

## **HM issues Royal Decree**

### **Royal Decree 65/2008: Promulgating Copyrights and Neighboring Rights Law.**

Article I: The Copyrights and Neighboring Rights shall be as per the attached law.

Article II: The Minister of Commerce and Industry shall issue the executive bylaw of the attached law. Till this bylaw is issued, the current rules and regulations will remain in force as long as they do not contradict the provision of the attached law.

Article III: The attached Copyrights and Neighboring Rights issued by the Royal Decree No. 37/2000 will be cancelled together with anything that contradicts or contravenes with the attached law.

Article IV: The Royal Decree comes into effect from the day following its publication.

## LAW OF COPYRIGHTS AND NEIGHBORING RIGHT

### Chapter I Definitions

#### Article (1):

For the purposes of the application of the provisions of this Law, the following words and expressions shall have the meanings given below, unless otherwise required by the context:

1. The Ministry: The Ministry of Commerce and Industry
2. The Minister: The Minister of Commerce and Industry
3. Author: The natural person who creates the work.
4. Work: Any production in the literary, artistic, or scientific domain, of whatever type, way of expression, importance, or purpose.
5. Creation: The creative nature, which gives originality and distinction to the work.
6. Collective work: Any work created by a group of authors under the supervision of a natural or legal person who undertakes to publish under his own liability and supervision. The efforts of authors shall be integrated in the general objective when it is not possible to separate the share of all authors and distinguish it independently.
7. Joint work: Any work created with the contribution of many persons irrespective of whether it is possible or not to distinguish the share of each, unless otherwise agreed, and which is not classified under collective works.
8. Derivative work: Any new work created and produced from an existing one, like translations, musical adaptations, arrangements, and other alterations.
9. Audio-visual work: The work composed of a series of linked images giving the impression of motion and recorded on medium or any other devices, either along with audio or not, like movies
10. Work of Applied Arts: Any artistic creation of useful functions or integrated into a tool for use concerning a work for producing traditional or industrial crafts.

11. Work of Photography: Any recording of light or any other radiation on a medium producing an image or from which an image can be produced, whatever is the technical nature through which the recording was accomplished.

12. Expressions of national folklore: Any expression or production of distinguishable elements reflecting the traditional popular heritage that was originated developed and maintained in the Sultanate of Oman to express the traditional cultural identity which is communicated through generations, including particularly the following expressions:

a) Oral expressions such as popular stories, anecdotes, sayings, mysteries, poems, and other folklores.

b) Musical expressions such as folk songs accompanied by musical instruments.

c) Movement performances such as dances, popular artistic presentations, and traditional popular rituals.

d) Concrete expressions including all products of folk fine arts such as drawings or paintings, sculptures, pottery, porcelain, textiles, clothing, carpets, traditional musical instruments, architectural forms.

13. Reproduction: Making one or more copies of a work, performance, sound recording, or a broadcasting program, directly or indirectly by any means and in any form, including permanent or temporary electronic storage, printing and photocopying of a work or sound recording.

14. Publication: Making available or offering, to the public, in reasonable quantities, tangible copies of a work, sound recording, broadcasting programs or performance by any means, **with the consent of the right owner**, in an appropriate quantities, for sale, rental, public lending, or other transfer of the ownership or the possession of the copies.

15. Sound recording: The fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in an audio-visual work

16. Producer of sound recording: The natural or legal person, who assumes the responsibility for the first fixation of the sound recording.

17. Producer of audio-visual work: The natural or legal person, who takes the responsibility for making the audio-visual work

18. Neighboring rights: The rights of the performers, producers of sound recordings and broadcasting organizations.

19. Performers: The persons, who act, sing, orate, recite, play, dance, or otherwise perform other works and national folklore expressions.

20. Public domain: The property, which include all works excluded from protection or of which the term of protection of economic rights expires at the date of enforcing this law, or of which the term is so reduced in accordance with the provisions of this law.

21. Broadcasting: Transmission of sounds or sounds and images, or transmission of any representation thereof, by wireless means - including transmission by satellite - to the public. It is considered as broadcasting the wireless transmission of encrypted signals if the means for decoding are provided to the public by the broadcasting organizations or with their consent. Broadcasting does not include transmissions over computer networks or any transmission where the time and place of reception may be individually chosen by members of the public.

22. Public Performance: Any action presenting the work to the public of any variety whereby a contact is established between the public and the work through direct performance or any other means.

23. Communication to the public: Transmission of images, or sounds, or images and sounds, by wired or wireless means of a work, performance, sound recording or broadcasting program, in a way to allow individuals, other than family members and their closest friends, to receive the transmission in any place other than the origination point of the transmission, and regardless of the time and place of reception, including making them available to the public in such a way that members of the public may access them at a time or place chosen by the individual as received by a computer or any other means.

24. Broadcasting organizations: The authority, which transmits, by wireless means, audio or audio-visual broadcasting, or any representation thereof.

25. Effective Technological Measures: Any technology, device or component that, in the ordinary course of its operation, controls access to a work, performance, sound recording, or broadcasting program, or protects any copyright or neighboring rights.

