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Copyright Act[1]

Passed 11.11.1992
RT I 1992, 49, 615
Entry into force 12.12.1992

Amended by the following acts

Passed	Published	Entry into force
26.06.1996	RT I 1996, 49, 953	26.07.1996
25.03.1998	RT I 1998, 36, 552	01.05.1998
21.01.1999	RT I 1999, 10, 156	15.02.1999
22.02.1999	RT I 1999, 29, 398	01.04.1999
Complete text in paper publication of RT	RT I 1999, 36, 469	
09.12.1999	RT I 1999, 97, 859	06.01.2000, in part 01.01.2002
15.02.2000	RT I 2000, 13, 94	22.02.2000
Complete text in paper publication of RT	RT I 2000, 16, 109	
27.09.2000	RT I 2000, 78, 497	22.10.2000
16.05.2001	RT I 2001, 50, 289	11.06.2001
06.06.2001	RT I 2001, 56, 335	01.09.2001
05.06.2002	RT I 2002, 53, 336	01.07.2002
19.06.2002	RT I 2002, 63, 387	01.09.2002
16.10.2002	RT I 2002, 90, 521	01.01.2003
16.10.2002	RT I 2002, 92, 527	18.11.2002, in part 01.01.2003 and 01.01.2004
10.03.2004	RT I 2004, 18, 131	15.04.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
22.09.2004	RT I 2004, 71, 500	29.10.2004, regarding § 27[1] 1.01.2006
Complete text in paper publication of RT	RT I 2004, 77, 527	
16.06.2005	RT I 2005, 37, 287	01.07.2005
15.06.2005	RT I 2005, 39, 308	01.01.2006
08.12.2005	RT I 2006, 1, 1	12.01.2006
31.05.2006	RT I 2006, 28, 210	30.06.2006
24.01.2007	RT I 2007, 13, 69	15.03.2007
09.04.2008	RT I 2008, 18, 123	15.05.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
18.11.2009	RT I 2009, 59, 385	01.01.2010
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 shall enter into force on the date provided for in the Decision of the Council of the European Communities on the abrogation of the derogation of the Republic of Estonia on grounds prescribed in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision of 13.07.2010

		No. 2010/416/EU (OJ L 196, 28.07.2010, pp 24-26)).
16.12.2010	RT I, 06.01.2011, 1	16.01.2011
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
05.06.2013	RT I, 14.06.2013, 3	01.11.2013
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced pursuant to subsection 107^3 (4) of the Government of the Republic Act, starting with the wording that enters into force on 1 July 2014.
15.10.2014	RT I, 29.10.2014, 2	30.10.2014
23.03.2016	RT I, 01.04.2016, 2	10.04.2016
15.06.2016	RT I, 07.07.2016, 1	01.01.2017
15.12.2016	RT I, 31.12.2016, 2	01.01.2017, in part 01.02.2017
31.05.2017	RT I, 16.06.2017, 1	01.07.2017
07.11.2018	RT I, 27.11.2018, 1	28.11.2018
20.02.2019	RT I, 19.03.2019, 4	29.03.2019, in part 01.04.2019
20.02.2019	RT I, 19.03.2019, 5	01.04.2019
20.02.2019	RT I, 19.03.2019, 13	01.05.2019
16.12.2020	RT I, 04.01.2021, 3	01.04.2021
08.12.2021	RT I, 28.12.2021, 1	07.01.2022

Chapter I
GENERAL PROVISIONS

§ 1. Purpose and functions of Copyright Act

(1) The purpose of the Copyright Act is to ensure the consistent development of culture and protection of cultural achievements, the development of copyright-based industries and international trade, and to create favourable conditions for authors, performers, producers of phonograms, broadcasting service providers, producers of first fixations of films, makers of databases and other persons specified in this Act for the creation and use of works and other cultural achievements.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(2) The Copyright Act provides for:
1) the protection of a specific right (copyright) of authors of literary, artistic and scientific works for the results of their creative activity;
2) the persons who may acquire rights to literary, artistic or scientific works created by an author and the rights of such persons;
3) the rights of performers, producers of phonograms and broadcasting service providers (related rights);
[RT I, 06.01.2011, 1– entry into force 16.01.2011]
3^1) the rights of makers of databases and conditions for the exercise and protection thereof;
[RT I 1999, 97, 859 – entry into force 06.01.2000]
3^2) the related rights of producers of first recordings of films and of other persons specified in this Act;
[RT I 1999, 97, 859 – entry into force 06.01.2000]
4) limitations on the exercise of copyright and related rights upon the use of works in the interest of the public;
5) guarantees for the exercise of copyright and related rights and the protection of such rights.

(3) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 2. Application of copyright legislation and other legislation
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(1) The copyright legislation of the Republic of Estonia consists of this Act, other Acts drafted on the basis thereof and other legislation adopted by the Government of the Republic, ministries and executive agencies.

(2) If a piece of copyright legislation is in conflict with an international agreement of the Republic of Estonia, the provisions of the international agreement apply.

(3) The provisions of this Act shall be without prejudice to the application of other specific Acts passed in the field of intellectual property.
[RT I 1999, 97, 859 – entered into force]

(4) This Act must be applied in accordance with the procedure for processing of personal data which derives from Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, pp 1–88).
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 3. Validity of Copyright Act

[RT I 1999, 97, 859 – entry into force 06.01.2000]

(1) The Copyright Act applies to works:
1) the author of which is a citizen or a permanent resident of the Republic of Estonia;
2) first published in the territory of the Republic of Estonia or not published but located in the territory of the Republic of Estonia, regardless of the citizenship or the permanent residence of the creator of the works;
3) which must be protected in accordance with an international agreement of the Republic of Estonia.

(2) This Act applies to works first made available to the public in a foreign state or not made available to the public but located in the territory of a foreign state, the author of which is a person whose permanent residence or registered office is in the foreign state and to which clause (1) 3) of this section does not apply, only if this state guarantees similar protection for works of the authors of the Republic of Estonia and for works first published in the Republic of Estonia.

(3) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 3[1]. Specifications of judicial proceedings in matters relating to copyright and related rights

Actions related to the subsisting or holding of copyright and related rights, and unlawful use of works or objects of related rights, and petitions for the securing of an action and for provisional legal protection, as well as other disputes specified in this Act shall be heard and adjudicated by Harju County Court.
[RT I, 19.03.2019, 4 – entry into force 01.04.2019]

Chapter II
WORKS PROTECTED BY COPYRIGHT

§ 4. Works in which copyright subsists

(1) Copyright subsists in literary, artistic and scientific works.

(2) For the purposes of this Act, ‘works’ means any original results in the literary, artistic or scientific domain which are expressed in an objective form and can be perceived and reproduced in this form either directly or by means of technical devices. A work is original if it is the author’s own intellectual creation.

(3) Works in which copyright subsists are:
1) written works in the fields of fiction, non-fiction, politics, education, etc.;
2) scientific works or works of popular science, either written or three-dimensional (monographs, articles, reports on scientific research, plans, schemes, models, tests, etc.);
3) computer programs that shall be protected as literary works. Protection applies to the expression in any form of a computer program;
4) speeches, lectures, addresses, sermons and other works which consist of words and which are expressed orally (oral works);
5) scripts and script outlines, librettos;
6) dramatic and dramatico-musical works;
7) musical compositions with or without words;
8) choreographic works and entertainments in dumb show;
9) audiovisual works (§ 33);
10) [repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]
11) works of painting, graphic arts, typography, drawings, illustrations;
12) productions and works of set design;
13) works of sculpture;
14) architectural graphics (drawings, drafts, schemes, figures, plans, projects, etc.), letters of explanation explaining the contents of a project, additional texts and programs, architectural works of plastic art (models, etc.), works of architecture and landscape architecture (buildings, constructions, parks, green areas, etc.), urban developmental ensembles and complexes;
15) works of applied art;
16) works of design and fashion design;
17) photographic works and works expressed by a process analogous to photography, slides and slide films;

18) cartographic works (topographic, geographic, geological, etc. maps, atlases, models);
19) draft legislation;
19[1]) standards and draft standards;
20) opinions, reviews, expert opinions, etc.;
21) derivative works, i.e. translations, adaptations of original works, modifications (arrangements) and other alterations of works;
22) collections of works and information (including databases). For the purposes of this Act, 'database' means a collection of independent works, data or other economics arranged in a systematic or methodical way and individually accessible by electronic or other means. The definition of database does not cover computer programs used in the making or operation thereof. In accordance with this Act, databases which, by reason of the selection or arrangement of their contents, constitute the author's own intellectual creation shall be protected as such by copyright and no other criteria are applied;
23) other works.

(4) An author shall also enjoy copyright in the results of the intermediate stages of creating a work (drafts, sketches, plans, figures, chapters, preparatory design economic, etc.) if these are in compliance with the provisions of subsection (2) of this section.

(5) The original title (name) of a work is subject to protection on an equal basis with the work.

(6) The protection of a work by copyright is presumed except if, based on this Act or other copyright legislation, there are apparent circumstances which preclude this. The burden of proof lies on the person who contests the protection of a work by copyright.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 5. Results of intellectual activities to which this Act does not apply

This Act does not apply to:
1) ideas, images, notions, theories, processes, systems, methods, concepts, principles, discoveries, inventions, and other results of intellectual activities which are described, explained or expressed in any other manner in a work;
2) works of folklore;
3) legislation and administrative documents (acts, decrees, regulations, statutes, instructions, directives) and official translations thereof;
4) court decisions and official translations thereof;
5) official symbols of the state and insignia of organisations (flags, coats of arms, orders, medals, badges, etc.);
6) news of the day;
7) facts and data;
8) ideas and principles which underlie any element of a computer program, including those which underlie its user interfaces.
[RT I 2000, 78, 497 – entry into force 06.01.2000]
9) materials resulting from the reproduction of any work of visual art, if the term of protection of such work has expired pursuant to the provisions of Chapter VI of this Act, unless the material resulting from the reproduction is original in the sense that it is the author's own intellectual creation.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 6. Creation of copyright regardless of purpose, value, form of expression or manner of fixation of work

The purpose, value, specific form of expression or manner of fixation of a work shall not be the grounds for the non-recognition of copyright.

§ 7. Moment of creation of copyright

(1) Copyright in a work is created with the creation of the work.

(2) The creation of a work means the moment of expression of the work in any objective form which allows the perception and reproduction or fixation of the work.

(3) The registration or deposit of a work or completion of other formalities is not required for the creation or exercise of copyright.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 8. Copyright in works not made available to public and works made available to public

(1) Copyright subsists in works not made available to the public and in works made available to the public (published, communicated to the public).

(2) 'The public' means an unspecified set of persons outside the family and immediate circle of acquaintances.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 9. Published works

(1) A work is deemed published if the work or copies of the work, whatever may be the means of manufacture of the copies, are placed, with the consent of the author, at the disposal of the public provided that the availability of such copies has been such as to enable the public to examine or obtain the work. Publication of a work includes also publication of the work in print, offering original copies of the work for sale, distribution, lending and rental of the work and placing the work at the disposal of the public in any other manner for a charge or free of charge.

(1^1) - (1^2) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

(2) A work is deemed published if it is recorded in a computer system accessible to the public.

(3) The performance of a dramatic, dramatico-musical or a musical work, the presentation of audiovisual works, the public recitation of a literary work, the broadcasting or cable transmission of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication, except in the case specified in subsection (2) of this section.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 10. Works communicated to public

(1) A work is deemed to be communicated to the public if it has been performed in public, demonstrated to the public, transmitted to the public, retransmitted, made available to the public or communicated to the public in any other manner by means of any technical device or process.

(2) Communication of a work to the public also includes:
1) making the work public in a place open to the public or in a place which is not open to the public but where an unspecified set of persons outside the family and an immediate circle of acquaintances are present, regardless of whether the public actually perceives the work or not;
2) communication of a transmitted or retransmitted work to the public by means of any technical device or process, regardless of whether the public actually perceives the work or not.

(3) The work is deemed publicly performed if it is recited, played, danced, acted or otherwise performed directly or indirectly by means of any technical device or process.

(4) A work is deemed displayed (exhibited) to the public if the work or a copy thereof is presented either directly or indirectly by means of film, slides, television or any technical device or process.

(5) A work is deemed communicated if it is communicated without the use of cable network (by means of radio, television or satellite). Coded signals are deemed transmitted if for the purpose of their communication to the public the means for decrypting are ensured by a broadcasting service provider or with its authorisation.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(6) The work is deemed made available to the public if it is communicated to the public by a cable network or by communicating it without cable in such a way that the public may access the work from a place and at a time chosen by them.

(7) For the purposes of this Act, ‘place open to the public’ means the territory, building or room which is granted for use by the public or to which its owner or holder allows individual access (a street, square, park, sports facility, festival grounds, market, recreation area, theatre, exhibition hall, cinema, club, discotheque, shop, retail enterprise, service enterprise, public means of transport, accommodation establishment etc.).
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 10^1. [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 10^2. Communication by satellite

(1) For the purposes of this Act, ‘satellite’ means any communications satellite operating on frequency bands which are reserved for the broadcast of signals for reception by the public or which are reserved for closed, point-to-point communication on the condition that the circumstances in which individual reception of the signals takes place are comparable to those which apply in the first case.

(2) For the purposes of this Act, ‘communication by satellite’ means the act of introducing, under the control and responsibility of the broadcasting service provider, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth.
[RT I, 06.01.2011, 1– entry into force 16.01.2011]

(3) The act of communication by satellite occurs solely in the state where, under the control and responsibility of the broadcasting service provider, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.
[RT I, 06.01.2011, 1– entry into force 16.01.2011]

(4) If the programme-carrying signals are encrypted, then there is communication by satellite on the condition that the means for decrypting the broadcast are provided to the public by the broadcasting service provider or with its consent.
[RT I, 06.01.2011, 1– entry into force 16.01.2011]

§ 10^3. Retransmission

[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(1) For the purposes of this Act, 'retransmission' means the simultaneous, unaltered and unabridged retransmission of television or radio programmes intended for reception by the public, which is not cable retransmission defined in subsection 2 of this section, where such initial transmission is by wire or over the air including that by satellite, but is not by online transmission, provided that:
1) the retransmission is carried out by a party other than the broadcasting service provider which made the initial transmission of the programme or under whose control and responsibility that initial transmission was made, regardless of how the party carrying out the retransmission obtains the programme-carrying signals from the broadcasting service provider for the purpose of retransmission;
2) where the retransmission is over an internet access service as defined in point (2) of Article 2 of Regulation (EU) 2015/2120 European Parliament and of the Council laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, pp 1–18), it is carried out in a managed environment.

