999. Provisions of the completion of commenced use above shall also apply to any person who, under similar circumstances, has taken substantial measures to make copies of the protected subject matter or to make it available to the public. Copies made by virtue of the provisions in this subsection may further be distributed to the public and publicly exhibited, subject to the provisions of section 19(2) of this Act in accordance with section 49(3) of this Act.

October 9, 1998 / 748 (Published October 15, 1998):

(1) This Act shall come into force on January 1, 1999.

(2) Measures to enforce this Act can be taken before the coming into force of it.

May 23, 2003 / 398

(1) This Act shall come into force on July 25, 2003.

(2) Measures to enforce this Act can be taken before the coming into force of it.

October 14, 2005 / 821 (Published October 20, 2005)

(1) This Act shall come into force on January 1, 2006. Sections 13 and 13a, section 14(1), section 16d, section 25a(2), section 25f(3), sections 25g, 25h, 26, 26a, 26b, 26e and 26h shall come into force on January 1, 2007. Paragraph 2 of section 16b(1), paragraphs 2 and 3 of section 16c(1), and section 16c(3) shall come into force on a date specified by a Government Decree.

(2) This Act shall also be applied to any works and any protected items defined in sections 45, 46, 46a, 48, 49 and 49a which were created, recorded or produced before the coming into force of this Act and which continue to be protected.

(3) Provisions in force at the time of the coming into force of this Act shall be applied to any measures carried out, any rights acquired and any contracts concluded before the coming into force of this Act.

(4) Section 19(1) of this Act shall be applied to any copies of works and any copies of protected items defined in sections 49 or 49a which have been sold or otherwise permanently transferred with the consent of the author or the rightholder referred to in sections 49 or 49a within the European Economic Area after the coming into force of this Act.

(5) Copies of the subject matter protected pursuant to section 49a of this Act, which have been made before the coming into force of this Act and which are protected under provisions in force at the time of the coming into force of this Act may further be distributed under provisions in force at the time of the coming into force of this Act.

May 5, 2006 / 345 (Published May 12, 2006)

(1) This Act shall come into force on June 1, 2006.

(2) This Act shall also be applied to the resale of works which have been produced before the coming into force of this Act and which continue to be protected.

(3) Provisions in force at the time of the coming into force of this Act shall be applied to any acts done, any rights acquired and any contracts concluded before the coming into force of this Act.

July 21, 2006 / 679 (Published August 4, 2006)

- (1) This Act shall come into force on September 1, 2006.
- (2) Provisions in force at the time of the coming into force of this Act shall be applied to civil matters pending before the coming into force of this Act instead of sections 56g and 59a of this Act.
- (3) Sections 60 and 60c shall also be applied to civil matters pending before the coming into force of this Act. To the extent that section 60 concerns the application of 56g and 59a, it shall, however, be applied according to what is enacted in subsection 2 on the application of sections 56g and 59a.

December 22, 2006 / 1228 (Published December 27, 2006)

- (1) This Act shall come into force on January 1, 2007.
- (2) Remuneration for lending in a public library may be exacted only for lending which takes place after the coming into force of the Act.

December 28, 2007 / 1436 (Published December 31, 2007)

This Act shall come into force on January 1, 2008.

October 31, 2008 /663 (Published November 4, 2008)

- (1) This Act shall come into force on January 1, 2009.
- (2) Measures to enforce this Act can be taken before the coming into force of it.

THE PENAL CODE OF FINLAND

Amendments up to 11.5.2007/540 included

CHAPTER 49

Violation of certain intellectual property rights (21.4.1995/578)

Section 1 (14.10.2005/822)

Copyright offence

(1) A person who for the purpose of gain and in violation of the Copyright Act (404/1961) and in a manner conducive to causing considerable detriment or damage to the rightholder, breaches the right of another to

1. a literary or artistic work;
2. a performance of a literary or artistic work, or folklore;
3. a phonograph record or any other device on which sound has been recorded;
4. a film or any other device on which moving images have been recorded;
5. a radio or television transmission;
6. a catalogue, table, programme or any other production, referred to in the Copyright Act, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database; or
7. a photographic picture,

shall be sentenced for a *copyright offence* to a fine or to imprisonment for at most two years.