26. Rights Management Information: Information that identifies:  
(a) a work, performance, sound recording, or broadcasting program;  
(b) the author of the work, the performer of the performance, the producer of the sound recording, or the broadcasting organization;

- (c) the owner of any right in the work, performance, sound recording, or the broadcasting program;
- (d) information about the terms and conditions of the use of the work, performance, sound recording, or the broadcasting program;
- or
- (e) any numbers or codes that represent such information.

When any of these items is attached to a copy of the work, performance, sound recording, or a broadcasting program, or appears in connection with the communication or making them available to the public.

27. Fixation: The embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced, or communicated through a device.

**28. The Service Provider:**

A) A provider or operator of online services, network access, or associated facilities services

B) With regard to transitory connections, a provider of transmission, routing, or connections for direct digital online communications, without modification of their content, between or among points specified by the user, of material of the user's possession and a content of his choice.

## **Chapter II**

### **Scope of Protection**

**Article (2):**

The created works of literature, arts and science shall enjoy protection under this law regardless of their value, type, and way of expression or purpose of their production. The protection shall include:

- a. Books, booklets, articles, pamphlets and other written works.
  - b. Computer programs and databases whether readable from the computer or other.
  - c. Works that are orally recited such as lectures, speeches, discussions and other oral works.
  - d. Dramatic, musical and choreographic works, silent shows (pantomimes) and other works made for acting performance.
  - e. Musical compositions with or without words.
  - f. Audio-visual works.
  - g. Works of drawing, painting, architecture, sculpture, lithography, printing on fabric, wood or metals, and any similar works in fine arts.
  - h. Photographic works and similar.
  - i. Works of applied and plastic arts either handcrafted or industrial.
  - j. Illustrations, geographical maps, plans, sketches, and three-dimensional works related to geography, topography, or architecture.
- The title of the work also enjoys protection if created.

### **Article (3):**

The following shall enjoy the protection under this law:

- a. Derivative works.
- b. Collections of works, such as encyclopedias, which by reason of the selection and arrangement of their contents constitute intellectual creations.
- c. Compilations of data or other material, whether in machine readable or other form, which by reason of the selection and arrangement of their contents constitute intellectual creations.

The protection, stipulated in the three previous paragraphs shall be without prejudice to any copyright subsisting in the underlying content.

**Article (4):**

Protection shall not cover mere ideas, procedures, working methods, mathematical concepts, principles, discoveries and data.

Additionally, protection shall not cover the following:

a. Official documents of whatever original language or translated language, as texts of laws, regulations, decisions, agreements, international conventions, judicial orders, judgments of arbitrators and decisions issued by administrative committees with judicial competence, as well as official translations.

b. News of the day and current events which are mere journalistic information.

Notwithstanding, all of the above in the previous paragraphs shall enjoy protection if their compilation or arrangement, or any creation or intellectual effort, eligible for protection, is distinguished.

### **Chapter III Author's rights**

**First: Moral rights****Article (5):**

The author shall enjoy non-prescriptive and non-transferable moral rights, such as:

a. Right to claim authorship of the work in the manner he determines.

b. Right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work, which would be prejudicial to his honor or reputation.

It is absolutely void and null to dispose of any of these rights, whether such disposition results or does not result in compensation.

The author's general successor shall enjoy these rights, and the Ministry shall succeed to these rights in the absence of a public successor to the author.

**Second: Economic Rights**

**Article (6):**

The author or his general successor shall have the right to enjoy the following economic rights:

- a) The reproduction of his work
- b) Translation of his work into another language, prepare derivative works based upon the copyrighted work, musical re-composition, or modification in another form.
- c) The disposition of the original or a copy of his work to the public through sale or other transfer of ownership.
- d) Rental of the original or a copy of his work embodied in sound recording, of his movie work, or computer program, for commercial purposes.
- e) Public performance of his work.
- f) Communication to the public.
- g) Broadcasting of his work.

**Article (7):**

The right of rental shall not apply to computer programs, if the program itself is not the main object of rental, and shall not apply as well to audio-visual works if it will not damage the normal use thereof.

**Article (8):**

The right owner or his successor shall have the right to transfer to a third party, all or part of his economic rights, stipulated under this law, or permits him to utilize such rights, according to a written contract that shall specify the right subject to disposal, the purpose, duration of use, and the location of the clearance.

**Without prejudice to his moral rights stipulated in this law, the author shall not, in any way, retract any assignment of rights.**

**Article (9):**

The author or his successor may obtain compensation in money or in kind against the transfer of one or more rights to another party or be authorized to use his economic rights of the work on the basis of a relative share in the royalties derived from the use, and he shall have the right to contract on the basis of a recorded amount, or on both bases.

**Article (10):**

The authorization to utilize a work embodied in a sound recording shall be granted by the consent of the author and all the owners of other rights on the work such as the performer or the producer collectively, the need for the authorization of any of them does not cease to exist because the authorization of the others.