(2) For the purposes of this Act, 'cable retransmission' means means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public, regardless of how the operator of a cable retransmission service obtains the programme-carrying signals from the broadcasting service provider for the purpose of retransmission.

(3) For the purposes of this section, 'managed environment' means an environment in which the party carrying out the retransmission provides a secure retransmission service to users.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 10^4. Direct injection

(1) For the purposes of this Act, 'direct injection' means a technical process by which a broadcasting service provider transmits its programme-carrying signals to an organisation other than a broadcasting service provider (signal distributor), in such a way that the programme-carrying signals are not accessible to the public during that transmission.

(2) Where a broadcasting service provider transmits by direct injection its programme-carrying signals to a signal distributor, without the broadcasting service provider itself simultaneously transmitting those programme-carrying signals directly to the public, and the signal distributor transmits those programme-carrying signals to the public, the broadcasting service provider and the signal distributor are deemed to be participating in a single act of communication to the public in respect of which they must obtain an authorisation from the holders of rights to works or related rights pro rata to their contribution.

(3) The broadcasting service provider and the signal distributor who participate in a single act of communication to the public, are responsible as joint obligors to the holders of copyright and holders of related rights, considering their contribution set out in subsection 2 of this section.

(4) Relations between a broadcasting service provider and signal distributor in participation in a single act of communication to the public, including in obtaining an authorisation from the rightholders, are determined by an agreement. In the absence of such an agreement, the broadcasting service provider and the signal distributor are equally responsible for obtaining an authorisation from the holders of copyright and holders of related rights.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

Chapter III
RIGHTS ARISING UPON CREATION OF WORKS

§ 11. Content of copyright

(1) Copyright in a work arises upon the creation of the work by the author of the work. Moral rights and economic rights constitute the content of copyright.

(2) The moral rights of an author are inseparable from the author's person and non-transferable.

(3) The economic rights of an author are transferable as single rights or a set of rights for a charge or free of charge.

(4) The moral and economic rights of an author may be limited only in the cases prescribed in this Act.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 12. Moral rights

(1) The author of a work has the right to:
1) appear in public as the creator of the work and claim recognition of the fact of creation of the work by way of relating the authorship of the work to the author's person and name upon any use of the work (right of authorship);
2) decide in which manner the author's name shall be designated upon use of the work – as the real name of the author, identifying mark of the author, a fictitious name (pseudonym) or without a name (anonymously) (right of author's name);
3) make or permit other persons to make any changes to the work, its title (name) or designation of the author's name and the right to contest any changes made without the author's consent (right of integrity of the work);
4) permit the addition of other authors' works to the author's work (illustrations, forewords, epilogues, comments, explanations, additional parts, etc.) (right of additions to the work);
5) contest any misrepresentations of and other inaccuracies in the work, its title or the designation of the author's name and any assessments of the work which are prejudicial to the author's honour and reputation (right of protection of author's honour and reputation);
6) decide when the work is ready to be performed in public (right of disclosure of the work);
7) supplement and improve the author's work which is made public (right of supplementation of the work);
8) request that the use of the work be terminated (right to withdraw the work);
9) request that the author's name be removed from the work which is being used.

(2) The rights specified in clauses (1) 7), 8) and 9) of this section shall be exercised at the expense of the author and the author is required to compensate for damage caused to the person who used the work.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 13. Economic rights

[RT I 2006, 1, 1 – entry into force 12.01.2006]

(1) An author shall enjoy the exclusive right to use the author's work in any manner, to authorise or prohibit the use of the work in a similar manner by other persons and to receive income from such use of the author's work except in the cases prescribed in Chapter IV of this Act. The author's rights shall include the right to authorise or prohibit:
1) reproduction of the author's work (right of reproduction of the work). 'Reproduction' means the making one or several temporary or permanent copies of the work or a part thereof directly or indirectly in any form or by any means;
2) distribution of the author's work or copies thereof (distribution right). 'Distribution' means the transfer of the right of ownership in a work or copies thereof or any other form of distribution to the public, including the rental and lending, except for the rental and lending of works of architecture and works of applied art. The first sale or transfer in some other manner of the right of ownership of a copy of a work by the author or with his or her consent in a Member State of the EU or a state which is a contracting party to the EEA Agreement shall exhaust the right specified in this clause and copies of the work may be further distributed in the Member States of the EU or the states which are contracting parties to the EEA Agreement without the consent of the author. An author shall enjoy the exclusive right to authorise or prohibit the rental or lending of copies of his or her works to the public even in the case where the distribution right has been exhausted, except in the cases provided for in § 13^3 of this Act;
3) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]
4) translation of the author's work (right of translation of the work);
5) making adaptations, modifications (arrangements) and other alterations of the work (right of alteration of the work);
6) compilation and publication of collections of the author's works and systematisation of the author's works (right of collections of works);
7) public performance of the work as a live performance or a technically mediated performance (right of public performance);
8) displaying the work to the public (right of exhibition of the work). 'Exhibition of a work' means presentation of the work or a copy thereof either directly or by means of film, slides, television or any other technical device or process;

9) communication of the work by radio, television or satellite, and retransmission thereof by cable network or in any other manner, or direction of the work at the public by other technical devices, except in the manner specified in clause 9^1 of this section (right of communication of the work);
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

9^1) making the work available to the public in such a way that persons may access the work from a place and at a time individually chosen by them (right of making the work available to the public);

10) carrying out the author's architectural project pursuant to the procedure prescribed by law;

11) carrying out the author's project of a work of design or a work of applied arts, etc.

(2) [Repealed – RT I 2000, 78, 497 – entry into force 22.10.2000]

(3) For the purposes of this Act, 'rental' means making a work, copies thereof or any other results specified in this Act available for use, for a limited period of time and for direct or indirect economic or commercial advantage.

(4) For the purposes of this Act, 'lending' means making a work, copies thereof or any other results specified in this Act available for use through establishments which are accessible to the public, for a limited period of time and not for direct or indirect economic or commercial advantage.

(5) The first sale of a copy of a database shall exhaust the right to control resale of the copy of the database.

(6) [Repealed – RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 13^1. Exercise of author's economic rights

[RT I 2004, 71, 500 – entry into force 29.10.2004]

(1) Authors exercise their economic rights either independently or through collective management organisations (Chapter IX).

(2) A work may only be communicated to the public if the person organising the communication of the work to the public has been granted prior authorisation (licence) therefore by the author, his or her legal successor or the collective management organisation representing the author. If several persons organise the communication of a work to the public, one of them shall apply for the authorisation under an agreement between the persons.

(3) The procedure prescribed in subsection (2) of this section also applies if a work is planned to be communicated to the public by technical means (record, cassette or CD player, etc.) in a place open to the public.

(4) A work may be transmitted by radio, television, or satellite or retransmitted by a cable network or in any other manner only if the person communicating or retransmitting the work has been granted prior authorisation (licence) therefore by the author, the author's legal successor or the collective management organisation representing the author.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(5) The procedure prescribed in subsection (2) of this section also applies if a work communicated by means specified in subsection (4) is planned to be transmitted by radio, television, satellite or a cable network in a place open to the public or in such a way that persons may access the work from a place and at a time individually chosen by them.

(6) [Repealed – RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 13^2. Additional economic rights related to computer programs

In addition to the economic rights specified in § 13 of this Act, the author of a computer program has the exclusive right for the physical use and holding of the computer program for commercial purposes.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 13^3. Lending of work and sound recording of work out from libraries

(1) A library has the right to lend out a work and a sound recording of a work without the consent of the author, performer or producer of phonograms, but they are entitled to receive remuneration for such lending out. Lending out an audiovisual work is permitted only in case the producer of the first fixation of a film has granted a respective authorisation.

(2) The lending out of a sound recording of a work is permitted in case four months have passed since the start of the distribution of such sound recording in Estonia. The said time-limit can be shortened with the consent of the holder of related rights which is in written format or in a format which can be reproduced in writing.

(3) A library providing services to an educational institution operating in a field of study of audiovisual arts or music is entitled to lend out an audiovisual work and a sound recording of a work for teaching and scientific

research without the consent of all holders of related rights and without the time-limit set out in subsection (2) of this section.

(4) The amount of remuneration payable to the author, performer and producer of phonograms is calculated on the basis of the state budget funds allocated for remunerations in the financial year and the electronically registered loans in public libraries within the calendar year.

(5) Remuneration shall be paid to the author on the basis of an application which is in written format or in a format which can be reproduced in writing, except in the case set out in subsection (7) of this section.

(6) In order to pay the remuneration to the author, the Government of the Republic shall establish by a regulation:
1) the list of information to be submitted in an application;
2) the rates of distribution of the remuneration between different authors;
3) the bases of and procedure for calculation and payment of remuneration.

(7) The remuneration to the author of an audiovisual work and author of a sound recording of a work, performer of a musical work and producer of phonograms is paid via the collective management organisation representing such author of an audiovisual work, author of a sound recording of a work, performer of a musical work or producer of phonograms.

(8) The remuneration is paid by a legal person determined by the minister responsible for the area.

(9) The payer of remuneration has the right to obtain from public libraries all the information necessary for the payment of the remuneration. Any additional related expenses are borne by the payer of the remuneration.

(10) The upper limit of the remuneration payable on the grounds of subsection (5) of this section shall be four times the average gross wages of the preceding year in Estonia as reported by Statistics Estonia.
[RT I 2008, 18, 123 – entry into force 15.05.2008]

§ 14. Author’s right to remuneration

(1) An author has the right to obtain appropriate and proportional remuneration (author’s remuneration) for the use of the author’s work by other persons except in the cases prescribed by this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) The amount of the remuneration, including rental fees, and the procedure for the collection and payment thereof shall be determined by an agreement (contract) between the author and a user of the work or, by the authorisation of the author, by an agreement between a collective management organisation representing authors or any other person and a user of the work, in which case the specifications provided for in Chapter IX of this Act shall be taken account of.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

(3) It is prohibited to use a work before an agreement specified in subsection (2) of this section is reached.

(4) If the parties agree on the remuneration but the obligated party fails to perform the party’s obligation in part or in full by the due date, the obligated party must stop using the work unless otherwise agreed with the entitled party.

(5) A violation of subsection (4) of this section is deemed the use of a work without the authorisation of the author or holder of the author’s rights.

(6) Where an author has transferred (assigned) the author’s economic rights to a producer of audiovisual works or granted an authorisation (licence) to use (including to rent) the original or a copy of an audiovisual work, or where such transfer or authorisation is presumed, the author shall retain the right to obtain equitable remuneration from the television broadcasting service provider, commercial lessor or another person who uses the audiovisual work. An agreement to waive the right to obtain equitable remuneration is void.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(7) Where an author has transferred (assigned) the right or granted an authorisation (licence) to a producer of phonograms to rent a copy of a phonogram, or where such transfer or authorisation is presumed, the author shall retain the right to obtain equitable remuneration from the commercial lessor for such rental. An agreement to waive the right to obtain equitable remuneration is void.
[RT I 2004, 71, 500 – entry into force 06.01.2000]

§ 15. Remuneration for resale of original works of art

(1) The author of an original work of art has the right to receive a remuneration based on the sale price each time when the work is sold after the first transfer of the right of ownership in the work.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(2) The right specified in subsection (1) of this section shall apply to acts of resale involving as sellers, buyers or intermediaries salesrooms, art galleries or dealers in works of art.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(3) For the purposes of this section, 'original work of art' means works of visual art such as paintings, graphics, sculptures, installations, works of applied art and photographs, provided they are made by the artist himself or herself or are copies which have been numbered, signed or otherwise authorised him or her.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(4) Rates of remuneration:
1) 5 per cent for the portion of the sale price up to 50 000 euros;
2) 3 per cent for the portion of the sale price from 50 001 to 200 000 euros;
3) 1 per cent for the portion of the sale price from 200 001 to 350 000 euros;
4) 0.5 per cent for the portion of the sale price from 350 001 to 500 000euros;
5) 0.25 per cent for the portion of the sale price exceeding 500 000 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(5) The remuneration for the resale of an original work of art shall not exceed 12 500 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(6) The remuneration specified in subsection (1) of this section does not apply if the sale price is less than 64 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(7) For a period of three years after the resale, the author and the collective management organisation have the right to require from the person who arranged the resale to furnish the information necessary in order to secure payment of royalties in respect of the resale.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(8) The remuneration specified in subsection (1) of this section shall be paid within thirty days as of the date of resale.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(9) The author has the right to receive the remuneration specified in subsection (1) of this section for a period of three years after the resale.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

§ 16. Copyright and right of ownership

(1) Copyright in a work shall belong to the author or his or her successor regardless of who has the right of ownership in the economic object in which the work is expressed. The manner in which the economic rights of the author or his or her successor are exercised shall be determined by an agreement between the author or his or her successor and the owner.

(2) In order to make a copy of a work of visual art, the author of the work has the right to request access to the original of the work which is in the ownership or lawful possession of another person.

(3) An author may, with the owner's consent, improve, supplement or process in any other manner the author's work of visual art, architecture, applied art, design, etc.

Chapter IV
LIMITATIONS ON EXERCISE OF ECONOMIC RIGHTS OF AUTHORS (FREE USE OF WORKS)

1. FUNDAMENTAL PROVISIONS

§ 17. Limitation to economic rights of authors

Notwithstanding §§ 13 – 15 of this Act, but provided that this does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author, it is permitted to use a work without the authorisation of its author and without payment of remuneration only in the cases explicitly prescribed in §§ 18 – $25^4$of this Act.

[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

§ 17[1]. Definitions

(1) For the purposes of this Act, 'text and data mining' means any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations.

(2) For the purposes of this Act, a 'research organisation' means a legal person specified in subsection 1 of § 3 of the Organisation of Research and Development Act, including a university and its libraries, as well as a research institute or any other entity, the primary goal of which is to conduct scientific research or to carry out educational activities involving also the conduct of scientific research, doing it on a not-for-profit basis or by reinvesting all the profits in its scientific research, or pursuant to a public interest mission in such a way that the access to the results generated by such scientific research cannot be enjoyed on a preferential basis by an undertaking that exercises a decisive influence upon such organisation.

(3) For the purposes of this Act, a 'cultural heritage institution' means a publicly accessible library or museum, an archive or a film or audio heritage institution.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 18. Free reproduction and translation of works for purposes of personal use

(1) A lawfully published work may be reproduced and translated by a natural person for the purposes of personal use without the authorisation of its author and without payment of remuneration on the condition that such activities are not carried out for commercial purposes.