(2) A person shall also be sentenced for a copyright offence if he for the purpose of gain and in a manner conducive to causing considerable detriment or damage to the rightholder, imports for distribution to the public or to the territory of Finland to be transported onward to a third country a copy of a work or photographic picture, a phonograph record, film, or any other device on which sound or moving images have been recorded, or a catalogue, table, programme or any other production, in which a large number of information items are compiled, or a database which shows that there has been a substantial investment in either the obtaining, verification or presentation of the contents of that database, as referred to in subsection 1 and manufactured or reproduced outside the country, while knowing that it has been reproduced in circumstances under which said reproduction would in Finland be punishable under subsection 1 or section 56a of the Copyright Act.

(3) A person who in an information network or by means of a data system breaches the right of another to protected items referred to in subsection 1 in a manner conducive to causing considerable detriment or damage to the rightholder, shall also be sentenced for a copyright offence.

Section 3 (14.10. 2005/822)

Circumvention of a technological measure

A person who in violation of the prohibition in section 50a of the Copyright Act and in a manner conducive to causing considerable detriment or damage circumvents an effective technological measure protecting a work, shall be sentenced for *circumvention of a technological measure* to a fine or to imprisonment for at most one year.

Section 4 (14.10.2005/822)

Offence of a device for circumventing a technological measure

A person who in violation of the prohibition in section 50b of the Copyright Act and in a manner conducive to causing considerable detriment or damage produces or imports for distribution to the public, distributes to the public, sells, rents, advertises for sale or rental, or holds in possession for commercial purposes devices, products or components enabling or facilitating the circumvention of an effective technological measure, or offers services enabling or facilitating the circumvention of an effective technological measure, shall be sentenced for an *offence of a device for circumventing a technological measure* to a fine or to imprisonment for at most one year.

Section 5 (14.10.2005/822)

Offence of electronic rights management information

A person who in violation of the prohibition in section 50d of the Copyright Act and in a manner conducive to causing considerable detriment or damage

1. removes or alters electronic rights management information that identifies the work, its author or some other rightholder or that provides information about the terms governing the use of the work, or

2. distributes to the public or imports for distribution to the public a copy of a work, or communicates to the public a work, in a form in which the electronic management information has been removed from the work or altered without authorisation,

shall be sentenced for an *offence of electronic rights management information* to a fine or to imprisonment for at most one year if the offender is aware that his actions cause, enable, conceal or facilitate violation of rights referred to in the Copyright Act.

Section 6 (14.10.2005/822)

Right to bring charges

The public prosecutor may not bring charges for offences referred to in sections 1–3 and 5 of this chapter, unless the complainant reports an offence to be brought for charges or unless a very important public interest requires that charges be brought.

Section 7 (11.5.2007/540)

Criminal liability of a legal person

The provisions laid down on criminal liability of a legal person apply to a copyright offence.

Coming into force and application of the amendments:

August 21, 1995 / 1010 (Published August 22, 1995)

This Act shall come into force on September 1, 1995.

April 3, 1998 / 251 (Published April 9, 1998)

This Act shall come into force on April 15, 1998.

October 14, 2005 / 822 (Published October 20, 2005)

This Act shall come into force on January 1, 2006.

May 11, 2007 / 540 (Published May 16, 2007)

This Act shall come into force on September 1, 2007.

COPYRIGHT DECREE (21.4.1995/574)

Amendments up to 18.12.2008/1004 included

Use of works and other protected materials in archives, libraries and museums
(15.12.2005/1036)

Section 1 (14.10.2005/1036)

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act (404/1961) in the manner referred to in section 16, section 16a(1–2), and section 16d of the Copyright Act and distribute it to the public:

1. collectors of archives as defined in paragraphs 1–3 and 5 of section 1(1) of the Archives Act (831/1994);
2. the Archives of the President of the Republic;
3. Government Archives;
4. War Archives;
5. National Archives;
6. Provincial Archives;
7. archives referred to in the Act on State-subsidised Private Archives (998/1974);
8. Archives of the Evangelical Lutheran Church;
9. archives of public authorities in the Province of Aaland.