**Article (11):**

Without prejudice to the provisions of article (8) of this law, the transfer of economic rights, in respect to the works of computer programs and applications or databases, shall be subject to authorization of the contract which is mentioned or attached to the program, either shown on the medium of the program or shown upon loading or storing the program in the computer screen, and the program's buyer or user shall comply with the conditions stipulated in such authorization.

**Article (12):**

Disposal by the author of the original version of his work, shall not, in any way, result in transferring any of his economic rights, unless otherwise agreed upon. However, without prior agreement, the transferee of the ownership of this copy shall not be compelled to allow the author to reproduce, transfer, or present such.

**Article (13):**

Author's rights may not be seized pursuant to a court decision. However, copies of a published work may be seized. Works the owners of which die

before publication may not be seized unless it is proven beyond any doubt that those owners intended to publish those works before their death.

**Article (14):**

Disposal by the author of all his future works shall be completely null and void.

**Chapter IV  
Protection of Neighboring Rights**

**Article (15):**

Performers shall enjoy non-transferable and non-prescriptive eternal moral rights, including:

a- Right to claim authorship of their performances, whether live or recorded, as done by them, except where omission is dictated by the manner or use of the performance;

b- Right to object to any distortion, mutilation or other modification of their performance, which would be prejudicial to their honor or reputation.

Any disposal of such copyrights either compensated or not, shall be void.

The performers' public successor shall succeed the rights stipulated in this article, and the Ministry shall succeed to these rights, in the absence of a general successor for the performers.

**Article (16):**

Performers shall enjoy the following exclusive economic rights:

a. Broadcasting and communication to the public of their unfixed (live) performances.

b. Fixation of their unfixed performances

c. Preventing the use of their unfixed (live) performance in any way unless a prior written authorization is obtained.

d. Making available to the public of the original or copies of their performances through sale or other transfer of ownership.

e. Renting their broadcasted performances to the public, for commercial purposes.

f. Broadcasting or any communication to the public of their performances fixed in a sound recording.

g. Reproduction of their fixed performances.

The provision of this article does not apply in case the performers agree to incorporate their performances within an audio-visual work.

#### **Article (17):**

Producers of sound recordings shall enjoy the following exclusive economic rights:

a. The use of their recordings in any way, including reproduction and rental.

b. Making available to the public of the original and copies of their sound recordings through sale or other transfer of ownership.

c. Broadcasting or any communication to the public of their sound recordings.

#### **Article (18):**

Broadcasting organizations shall enjoy the following exclusive economic rights:

a. Fixing, reproducing, broadcasting and rebroadcasting their programs and communicating them to the public;

b. Prohibiting others from communicating the television recording of their programs to the public without a prior written authorization.

It shall be considered prohibited for others to record, reproduce, rent, re-broadcast, distribute or communicate such to the public by any means.

**Article (19):**

The provisions of articles (8, 9, 10, 12, and 14) of this law shall be applied to disposals of economic rights of owners of neighboring rights. Provisions of article (13) apply to these rights.

## **Chapter VI**

### **Free Uses of Works**

**Article (20):** Subject to the moral copyrights, stipulated under this law, the following uses of works shall be lawful even without the consent of the author provided that the source and the name of the author are mentioned if listed in the work, and provided that a free use shall not be allowed if the use conflicts with the normal exploitation of the work, performance, or phonogram or unreasonably prejudices the legitimate interests of the author, performer, or producer of phonograms:

1. Quoting paragraphs from a protected work lawfully made available to the public in another work for clarification, explanation, or criticism purposes, to the extent of the desired purpose and as much as justified by such goal.
2. Use of the work in meetings within the family or through an educational institution for clarification during face-to-face educational or teaching purposes, within the limits justified by such goal, provided that this would be done with no direct or indirect compensation.
3. Reproduction, to the extent justified by the purpose and without the purpose of direct or indirect financial gain, of a single copy by reprographic means of protected works by public libraries, non-commercial documentation centers, educational establishments and scientific and cultural institutions, provided that such reproduction shall be:
  - a- For a published article or short work whereas the purpose of reproduction is to meet the need of a natural person for use in a study or research and provided that reproduction shall be for one time, or at varying intervals. Reproduction shall also be considered if repeated, on

separate and unrelated occasions, and that there is no collective license available under which such reproduction can be made, or;

b. Reproduction for the purpose of maintaining the original copy or replacing a lost or damaged copy for which it is not possible to obtain a substitute.

4. Reproduction, broadcasting, or making available to the public by the press of portions of articles published in newspapers or periodicals on current economic, political, or religious topics and of broadcast works of the same character, in cases in which the reproduction, broadcasting, or such communication thereof is not expressly reserved for the right owner at the time of publication.

5. Reproduction of a single copy of a computer program by the lawful owner of the copy, provided that it is necessary for the use of the computer program for the purpose and extent for which the computer program was obtained, or for archival purposes and for the replacement of the lawfully owned copy of the program in the event that the original copy is lost, destroyed or rendered unusable, or making an adapted, altered, or modified copy of the program, or translated into another computer language, whenever deemed necessary to match with a certain computer, and provided that it is exclusively used by the legitimate owner of the original copy.