(2) The following shall not be reproduced for the purposes of personal use without the authorisation of the author and without payment of remuneration:
1) works of architecture and landscape architecture;
2) works of visual art of limited edition;
3) electronic databases;
4) computer programs, except the cases prescribed in §§ 24 and 25 of this Act;
5) notes in reprographic form.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

§ 18[1]. Restriction of author's right to reproduce

(1) Without the authorisation of the author and without payment of the remuneration, a temporary or casual reproduction of the work which occurs as an integral and essential part of a technical process and the purpose of which is to mediate the communication of the work in the network between third parties or to make possible the lawful use of the work or an object of related rights and which has no independent commercial purpose is permitted.

(2) Subsection (1) of this section does not extend to computer programs.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 19. Free use of works for scientific, educational, informational and judicial purposes

(1) The following is permitted without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work, if it appears thereon, the name of the work and the source publication:
1) making summaries of and quotations from a work which has already been lawfully made available to the public, provided that its extent does not exceed that justified by the purpose and the idea of the work as a whole which is being summarised or quoted is conveyed correctly;
2) the use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on the condition that such use is not carried out for commercial purposes, considering the special rules provided in clause $3^2$of this subsection;
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
3) the reproduction of a lawfully published work for the purpose of teaching or scientific research to the extent justified by the purpose in educational and research institutions whose activities are not carried out for commercial purposes;
3^1) [repealed – RT I, 28.12.2021, 1 – entry into force 07.01.2022]
3^2) the reproduction of a lawfully published work in digital form and communicating it to the public solely for the purpose of illustration to the extent justified by the purpose and on the condition that such use is carried out for non-commercial purposes, under the responsibility of the educational establishment on its premises or at other venues, or through a secure electronic environment accessible only by the educational establishment's pupils or students and teaching staff.

[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
4) for the purpose of reporting current events, the reproduction in the press and communicating to the public of works seen or heard in the course of an event, to the extent justified by the purpose, in the form and to the extent required by the purpose of reporting current events;
5) reproduction of a work for the purposes of a judicial procedure or insurance of public security and to the extent justified by the purposes of a judicial procedure or insurance of public security;
6) the reproduction, distribution and communication to the public of a lawfully published work in the interests of disabled persons in a manner which is directly related to their disability on the condition that such use is not carried out for commercial purposes, and considering the specifications provided for in Subchapter $2^1$of Chapter IV of this Act, except in case of works created specifically for disabled persons or for the beneficiary persons specified in subsection 25^2(2) of this Act;
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]
7) the use of a lawfully published work in a caricature, parody or pastiche to the extent justified by such purpose.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(2) An agreement which prejudices the use of a work in the manner specified in clause $3^2$of subsection 1 of this section is void.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3) Use of a work in the manner specified in clause $3^2$of subsection 1 of this section is deemed to occur solely in the Member State of the EU or a state which is a contracting party to the EEA Agreement, where the respective educational establishment is established.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 19^1. Free use of work in scientific research for the purpose of text and data mining

(1) Research organisations and cultural heritage institutions have the right, without the authorisation of the author and without payment of remuneration, to reproduce works to which they have lawful access, for the purpose of text and data mining.

(2) Copies of works made in compliance with subsection 1 of this section must be stored with an appropriate level of security and may be retained for the purposes of scientific research, including for the verification of research results.

(3) Authors have the right to apply measures to ensure the security and integrity of the networks and databases where their works are hosted. Such measures may not go beyond what is necessary to achieve that objective.

(4) Any contractual provisions which prejudice the free use of a work in a manner specified in subsection 1 of this section are void.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 19^2. Free use of work for the purpose of text and data mining for purposes other than scientific research

(1) Without prejudice to the application of § $19^1$of this Act, reproduction of lawfully accessible works for the purposes of text and data mining is allowed without the authorisation of the author and without payment of remuneration.

(2) The author may expressly and in an appropriate manner reserve the free use provided in subsection 1 of this section, including by machine-readable means in the case of content made publicly available online.

(3) Copies of works made in compliance with subsection 1 of this section may be stored for as long as it is necessary for the purposes of text and data mining.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 20. Free use of works by cultural heritage institutions

[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(1) A cultural heritage institution has the right to reproduce works included in their collection without the authorisation of its author and without payment of remuneration, in order to:
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
1) replace works which have been lost, destroyed or rendered unusable;
2) make copies in any format or medium, including digital form, for purposes of preservation of such works and to the extent necessary for such preservation;
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
3) replace works which belonged to the permanent collection of another cultural heritage institution if the works are lost, destroyed or rendered unusable;
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
4) [repealed – RT I, 28.12.2021, 1 – entry into force 07.01.2022]

5) make a copy for a natural person for the purposes specified in § 18 of this Act;
6) make a copy on the order of a court or a state authority for the purposes prescribed in clause 19 5) of this Act.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

(2) The provisions of clauses 1 and 3 of subsection 1 of this section apply in cases where acquisition of another copy of the work is impossible.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3) A cultural heritage institution has the right to use a work included in their collection without the authorisation of its author and without payment of remuneration for the purposes of an exhibition or the promotion of the collection to the extent justified by the purpose.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(4) A cultural heritage institution has the right, without the authorisation of the author and without payment of remuneration, on order from a natural person:
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
1) to make available works in its collections on the spot through special equipment;
2) to lend works in its collections for individual on-the-spot use.
[RT I 2008, 18, 123 – entry into force 15.05.2008]

(5) The activities specified in this section shall not be carried out for commercial purposes.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

(6) Any contractual provisions which prejudice the free use of a work in the manner specified in clause 2 of subsection 1 of this section are void.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 20[1]. Free use of reproductions of works located in places open to public

It is permitted to reproduce works of architecture, works of visual art, works of applied art or photographic works which are permanently located in places open to the public, without the authorisation of the author and without payment of remuneration, by any means except for mechanical contact copying, and to communicate such reproductions of works to the public except if the work is the main subject of the reproduction and it is intended to be used for direct commercial purposes. If the work specified in this section carries the name of its author, it shall be indicated in communicating the reproduction to the public.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 20[2]. Free use of reproductions of works of architecture located in places open to public in real estate advertisements

The reproduction and communication to the public of reproductions of works of architecture in real estate advertisements to the extent justified by the purpose without the authorisation of the author and without payment of remuneration is permitted if mention is made of the name of the author of the work.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

§ 21. [Repealed – RT I 1999, 10, 156 – entry into force 15.02.1999]

§ 22. Free public performance of works

The public performance of works in the direct teaching process in educational institutions by the teaching staff and students without the authorisation of the author and without payment of remuneration is permitted if mention is made of the name of the author or the title of the work used, if it appears thereon, on the condition that the audience consists of the teaching staff and students or other persons (parents, guardians, caregivers, etc.) who are directly connected with the educational institution where the work is performed in public.

§ 23. Use of ephemeral recordings of works by broadcasters

(1) A broadcaster may make, without the authorisation of the author and without payment of remuneration, ephemeral recordings of works which it has the right to broadcast on the condition that such recordings are made by means of its own facilities and used for its own broadcasts.

(2) The broadcaster is required to destroy recordings prescribed in subsection (1) of this section within thirty days as of the making thereof unless otherwise agreed with the author of the work thus recorded.

(3) Ephemeral recordings prescribed in this section shall not be destroyed if they have considerable value in terms of cultural history. In such case, the recordings shall be preserved, without the authorisation of the

author, in the archives of the broadcaster as works of solely documentary character. Works to be preserved in the archives shall be decided on by the broadcasting service provider or, in the case of a dispute, by the State Archivist.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

§ 24. Free use of computer programs

(1) Unless otherwise prescribed by contract, the lawful user of a computer program may, without the authorisation of the author of the program and without payment of additional remuneration, reproduce, translate, adapt and transform the computer program in any other manner and reproduce the results obtained if this is necessary for:
1) the use of the program on the device or devices, to the extent and for the purposes for which the program was obtained;
2) the correction of errors present in the program.

(2) The lawful user of a computer program is entitled, without the authorisation of the author of the program or the legal successor of the author and without payment of additional remuneration, to make a back-up copy of the program provided that it is necessary for the use of the computer program, or to replace a lost or destroyed program or a program rendered unusable.

(3) The lawful user of a computer program is entitled, without the authorisation of the author of the program and without payment of additional remuneration, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he or she does so while performing any act of loading, displaying, running, transmitting or storing the program which he or she is entitled to do.

(4) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

(5) Any contractual provisions which prejudice the exercise of the rights specified in subsection (2) or (3) are void.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 25. Decompilation of computer programs

(1) The lawful user of a computer program may reproduce and translate a computer program without the authorisation of the author of the program and without payment of additional remuneration if these acts are indispensable to obtain information necessary to achieve the interoperability of a program created independently of the original program with other programs provided that the following conditions are met:
1) these acts are performed by the lawful user of the program or, on the behalf of the lawful user of the program, by a person authorised to do so;
2) the information necessary to achieve the interoperability of programs has not previously been available to the persons specified in clause 1) of this subsection;
3) these acts are confined to the parts of the original program which are necessary to achieve interoperability.

(2) Information obtained as a result of the acts prescribed in subsection (1) of this section shall not be:
1) used for goals other than to achieve the interoperability of the independently created program;
2) disclosed to third persons except when necessary for the interoperability of the independently created program;
3) used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes the copyright of the author of the original program.

(3) Any contractual provisions which prejudice the exercise of the rights specified in this section are void.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 25^{1}. Free use of database

The lawful user of a database or of a copy thereof is entitled, without the authorisation of the author and without payment of additional remuneration, to perform any acts which are necessary for the purposes of access to the contents of the database and normal use of its contents. If the lawful user is authorised to use only part of the database, this provision shall only apply to the corresponding part of the database or of a copy thereof. Any contractual provisions which prejudice the exercise of the right are void.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

2^{1}. USE OF WORKS WITHOUT AUTHORISATION OF AUTHOR AND WITHOUT PAYMENT OF REMUNERATION FOR BENEFIT OF PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT-DISABLED

[RT I, 27.11.2018, 1 - entry into force 28.11.2018]

§ 25[2]. Definitions

(1) 'Work or other subject matter' within the meaning of this Subchapter means a book, journal, newspaper, magazine or other kind of writing, and illustrations thereof, as well as a character set, including sheet music, which is lawfully published in any media, including in digital format, and which is protected by copyright or related rights.

(2) 'Beneficiary person' means, regardless of any other disabilities, a person who:
1) is blind;
2) has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;
3) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability; or
4) is otherwise unable, due to a physical disability, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

(3) 'Accessible format copy' means a copy of a work or other subject matter in an alternative manner or form that gives a beneficiary person access to the work or other subject matter, including allowing such person to have access as feasibly and comfortably as a person without any of the disabilities or visual impairment referred to in subsection (2) of this section.

(4) 'Authorised entity' means a governmental authority, a state authority entity administered by a government authority, a local government authority, an authority administered by a local government authority or a legal person that provides education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

§ 25[3]. Permitted uses

(1) No authorisation of the author or the holder of related rights is required for using a work or other subject matter without payment of remuneration in the cases specified in clauses 1, 2, 5, 9 and 9[1] of subsection 1 of § 13, clauses 3[1], 5, 6 and 7 of subsection 2 of § 67, clauses 1, 3, 4 and 5 of subsection 1 of § 70, subsection 1 of § 72, clauses 1, 3, 4, 41 and 5 of subsection 1 of § 73, subsection 2 of § 73[2] and subsection 2 of § 75[4] of this Act, respecting inter alia the integrity of the work or other subject matter, for any act necessary for:
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
1) a beneficiary person, or a person acting on their behalf, to make an accessible format copy of a work or other subject matter to which the beneficiary person has lawful access for the exclusive use of the beneficiary person;
2) an authorised entity to make an accessible format copy of a work or other subject matter to which it has lawful access, or to communicate, make available, distribute or lend an accessible format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

(2) Any condition of a contract restricting the free use of a work or other subject matter in the manner specified in subsection (1) of this section, is null and void.

(3) An authorised entity may make copies of a work or other subject matter in the cases referred to in clause 2) of subsection (1) of this section for the benefit of another authorised entity established in any other Member State, and obtain or have access to an accessible format copy from an authorised entity established in any other Member State.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

§ 25[4]. Obligations of authorised entities

(1) An authorised entity that makes copies of a work or other subject matter pursuant to subsection 25[3](1) of this Act must ensure that it:
1) distributes such copies, communicates them to the public or makes them available to the public only in order to enable access to such copies to beneficiary persons or other authorised entities;
2) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;
3) demonstrates due care in, and maintains records of, its handling of works or other subject matter and of accessible format copies thereof; and

4) publishes and updates, on its website if appropriate, or through other channels, information on how it complies with the obligations laid down in clauses 1)–3) of this subsection.

(2) The authorised entity specified in subsection (1) of this section provides the following information in an accessible way, on request, to beneficiary persons, other authorised entities or authors or holders of related rights:
1) the list of works or other subject matter for which it has accessible format copies and the available formats, specifying the form in which they are accessible; and
2) the names and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to subsection 25^3(3) of this Act.

(3) An authorised entity may, for the purpose of complying with the obligation specified in clause 1) of subsection (1) of this section, process the health records of a person to ascertain whether the person is a beneficiary person within the meaning of subsection 25^2(2) of this Act.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

§ 25^5. Sharing of information on authorised entities operating for the benefit of persons who are blind, visually impaired or otherwise print-disabled

(1) The authorised entities specified in subsection 25^2(4) of this Act shall inform the Estonian Library for the Blind operating as a structural unit of the Repository Library of Estonia, if they use a work or other subject matter pursuant to clause 25^3(1) 2).

(2) The Estonian Library for the Blind shall send the information received from the authorised entities operating in Estonia pursuant to subsection (1) of this section to the European Commission.
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]

3. Use of Works without Authorisation of Author but with Payment of Remuneration

§ 26. Private use of audiovisual works and sound recordings of works

(1) Audiovisual works or sound recordings of such works may be reproduced for the private use (scientific research, studies, etc.) of the user without the authorisation of the author. The author as well as the performer of the work, the producer of phonograms and producer of the first fixation of a film have the right to obtain equitable remuneration for such use of the work or phonogram (§ 27).
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(2) Subsection (1) of this section does not apply to legal persons.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 27. Remuneration for private use of audiovisual works and sound recordings of works

(1) The manufacturers, importers, sellers of storage media and recording devices and persons who bring storage media and recording devices from another EU Member State into Estonia, shall pay the remuneration specified in § 26 of this Act.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(2) The seller shall pay remuneration in case the manufacturer, importer, or the person who brings storage media and recording devices from another EU Member State into Estonia has not paid remuneration.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(3) The seller has the right to reclaim remuneration from the manufacturer, importer and the person who brings storage media and recording devices from another EU Member State into Estonia.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(4) Natural persons shall pay remuneration in case the importing of storage media and recording devices or bringing of the storage media and recording devices from another EU Member State into Estonia is carried out for commercial purposes.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(5) The remuneration shall be repaid on the storage media and recording devices:
1) which, due to their technical characteristics, do not enable the reproduction of audiovisual works and sound recordings of works as single copies;
2) exported or transported from Estonia into another EU Member State;
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]
3) which are used in the course of the activities specified in the articles of association of the undertaking;
4) which are used in an activity in the case of which the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage;

5) which are intended for recording activities in educational and research institutions for the purpose of teaching or scientific research;
6) used for making recordings for the benefit of disabled persons.