Section 2 (15.12.2005/1036)

(1) The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16, section 16a(1–2), and section 16d:

1. the Library of Parliament;
2. libraries of universities referred to in the Universities Act (645/1997); (3.1.2008/1)
3. scientific libraries operating in connection with archives referred to in the Act on State-subsidised Private Archives;
4. other scientific libraries maintained by the State;
5. the Central Library of Public Libraries;
6. provincial libraries;
7. the Library for the Visually Impaired.

(2) The following institutions shall have the right to make and distribute to the public copies of works protected by the Copyright Act in the manner referred to in section 16, section 16a(1), and section 16d:

1. the National Repository Library;
2. libraries of polytechnics referred to in the Polytechnics Act (351/2003).

Section 3 (15.12.2005/1036)

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16, section 16a(2), and section 16d:

1. state-owned museums;
2. national specialist museums referred to in section 2 of the Museums Decree (1312/1992);
3. provincial museums;
4. regional art museums;
5. museums receiving state subsidy referred to in the Museums Act (729/1992).

Section 4 (3.1.2008/1)

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16d:

1. libraries referred to in the Act on Collecting and Preserving Cultural Material (1433/2007);
2. the National Audiovisual Archive;
3. public libraries referred to in the Libraries Act (904/1998).

Sections 5 and 6 were repealed by Act on December 15, 2005 /1036.

Making works available for the handicapped (15.12.2005/1036)

Section 7

(1) The Library for the Visually Impaired, as defined in the Act on the Library for the Visually Impaired (638/1996), the Finnish Federation of the Visually Impaired (Näkövammaisten Keskusliitto ry), and the Finnish Deafblind Association (Suomen Kuurosokeat ry) shall have the right defined in section 17(2) of the Copyright Act to produce talking books.

(2) The Cultural Service for the Visually Impaired (Näkövammaisten Kulttuuripalvelu ry), the Jyväskylä School for the Visually Impaired (Jyväskylän näkövammaisten koulu), the Swedish School for the Visually Impaired (Svenska skolan för synskadade), and the Invalid Foundation (Invalidisäätiö) shall have the right defined in section 17(2) of the Copyright Act to produce teaching materials in the form of talking books. (18.12.2008/1004)

(3) The name of the author of the work and the performing artist shall be indicated on the talking books produced.

Section 7a (15.12.2005/1036)

The Finnish Association of the Deaf (Kuurojen Liitto ry) shall have the right defined in section 17(3) of the Copyright Act to produce copies of works for the deaf and hearing impaired.

Sections 8 to 12 were repealed by A on December 15, 2005 / 1036.

Prohibition of action prejudicial to a work

Section 13

The prohibition specified in section 53 of the Copyright Act shall be pronounced by the Ministry of Education.

The subheading was repealed by Decree on December 15, 2005 / 1036.

Sections 14 and 15 were repealed by Decree on December 15, 2005 / 1036.

Section 16 was repealed by Decree on 15 March, 1996 / 160.

Section 17 was repealed by Decree on December 15, 2005 / 1036.

Copyright Council

Section 18

(1) Upon proposal by the Ministry of Education the Government shall appoint to the Copyright Council, for a period of three years at a time, a chairman, a vice-chairman, and at most fifteen other members, and a personal substitute member for each of them.

(2) The Copyright Council shall have a secretary, who shall be a civil servant appointed by

the Ministry of Education. (15.12.2005/1036)

Section 19

(1) Most relevant holders of the rights prescribed in the Copyright Act and users of the protected items shall be represented in the Copyright Council.