6. Public performance of a dramatic, musical or dramatic musical, choreographic, pantomime works or any other work, created for dramatic performance, if:

a- Religious ceremonies to the extent justified by the nature of these celebrations.

b- Purposes of face-to-face learning activities in approved non-profit educational institutions, in classrooms or similar places dedicated to education.

In both cases, it is provided not to obtain, directly or indirectly, any financial gain.

7. Broadcasting organizations may, by their own means, for the purposes of use in their broadcasts, make a temporary recording of a work, provided that:

a- The broadcasting organization is entitled to broadcast this work;

b- The broadcasting organization destroys this recording after six months from execution thereof, unless the right owner agrees to extend this

period, except for keeping one single copy of this recording for archive purposes.

## **Chapter VI**

### **Special provisions**

#### **Article (21):**

Everyone who participates in making a joint work, whereas the part of each cannot be separated, shall be equally considered as right owner of such work, unless agreed otherwise in writing. In this case, any of them shall not individually exercise the copyrights unless agreed otherwise in writing. If the participation of all authors in the joint work concerns a different type of art, each of them shall have the right to separately use the part of his contribution, provided that such does not cause damage to the use of the joint work, unless agreed otherwise in writing.

If any of the authors passes away with no public successor, his part shall go to the other authors or their successors, unless agreed otherwise in writing.

#### **Article (22):**

The natural or legal person, who took the initiative to create the collective work and undertook to publish it under his name, shall be owner of the moral and economic rights of the work, unless agreed otherwise in writing.

#### **Article (23):**

The author, who completed the derivative work, shall be considered the owner of the moral and economic rights of such work, without prejudice to the rights of the author of the original work.

#### **Article (24):**

The following shall be considered as co-author of the audio-visual work:

- a.. The author of the scenario, or the innovated written idea;

- b.. The person who adapts an existing literary work to make it appropriate to audio-visual;
- c.. The author of the script;
- d.. The arranger of the music if specifically composed for the work;
- e.. The director if he actually supervised the realization of the work;
- f. If the work was extracted or taken out of another existing one, the author of the previous work shall be considered as co-author of the new one.

**Article (25):**

Without prejudices to the right of the author of the literal or music portion to publish his work in a way different from publishing the audio-visual work - unless otherwise agreed upon in writing - the co-authors rights in the audio-visual work shall be as follows:

- a- Where the author of a literary work or musical work has licensed the creation of a derivative screenplay or audiovisual work, that authorization shall be deemed to include the authorization to publicly perform the derivative work, unless the license specifically provides otherwise.
- b-** Where one of the participants in making an audio-visual work abstained to finish his part, the other co-authors may use the part which he made, without prejudice to any rights derived from his participation in the creation.
- c-** The producer of the audio-visual work shall represent the authors of this work and be entitled to exercise all of the economic rights, except for the composers of musical works, in the use of their rights of this work, unless agreed otherwise in writing.

## **Chapter VII**

### **Term of Protection of the Economic Rights and Neighboring Rights**

**First: Term of protection of the Economic rights****Article (26):**

The term of protection for the economic copyrights, stipulated under this law, shall be the life of the author and seventy years starting from the beginning of the Gregorian calendar year following the year of his death.

**Article (27):**

The economic rights of authors of joint works shall be protected for their life and seventy years starting from the beginning of the Gregorian calendar year following the year of the death of the last surviving author.

**Article (28):**

The economic rights of the audio-visual works and collective works shall be protected for ninety-five years starting from the first day of the Gregorian calendar year following the year during which these works were legally published the first time, and if such works were not published during twenty-five years starting from the date they were completed, the economic rights of these works shall be protected for one hundred twenty years starting from the first day of the Gregorian calendar year following their creation.

**Article (29):**

The economic rights of the works published anonymously or under a pseudonym, shall be protected for ninety-five years starting from the first day of the Gregorian calendar year following the year during which these works were legally published for the first time. If such works were not published during twenty-five years starting from the date of completion, the economic rights of these works shall be protected for one hundred twenty years starting from the first day of the Gregorian calendar year following their creation, and if the identity of the author is known or revealed during the mentioned period, the term of protection shall be according to the provisions of article (26, 27).according to circumstances.

**Article (30):**

The economic rights of the works of applied arts shall be protected for ninety-five years starting from the first day of the Gregorian calendar year following the year during which these works were legally published for the first time. If such works were not published during twenty-five years starting from the date of completion, the economic rights of these works shall be protected for one hundred twenty years starting from the first day of the Gregorian calendar year following their creation.

**Second: Term of protection of the neighboring rights****Article (31):**

The economic rights of the performers shall be protected for ninety-five years starting from the first day of the Gregorian calendar year following the year during which the recorded performance was legally published for the first time. If such work was not published during twenty-five years starting from the date of completion, the economic rights of this work shall be protected for one hundred twenty years starting from the first day of the Gregorian calendar year following its creation.