(6) For repayment of the remuneration, the purchaser of the storage medium or recording device may submit, in the case specified in subsection (5) of this section, a written application to the collector of remuneration within three years after purchasing the storage medium or recording device. The collector of remuneration shall repay the remuneration within six months after submission of the respective application.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(7) The Government of the Republic shall establish by a regulation the procedure for payment of remuneration to compensate for private use of audio-visual works and sound recordings of works, the list of storage media and recording devices and the rates of remuneration to be collected on them.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(7^1) The list of storage media and recording devices and the rates of remuneration to be collected on them as specified in subsection (7) of this section shall be established on the basis of the following conditions:
1) the remuneration collected must ensure the authors, performers, producers of phonograms and producers of the first fixations of films a fair compensation for the damage that they are estimated to suffer due to the restriction of their economic rights in the case specified in subsection 26 (1) of this Act, and taking into account the number of copies made for private use;
2) the entry of a storage medium or a recording device in the list and the rate of remuneration collected on it must be pro rata to the extent of the damage referred to in clause 1) of this subsection, incurred presumably due to the fact that the respective type of storage media or recording devices are used for the reproduction of works or sound recordings of works;
3) the recording devices on which the remuneration shall be collected, include but are not limited to laptops, tablets or personal computers and smartphones, and the storage media on which the remuneration shall be connected include but are not limited to external hard drives, USB flash drives and memory cards;
4) the rate of remuneration collected on recording devices shall be 3 – 8 euros and the rate of remuneration collected on storage media shall be 0.03 – 4 euros.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(7^2) The use of storage media and recording devices for the reproduction of audiovisual works or sound recordings of works and a change in the volume of making copies for private use shall be evaluated by the Government of the Republic at least once in every four years.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(8) Remuneration shall be distributed among authors, performers, producers of phonograms and producers of the first fixations of films according to the use of works and phonograms, and other conditions provided for in this Act.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(9) Remuneration shall be distributed on the basis of a distribution plan for the preparation of which the minister responsible for the area shall appoint a committee every year, which is proportionally comprised of collective management organisations representing the authors, performers, producers of phonograms and producers of the first fixations of films, and a representative of the Ministry of Justice.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(10) Remuneration may also be paid to organisations for the development of music and film culture and in order to finance educational and research programmes or for use thereof for other similar purposes, but only in an amount not exceeding 10 per cent of the remuneration subject to distribution.

(11) The minister responsible for the area shall approve the distribution plan not later than three months after the end of the budgetary year, having previously obtained the approval of the representatives of authors, performers, producers of phonograms and producers of the first fixations of films.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(12) The minister responsible for the area may appoint a collective management organisation to collect remuneration. The minister responsible for the area may appoint also any other legal person in private law, a governmental authority or a state authority administered by a governmental authority to collect remuneration, if no collective management organisation is capable of collecting remuneration or does not agree to collect remuneration.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(12^1) The collector of remuneration has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected. The collector of remuneration shall submit a written report on the collection and payment of remuneration and the deductions made, by 31 January every year.

[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(13) The person appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organisations and manufacturing and importing organisations and sellers. The information submitted is confidential and the collector of remuneration has the right to use and disclose the information only in connection with the collection of remuneration.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(14) The Government of the Republic shall establish by a regulation the procedure for applying for the remuneration specified in subsection (10) of this section.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(15) If the person specified in subsection (1) of this section is in delay with payment of remuneration, such person shall pay delay interest on the outstanding remuneration to the collector of remuneration at the rate provided for in the second sentence of subsection 113 (1) of the Law of Obligations Act starting from the day when the obligation to pay remuneration becomes collectible until the day when it is duly performed, but not over 50 per cent of the outstanding remuneration. If the person specified in subsection (1) of this section does not provide the collector of remuneration with data on the storage media and recording devices produced or brought to Estonia by such person, which are necessary for determining the amount of remuneration, delay interest shall be calculated on the outstanding remuneration from the day following the day when the respective data should have been submitted.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(16) Administrative supervision over performance of the obligations of the collector of remuneration provided for in this section shall be exercised by the Ministry of Justice.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

§ 27[1]. Remuneration for reprographic reproduction works

(1) Authors and publishers are entitled to receive equitable remuneration for the reprographic reproduction of their works in the cases specified in subsection 18 (1) and clause 19 3) of this Act.

(2) The amount of remuneration payable to the author is calculated on the basis of the state budget funds allocated for remunerations in the financial year and the number of the names of works registered in the database of national bibliography.

(3) The amount of remuneration payable to the author is calculated on the basis of the state budget funds allocated for remunerations in the financial year and the number of the names of works with an ISBN and ISSN number published during ten calendar years preceding submission of the application.

(4) The remuneration is paid by a legal person who represents the authors or authors' organisations and determined by the minister responsible for the area.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(5) Remuneration shall be paid on the basis of an application in written format or in a format which can be reproduced in writing.

(6) The Government of the Republic shall establish the rates of distribution of the remuneration prescribed in subsection (1) of this section between the authors and publishers of fiction and scientific and educational literature and the procedure for payment of remuneration.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

4. USE OF ORPHAN WORKS

[RT I, 29.10.2014, 2 - entry into force 30.10.2014]

§ 27[2]. Orphan works

(1) The following objects of copyright and related rights that were first published in a Member State of the EU or a state which is a contracting party to the EEA Agreement, or in the absence of publication, were first broadcast in a Member State of the EU or a state which is a contracting party to the EEA Agreement, are permitted to be freely used on the terms set out in this Subchapter:
1) books, journals, newspapers or other works published in the form of writings that are stored in the collections of public archives, museums, libraries, educational and research establishments or of film or audio heritage institutions (hereinafter public memory institutions);
2) audiovisual works or phonograms stored in the collections of public memory institutions;
3) audiovisual works or phonograms produced by Estonian Public Broadcasting up to 31 December 2002 (included) and stored in the archives of Estonian Public Broadcasting;
4) objects of rights that are contained in the works or phonograms specified in clauses 1)–3) above or constitute an integral part thereof.

(2) The provisions of this Subchapter are also applied to the works or phonograms specified in clauses (1) 1)–3) of this section that have never been published or broadcast but which have been made publicly accessible by an institution referred to in subsection (1) with the consent or the author or holder of related rights, provided that it is reasonable to assume that the author or holder of related rights does not oppose the uses specified in subsection 27^6(1) of this Act.

(3) The works or phonograms specified in subsections (1) and (2) of this section are orphan works if no rightholders in such works or phonograms are identified or none of the rightholders has been located despite a diligent search for an author or a holder of related rights having been carried out and recorded pursuant to § $27^3$of this Act.

(4) Where there is more than one rightholder in a work or phonogram, and not all of them have been identified or, even if identified, located after a diligent search has been carried out and recorded pursuant to § $27^3$of this Act, the work or phonogram may be used in accordance with this Subchapter provided that the rightholders that have been identified and located have, in relation to the rights they hold, authorised a public memory institution or Estonian Public Broadcasting to reproduce the works or phonograms and make them available to the public.

(5) Subsection (4) of this section is without prejudice to the rights in the works or phonograms of the authors and holders of related rights who have been identified and located.

(6) Subsections 29 (2) and (3) and subsection 62^1(3) of this Act are applied to anonymous or pseudonymous works and objects of related rights.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

§ 27^3. Diligent search

(1) For the purposes of establishing whether a work or a phonogram that a public memory institution or Estonian Public Broadcasting wishes to use is an orphan work, the respective institution shall ensure that a diligent search is carried out in good faith in respect of each object of rights with the purpose of identifying or locating the rightholder in the work or phonogram. The search shall be carried out by consulting the appropriate sources and it shall be completed prior to the use of the work or phonogram.

(2) The sources that are appropriate for carrying out a diligent search prior to considering a work or phonogram as an orphan work shall be established by a regulation of the minister responsible for the area.

(3) A diligent search shall be carried out in the Member State of the EU or state which is a contracting party to the EEA Agreement where the work was first published or, in the absence of publication, where it was first broadcast, except in the case of audiovisual works the producer of which has his headquarters or habitual residence in a Member State of the EU or a state which is a contracting party to the EEA Agreement. In such case the diligent search shall be carried out in the Member State of the EU or the state which is a contracting party to the EEA Agreement where the headquarters or the habitual residence of the producer of the audiovisual work are located.

(4) In the case specified in subsection 27^2(2) of this Act, a diligent search shall be carried out in the Member State of the EU or the state which is a contracting party to the EEA Agreement where the organisation that made the work or phonogram publicly accessible with the consent of the author or holder of related rights is located.

(5) If there is evidence to suggest that relevant information on the rightholder is to be found in other countries that have not acceded to the European Union and that are not contracting parties to the EEA Agreement, sources of information available in those countries shall also be consulted.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

§ 27^4. Competent authority

(1) The Patent Office is the competent authority that shall exchange information regarding orphan work status in Estonia.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(2) Public memory institutions and Estonian Public Broadcasting shall maintain records of diligent searches and shall provide the following information to the Patent Office:
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]
1) information regarding a diligent search that has been carried out and the results thereof which have led to the conclusion that the work or phonogram is considered an orphan work;
2) the use that the institution makes of the orphan work pursuant to § 276 of this Act;
3) any change, pursuant to § $27^7$of this Act, of the orphan work status of the work or phonogram that is being used;

4) the relevant contact information of the institution.

(3) The Patent Office shall immediately forward the information specified in subsection (2) of this section to the database of orphan works established by the European Union Intellectual Property Office (hereinafter the orphan works database).
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

§ 27[5]. Mutual recognition of orphan work status

A work or phonogram which is considered an orphan work in a Member State of the EU or a state which is a contracting party to the EEA Agreement shall be considered an orphan work in all Member States of the EU or states which are contracting parties to the EEA Agreement.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

§ 27[6]. Free use of orphan works

(1) Public memory institutions and Estonian Public Broadcasting are permitted to use a work or phonogram contained in their collections which has been considered an orphan work and forwarded to the orphan works database, only in public interests and provided that the names of all identified rightholders are indicated in the following cases:
1) making available to the public for cultural and educational purposes;
2) reproduction for the purpose of digitising, making available to the public, indexation, cataloguing, preservation or restoration.

(2) The institutions specified in subsection (1) of this section are permitted to generate revenues in the course of the permitted free use only for the purpose of covering the costs of digitising orphan works and making them available to the public.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

§ 27[7]. Partial or full invalidation of orphan work status

(1) Rightholders in orphan works may at any time address the institution that considered the work or phonogram as an orphan work, and claim invalidation of the orphan work status to the extent of their copyright or related rights.

(2) For the purpose of partial or full invalidation of orphan work status, the rightholders shall provide the institution that considered the work or phonogram as an orphan work with sufficient evidence to show the existence and extent of their copyright or related rights.

(3) If the holding of copyright or related rights in a work or phonogram considered as orphan work has been confirmed on the basis of the evidence submitted pursuant to subsection (2) of this section, the institution that considered the work or phonogram as an orphan work shall immediately forward the information regarding partial or full invalidation of the orphan work status to the Patent Office.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(4) The Patent Office shall immediately forward the information regarding partial or full invalidation of the orphan work status to the orphan works database.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(5) The Patent Office shall gather the information received during a calendar year on the basis of subsection (3) of this section and shall forward it to the committee established pursuant to subsection 27[8](2) of this Act by 15 January of the subsequent calendar year.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

§ 27[8]. Remuneration for use of works or phonograms considered as orphan works

(1) If the orphan work status of a work or phonogram has been partially or fully invalidated, the rightholder is entitled to receive remuneration for the use of the work or phonogram.

(2) A committee, consisting of representatives of organisations representing authors, performers, producers of phonograms and producers of audiovisual works, representatives of the Ministry of Culture and of the Ministry of Justice, shall be established to determine the amount of the remuneration payable to the author or producer of a phonogram.

(3) The committee shall be established by a directive of the minister responsible for the area and directing the ministry which function, pursuant to its statutes, is to pay remuneration for the use of the work or phonogram considered as an orphan work.

(4) The committee specified in subsection (2) of this section shall decide on the amount of remuneration payable to the rightholder in the work with a partially or fully invalidated orphan work status, taking into

account the damage caused to the rightholder as well as the purposes and nature of use of the orphan work so far.

(5) The minister specified in subsection (3) of this section shall approve the amounts of payable remuneration, broken down by rightholders, on the basis of the decision of the committee established pursuant to subsection (2) of this section, not later than three months after the end of a financial year.

(6) The ministry specified in subsection (3) of this section shall pay the remuneration approved for the rightholders pursuant to this section not later than nine months after the end of a financial year. The total amount of remuneration payable per financial year shall not exceed 2000 euros.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

Chapter V
PERSONS TO WHOM COPYRIGHT SHALL BELONG

§ 28. Author of work

(1) The moral and economic rights of an author shall initially belong to the author of a work unless otherwise prescribed by this Act with regard to the economic rights of the author.

(2) The author of a work is the natural person or persons who created the work.

(3) Copyright shall belong to a legal person only in the cases prescribed in this Act.

(4) Copyright shall belong to the state only in the cases prescribed in this Act.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 29. Presumption of authorship

(1) The authorship of a person who publishes a work under his or her name, a generally recognised pseudonym or the identifying mark of the author shall be presumed until the contrary is proved. The burden of proof lies on the person who challenges authorship.

(2) The author of a work which is communicated to the public anonymously or under a pseudonym or the identifying mark of the author shall enjoy copyright in the work. Until the moment when the author reveals his or her real name and proves his or her authorship, the economic rights of the author are exercised by the person who lawfully published the work.

(3) The person who represents the author in the cases prescribed in subsection (2) of this section shall retain the rights to use the work acquired by the person during the time the person acts as a representative unless otherwise prescribed by an agreement between the person and the author.
[RT I 1999, 10, 156 – entry into force 15.02.1999]

§ 30. Joint authorship and co-authorship

(1) Copyright in a work created by two or more persons as a result of their joint creative activity shall belong jointly to the authors of the work.

