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تصدر عن وزارة العدل

وهزارهتى داد دهرى دهكات



Legislation

No. 3

## Copyright Protection law

With its Amendments

No. (3) Of 1971

قانون حماية حق المؤلف مع تعديلاته

Translated in

Ministry Of Justice

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2020



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### In the name of the people The Revolutionary Command Council

#### Resolution No. (19)

Based on the provisions of Paragraph (1) of Article (42) of the Interim Constitution, and based on what was presented by the Minister of Information, the Revolutionary Command Council decided in its session held on 4/ 1/ 1971 issuing of the following law:

#### Copyright protection law No. (3) Of 1971

#### Article 1

1. The authors of original works of literature, arts and sciences, regardless of the type of these works, the method of their expression, their importance and the purpose of their classification shall enjoy the protection of this law.
2. The person to whom the publication of the work is attributed shall be considered an author, whether by mentioning his/ her name on the work or by any other method, unless there is evidence to the contrary. This provision shall be applied to the pseudonym, provided that there is not a slightest doubt about the truth of the author's identity.



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### Article 2

This protection shall include works expressed by writing, sound, drawing, photography or movement, and in particular the following:

1. Written works in all categories.
2. Computer programs, whether by source or machine code, that must be protected as literary works.
3. Works expressed orally, such as lectures, lessons, sermons, exhortations and the like.
4. Works included in the arts of drawing and photography with lines, colours, engraving, sculpture or architecture.
5. Theatrical works and musical theatrical performance.
6. Works that are performed by artistic movements or steps are intended basically for direction.
7. Musical works, whether accompanied by words or not.
8. Photographic and cinematic works.
9. Works prepared for radio and television.
10. Maps, charts and scientific models.
11. The public recitation of the Holy Quran.
12. Audio recordings.
13. Collected data.

### Article 3

Protection shall include the title of the work if it is distinguished by its originality and is not indicative of the work's subject matter.



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### Article 4

Whoever arabizes, translates, revises or transforms the work from one of the colours of literature, arts or science into another colour, or summarizes, modifies, converts, explains, comments on it, or indexes it in any form that appears it in a new form without prejudice to the copyright of the original work, shall enjoy protection.

However, the rights of the photographic work shall not entail preventing others from taking new pictures of the photographed thing, even if these new pictures are taken from the same place and in the same circumstances in which the first picture was taken.

### Article 5

The performer shall enjoy protection and shall be considered a performer whoever implements or conveys to the public an artistic work created by someone else, whether this performance is by singing, playing, rhythm, recitation, photography, drawing, movements, steps or any other method, provided that there is no prejudice to the rights of the author of the original work.

### Article 6

The following shall enjoy protection as long as they are distinguished by the character of originality, arrangement, choice or any other personal effort that deserves protection:

1. Collections that organized as several anthologies of poetry, prose, music and other collections, provided that there is no prejudice to the rights of the author of each work.
2. Collections of works that have been devolved to the public domain.
3. Collections of official documents such as texts of laws and regulations, international agreements, judicial rulings and other official documents.



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### Article 7

The author alone may decide the publication of his/ her work and to specify the method for this publication, and he/ she may benefit from his/ her work in any legitimate way he/ she chooses, and it is not permissible for anyone else to exercise this right without prior permission from him/ her or to whom this right devolves.

### Article 8

The author alone shall have the usufruct of his/ her work, and the others may not, without the written permission of the author or his/ her successors, perform the following actions:

1. Reproducing the work in any medium or form, whether temporarily or permanently, whether on a photographic film, including cinematic one, or storing it in a digital or electronic surrounding.
2. Translating the work, adapting it, make the musical arrangement for it or make any modifications to it.
3. Licensing the commercial leasing of the original work and reproducing it to the public.
4. Distributing the original work or its copies through sale or any or any act of transfers the ownership.
5. Importing any copies of the work, including copies prepared with the permission of the copyright holder.
6. Conveying or communicating the work to the public by means of recitation, speech, diction, presentation, acting performance, radio or television and cinematic publicizing or any other wire or wireless means, including making the work available to the public that enables members of the public in a way that they can individually access it in any way, time or place.

### Article 9: Suspended.



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### Article 10

The author alone may attribute his/ her work to himself/ herself, and he/ she or whoever acting in his/ her place may defend any violation of this right, and he/ she also may prevent any deletion or change in the work. However, if the deletion or change occurs in the translation of the work with mentioning that, then the author may not prevent it, unless the translator neglects to refer to the points of deletion or change or if the translation results in prejudice to the author's reputation and cultural or artistic standing.