**Article (32):**

The economic rights of the producers of sound recordings shall be protected for

Ninety-five years starting from the first day of the Gregorian calendar year following the year during which the sound recording was legally published for the first time. If such sound recording was not published during twenty-five years starting from the date of completion, the economic rights of such work shall be protected for one hundred twenty years starting from the first day of the Gregorian calendar year following the creation of such sound recording.

**Article (33):**

The rights of broadcasting programs of the broadcasting organizations shall be protected for twenty years starting from the first day of the Gregorian calendar year following the year in which the program was broadcasted for the first time.

**Chapter VIII  
Deposit****Article (34):**

The right holder shall have the right, to deposit, at his own expenses, one copy of the work, performance, or phonogram with the Ministry, and such deposit is considered as presumption of ownership, and bylaws shall determine deposit system and the manner of publication. They also determine due fees, in accordance with prevailing financial regulations..

**Chapter IX  
Collective Management of Economic Copyrights and Neighboring Rights****Article (35):**

The authors and neighboring rights owners and their successors in interest shall have the option of authorizing one or more professional associations or other authorities to manage all or some of their economic rights, according to exclusive or non-exclusive authorizations, for a fee to be deducted by the association or authority from their dues according to the terms agreed upon in writing.

**Article (36):**

The associations and authorities, cited in the previous article, shall, unless otherwise agreed in writing, assume the following powers:

a- Authorize others to use all or some of the economic rights of the work, performance or sound recording, and agree on a fee due for such use.

b- Collection of the due fee and distribution thereof to the right owners, after deduction of the payment due to these associations and authorities for managing such rights.

c- Any other powers under the entered agreement for managing such rights.

**Article (37):**

The management of the economic rights for authors and neighboring rights owners shall be only engaged by authorization of the Ministry. Bylaws shall specify regulations to obtain such authorization and the due fees in accordance with prevailing financial regulations.

**Article (38):**

The management of economic rights for authors and neighboring rights owners shall be subject to control and supervision of the Ministry. The associations and authorities involved in this activity shall keep records of the names of their members, status, rights authorized to be used, due fee and the period agreed upon, and shall allow authors, rights owners and their representatives to access their data and information registered in these records.

The Ministry shall withdraw the authorization in case of breaching, by such association or authority, the provisions of this law or the decisions issued in application of its provisions.

**Article (39):**

The organization of collective administration for the economic rights of the author and neighboring rights owners shall be in accordance with the bylaws.

**Chapter X**  
**Prohibitions Related to Effective Technological Measures, Rights Management Information, and Retransmission of Television Signals**

**Article (40):**

The following acts are prohibited:

- 1-The unauthorized circumvention of any effective technological measures
  - (a) 2-The manufacture, import, distribution, offering to the public, providing, or otherwise trafficking in devices, products, or components, or offering to the public or providing services that:
    - (i) are promoted, advertised or marketed for the purpose of circumvention of any effective technological measure; or
    - (ii) have only a limited commercially significant purpose or use other than to circumvent any effective technological measure; or
    - (iii) are primarily designed, produced, or performed for the purpose of enabling or facilitating the circumvention of any effective technological measure.
- 3- Committing either of the following acts without obtaining a written authorization from the rights owner:
  - (a) the removal or alteration of rights management information;
  - (b) the distribution or importation for distribution knowing that the rights management information has been removed or altered; or

- (c) the distribution, importation for distribution, broadcast, communication or making available to the public copies of a work, performance, or sound recording knowing that rights management information has been removed or altered.

In all cases the prohibited acts should be done knowingly or with reasonable grounds to know that they would induce, enable, facilitate, or conceal an infringement of any copyright or neighboring right:

4. Manufacturing, assembling, modifying, importing, exporting, selling, leasing, or otherwise distributing a tangible or intangible device or system, knowing or having reason to know that the device or system is primarily of assistance in decoding an encrypted program-carrying satellite signal without the written authorization of the lawful distributor of such signal.

5. Intentionally receiving, or further distributing a program-carrying signal that originated as an encrypted satellite signal knowing that it has been decoded without the written authorization of the lawful distributor of the signal.

## **Chapter XI**

### **Border Measures**

#### **Article (41):**

1- Any of the right owners may, if he believes that copyright goods may be imported that involve a violation of any of the rights established under the provisions of this law, submit a written request to the Customs Authorities to stop customs clearance of such goods and prevent circulation thereof.

The request must enclose sufficient evidence to convince the Customs Authorities that the rights of the applicant are apparently violated, and the application shall contain sufficient information, which may reasonably be expected to be available to the applicant to allow the mentioned authority to reasonably identify the concerned goods. The unavailability of such information should not prevent resorting to taking these measures. The Customs Authorities shall process the application and notify the applicant in writing of

its decision on his application within seven days from the date of submitting the application. The decision, to stop custom clearance, applies for a period of one year from the date of submission or for the remainder of the term of protection for the goods for which an action shall be taken, whichever is shorter, unless the applicant requests a shorter period.