(2) A work created as a result of joint creative activity may constitute an indivisible whole (joint authorship) or consist of parts each of which has independent meaning of its own (co-authorship). A part of a work is deemed to have independent meaning if it can be used independently of other parts of the work.

(3) Each co-author of a work shall enjoy copyright in the part of the work with independent meaning created by him or her and the co-author may use that part of the work independently. Such use shall not prejudice the interests of other co-authors or contradict the interests of joint use of the co-authors of the work.

(4) Relations between joint authors in the exercise of copyright, including the distribution of remuneration, shall be determined by an agreement between them. In the absence of such agreement, all authors shall exercise copyright in the work jointly and remuneration shall be divided equally between them.

(5) Each of the joint authors and co-authors may have recourse to the courts or take other measures to protect the jointly created work and eliminate any infringement of copyright.

(6) Consulting authors, performing the functions of administrative management, editing a work, drawing graphs, schemes, etc. and providing other technical assistance to authors shall not constitute the basis for the creation of joint authorship or co-authorship.

(7) If a work is created under an employment contract in execution of the direct duties of a person, in order to form a group of authors, the prior consent of the person is necessary in order to include him or her in the group of authors. Refusal to participate in the work of a group of authors for good reason shall not be considered breach of work discipline.

§ 31. Copyright in collective works

(1) A collective work is a work which consists of contributions of different authors which are united into an integral whole by a natural or a legal person on the initiative and under the management of this person and which is published under the name of this natural or legal person (works of reference, collections of scientific works, newspapers, journals and other periodicals or serials, etc.).

(2) Copyright in a collective work shall belong to the person on whose initiative and under whose management the work was created and under whose name it was published unless otherwise prescribed by contract.

(3) The authors of the works included in a collective work (contributions) shall enjoy copyright in their works and they may use their works independently unless otherwise determined by contract. Authors of contributions are not deemed to be joint authors or co-authors.

(4) The provisions of this section apply to press publishers, considering the special rules provided in § $73^2$of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 32. Copyright in works created in execution of duties of employment

(1) The author of a work created under an employment contract or in the public service in the execution of his or her direct duties shall enjoy copyright in the work but the economic rights of the author to use the work for the purpose and to the extent prescribed by the duties shall be transferred to the employer unless otherwise prescribed by contract.

(2) An author may use the work created in the execution of his or her direct duties independently for the purpose prescribed by the duties only with the prior consent of the employer whereupon mention must be made of the name of the employer. In such case, the author is entitled to receive remuneration for the use of the work.

(3) An author may use the work created in the execution of his or her duties independently for a purpose not prescribed by the duties unless otherwise prescribed by the employment contract. If a work is used in such manner, mention must be made of the name of the employer.

(4) In the cases prescribed by legislation, the author of a work created in the execution of duties shall be paid, in addition to his or her pay (wages), remuneration for the use of the work. Payment of remuneration may also be prescribed in an agreement between the employer and the author.

(5) The author of a computer program or the author of a database who creates the program or database in the execution of his or her duties or following the instructions given by his or her employer shall enjoy a copyright in the program or database but the employer has the exclusive licence to exercise all economic rights unless otherwise provided by contract.

(6) Economic rights in a work created in the public service shall transfer to the state unless otherwise prescribed by contract. The rights shall be exercised by the state authority which assigned, commissioned or supervised the creation of the work.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 33. Copyright in audiovisual works

(1) Audiovisual works are all works which consist of series of related images whether or not accompanied by sound and which are intended to be demonstrated using corresponding technical means (cinematographic films, television films, video films, etc.).

(2) Copyright in an audiovisual work shall belong to its author or joint or co-authors - the director, the script writer, the author of dialogue, the author of the musical work specifically created for use in the audiovisual work, the cameraman and the designer. The economic rights of the director, the script writer, the author of dialogue, the cameraman and the designer shall transfer to the producer of the work unless otherwise prescribed by contract. The economic rights of the author of the musical work used in the audiovisual work shall not transfer to the producer regardless of the fact whether or not the work was specifically created for use in the audiovisual work.

(3) The producer of a work is a natural or legal person who financed or managed the creation of the work and whose name is fixed in the audiovisual work.

(4) The fact that the person whose name is indicated in an audiovisual work is the producer shall be presumed until the contrary is proved. The burden of proof lies on the person who challenges the fact that this person is the producer.

(5) Directors, script writers, composers and authors of script outlines, dialogue and the announcer's text, designers, cameramen, choreographers, sound recorders and other persons who participate in the creation of an audiovisual work shall enjoy copyright in their work which constitutes a part with independent meaning of the audiovisual work and which can be used independently of the work as a whole. Economic rights with regard to such works may be exercised independently unless otherwise provided by contract on the condition that such use shall not prejudice the interests of using the work as a whole.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 34. Copyright of compilers

(1) A person who creates a collection as a result of his or her creative activity by selecting or arranging the economic (compiler) shall enjoy copyright in this collection.

(2) A compiler may independently arrange and transform results of intellectual activity to which this Act does not apply (§ 5).

(3) A compiler may independently arrange and transform, observing the provisions of § 44 of this Act, works whose term of protection of copyright has expired.

(4) Works subject to protection by copyright may be arranged and included in collections as originals or in a transformed form only with the consent of the author or his or her legal successor except in the cases prescribed in Chapter IV of this Act. A compiler is required to observe the copyright in works included in the collection.

(5) The publication of a collection by a person shall not restrict other persons in using the same economic in order to create an independent collection pursuant to the provisions of subsections (1) and (4) of this section.

(6) A collection compiled by a person may be transformed by other persons only if they observe the copyright of the compiler of the original collection.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 35. Copyright in derivative works

(1) The author of a work which is derived from the work of another author shall enjoy copyright in his or her work.

(2) The creation of derivative works, including the transformation of a narrative work into a dramatic work or a script, the transformation of a dramatic work or a script into a narrative work, the transformation of a dramatic work into a script, and the transformation of a script into a dramatic work, shall be carried out only pursuant to the procedure prescribed in Chapter VII of this Act and observing the copyright of the creator of the original work.

(3) A person who creates, on the basis of a work of another author (original work), a new, creatively independent work which is separate from the original work shall enjoy copyright in this work. In such case, the name of the author of the original work, the title (name) of the work and the source where the work is published shall be indicated.

(4) The provisions of subsection (1) of this section also apply to works the authors of which are unknown (works of folklore, anonymous works, etc.), works whose term of protection of copyright has expired and to results of intellectual activity to which this Act does not apply (§ 5).
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 36. Succession of copyright and related rights

(1) Succession of copyright and related rights shall be intestate succession or shall be effected pursuant to the testamentary disposition of the bequeather according to the general provisions of the Law of Succession Act.

(2) The economic rights and moral rights specified in clauses 12 (1) 4) – 6) and subsection 66 (4) of this Act shall transfer to an intestate successor of copyright and related rights for the term of protection of the respective right unless otherwise prescribed by a testamentary disposition.

(3) Copyright and related rights transferred to the state by way of succession shall be exercised by the Ministry of Culture.

(4) The Ministry of Culture has the right to use the remuneration received in the exercise of the copyright and related rights for payment of a scholarship.

(5) On the grounds of subsection (4) of this section, a scholarship can be paid to a student whose study activities or creative activities are related to the field of creativity of the bequeather of copyright and related rights, with the purpose of supporting such activities and professional development.

(6) The minister responsible for the area shall establish the procedure for applying for and payment of the scholarship by a regulation.

(7) The minister responsible for the area shall establish the amount of the scholarship by a directive.

(8) Expenses pertaining to organising the collection of the remuneration can be deducted from the remuneration received in the exercise of the copyright and related rights transferred to the state by way of succession.
[RT I 2008, 18, 123 – entry into force 15.05.2008]

§ 37. Copyright of legal successors of authors who are not successors

Only the economic rights of an author may transfer, on the basis of a contract entered into with the author or in the cases directly prescribed in this Act, to natural and legal persons who are not successors of the author.

Chapter VI
DURATION OF COPYRIGHT

§ 38. Term of protection of copyright

(1) The term of protection of copyright shall be the life of the author and seventy years after his or her death, irrespective of the date when the work is lawfully made available to the public, except in the cases prescribed in §§ 39 – 42 of this Act.

(2) [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

(2^1) Where the country of origin of a work, within the meaning of subsection 4 of Article 5 of the Berne Convention on Literary and Artistic Works, is a third country, and the author of the work is not a citizen or permanent resident of the Republic of Estonia, the term of protection of copyright shall run within a period prescribed by the law of the country of origin but may not exceed the term specified in subsection (1).
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 39. Term of protection of copyright in case of joint authorship or co-authorship

The term of protection of copyright in a work created by two or more persons as a result of their joint creative activity (§ 30) shall be the life of the last surviving author and seventy years after his or her death.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 40. Term of protection of copyright in anonymous or pseudonymous works

In the case of anonymous or pseudonymous works, the term of protection of copyright shall run for seventy years after the work is lawfully made available to the public. If the author of the work discloses his identity during the above-mentioned period or leaves no doubt as to the connection between the authorship of the work and the person who created the work, the provisions of §§ 38 and 39 apply.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 41. The term of protection of copyright in collective works, works created in execution of duties, audiovisual works and serials

(1) The term of protection of copyright in a collective work (§ 31) or work created in the execution of duties (§ 32) shall run for seventy years after the work is lawfully made available to the public.

(1^1) The term of protection of copyright in an audiovisual work (§ 33) shall expire seventy years after the death of the last surviving author (director, script writer, author of dialogue, author of a musical work specifically created for use in the audiovisual work).

(2) If a work specified in subsection (1) of this section is not made available to the public fifty years after the creation thereof, the term of protection of copyright shall expire seventy years after the creation of the work.

(3) Where a work is published as a serial (volumes, parts, issues or instalments, etc.) and the term of protection of copyright runs from the time when the work was lawfully made available to the public, the term of protection for each instalment shall expire seventy years after the time when the instalment is lawfully made available to the public.

(4) The term of protection of copyright in independent works included in a collective work, a work created in the execution of duties or in an audiovisual work which have not been made available to the public anonymously or under a pseudonym shall expire within the term provided for in subsection 38 (1) of this Act.

[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 42. [Repealed – RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 43. Beginning of term of protection of copyright

The term prescribed in this Chapter begins on the first of January of the year following the year of the death of the author (subsection 38 (1) and § 39) or of the year following the year when the work was lawfully made available to the public or of the year following the year of creation of the work (subsection 38 (2); §§ 40, 41 and 42).

§ 44. Protection of authorship of work, name of author, honour and reputation of author and title of work without term

(1) The authorship of a certain work, the name of the author and the honour and reputation of the author shall be protected without a term.

(2) The use of the title (name) of a work by another author for a similar work when the term of protection of copyright has expired is not permitted if such use may result in identification of authors which would mislead the public.

§ 45. Use of works after term of protection of copyright expires

Works whose term of protection of copyright has expired may be freely used by all persons pursuant to the provisions of § 44 of this Act.
[RT I, 19.03.2019, 13 – entry into force 01.05.2019]

Chapter VII
USE OF WORKS

1. FUNDAMENTAL PROVISIONS

§ 46. Use of works by other persons

(1) Works shall be used by other persons only in the case of transfer (assignment) of the author's economic rights by him or her or on the basis of an authorisation (licence) granted by the author except in the cases prescribed in Chapter IV of this Act.

(2) [Repealed – RT I 2002, 92, 527 – entry into force 18.11.2002]

(3) The transfer of the author's economic rights by him or her or the grant of an authorisation to use a work may be limited with regard to certain rights and to the purpose, term, territory, extent, manner and means of using the work.

§ 47. Sublicence to use work

A person who is granted an authorisation to use a work may authorise a third person to use the work (grant a sublicence) only with the prior consent of the author.
[RT I 2002, 92, 527 – entered into force18.11.2002]

2. AUTHOR'S CONTRACT

§ 48. Definition of author's contract

(1) An author's contract is an agreement between the author or his or her legal successor and a person who wishes to use the work for the use of a work on the basis of which the author or his or her legal successor transfers the author's patrimonial rights to the other party or grants to the other party an authorisation to use the work to the extent and pursuant to the procedure prescribed by the conditions of the contract.

(2) An author's contract may be entered into to use an existing work or to create and use a new work.

(3) Upon use an existing work on the basis of a licence agreement, the provisions of the Law of Obligations Act (RT I 2001, 81, 487; 2002, 60, 374; 2003, 78, 523; 2004, 13, 86; 37, 255) concerning licence agreements apply to the author's contract unless otherwise provided by this Act.

(4) Upon creation and use of a new work, the provisions of the Law of Obligations Act concerning contracts for services apply to the author's contract unless otherwise provided by this Act.
[RT I 2002, 92, 527 – entry into force 18.11.2002]

§ 48[1]. Content of author's agreement

(1) The following shall be recorded in an author's contract:
1) a description of the work (format, volume and name of the work, etc.);
2) transferable rights, and rights concerning which authorisation is granted, type of licence agreement (non-exclusive or exclusive licence agreement) and the right to grant a sublicence;
3) manner of use of the work and the territory where the work is to be used;
4) the term of the author's contract and the term of commencement of use of the work.

(2) The manner of payment of remuneration (percentage of the sales price of the work, a fixed amount, percentage of the profits made upon using the work, etc.) and the amount of the remuneration, the term of and procedure for payment thereof shall be determined in the author's contract by agreement of the parties.
[RT I 2002, 92, 527 – entry into force 18.11.2002]

§ 49. Format of author's contract

(1) An author's contract shall be entered into in writing. The grant of a non-exclusive licence may also be made in a format which can be reproduced in writing.

(2) The written format or format which can be reproduced in writing is not required in the case of the grant of a non-exclusive licence concerning contracts for publishing works in periodical publications or works of reference and for one-time transmissions of oral works in radio and television, or in cable networks.
[RT I 2002, 92, 527 – entry into force 18.11.2002]

§ 49[1]. Notification obligation

(1) A person using a work or performance under an author's contract, or their successor must give timely, relevant and sufficient information to the author and performer or their representative in a format which can be reproduced in writing regarding the use of the work and performance, in particular the manners of use, the whole revenue received and the remuneration due to the author or performer. Where possible, the customs and practices of the area of activity or professional area are taken into account in performance of this obligation.

(2) Where sublicence agreements have been entered into for the exercise of the rights, the author and the performer or their representative have the right to request information from the other party to the contract in order to receive additional information at the disposal of the sublicensees, if the other party to the contract does not have all the information necessary for the application of subsection 1 of this section.