### Article 10: (Bis)

- a. If the work is created for the account of another person, the copyright shall revert to the author, unless there is an agreement to the contrary.
- b. Notwithstanding Paragraph (a) of this Article, if a worker during his/ her work creates a work that is related to the activities and works of the employer or use the expertise, information, machines, or tools of the employer that are at the worker's disposal in his/ her attempt to create this work, then the authoring rights shall be belonged to the employer, unless otherwise agreed in writing.
- c. Rights shall be in the interest of the worker if the right created by him/ her does not relate to the business of the employer, and the worker does not use the expertise, information, tools, or raw materials of the employer in trying to reach his/ her creativity, unless otherwise agreed in writing.

### Article 11: Suspended

### Article 12

The author may not, after publishing his/ her work, prevent it from being performed, represented or recited if this occurs in a family or association meeting, or private forum or in a school as long as this meeting does not bring any financial proceeds directly or indirectly. The



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music of the military forces and other state bands may perform musical works without being obligated to pay any fee to the author, as long as the performance does not bring any financial proceeds directly or indirectly.

### Article 13

If a person makes one copy of a published work for his/ her personal use, the work's author may not prevent him/ her from doing so.

### Article 14

1. After publishing the work, the author may not prohibit analyses and short quotations if they are done for the purpose of conveying, controversy, education, edification or information as long as they refer to the name of the author if he/ she is known and to the source they are taken from it.
2. It shall be permitted in textbooks, history books, literature, science and arts the following:
  - a. Taking short extracts from previously published works.
  - b. Citing works that have been previously published in the graphic, three-dimensional or photographic arts, provided that the citing is limited to what is necessary to clarify what written.In all cases, the sources cited and the names of the authors shall be clearly mentioned.

### Article 15

Serial novels, short stories and other literary, artistic or scientific works published by their authors in newspapers or periodical publications without their permission may not be copied.



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### Article 15: (Bis)

Exceptions to the exclusive rights of the author shall not be limited to certain special cases that do not conflict with the normal use of the work, and do not cause unreasonable prejudice to the legitimate interests of the right holder.

### Article 16

Newspapers, radio and television may publish by way of information, without the author's permission, the speeches that are read in the public sessions of political, administrative or judicial councils, as well as what is delivered in public meetings of a political nature as long as these speeches are addressed to the people.

### Article 17

In the cases provided for in the two previous articles, the author alone shall have the right to publish collections of his/ her speeches or articles.

### Article 18

The author's heirs alone may decide to publish his/ her works that were not published in his/ her lifetime, unless the author recommends something to the contrary, provided that if the author set a date for publication, the work may not be published before the passage of aforementioned date.

### Article 19: provisions related to the Article

The author's heirs alone shall have the right to exercise the financial usufruct rights stipulated in Articles (7), (8) and (10) of this law, and if the work is joint and one of the authors dies



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without leaving an heir or legatee, his/ her share shall be transferred to his co-authors or their successors, unless there is an agreement to the contrary.

### Article 20

1. The author's financial rights guaranteed under this law shall be protected for the life of the author and for a period of fifty years from the date of his/ her death.
2. The financial rights of joint works shall be protected throughout the life of all co-authors and for a period of fifty years after the death of the last surviving one.
3. The financial rights of authors of collective works, with the exception of authors of works of applied art, shall be protected for a period of fifty years starting from the date of its publication or first availability to the public, whichever is earlier, this is if the work's copyright holder is a legal entity. If the holder of these rights is a natural person, then the protection period shall be in accordance with the rule stipulated in Paragraphs (1) and (2). Financial rights of the works published for the first time after the death of their authors shall expire by the lapse of fifty years starting from the date of their publication or first made available to the public, whichever is earlier.
4. Financial rights of the works published without the name of their author or under a pseudonym shall be protected for a period of fifty years starting from the date of their publication or first availability, whichever is earlier, except if their author is a known and identified person or if their author reveals his/ her personality, then the protection period shall be in accordance with the rule stipulated in Paragraph (1).
5. The financial rights of the authors of works of applied art shall expire after the lapse of fifty six years from the date on which the work is published or made available to the public for the first time, whichever is earlier.
6. In the cases in which protection is calculated from the date of publishing the work or making it available to the public for the first time, the first publication or the first availability to the public whichever is the earlier shall be taken as a basis for calculating the period, regardless of whether the work is republished or made available to the public again, unless the author makes substantial amendments to his/ her work upon re-



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publication, so that it can be considered a new work. If the work consists of several parts or volumes published separately and at intervals, then each part or volume shall be considered an independent work for the purpose of calculating the term of protection.