The concerned customs authorities shall ask the applicant to provide an appropriate bond or equivalent guarantee enough to protect the defendant and the competent authorities, and to prevent abuse of the right to request the suspension of customs clearance. The bond shall be set at a level that does not unreasonably deter recourse to these procedures.

The concerned customs authorities shall, automatically and with no need to file a complaint or request by the right owner or by others, issue a decision to stop customs clearance on goods that are imported, in transit or prepared for export upon receipt to the customs area under its jurisdiction, where the authority concludes that the evidence is apparently sufficient to prove violation of any of the rights set forth in this law.

2. If the concerned customs authorities decide, in application of the provisions of this article, to stop customs clearance procedures, it shall:

a. Notify the importer of goods and the right owner of the decision issued to stop customs clearance as soon as issued.

b. Notify the right owner, upon his written request, of the names and addresses of the sender, consignor, and importer of goods, the recipient, and quantities.

c. Allow the concerned persons to inspect the goods according to the customs procedures conducted in this respect.

In this case the right owner shall file a lawsuit about the cause of dispute before the competent court and report it to the concerned customs authority within a period not exceeding ten working days from the date of notification of the decision to stop customs clearance of such goods, otherwise the decision is considered void unless this authority or competent court decides to extend the deadline for a term not exceeding ten more days in other estimated cases.

3. The application to stop customs clearance, and assessing the bond value or the equivalent guarantee to be deposited by the applicant on the basis of the provisions of this article, and defining the storage sites and fees shall be in

accordance with the rules and regulations stipulated by the bylaws and matching with the provisions of prevailing financial rules.

4. The provisions of this article do not apply to small quantities, with non-commercial nature, of works and sound recordings which are available among the personal belongings of passengers or sent in small parcels.

## **Chapter XII Preventive Measures**

### **Article (42):**

The competent court shall, upon the request of the holder of a protected right, under an order issued for a petition, order to take one, or more, of the following preventive measures:

- a. Prevent the violation of, or the prohibited action against, any right protected under this law.
- b. Stop violation of any right protected under this law.
- c. Sign the seizure of the copies of the work, subject to violation, as well as the materials used in making such copies.
- d. If the alleged violation is for public performance of a work, performance, or sound recording, stop the current show or ban it in the future.
- e. Limit income from illegal publishing or presentation decided by an expert, appointed by the court for such purpose, and sign the seizure of the income in all cases.

The Court may order the Petitioner to provide evidences available to him, that suggest violation of his rights, or committing the prohibited act, or that either of them is eminent, and any other information that it may deem necessary to enable competent authorities to execute the appropriate measure when issued.

The Court may oblige the petitioner to submit adequate bond or equivalent guarantee sufficient to protect the defendant and prevent abuse of the right. The bond value or an equivalent guarantee shall not be so high as to unreasonably deter recourse to these procedures.

The Court shall act on the petition expeditiously and within ten days from the date it is submitted.

The Court may issue an order on the petition in the absence of the defendant, where it is likely that delay in issuing an order may incur to the Plaintiff a damage which cannot be remedied, or in which evidences of infringement may be removed or destroyed, and in this case, the defendant shall be notified of the order without delay as soon as issued, and notification may be sent, when appropriate, immediately after implementation of the order. The defendant may file a grievance before the competent court within ten days from the day following the date of his notification.

The plaintiff shall submit the original dispute to the court within a period of fifteen days from the day following the date of issuance of the order on the appropriate procedure, or from the day following the date of his notification on rejecting the grievance submitted by the defendant; otherwise the taken procedure would be completely void.

## **Chapter XII**

### **Civil and Administrative Procedures and Remedies**

#### **Article (43):**

1 - Without prejudices to any other compensations prescribed by any other law, the Court shall order anyone convicted of committing acts of infringements against any of the financial rights of the Author or of the holders of Neighboring rights to pay to the rights holder the following:

- a) Compensations sufficient enough to cover for the damages to the right holder attributed to the infringement;
- b) The amount of profits gained by the infringer and attributed to the infringement, and which was not taken into consideration when estimating the compensations referred to in the previous paragraph. For the implementation of the provisions of this paragraph, the right holder is each and every exclusive licensee, and also the unions and association representing the right holders, as per prevailing laws.

2 - Without prejudices to any other compensations prescribed by any other law, the Court shall order anyone convicted of committing any of the acts cited in Article (40) of this law to pay to the rights holder the following:

- a) Compensations sufficient enough to cover for the damages to the right holder attributed to the infringement;
- b) The amount of profits gained by the infringer and attributed to the infringement, and which was not taken into consideration when estimating the compensations referred to in the previous paragraph. The provision of this paragraph does not apply to authorities entrusted with keeping documents, public libraries, documentation centers, and non-profit educational and scientific institutions. It also does not apply to non-commercial broadcasting corporations on acts committed in violation to the provisions of paragraphs (1, 2, 3) of article (40) of this law, if they do not know, or have no strong reasons to know that their action is considered a violation of the provisions of this law.