(3) Upon receipt of the request specified in subsection 2 of this section, the other party to the contract must inform the author or performer or their representative also about the sublicensee's identity.

(4) If the performance of the obligation provided in subsection 1 of this section became unreasonably burdensome or expensive to the other party to the contract while compared to the revenue to be received from the use of the work or performance, the obligation will be limited to the type and level of information, the submission of which can be reasonably expected.

(5) The other party to the contract does not have the obligation specified in subsection 1 of this section, if the contribution of the author or performer is not significant considering the entire work or performance.

(6) Notwithstanding the provisions of subsections 4 and 5 of this section, the other party to the contract must provide the author and the performer or their representative, based on their reasoned request, with information necessary for exercising the right provided in § 49[2] of this Act.

(7) The author and the performer and their representative must keep confidential the circumstances that become known to them in connection with the performance of the obligation provided in subsection 1 of this section, in the confidentiality of which the other party has a legitimate interest, in particular keep the business secret of the other party to the contract.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 49[2]. Amendment of author's contract

The author and the performer or their representative have the right to request amendment of the contract from the person with whom they have entered into the contract for exercising these rights or to whom they have transferred the rights, or from a legal successor of such person, in order to receive additional, relevant and fair remuneration, if the initially agreed remuneration turns out to be unproportionally small while compared to the direct or indirect total revenue deriving from the use of the work or performance.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 49[3]. Cancellation of or withdrawal from author's contract

(1) The author or the performer may partially or fully cancel an exclusive licence agreement or a contract on the transfer of economic rights entered into for the use of a work or performance, or withdraw from such contract, if the work or performance will not be used within two years after the transfer of the rights or grant of authorisation for the exercise of the rights.

(2) A different term of commencement than the one provided in subsection 1 of this section may be agreed upon for the use of a work or performance, but it must not be more than five years after the transfer of the rights to the user or grant of authorisation for exercising such rights. Where the parties have agreed on a longer term of commencement for the use of a work or performance than five years, the contract is deemed to be entered into with the term of commencement of use of five years.

(3) Before partial or full cancellation of or withdrawal from the author's contract, the author or the performer must grant a reasonable additional term to the other party to the contract for commencement of the use of the work or performance.

(4) In the case of a work created by two or more authors as a result of their joint creative activity, the right specified in subsection 1 of this section may only be exercised jointly by the joint authors who have contributed significantly to the creation of the work. Where a work consists of parts each of which has independent meaning of its own, each co-author may cancel or withdraw from the contract independently, provided that it does not prejudice the interests of using the work as a whole.

(5) In the case of performance by a group of persons within the meaning of subsection 2 of § 68 of this Act, the joint performers who have significantly contributed to the creation of the performance may exercise the right specified in subsection 1 of this section only jointly, provided that it does not prejudice the interests of using the performance as a whole.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 49[4]. Application of provisions

(1) Sections 49[1]–49[3] of this Act are not applied to contracts where one of the parties is a collective management organisation or an independent management entity.

(2) Terms and conditions of a contract which derogate from the provisions of §§ 49[1]–49[3] of this Act to the detriment of the author or performer are void.

(3) Sections 49[1]–49[3] of this Act are not applied to the authors of computer programs.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 50.–§ 51.[Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 52. Term of author's contract

The term of an author's contract shall be determined by an agreement between the parties.

§ 53. Term of commencement of use of work

[Repealed – RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 54.–§ 55.[Repealed – RT I 2002, 92, 527 – entry into force 18.11.2002]

§ 56. Personal performance of author's contract

In the case of an author's contract for the creation of a new work, the author is required to create the work personally unless otherwise prescribed by the contract. Other persons may be involved in the creation of the work and the group of authors may be changed only with the prior consent of the person commissioning the work.
[RT I 2002, 92, 527 – entry into force 18.11.2002]

§ 57. Rights transferred to users of works by virtue of contract

(1) The right of ownership in the manuscript, draft, drawing, magnetic tape or floppy disc of a work or other economic object by means of which the work is reproduced shall transfer to the user of the work only in the cases directly prescribed by an author's contract.

(2) If an author transfers the original or a copy of his or her work, this does not constitute a transfer of the author's economic rights or grant of an authorisation to use the work unless otherwise determined by the contract.

(3) A work of visual art created on the basis of an author's contract for the creation of a new work shall be transferred into the ownership or possession of the person commissioning the work unless otherwise prescribed by the contract.

(4) Pursuant to subsection (2) or (3) of this section, the acquirer of a work has the right to display (exhibit) such work to the public without payment of additional remuneration to the author unless otherwise determined by the contract. A person who possesses the original or a copy of a work on the basis of a contract for use has no such right.

(5) If an author's contract on the use of a literary or artistic work for the creation of an audiovisual work is concluded, the user of the work has the right to display the work to the public at the cinema, on television, by cable or by other technical means, to dub the work into other languages, to provide it with subtitles and to reproduce and distribute the work, unless otherwise prescribed by the contract. The author has the right to obtain equitable remuneration for the rental of the work (subsection 14 (6)). The provisions of this subsection do not apply to musical works.
[RT I 2006, 28, 210 – entry into force 06.01.2000 - RT I 1999, 97, 859]

§ 57[1]. Collective licence agreement with extended effect

(1) A licence agreement entered into for the use of works or objects of related rights in accordance with the mandates obtained from rightholders by a collective collective management organisation may be extended and applied also to the rights of such rightholders who have not authorised the collective management organisation to represent them, on the terms and conditions specified in this section, upon agreement with the other party to the agreement (hereinafter collective licence agreement with an extended effect).

(2) A collective licence agreement with an extended effect must be entered into on the following terms and conditions:
1) agreements are entered into only within well-defined areas of use specified in the contract, where obtaining authorisations from rightholders on an individual basis is typically, due to the nature or type of the works or objects of related rights concerned, unproportionally impractical to a degree that makes the entry into a collective licence agreement with an extended effect unlikely;
2) the collective management organisation entering into collective licence agreements with an extended effect must represent, under the mandates from the rightholder, a vast majority of the rightholders of the works or objects of related rights of the type concerned within the Republic of Estonia, and exercise the rights which are the subject of the licence;
3) all rightholders must receive equal treatment;
4) starting from a reasonable period before the works or objects of related rights are used under the collective licence agreement with an extended effect, the rightholders must be informed about the ability of the collective management organisation to enter into collective licence agreements with an extended effect for the use of the work or object of related rights, as well about the entry into the collective licence agreement with an extended effect and about the options available to rightholders as referred to in subsection 3 of this section, without the need to inform each rightholder individually.

(3) A rightholder who has not authorised the collective management organisation which enters into a collective licence agreement with an extended term, may exclude the use of their work or object of related rights under the collective licence agreement with an extended effect at any time, by notifying the collective management organisation accordingly, and the latter must immediately notify the other party to the agreement.

(4) The procedure provided in this section is not applied to the mandatory collective exercise of rights specified in subsection 3 of § 79 of this Act.

(5) The collective licence agreements specified in subsection 1 of this section are entered into in accordance with the provisions of §§ 79[3] and 79[9] of this Act
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

3. USE OF OUT-OF-COMMERCE OBJECTS OF RIGHTS BY CULTURAL HERITAGE INSTITUTIONS

[RT I, 28.12.2021, 1 - entry into force 07.01.2022]

§ 57[2]. Out-of-commerce objects of rights

(1) An object of rights together with other objects of rights included therein is deemed to be out of commerce when it can be presumed in good faith that it is not available to the public through customary channels of commerce, provided that a cultural heritage institution has made reasonable efforts to determine whether it

is available to the public. A set of objects of rights as a whole is deemed to be out of commerce when it is reasonable to presume that all of the objects of rights within the set are out of commerce.

(2) For the purposes of this Subchapter, an object of rights is a work, an object of related rights and a database within the meaning of Chapter VII[1] of this Act.

(3) It is presumed that an object of rights created at least 50 years before its use on the terms and conditions specified in this Subchapter is out of commerce, unless obvious circumstances exist which preclude it.

(4) It is presumed that a serial publication created at least 20 years before its use on the terms and conditions specified in this Subchapter is out of commerce, unless obvious circumstances exist which preclude it.

(5) A serial publication is a continuing publication with an unspecified end which appears as successive separate issues or parts which are usually successively numbered, or any other publication appearing as a serial.

(6) It is presumed that a pamphlet created at least five years before its use on the terms and conditions specified in this Subchapter is out of commerce, unless obvious circumstances exist which preclude it.

(7) A pamphlet is a publication appearing with a minor reference content and text volume or in relation to a single event which has short-term importance.

(8) The provisions of subsections 3–7 of this section are not applied to audiovisual works, phonograms or original works of art.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[3]. Use of out-of-commerce objects of rights under collective licence agreement with extended effect

(1) A collective management organisation which meets the conditions specified in clause 2 of subsection 2 of § 57[1] of this Act may enter into a collective non-exclusive licence agreement with an extended effect for use for non-commercial purposes with a cultural heritage institution in order to reproduce, distribute or communicate to the public an object of rights within the collection of such institution, which is out of commerce within the meaning of § 57[2].

(2) The rightholder may, at any time, easily and effectively, exclude the object of rights from the use under the collective licence agreement with an extended effect specified in subsection 1 of this section, pursuant to the procedure provided in § 57[6] of this Act, either in general or in specific cases, including after the entry into the collective licence agreement with an extended effect.

(3) Unless otherwise prescribed by an agreement, the licence specified in subsection 1 of this section shall cover all the Member States of the EU and states which are contracting parties to the EEA Agreement.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[4]. Free use of out-of-commerce objects of rights

(1) A cultural heritage institution may use an object of rights which is in their collection and which is out of commerce within the meaning of § 57[2] of this Act, without requesting an authorisation and payment of remuneration, for non-commercial purposes in the manners specified in clauses 1 and 9[1] of subsection 1 of § 13, and in the case of computer programs and databases, also in the manner specified in clauses 4 and 5, in the manner specified in clauses 3[1] and 5 of subsection 2 of § 67, clauses 1 and 5 of subsection 1 of § 70, clauses 3 and 4[1] of subsection 1 of § 73, subsection 2 of § 73[2] and subsection 2 of § 75[4], if:
1) there is no collective management organisation which would meet the conditions specified in clause 2 of subsection 2 of § 57[1] of this Act for exercising the rights with regard to the respective object of rights;
2) the name of the author or other identifiable rightholder is indicated, where possible.

(2) The rightholder may, at any time, easily and effectively, exclude the object of rights from the use in the manner specified in subsection 1 of this section, pursuant to the procedure provided in § 57[6] of this Act either in general or in specific cases, including after the beginning of the use by the cultural heritage institution.

(3) The use of the object of rights in the event provided in subsection 1 of this section is deemed to take place only in the Member State of the EU or state which is a contracting party to the EEA Agreement, where the respective cultural heritage institution is established.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[5]. Notification

At least six months before a cultural heritage institution starts the use of an object of rights in accordance with subsection 1 of § 57[3]or subsection 1 of § 57[4], the cultural heritage institution, collective management organisation or relevant state agency must submit the following information to the database of out-of-commerce works, created by the European Union Intellectual Property Office (hereinafter database of works):
1) a general description of the object of rights which will be used by the cultural heritage institution pursuant to this Subchapter;
2) where relevant, as soon as possible, information on the parties to the collective licence agreement with an extended effect, the covered territories and manners of use.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[6]. Procedure for exclusion of use

(1) The use of an object of rights is excluded pursuant to subsection 2 of § 57[3]or subsection 2 of § 57[4]of this Act based on the respective request of the rightholder.

(2) In the event specified in subsection 2 of § 57[3]of this Act, the request for exclusion of use is to be submitted to the cultural heritage institution that has enabled access to the object of rights, or to the collective management organisation that has entered into the respective collective licence agreement with an extended effect, and the latter must immediately notify the cultural heritage institution accordingly.

(3) In the event specified in subsection 2 of § 57[4]of this Act, the request for exclusion of use is to be submitted to the cultural heritage institution that has enabled access to the object of rights.

(4) The rightholder may submit the request for general exclusion specified in subsections 2 and 3 of this section also via the database of works.

(5) If the rightholder has excluded the use of an object of rights, the cultural heritage institution that has enabled access to the object of rights must immediately terminate such use on the terms and conditions specified by the rightholder, and forward the respective information to the database of works.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[7]. Application of provisions

(1) This Subchapter is not applied to a set of objects of rights which are out of commerce, if evidence has been obtained with reasonable effort specified in subsection 1 of § 57[2]of this Act, that such sets predominantly consist of:
1) objects of rights, other than audiovisual works, first published or, in the absence of publication, first broadcast in a country that is not a member of the European Union or is not a contracting party to the EEA Agreement;
2) audiovisual works, of which the producers have their headquarters or habitual residence in a country that is not a member of the European Union or is not a contracting party to the EEA Agreement;
3) objects of rights of nationals of a country that is not a member of the European Union or is not a contracting party to the EEA Agreement, where after a reasonable effort no Member State of the EU or state which is a contracting party to the EEA Agreement, or country that is not a member of the European Union or is not a state which is a contracting party to the EEA Agreement as referred to in clauses 1 and 2 of this section, could be determined.

(2) This Subchapter is applied to the objects of rights specified in subsection 1 of this section in case the collective management organisation represents, within the meaning of clause 2 of subsection 2 of § 57[1]of this Act, a vast majority of the rightholders of a country that is not a member of the European Union or a contracting party to the EEA Agreement.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

4. COMMUNICATION TO THE PUBLIC AND MAKING AVAILABLE TO THE PUBLIC OF WORKS AND OBJECTS OF RELATED RIGHTS BY ONLINE CONTENT-SHARING SERVICE PROVIDERS

[RT I, 28.12.2021, 1 - entry into force 07.01.2022]

§ 57[8]. Online content-sharing service provider

(1) ‘Online content-sharing service provider’ means a provider of an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of objects of rights uploaded by its users, which it organises and promotes for purposes of making direct or indirect profit.

(2) For the purposes of this Subchapter, an ‘object of rights’ means a work and an object of related rights.

(3) Providers of services that offer not-for-profit online encyclopedias, not-for-profit educational and scientific repositories, open source software-developing and-sharing platforms, electronic communications services as defined in clause 6 of § 2 of the Electronic Communications Act, online marketplaces, business-to-business cloud services and cloud services that allow users to upload content for their own use, and the principal activity of which is not providing the public access to objects of rights are not deemed ‘online content-sharing service providers’ specified in subsection 1 of this section.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[9]. Communication to the public and making available to the public of objects of rights by online content-sharing service providers

(1) An online content-sharing service provider performs an act of communication to the public or an act of making available to the public when it gives the public access to objects of rights uploaded by its users.