### **Article 21: Suspended.**

### **Article 22**

The term of protection for works published for the first time after the author's death shall be calculated from the date of his/ her death.

### **Article 23: Suspended.**

### **Article 24**

The work shall be considered published one from the date of its availability to the public without consideration for its re-publication, unless, upon re-publication, the author introduces basic amendments to the work so that it can be considered a new work, and if the work consists of several parts or volumes published separately in irregular periods, each part or volume shall be considered as separate work in accordance with the date of publication.

### **Article 25**

If several persons co-author a work, that it is not possible to separate each of them in this joint work, they shall be all considered the owners of the work equally among them, unless otherwise agreed, and in this case, the rights arising from the copyright of the author shall not be enjoyed, except with the agreement of all the co-authors, and each of them shall be considered as an agent for others. If a dispute arises between them, it shall be decided by the



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jurisdiction of the court of first instance, provided that each of the co-authors has the right to file lawsuits when any infringement of copyright occurs.

### Article 26

If several persons co-author a work, so that the role of each of them in this joint work can be separated, each of them shall have the right to benefit from the part that he/ she contributed separately, provided that this does not harm the exploitation of this joint work, unless otherwise agreed upon.

### Article 27

The collective work is the work that is co-created by a group by their will and under the direction of a natural or legal person, and the work's co-authors shall be integrated into the general idea directed by this natural or legal person, so that it is not possible to separate and distinguish the work of each of the co-authors separately. The natural or legal person who directs and organizes the creation of this work shall be considered author, and he/ she alone shall have the right to exercise the copyright.

### Article 28

In the works bearing a pseudonym, it shall be assumed that the author has authorized the publisher of them to exercise the rights recognized in this law, until the author declares his/ her personality and proves his/ her capacity, and this declaration may be made by way of a will.



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### Article 29

In the event of co-authoring lyrical musical works, the author of the musical part alone shall have the right to license, publish, or make copies thereof, provided that there is no prejudice to the right of the author of the literary part. This author shall have the right to publish the literary part alone, provided that he/ she does not dispose of it as the basis for another musical work, unless agreed otherwise.

### Article 30

In the event of co-authoring works that are performed with movements accompanied by music, shows accompanied by music and in all similar works, the author of the non-musical part shall have the right to authorize the public performance of the whole the work he/ she co-authored in fulfilling it or making copies of it, and the author of the musical part has the right to dispose of the musical part alone, provided that he/ she does not use a work similar to this joint work, unless agreed otherwise.

### Article 31

The following shall be considered a co-author of the film or work intended for radio or television:

1. The author of the script or the author of the idea written for the program.
2. Whoever alters the existing literary work in a way that makes it appropriate.
3. Author of the dialogue.
4. The composer of the music if he/ she places it specifically for this purpose.
5. The director, if he/ she extends actual control and performs positive act from the intellectual point of view to edit the work, and if the cinematic work or the work prepared for radio or television is simplified or extracted from another previous work, then the author of this previous work shall be considered a co-author of to the new work.



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### Article 32

The author of the script, and whoever alters the literary work, the author of the dialogue and the director together may display the cinematic work or prepared for radio or television despite the objection of the author of the original literary work or the author of the music, provided that there is no prejudice to the rights of objector arising from his/ her co-authoring. The author of the literary part or the musical part may publish his/ her work in a manner other than cinema, radio or television, unless agreed otherwise.

### Article 33

If one of the co-authors of a cinematic work or a work for radio and television refuses to complete his/ her work, this shall not prevent the rest of the co-authors from using the part that he/ she has fulfilled, provided that there is no prejudice to the rights of the refusing person as a result of his/ her co-authoring.

### Article 34

The person who undertakes editing the work or bears the responsibility for this editing and puts at the disposal of the authors of these works the material and financial means that ensure the production of the work and achieve its output shall be considered a producer of cinematic, radio or television work. The producer shall be considered a publisher of the cinematic work and he/ she shall have all the rights of the publisher on the tape and its copies, the producer shall, throughout the period of use of the work agreed upon, be a representative on behalf of the authors of cinematic work and their successors in agreeing on displaying and benefiting from the work, provided that there is no prejudice to the rights of authors of literary and musical works quoted, all of this unless otherwise agreed upon.