3 - When estimating the compensation stated in paragraph (1) of this article, the Court must take into consideration the value of the infringed good or service, as estimated at the retail price determined by the right holder, or according to any other criterion he determines, provided that it is fair enough.

4 - Instead of the compensation prescribed by paragraphs (1, 2) of this article, the Court must order, for the right holder, and upon his request, the previously estimated legal compensation, provided it does not exceed the amount of Rials Ten Thousands for each act of infringement to cover for the damage to the rights holder as a result of acts of infringement. The Executive Regulations shall determine the amount of these compensations which must be capable of remedying the damages incurred.

5 - When estimating the amount of compensation prescribed in this article, the Court must consider the court fees and lawyers' charges spent by the right holder, except in exceptional circumstances as seen by the Court in view of the compensation demanded by the right holder.

**Article (44):**

In civil proceedings involving acts violating the provision of this law, the person whose name is indicated as the author, producer, performer, broadcasting entity, or publisher of the work, performance, broadcasting program, or sound recording in the usual manner shall be presumed, in the absence of proof to the contrary, to be such. It shall be presumed that, in the absence of proof to the contrary, the copyright or neighboring right subsists in such subject matter.

**Article (45):**

The competent civil court shall have the authority to order the infringer to provide any information that the infringer possesses regarding any person or

persons involved in any aspect of the infringement and regarding the means of production or distribution channel of such goods or services.

**Article (46):**

The competent civil court shall have the authority to order the infringer to stop the infringement, including orders banning the export of infringed goods, banning the entry of imported goods to the trade channels after being customs cleared.

**Article (47):**

The concerned civil court shall have all the jurisdictions prescribed for a concerned criminal court under the two articles (53) and (54) of this law. The Public Prosecution shall assume the jurisdictions prescribed in Article (50) of this Law.

**Article (48):**

The concerned civil court shall determine the fees and remuneration of experts and specialists it may appoint to assume certain missions related to the lawsuit and such assessment must be proportionate with the volume and nature of the mission, and in a manner that does not deter recourse of such procedures.

## **Chapter XIV**

### **Criminal Procedures and Penalties**

**Article (49):**

The Public Prosecution shall assume criminal investigation on whatever crimes it becomes aware of that violate the provisions of this law, without the need of a complaint filed by the right's owner, or his representative, or a request thereof from a concerned government agency.

**Article (50):**

The Public Prosecution may issue an order to seize goods suspected of involving violation of any of the protected rights, established under the provisions of this law, and other relevant materials and any assets traceable to the activity of violation or prohibited act, as well as any tools used in committing the crime and any documentary evidence related to the crime. Such

orders need not individually identify the items subject to seizure, so long as they fall within general categories specified in the order.

**Article (51):**

In criminal proceedings involving acts violating the provision of this law, the person whose name is indicated as the author, producer, performer, broadcasting entity, or publisher of the work, performance, broadcasting program, or sound recording in the usual manner shall be presumed, in the absence of proof to the contrary, as such. It shall also be presumed that, in the absence of proof to the contrary, the copyright or neighboring right subsists in such subject matter.

**Article (52):**

Without prejudices to any more severe sanction provided under any other law, any person shall be punished by imprisonment from a minimum of three months up to a maximum of three years as well as monetary fines from a minimum of Two Thousand Rials up to a maximum of Ten Thousand Rials, or by either one, if that person performs one of the following acts:

- 1 - Sells, leases, or transacts a copy of work protected in accordance with the provisions of this law, without the consent of the right holder.
- 2 - Intentionally violates any of the protected moral or economic copyrights or neighboring rights protected by the provisions of this law.
- 3 - Intentionally violates any of the protected moral or economic copyrights or neighboring rights protected by the provisions of this law for the purpose of realizing commercial benefits or achieving private financial gains, or intentionally violates any of the author's rights even without meaning to, directly or indirectly realizing financial gains.
- 4 - Intentionally violates the economic right of a work in the Sultanate of Oman by its publication abroad, or offering it for further distribution, or export.
- 5 - Commits any of the prohibited actions prescribed in paragraphs (1, 2, 3) of Article (40) of this Law with the purpose of realizing commercial profits or

private financial gain, unless the perpetrator was a non-profit public library, a document keeping agency, educational or scientific or cultural institution, or a non-commercial governmental broadcasting corporation.

6 - Knowingly traffics in counterfeit labels affixed or designed to be affixed to: a sound recording, a copy of a computer program, documentation or packaging for a computer program, or an audio-visual work.

7 - Knowingly traffics in counterfeit documentation or packaging for a computer program.

8 - Intentionally importing or exporting goods infringing the provisions of this law.

9 - Manufacturing, assembling, modifying, importing, exporting, selling, leasing, or otherwise distributing a tangible or intangible system or device, knowing or having reason to know that the device or system is primarily used in decoding an encrypted program-carrying satellite signal without the written authorization of the lawful distributor of such signal.