(2) The chairman, the vice-chairman and at least one other member of the Copyright Council and their substitute members shall be persons who hold a Master of Laws degree and are well-versed in copyright law and who cannot be regarded as representing the interests of the right holders or users of protected items referred to in subsection 1.

Section 20

(1) The decision-making power of the Copyright Council may, in matters specified by the Council, be exercised by a section appointed by the Council for the handling of a certain matter or matters relating to a certain field.

(2) A section shall be composed of a chairman, whom the Council shall appoint from among the members referred to in section 19(2), and the necessary number of other members.

Section 21

(1) The Copyright Council shall be deemed to constitute a quorum when the chairman or vice-chairman of the Council and at minimum five other members are present.

(2) A section shall be deemed to constitute a quorum when the chairman of the section and at minimum one other member are present.

Section 22 (15.12.2005/1036)

The Ministry of Education shall decide on remunerations for attending meetings paid to the chairman of the Copyright Council and its sections, members and secretaries, as well as experts heard by the Council or its sections.

Section 23

More detailed provisions regarding the activities of the Copyright Council can be issued in the Rules of Procedure of the Council, which shall be confirmed by the Ministry of Education upon proposal by the Council.

Compensation for the reproduction of a work for private use (14.12.2006/1173)

Section 24

Subsection 1 was repealed by Act on December 14, 2006 / 1173.

(2) Any uncut tape suitable for recording sound or images shall also be regarded as a device defined in Section 26a of the Copyright Act.

(3) An entirely or partly recorded audio or video tape or other device shall also be regarded as a device defined in subsection 1 if it can be judged from the technical properties of the device, from the outer appearance or packaging of the device, from the smaller than usual proportion of recorded material on the device to the playing time of the device, from the quality of the recorded material, from the importation or sales price of the device, or from other circumstances that the device was evidently intended for use in the same manner as an unrecorded device.

Section 25 (14.12.2006/1173)

The levy referred to in section 26a of the Copyright Act shall be based on the playing time, calculated by the minute or full megabyte or gigabyte.

Section 26

(1) In the event that the playing time of a device referred to in section 26a of the Copyright Act can be determined by the user or varies otherwise, the levy shall be collected by using as

the basis the average playing time of the device.

(2) In cases defined above in section 24(3) the levy shall be collected on the basis of the total playing time of the device.

Section 27

Any device referred to in section 26a of the Copyright Act shall be regarded as having been manufactured when it has been transported away from the place of manufacture, however at the latest when it has been transferred from the ownership of the manufacturer. The area in which the final manufacture of the product takes place, as well as the manufacturer's storage in the immediate vicinity of such an area, shall be regarded as the place of manufacture.

Section 28

Any device referred to in section 26a of the Copyright Act shall be regarded as having been imported when it has been handed over from the customs. If the device has been imported from a Member State of the European Union, it shall be regarded as having been imported when it has been transported across the border.

Section 29

Any device referred to in section 26a of the Copyright Act shall be regarded as having been exported when the vehicle into which the device has been loaded has finally, having passed the customs clearance, left the country, and, in the case of export to a Member State of the European Union, at the time when the device otherwise verifiably has left the country. If the device is exported by post, it shall be regarded as exported when it has been accepted for being transported by the post.

Section 30 (14.12.2006/1173)

(1) Any activity

1. which is continuing and regular, which is carried out for the purpose of gain, and in which recordings are made to be further conveyed to the public; or
2. in which recording is a prerequisite for the activity or otherwise important to the activity and pertains to the line of business of the recorder,

shall be regarded as professional production of copies of a work referred to in paragraph 2 of section 26e(1) of the Copyright Act.

(2) Any activity which is continuing and regular and carried out for the purpose of gain shall be regarded as professional activity referred to in paragraph 4 of section 26e(1) of the Copyright Act.

Section 31 (14.12.2006/1173)

An organisation referred to in section 26b of the Copyright Act shall submit an annual statement of accounts to the Ministry of Education regarding the costs of administration of the levy and the use of proceeds from the levy.