(2) Where an online content-sharing service provider obtains an authorisation for communication to the public or making available to the public of objects of rights, that authorisation provides the user of the service also with the right to communicate to the public or make available to the public the objects of rights via the website of the online content-sharing service provider, to the extent covered by the authorisation, provided that they are not acting on a commercial basis and their activity does not generate significant revenues.

(3) An online content-sharing service provider is not liable for communication to the public or making available to the public of objects of rights in the manner specified in subsection 1 of this section without an authorisation, if the online content-sharing service provider proves that they:
1) made best efforts to obtain an authorisation;
2) made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability to the public, through its websites, of specific objects of rights for which the rightholders have provided the online content-sharing service provider with the relevant and necessary information; and
3) acted expeditiously, after receiving a substantiated notice from the rightholders, to disable access to, or to remove from their websites, the notified objects of rights, and made best efforts to prevent their future uploads in accordance with clause 2 of this subsection.

(4) In determining whether the online content-sharing service provider has complied the requirements deriving from subsection 3 of this section, the principle of proportionality must be adhered to, taking into account also the type, the audience and the size of the service and the type of contents uploaded by the users of the service, as well as the availability of suitable and effective means and their cost for online content-sharing service providers.

(5) Upon complying with the requirements specified in clauses 2 and 3 of subsection 3 of this section, the online content-sharing service providers must take measures to enable users to lawfully communicate to the public or make available to the public the objects of rights, including on the basis of the cases of free use provided in Chapter IV of this Act, considering, among other things, and the industry standards of professional diligence.

(6) Where an online content-sharing service provider commits an act of unauthorised communication to the public or making available to the public of objects of rights in the manner described in subsection 1 of this section, the limitation of liability provided in subsection 1 of § 10 of the Information Society Services Act is not applied to such acts.

(7) Upon complying with the requirements specified in subsection 3 of this section, the provisions of subsection 1 of § 11 of the Information Society Services Act are not applied to the online content-sharing service provider, taking also into account that while complying with the requirements specified in subsection 3 of this section, the online content-sharing service provider has no general obligation to monitor.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[10]. Special rules for liability of online content-sharing service providers

(1) An online content-sharing service provider the services of which have been available to in the European Union for less than three years and which have an annual turnover below 10 million euros, is not liable for unauthorised communication to the public or making available to the public of objects of rights in the manner specified in subsection 1 of § 57[9] of this Act, if they:
1) made best efforts to obtain an authorisation; and
2) acted expeditiously, after receiving a sufficiently substantiated notice regarding the infringement from the rightholder, to disable access to the notified objects of rights or to remove those objects of rights from their websites.

(2) An online content-sharing service provider which meets the conditions specified in subsection 1 of this section, where the average number of monthly unique visitors of the website of such service provider exceeds five million, calculated on the basis of the previous calendar year, is not liable for unauthorised communication to the public or making available to the public of objects of rights via its websites, if they prove, in addition to the requirements provided in subsection 1, that they have made best efforts to prevent further uploads of the notified objects of rights for which the rightholders have provided relevant and necessary information to the service provider.

(3) In performance of the obligations specified in subsections 1 and 2 of this section, also subsections 4, 5 and 7 of § 57[9] of this Act must be taken into account.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[11]. Procedure for complaint submission and resolution

(1) Online content-sharing service providers must put in place a complaint submission and resolution procedure that is available to users of their services in the event of disputes over the disabling of access to, or the removal of, the contents uploaded by the users on the website of the online content-sharing service provider.

(2) In processing the complaints specified in subsection 1 of this section, the online content-sharing service provider must ensure that:
1) the rightholder is notified about submission of a complaint concerning them;
2) the complaints are processed as effectively and expeditiously as possible;
3) the parties concerned are enabled to submit their positions;
4) the decision to disable access to or remove uploaded content is subject to human review;
5) the submission of complaints is free of charge for the users of the service.

(3) A rightholder requesting that access of the public to their object of rights would remain disabled or be removed after the submission of a complaint specified in subsection 1 of this section, must substantiate this request.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[12]. Notification obligation of online content-sharing service providers

(1) An online content-sharing service provider must give sufficient information to a rightholder at the request of the latter:
1) regarding the use of the content covered by the licence agreement between the online content-sharing service provider and the rightholder;
2) regarding compliance with the requirements provided in subsections 3 and 5 of § 57[9] of this Act.

(2) An online content-sharing service provider must inform, in the terms and conditions of their service, the users about the fact that they can use the objects of rights made available to the public on the website of the online content-sharing service provider in the cases of free use provided in this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[13]. State supervision

State supervision over performance of the obligations of an online content-sharing service provider provided in subsection 5 of § 579, subsections 1 and 2 of § 57[11] and subsection 2 of § 57[12] of this Act is exercised by the Consumer Protection and Technical Regulatory Authority.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[14]. Specific state supervision measures

In order to exercise state supervision provided in this Act, the Consumer Protection and Technical Regulatory Authority may apply the specific state supervision measures provided in § 30 of the Law Enforcement Act on the grounds and pursuant to the procedure provided in the Law Enforcement Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 57[15]. Compliance notice and non-compliance levy

(1) If an online content-sharing service provider does not perform the obligations provided in subsection 5 of § 57[9], subsections 1 and 2 of § 57[11] and subsection 2 of § 57[12] of this Act, the Consumer Protection and Technical Regulatory Authority has the right to issue a compliance notice to the online content-sharing service provider and require performance of the obligation.

(2) Upon non-compliance with the compliance notice specified in subsection 1 of this section, the Consumer Protection and Technical Regulatory Authority may impose a non-compliance levy in accordance with the procedure provided in the Substitutional Performance and Non-Compliance Levies Act.

(3) The upper limit of the non-compliance levy specified in subsection 2 of this section is 50,000 euros.

[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 58.–§ 61.[Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

Chapter VIII
RIGHTS OF PERFORMERS, PRODUCERS OF PHONOGRAMS AND BROADCASTING SERVICE PROVIDERS (RELATED RIGHTS)

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

§ 62. Definition of related rights

(1) A performer, producer of phonograms, broadcasting service provider, producer of the first fixation of a film, a person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully directs at the public a previously unpublished work, a person who publishes a critical or scientific publication of a work not protected by copyright, and a press publisher enjoy the rights prescribed in this Chapter in the results created by them (object of related rights).
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) The exercise of related rights does not limit the exercise of copyright by the author or his or her legal successor.

(3) For the purposes of this Chapter, ‘distribution’ means the making available to the public of originals or copies of the object of related rights by sale or by transfer of the right of ownership in any other manner.

(4) The first sale of an object of related rights in a Member State of the EU or a state which is a contracting party to the EEA Agreement by the rightholder or with his or her authorisation shall exhaust the distribution right prescribed in this Chapter and the object of related rights may be further distributed in a Member State of the EU or a state which is a contracting party to the EEA Agreement without the authorisation of the rightholder and without payment of remuneration.

(5) A performer, producer of phonograms, broadcasting service provider, producer of the first fixation of a film, a person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, a person who publishes a critical or scientific publication of a work not protected by copyright, and a press publisher may transfer (assign) the economic rights provided in this Chapter or grant an authorisation (licence) for the use of the object of related rights. The use of the objects of related rights is governed by the provisions of Chapter VII of this Act, unless otherwise deriving from this Chapter.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 62[1]. Presumption of related rights

(1) The protection of the object of related rights is presumed, except if, based on this Act or other copyright legislation, there are apparent circumstances which preclude this. The burden of proof lies on the person who contests the protection of the object of related rights.

(2) It is presumed that the person whose name is indicated on an object of related rights as rightholder has rights regarding the specified object until the contrary is proved. The burden of proof lies on the person who contests the fact that this person holds the rights.

(3) If an object of related rights or its packaging is marked with a symbol that can be directly related with the holder of related rights or his or her legal successor, or such symbol is used in other relation with the corresponding object of related rights, the holder of the related rights who is associated with the symbol is presumed to have the rights regarding the corresponding object.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 63. Validity of related rights

(1) The provisions of this Chapter apply in respect of a performer if:
1) the performer is a citizen or a permanent resident of the Republic of Estonia;
2) the work is performed (produced) in the territory of the Republic of Estonia; or
3) the performance (production) of the work is recorded on a phonogram which is protected pursuant to subsection (2) of this section; or

4) the performance (production) of the work which is not recorded on a phonogram is included in a radio or television programme which is protected pursuant to subsection (3) of this section.

(2) The provisions of this Chapter apply in respect of a producer of phonograms if:
1) the producer of phonograms is a citizen or a permanent resident of the Republic of Estonia or a legal person located in the Republic of Estonia; or
2) the sounds were first fixed on a phonogram in the territory of the Republic of Estonia; or
3) the phonogram was first published in the territory of the Republic of Estonia. 'Publication' means offering copies of a phonogram to the public in reasonable quantity.

(3) The provisions of this Chapter apply in respect of a broadcasting service provider if:
[RT I, 06.01.2011, 1– entry into force 16.01.2011]
1) the registered office of the organisation is in the territory of the Republic of Estonia; or
2) the work is communicated by means of a transmitter which is located in the territory of the Republic of Estonia.

(4) The provisions of this Chapter apply in respect of citizens of foreign states and foreign legal persons pursuant to international agreements to which the Republic of Estonia is party.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 64. Definition of performer

For the purposes of this Act, 'performer' means an actor, singer, musician, dancer or another person or groups of persons who acts, sings, declaims, plays on an instrument or in any other manner performs literary or artistic works or works of folklore or supervises other persons upon the performance of works, or a person who performs in variety shows, circuses, puppet theatres, etc.

§ 65. Rights of performers

Performers shall enjoy moral and economic rights in the performance (interpretation) of works.

§ 66. Moral rights of performers

A performer shall enjoy the following rights:
1) right of authorship of the performance;
2) right to a stage name;
3) right of inviolability of the performance;
4) right of protection of the performer's honour and reputation with respect to the performer's performance.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 67. Economic rights of performers

(1) A performer has the exclusive right to use and to authorise or prohibit the use of the performance of a work and to obtain, for such use, remuneration agreed upon by the parties except in the cases prescribed by this Act and an agreement between the parties.

(2) The following is permitted only with the consent of the performer:
1) recording a performance which has previously not been fixed onto a record, audio or video tape, on film or in another manner;
2) the broadcasting of performances by radio, television or satellite, except in the cases where a recording of the performance is broadcast or the performance is retransmitted with the permission of the broadcasting service provider which first broadcast the performance;
[RT I, 06.01.2011, 1– entry into force 16.01.2011]
3) directing of a performance at the public by whichever technical means outside the location of the performance except in the cases where a recording of the performance is communicated to the public or the performance is directed at the public by means of radio or television;
3^1) making the recording of a performance available to the public in such a way that persons may access the performance from a place and at a time individually chosen by them;
4) use of the sound and image of the performance separately if they are recorded together and form a single whole;
5) the direct or indirect, temporary or permanent, partial or total reproduction of the recording of a performance in any form or by any means;
6) the distribution of recordings to the public;
7) the rental and lending of the recording of a performance. The rental right shall transfer to the producer of an audiovisual work (subsection 33 (3)) upon the conclusion of a corresponding individual or collective contract for the creation of an audiovisual work unless otherwise prescribed by contract. The performer shall retain the right to obtain equitable remuneration (subsection 68 (4)).

(3) The performer of a work may exercise the rights set out in subsection (2) of this section independently or through a collective management organisation.

(4) [Repealed – RT I 1999, 10, 156 – entry into force 15.02.1999]

(5) Upon performance of a work in the execution of direct duties, the economic rights of the performer are transferred to the employer only on the basis of a written agreement of the parties.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 67[1]. Rights of performers to additional remuneration

(1) If a performer and a producer of phonograms have entered into an agreement, whereby the performer assigned or transferred the rights to use his or her performance (hereinafter the agreement for assignment or transfer) to the producer of phonograms for a single charge or free of charge, the performer has the right to receive annual additional remuneration from the producer of phonograms for each full year after fifty years has passed since the lawful publication of the phonogram, or if no such publication occurred, then after fifty years has passed since the lawful communication of the phonogram to the public. An agreement, whereby a performer waives his or her right to receive the annual additional remuneration, is void.

(2) For payment of the annual additional remuneration set out in subsection (1) of this section, the producer of phonograms shall allocate 20 per cent of the income earned by the producer of phonograms in the year preceding the payment of such remuneration for reproduction, distribution and making available of such phonograms which were lawfully published, or if no such publication occurred, then lawfully communicated to the public fifty years ago.

(3) At the performer's request, the producer of phonograms shall provide the performer, who has the right to receive the annual additional remuneration set out in subsection (1) of this section, with any information that may be necessary for ensuring the payment of the given remuneration.

(4) If the performer has the right, under the agreement for assignment or transfer, to receive regular remuneration, no advance payments shall be deducted from such remunerations and no deductions provided for in the agreement shall be made therefrom after fifty years has passed since the lawful publication of the phonogram or if no such publication occurred, then after fifty years has passed since the lawful communication of the phonogram to the public.

(5) The obligation provided for in subsection (2) of this section is not applied to a business whose turnover for reproduction, distribution and making available of such phonograms which were lawfully published, or if no such publication occurred, then lawfully communicated to the public fifty years ago, was less than 100 euros in the year preceding the year of payment of the remuneration.
[RT I, 14.06.2013, 3 – entry into force 01.11.2013]

§ 68. Authorisation to use performance

(1) A prior written consent of the performer is required for the use of a performance. A performer has the right to obtain appropriate and proportional remuneration for the use of the performance by other persons except in the cases prescribed by this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) In order to use a work performed by a group of persons, the consent of all members of the group is required. The leader of an ensemble, a conductor, leader of a choir, director or another person authorised by the group of persons may grant an authorisation in the name of the group.

(3) Unless otherwise prescribed by contract:
1) an authorisation to broadcast the performance of a work on radio or television does not grant the broadcasting service provider the right to record the performance or grant an authorisation to broadcast the work to other organisations;
[RT I, 06.01.2011, 1– entry into force 16.01.2011]
2) an authorisation to broadcast the performance of a work on radio or television and to fix the performance does not grant the broadcasting service provider the right to reproduce the recording;
[RT I, 06.01.2011, 1– entry into force 16.01.2011]
3) an authorisation to record the performance of a work and to reproduce the recording does not grant the right to broadcast such recording or a copy thereof on radio or television.