10 - Intentionally receives or further distributes an encrypted program-carrying satellite signal if he knowing or having reasons to know that it has been decoded without the written authorization of the lawful distributor of such signal.

In all cases, the punishment, both in its minimum and/or maximum limits, shall be doubled for repeating the offense, together with closure of the commercial establishment where the offense was committed, or banning of the activity, subject to the Court considerations.

In deciding the punishment, the Court must observe that the punishment should be severe enough to deter further offenses matching with the policy aiming at eliminating the infringer's economic gains.

### **Article (53):**

Upon proofing the violation or intentionally committing the prohibited act, the court shall have the authority to order the forfeiture of any assets traceable to the infringing activity and shall, except in exceptional circumstances, order the

forfeiture and destruction of all the pirated goods, and the materials and tools used in the infringing activity and destroy them at the expense of the convicted defendant, or to dispose of them outside the commercial channels should the destruction causes harms to the public health or the environment.

**Article (54):**

Without prejudice to any more severe sanction provided under any other law:

a) Any person shall be punished by imprisonment from a minimum of seven days up to a maximum of one month as well as monetary fines from a minimum of One Hundred Rials up to a maximum of One Thousand Rials, or by either one, if that person, any of the rivals, violates an order issued by the court pursuant to articles (45, 46) of this law.

b) Any person shall be punished by monetary fines from a minimum of One Hundred Rials up to a maximum of One Thousand Rials, if that person, be any of the rivals, their lawyers, experts, and other aides to the judges, violates an order issued by the court regarding protecting the secrecy of information submitted or exchanged during the proceedings.

**Article (55):**

The Magistrate Court shall keep a detailed account of all goods, materials, and other tools of which their destruction has been ordered in a crime committed in violation of the provisions of this law. The Enforcing Agency, at the request of the violated right owner, may temporarily delay executing the destruction order, where the materials could be used as evidence in a civil lawsuit.

**Article (56):**

Any person, who is injured by a violation of the provisions of paragraphs (4, 5) of article (40) {to be deleted} of this law, may exercise the civil remedies against the perpetrator, before the concerned criminal court.

## **Chapter XIV**

### **General and Closing Provisions**

#### **Article (57):**

The provisions of this Law shall apply to:

a. Works, performances, and sound recordings of Omanis and foreigners, normal residents in the Sultanate, and broadcasting programs belonging to broadcasting organizations stationed in the Sultanate, or broadcasted from headquarters located inside the Sultanate.

b. Works, performances, sound recordings, and broadcasting programs that have been produced in the Sultanate of Oman regardless of the citizenship or the residence of the producer.

c. Works, performances, and sound recordings that are published for the first time in the Sultanate of Oman or in a foreign country and then published in the Sultanate within a period of thirty days starting from the date of publication abroad, regardless of the citizenship or place of residence of the authors.

d. Audio-visual works where the headquarters of their producers or their residence is in the Sultanate of Oman.

e. Architectural works that have been constructed in the Sultanate and other works of art, incorporated in a building, or any other facilities, located in the Sultanate.

f. Authors, performers, producers of sound recordings, and broadcasting organizations, that are eligible for protection by virtue of and in accordance with any multilateral and bilateral international treaties and conventions, to which the Sultanate of Oman is a party or may become a party later.

#### **Article (58):**

The employees, appointed by a decision of the Minister of Justice, following agreement with the Minister, shall have the right to inspect, control and access related locations, to check on violations to the provisions of this law and its bylaws.

**Article (59):**

Enforcing the provisions of this law does not imply violating the provisions of the multilateral and bilateral international treaties and conventions, in which the Sultanate of Oman is a part or may become a part later, relevant to the copyrights and neighboring rights, which govern the rights of the citizens of member States or equivalent to them.

**Article (60):**

The provisions of this Law shall apply to all works, performances, sound recordings, and broadcasting programs that are produced or broadcasted before the date that was enforced, provided that they have fallen into public domain due to the expiry of the term of protection as prescribed in the cancelled law, or in the legislations prevailing in their country of origin.

**Article (61):**

The Ministry shall undertake the following powers:

- a. Alert authors and neighboring rights owners of their moral and economical rights.
- b. Amicably settle disputes that arise on any of the rights set forth in this law, if approved by the parties, and as detailed in the bylaws.
- c. Coordinate with the concerned authorities for the protection of copyrights and neighboring rights.
- d. Other powers set forth in this law or required to implement its provisions, as specified by the bylaws.

**Article (62):**

The publication of final judicial decisions in copyright cases, and administrative rulings of general application pertaining to the enforcement of copyright rights, shall be in the exigencies of public interests, and consistent with the rules detailed in the bylaws. Posting in the Internet shall be considered as publication.

**Article (63):**

Without prejudices to the provisions of the referred telecommunications law, the provisions of this law shall apply on the service provider on violations he commits against its provisions or its bylaws.

**Article (64):**

Where no specific text covers in this law, provisions of the referred criminal procedures, civil and commercial procedures laws shall apply to referred criminal and civil proceedings, as circumstances imply.