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### Article 34: (Bis 2)

1. Performers shall have the exclusive right to:
  - a. Broadcast or transmit their live performance publicly and fixating it physically if it is not.
  - b. Permit to directly or indirectly reproduce their performance that fixed in an audio recording in any way or form, permanently or temporarily, including electronic digital form.
  - c. Distribute the audio recordings put on them their performance through sale or any other act transfers the ownership.
  - d. Import copies of their audio recordings, whether or not this audio recording is prepared with the consent of the performer.
  - c. Make any performance put in an audio recording available to the public in a wire or wireless manner, in a manner that enables members of the public to access it at any place or time chosen by any of them.
2. The performer shall have, independently from the financial rights of the performer, and even after the transfer of the ownership of these rights, the right to be attributed to him/ her his/ her audio performance or his/ her performance put in an audio recording, unless the negligence in attribution of the performance to him/ her is imposed by the method of benefitting from the performance, and he/ she may object to any distortion, misrepresentation or any other modification of his/ her performance could damage his/ her reputation.
3. Performers shall exclusively enjoy the right to financial usufruct of what they have performed for a period of (50) years calculated from the date on which the performance took place or the recording was put, as the case may be.
4. The producers of audio recordings exclusively have the right to:
  - a. license to copy directly and indirectly their audio recordings in any way or form, whether temporarily or permanently, including electronic digital copying.
  - b. Distribute their audio recordings by sale or any other way of transferring the ownership.
  - c. Import copies of the audio recordings, whether or not these recordings are made with the permission of the producer.



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- d. Make audio recording available to the public, whether by wire or wireless means, and in any way that enables the public to access it at any place and time any of them choose.
5. Producers of audio recording shall exclusively enjoy the right to financial usufruct of their recordings for a period of (50) years calculated from the date of recording or making it public, whichever is earlier.
6. Radio broadcasting organizations exclusively have the right to:
  - a. Set and record what they broadcast and permit to copy settings of what they broadcast, directly or indirectly.
  - b. Re-broadcast their programs by wireless means and transmit it to the public.
7. Broadcasting organizations shall exclusively enjoy the right to financial usufruct of their programs for a period of (50) year, calculated from the date of the program's first launch.

### **Article 34:** (Bis 3)

In order to ensure that there is no discrepancy between the rights of authors on the one hand and at least the performers and producers of audio recordings on the other hand, each party must ascertain whether the license is required from the author of the work fixed in the recording, the performer or producer who owns the right to audio recordings, and the author's license shall remain required, because the performer's or producer's license shall be required also. Likewise, each party must ascertain that it is necessary to obtain the license of both the author of the work fixed in the recording and at least the performer or producer who is the owner of the recording rights, and the performer's or producer's license shall remain required, because the author's license is also required.

### **Article 35:** Suspended

### **Article 36:** Suspended



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### Article 37

The author alone may publish his/ her messages, but this right may not be exercised without the permission of the one sent to him/ her if the publication would causes harm to him/ her.

(i.e. harm to consignee. **The translator.**)

### Article 38

The author may transfer to others the usufruct rights stipulated in this law, but transferring one of the rights shall not entail giving the right to exercise another right, and the validity of the disposal shall require to be in writing and to specify in it explicitly and in detail every right that is object of disposal with an indication of its extent, purpose, and duration and place of its exploitation. The author must refrain from any action that would obstruct the use of the right disposed of.

### Article 39

The author's disposal of his/ her future total intellectual production shall be considered null.

### Article 40

Any disposal done by other than the author regarding the rights stipulated in Articles 7, 8 and 10 of this law shall be considered null.

### Article 41

The author's disposal of his/ her rights over the work, whether in whole or in part, may be based on a proportional contribution to the revenue resulting from the use.



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### Article 42

If the ownership of the original copy of a work is transferred, this shall not include the transfer of the author's copyright. However, whoever possesses that copy may present it to the public, and he/ she shall not be obligated to grant the author a license to copy, transfer or display it, unless otherwise agreed.

### Article 43

The author alone may, if there are serious moral reasons, request the court of first instance to rule to withdraw his/ her classified work from handling or to introduce substantial amendments to it despite of his/ her disposal of the financial usufruct rights. In this case, the author shall be obliged to compensate the person who financial usufruct rights devolved to him/ her in a fair compensation estimated by the court that has the authority to rule compelling the author to pay this compensation in advance within a period it specified, otherwise the ruling shall have no effect or he/ she shall be obligated to present a guarantor accepted by the court.

### Article 44

Every author whose right, under the provisions of this law, is infringed upon shall be entitled to an appropriate compensation. When estimating the compensation, the cultural status of the author, the literary, scientific and artistic value of the work and the extent of the benefit obtained by the infringer from the exploitation of the work, shall be taken into consideration.