Section 32 (14.12.2006/1173)

The functions of collecting the levy shall include the collecting of levy from those obliged to pay, surveillance of the fulfilment of the prescribed payment obligation, keeping the levy sums until accounting, granting refunds and purchase authorisations referred to in section 26e of the Copyright Act, accounting levy funds in accordance with the plan for the use of the funds referred to in section 26b of the Copyright Act, and submitting the statement of accounts referred to in section 31 of this Decree.

Section 33

The funds accruing from the levy shall be kept on separate accounts and be invested against safe securities and with appropriate interest in the proportion allowed by the liquidity presupposed by the collection of the levy sums and by the plan for their use.

Section 34 was repealed by Decree on December 14, 2006 / 1173.

Section 35

The organisation shall reserve for the Ministry of Education an opportunity to inspect the accounting, administration and use of funds of the organisation insofar as attending to the functions referred to in section 32 is concerned.

Section 36 (14.12.2006/1173)

The matters referred to in sections 31—35 above shall be indicated in the decision concerning the approving of the collecting organisation under section 26b of the Copyright Act.

Section 37

The plan for the use of the levy funds, referred to in section 26b of the Copyright Act, shall be approved by the Ministry of Education annually after the expiration of the period for requesting the repayment under section 26e(2) of the Act.

Section 38 (14.12.2006/1173)

The plan for the use of the levy funds, referred to in section 26b of the Copyright Act, shall indicate

1. the proportion in which the funds shall be used for direct compensation to the authors and direct compensations to the authors for their common purposes referred to in section 26a of the Copyright Act;
2. administrative costs;
3. the bodies to which funds shall be paid; and
4. the share of each body and the purposes the funds are used for.

Section 39

The promotion of music, film, television and video culture, including purposes advancing the employment of authors and the production of cultural services, as well as training and research, shall be regarded as included among the joint purposes under section 26a of the Copyright Act.

Section 40

(1) This Decree shall come into force on May 1, 1995.

(2) This Decree abrogates the Copyright Decree of August 25, 1961 (No. 441/61), as well as later amendments.

Coming into force and application of the Decrees:**March 15, 1996 / 160:**

This Decree shall come into force on March 25, 1996.

December 15, 2005 / 1036:

This Decree shall come into force on January 1, 2006.

December 14, 2006 / 1173:

This Decree shall come into force on January 1, 2007.

January 3, 2008 / 1:

This Decree shall come into force on January 14, 2008.

December 18, 2008 / 1004:

This Decree shall come into force on January 1, 2009.

DECREE

on the application of the Copyright Act in certain cases to protected items originating in States belonging to the European Economic Area (Decree No. 575, of April 21, 1995)

Section 1

According to what is provided in this Decree, sections 45, 46, 46a, 48 and 49a of the Copyright Act shall be applied to any protected items originating in a State belonging to the European Economic Area.

Section 2

(1) Section 45 of the Copyright Act shall be applied:

1. to a performance which takes place in a State belonging to the European Economic Area;

2. to a performance which is recorded on a device, as defined in section 3; and

3. to a performance, which has not been recorded on a phonogram but which is included in a transmission, as defined in section 5.

(2) Whatever is provided in subsection 1 shall not be applied to the retransmission of a broadcast performance.

Section 3

Section 46 of the Copyright Act shall be applied to a device the sound on which was recorded on the device in a State belonging to the European Economic Area.

Section 4

Section 46a of the Copyright Act shall be applied to a device the moving images on which were recorded on the device in a State belonging to the European Economic Area.

Section 5

Section 48 of the Copyright Act shall be applied:

1. to a radio or television transmission taking place in a State belonging to the European Economic Area; and

2. to a radio or television transmission taking place elsewhere, if the headquarters of the transmitting organisation is in a State belonging to the European Economic Area.

Section 6

Section 49a of the Copyright Act shall be applied to a photographic picture made by a person who is a national of a State belonging to the European Economic Area or who has his habitual residence in a State belonging to the European Economic Area.

Section 7

This Decree shall come into force on May 1, 1995.