### Article 45

If any of the following acts are committed, it shall be considered an act of piracy is punishable by a fine of not less than (5,000,000) dinars and not exceeding (10,000,000) dinars:



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1. Whoever violates the copyright stipulated in Articles (5, 7, 8, 9 and 10) of this law.
2. Whoever offers for sale, handling or rent an imitated work or copies of it and conveys it to the public by any means, uses it for a material benefit and brings it into or out of Iraq, whether he/ she is aware of this or has sufficient reason to believe that that work is not licensed.
3. In the event of conviction for the second time, the perpetrator shall be punished with imprisonment for a period of no less than five years and not exceeding ten years, and a fine of not less than (100,000,000) dinars and not exceeding (200,000,000) dinars or one of these two penalties, and the court, in the event of conviction for the second time, may order the closure of the institution that it was used by imitators or their accomplices in committing the crime for a certain period or forever.
4. The court may also order the confiscation and destruction of all copies or audio recording object of the assault and all tools, machines or equipment used in making these copies or audio recording object of abuse.

### Article 46

1. The court, based on a valid request from the copyright holder or from one of their heirs or successors, may issue a court order regarding any infringement of the rights mentioned in Articles (5), (7), (8), (10), (34 Bis) of this law, provided that this request includes an accurate and complete description of the work, performance, audio recording or program that has been infringed upon.

The court may decide:

- a. Asking the infringer to stop his/ her illegal activities.
  - b. Confiscating the copies object of the infringement and any materials and tools used in fulfilling the infringement.
  - c. Confiscating the proceeds of infringement.
2. The request may be submitted before, during or after filing the lawsuit.
  3. Upon proving that the applicant is the owner of the right, or that his/ her rights have been infringed upon or that the infringement has become imminent, the court may take any of



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the measures stipulated in Paragraph (1) of this Article conservatively to prevent the occurrence of the infringement or with the aim of preserving evidence related to an infringement act.

4. The court may, in the event that the delay causes harm to the right holder that cannot be compensated, or in cases where there is a risk that can be demonstrated as a result of the loss of evidence related to the act of infringement, take any of the measures stipulated in Paragraph (1) of this Article in a conservative manner, without informing the defendant and in his/ her absence. The affected parties shall be informed of the measures taken by the court immediately after the implementation of the procedure. The defendant may request a session to hear his/ her statements within a reasonable period of time after being informed of the procedure. The court shall decide at this session whether the precautionary measure should be confirmed, modified or repealed.
5. The request for the precautionary measure in accordance with the provisions of paragraphs (3) and (4) of this Article shall be accompanied by a sufficient financial guarantee to prevent abuse and to guarantee any damages that may be caused to the defendant if the plaintiff is not right in his/ her lawsuit.
6. Upon the defendant's request, the precautionary measures taken prior to filing the lawsuit in accordance with the provisions of paragraphs (3) and (4) of this article shall be repealed if a lawsuit is not filed within eight days from the date of the court's order to take the action.
7. If the precautionary measure taken pursuant to paragraphs (3) and (4) of this Article is repealed based on the passage of the filing period or due to the plaintiff's dereliction or it is found that there is no act of infringement, and based on the defendant's request, the court may order adequate compensation for the damages arising from these procedures.
8. The court may order the plaintiff who arbitrarily requests any of the measures mentioned in this article to adequately compensate the party against whom the measure is taken for his/ her damage as a result of this abuse.



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### Article 47

In no case may the buildings and the sculptures, drawings, ornaments and geometric shapes appearing in or on them be object of seizure. Likewise, ruling to destroying them, changing their features or confiscating them with the intention of preserving the rights of the architect whose designs were used in the construction and drawings in it illegally, provided that this does not prejudice his/ her rights to a fair compensation for the foregoing.

### Article 48: Suspended

### Article 49

The provisions of this law shall apply to the works of Iraqi and foreign authors that are published, represented or presented for the first time in the Republic of Iraq, as well as to the works of Iraqi and foreign authors that are published, represented or presented for the first time in a foreign country. The protection of copyright and related rights under this law shall include foreigners, whether they are natural or legal persons, on a basis not less than what is appropriate to be granted to Iraqi citizens with regard to protection and enjoyment of other intellectual property rights and any benefits derived from these rights.

### Article 49: repeated

The provisions of this law shall apply to existing works when it come into force, provided that the protection period for these works has not been transferred into the public domain in their countries of origin.

### Article (50)

The Ottoman copyright law shall be repealed.



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### Article 51

Regulations may be issued to facilitate the implementation of this law.

### Article 52

This law shall be effective once it is published in the Official Gazette.

### Article 53

Ministers shall implement this law.

**Written in Baghdad on the fourth day of the month of Dhu al-Qi'dah of 1390 AH, which coincides with the second day of January of 1971 AD?**

**Ahmed Hassan Al-Bakr**  
**Chairman of the Revolutionary Command Council**