(4) Where a performer has transferred (assigned) the right to rent the original or a copy of a phonogram or audiovisual work or has granted a licence therefore, or such transfer or grant of a licence may be presumed, the performer shall retain the right to obtain equitable remuneration for the rental. An agreement to waive the right to obtain equitable remuneration is void.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

(5) If 50 years after the lawful publication of a phonogram, or if no such publication occurred, 50 years after the lawful communication of the phonogram to the public, the producer of phonograms does not offer a sufficient amount of the copies of the phonogram for sale or does not make the phonogram available to the public by cable network or by communicating it without cable in such a way that the public may access the work from

a place and at a time chosen by them, the performer may withdraw from the agreement for assignment or transfer. The performer has the right to withdraw from the agreement for assignment or transfer if the producer of phonograms fails to meet even one of the requirements set out in the previous sentence within one year after the notice of the performer regarding their intention to withdraw from the agreement for assignment or transfer in accordance with the first sentence of this subsection.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(6) If a phonogram contains recordings of the performance of several performers, the performer may withdraw from a separately concluded agreement for assignment or transfer separately from other performers. A jointly concluded agreement for assignment or transfer can be withdrawn from by the person referred to in subsection (2) of this section or in accordance with the provisions of § 30 of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(7) If the agreement for assignment or transfer has been withdrawn from pursuant to subsection 5 or subsection 6 of this section, the rights of the producer of phonograms to the given phonogram extinguish.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(8) An agreement for waiver of the right to withdraw from the agreement for assignment or transfer is void.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 69. Definition of producer of phonograms

For the purposes of this Act, a producer of a phonogram (sound recording) is a natural or legal person on whose initiative or responsibility a first legal recoding of the sound arising from the performance or other sound occurs.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 70. Rights of producers of phonograms

(1) A producer of phonograms has the exclusive right to authorise or prohibit:
1) the direct or indirect, temporary or permanent, partial or total reproduction of the phonograms in any form or by any means;
2) the importation of copies of phonograms;
3) the distribution of phonograms to the public;
4) the rental or lending of copies of phonograms;
5) making the phonograms available to the public in such a way that persons may access the phonograms from a place and at a time individually chosen by them.

(2) The amount of remuneration for the use of a phonogram, the manner of and procedure for payment thereof shall be determined by an agreement between the producer of phonograms and a user thereof.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 71. Symbol of protection of phonogram

In order to guarantee the rights of a producer of phonograms and of the performers whose works are recorded on a phonogram, the producer of phonograms has the right to mark recordings made for commercial purposes or containers thereof with the symbol P (P in a circle) together with the year of the first publication of the phonogram added thereto. The name of the producer of phonograms and the principal performers of the work recorded, if these are not directly indicated on the phonogram or the container thereof, shall be added to the said symbol.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 72. Remuneration for use of phonogram

(1) If a phonogram published for commercial purposes or a reproduction thereof is used for communication to the public, the performer and the producer of phonograms are entitled to obtain equitable remuneration.

(2) The remuneration is paid by a person who communicates the phonogram published for commercial purposes to the public.

(3) The remuneration shall be paid in equal proportions as a single payment to the performer and the producer of phonograms unless otherwise prescribed in an agreement between the performer and the producer of phonograms.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

§ 73. Rights of broadcasting service providers

[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(1) Broadcasting service providers have the exclusive right to authorise or prohibit:
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]
1) retransmission of their broadcasts;
2) recording of their broadcasts;

3) direct or indirect, temporary or permanent, partial or total reproduction of recordings of their broadcasts in any form or by any means;
4) communication of broadcasts to the public if such direction occurs in places open to the public against payment of an entrance fee;
4^1) making recordings of their broadcasts available to the public in such a way that persons may access the broadcasts from a place and at a time individually chosen by them;
5) distribution of recordings of their broadcasts to the public.

(1^1) The rights provided for in subsection (1) of this section do not depend on whether the broadcast is communicated or retransmitted by wire or over the air, including by cable network or satellite.

(2) The amount of remuneration for the use of a recording of broadcasts, the manner of and procedure for payment thereof shall be determined by an agreement between the broadcasting service provider and user.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(3) The rights provided for in subsection (1) of this section do not extend to a cable operator who retransmits by cable the broadcasts of broadcasting service providers.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(4) Communication to the public and making available to the public of works or objects of related rights, and reproduction necessary for the provision of ancillary online services by a broadcasting service provider or under their control or responsibility is deemed to take place only in the Member State of the EU or state which is a contracting party to the EEA Agreement, where the principal place of business of the broadcasting service provider is established, unless otherwise prescribed by a contract. The parties may agree on the restrictions of exercise of rights also otherwise.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(5) Subsection 4 of this section is applied in case of providing the following to the public:
1) radio programmes;
2) television programmes which are either news or current affairs programmes or fully financed own productions of the broadcasting service provider, except broadcasting of sports events and the works and objects of related rights included in them.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(6) When setting the amount of the payment to be made for the rights necessary for the provision of ancillary online services, the parties take into account all aspects of the ancillary online service, such as features of the service, including the duration of online availability of the programmes provided in that service, the audience, and the language versions provided, as well as the economic value of the rights in trade.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(7) An ‘ancillary online service’ means an online service consisting in the provision to the public, by or under the control and responsibility of a broadcasting service provider, of television or radio programmes simultaneously with or for a defined period of time after their broadcast by the broadcasting service provider, as well as of any material which is ancillary to such broadcast.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(8) Subsection 6 of this section does not preclude calculation of the amount of the duepayment on the basis of the broadcasting service provider’s revenues.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 73^1. Rights of producers of first fixations of films

(1) Producers of first fixations of films have the exclusive right to authorise or prohibit:
1) direct or indirect, temporary or permanent, partial or total reproduction of the originals or copies of their films in any form or by any means;
2) distribution of the originals or copies of their films to the public;
3) rental or lending of the originals or copies of their films;
4) making available the originals or copies of their films in a manner that persons can use the films in the place and at the time of their individual choice.

(2) For the purposes of this section, ‘films’ mean audiovisual works or moving images whether or not accompanied by sound, which are not works.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 73^2. Rights of press publishers

(1) Press publishers have the exclusive right to authorise or prohibit:

1) direct or indirect, temporary or permanent online reproduction by any means and in any form, in whole or in part, of their press publications by information society service providers;
2) communication of their press publications to the public by information society service providers in such a way that members of the public may access them from a place and at a time individually chosen by them.

(2) For the purposes of this Act, a 'press publication' means a collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which:
1) constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine, except periodicals that are published for scientific or academic purposes;
2) has the purpose of providing the general public with information related to news or other topics;
3) is published in any media under the initiative, editorial responsibility and control of a service provider.

(3) The provisions of subsection 1 of this section are not applied to:
1) private or non-commercial uses of press publications by individual users;
2) hyperlinking;
3) use of individual words or very short extracts of a press publication.

(4) The provisions of subsection 1 of this section leave intact and do not in any way affect the rights provided in this Act concerning the works and objects of related rights published in press publications.

(5) The authors of works incorporated in a press publication have the right to receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 74. Duration of related rights

(1) The rights prescribed in this Chapter shall not expire before the end of a period of fifty years:
1) for the performer, as of the first performance of a work. If a recording of the performance, recorded in another manner than on a phonogram, is lawfully published or lawfully communicated to the public within fifty years since the first performance of the work, the rights of the performer shall be valid for fifty years as of the date of the first lawful publication or lawful communication to the public, whichever is the earliest. If a recording of the performance, recorded on a phonogram, is lawfully published or lawfully communicated to the public within fifty years since the first performance of the work, the rights of the performer shall be valid for seventy years as of the date of the first lawful publication or lawful communication to the public, whichever is the earliest;
[RT I, 14.06.2013, 3 – entry into force 01.11.2013]
2) for the producer of phonograms, as of the first fixation of a phonogram. If a recording of the phonogram is lawfully published within fifty years since the first fixation of the phonogram, the rights of the producer of phonograms shall be valid for seventy years as of the date of the first lawful publication. If no lawful publication of the phonogram has occurred within fifty years since the first fixation of the phonogram and the phonogram has been lawfully communicated to the public, the rights of the producer of phonograms shall be valid for fifty years as of the date of the first lawful communication to the public;
[RT I, 14.06.2013, 3 – entry into force 01.11.2013]
3) for the broadcasting service provider, as of the first transmission of a broadcast, regardless of whether the broadcast is transmitted or retransmitted by wire or over the air, including by cable network or satellite;
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]
4) for the producer of the first fixation of a film, as of the first fixation of the film. If the film is lawfully published or lawfully communicated to the public within this period, the rights of the producer of the first fixation shall expire in fifty years as of the date of such publication or communication to the public, whichever is the earliest.

(1^1) The rights of press publishers expire two years after the press publication is published.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) The term of protection commences from the first of January of the year following the year when the acts specified in subsections 1 and 1^1 of this section are performed.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3) Within the term of protection specified in this section, the economic rights related to copyright shall be transferred by way of succession.

(4) The authorship and stage name of a performer and the honour and reputation of the performer shall be protected without a term.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 74^1. Related rights in previously unpublished works and critical or scientific publications

(1) A person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work shall benefit from a protection equivalent to the

economic rights of the author (§ 13), within twenty-five years from the time when the work was first published or communicated to the public.

(2) A person who publishes a critical or scientific publication of a work unprotected by copyright has rights to the publication equivalent to the economic rights of an author (§ 13), within thirty years from the time when the publication was first published.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 75. Limitation of related rights

(1) Without the authorisation of the holder of related rights specified in this Chapter, and without payment of remuneration, it is permitted to use the performance, phonogram, radio or television broadcast or recordings thereof, film, unpublished work, literary criticism or scientific publication, or press publication, including by reproduction:
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
1) for private use by natural persons, taking account of the provisions of §§ 26 and 27 of this Act and on condition that such reproduction is not carried out for commercial purposes;
2) for the purpose of illustration for teaching or scientific research to the extent justified by the purpose and on condition that such use is not carried out for commercial purposes and on condition that the source is indicated, if possible;
3) if short excerpts are used in connection with the reporting of current events to the extent justified by the informational purposes to be achieved and on condition that the source is indicated, if possible;
4) if short excerpts (quotations) from an object of related rights which is lawfully published are used for informational purposes and to the extent justified by the informational purposes to be achieved and the obligation to convey the meaning of the whole performance, phonogram, radio or TV broadcast or film accurately is observed and on condition that the source is indicated, if possible;
5) for an ephemeral recording of the performance, broadcast or phonogram by a broadcasting service provider and for reproduction thereof by means of its own facilities and for the purpose of its own broadcasts, provided that the broadcasting service provider has received an authorisation to broadcast the performance, broadcast or phonogram from the rightholder beforehand or the transmission or retransmission of the performance, broadcast or phonogram by the broadcasting service provider is lawful on another basis. Such recordings and reproduction thereof (copies) shall be destroyed after thirty days from their making, except for one copy which may be preserved as an archive copy under the conditions set out in subsection 23 (3) of this Act;
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]
6) in other cases where the rights of authors of works are limited pursuant to Chapter IV and § 57^4 of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) The free use prescribed in this section is permitted only on the condition that that this does not conflict with normal use and does not unreasonably harm the legitimate interests of holders of related rights.
[RT I 2006, 28, 210 – entry into force 30.06.2006]

Chapter VIII[1]
RIGHTS OF MAKERS OF DATABASES

§ 75^1. Purpose of this Chapter

The purpose of this Chapter is to provide independent protection for databases by establishing special rights for makers of databases to protect investments made by them.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 75^2. Definition of database

For the purposes of this Chapter, ‘database’ means a collection of works, data or other economics arranged in a systematic or methodical way and individually accessible by electronic or other means. The definition of database does not cover computer programs used in the making or operation thereof.

§ 75^3. Maker of database

(1) The maker of a database is a person who has made a substantial investment, evaluated qualitatively or quantitatively, in the collecting, obtaining, verification, arranging or presentation of data which constitutes the contents of the database.

(2) The provisions of this Chapter apply if:
1) the maker of a database or rightholder is a citizen or permanent resident of the Republic of Estonia;

2) the maker of a database or rightholder is a company which is founded in accordance with the law of the Republic of Estonia and has its registered office, central administration or principal place of business within the territory of the Republic of Estonia. If such company has only its registered office in the territory of the Republic of Estonia, its operations must be genuinely linked on an ongoing basis with the economy of Estonia;
3) a database must be protected in accordance with an international agreement of the Republic of Estonia.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 75[4]. Rights of makers of databases

(1) The maker of a database has the exclusive right to authorise or prohibit the use of the database in the manner prescribed in subsection (2) of this section and to obtain remuneration agreed between the parties for such use, except in the cases prescribed in this Chapter or by agreement of the parties.

(2) The following is permitted only with the authorisation of the maker of a database:
1) extractions from the database or from a substantial part thereof. 'Extraction' means the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;
2) re-utilisation of the database or a substantial part thereof. 'Re-utilisation' means any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission.

(3) The first sale of a copy of a database by the maker of the database or with the latter's authorisation shall exhaust the right of the maker of the database to control the resale of the database or the copy as provided for in clause (2) 2) of this section.

(4) The exclusive right specified in subsection (2) of this section shall belong to the maker of a database irrespective of the eligibility of that database or the contents thereof for protection by this Act or under other legislation.

(5) Public lending is not an act of extraction or re-utilisation of a database or a substantial part thereof.

(6) The maker of a database may transfer (assign) the right provided in subsection 2 of this section or grant an authorisation (licence) for the exercise of such right. The provisions of Chapter VII of this Act apply to the use of databases.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 75[5]. Rights and obligations of lawful users of databases

(1) A lawful user of a database which is made available to public in whatever manner has the right to make extractions and to re-utilise insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purposes whatsoever. Where the person is authorised to use only part of the database in the manner provided for in this subsection, the provisions of this subsection shall apply only to that part.

(2) A lawful user of a database which is made available to the public in whatever manner shall not prejudice the copyright or related rights in the works or other economics contained in the database.

(3) A lawful user of a database which is made available to the public in whatever manner shall not perform acts that conflict with normal use of the database or unreasonably prejudice the legitimate interests of the maker of the database.

(4) Any contractual provisions which prejudice the exercise of the rights provided for in this section by a lawful user of a database are void.
[RT I 1999, 97, 859 – entry into force 06.01.2000]

§ 75[6]. Limitation to rights of makers of databases

A lawful user of a database which is lawfully made available to the public in whatever manner may, without the authorisation of its maker and without payment of remuneration, extract or re-utilise a substantial part of the database in the case of:
1) extraction for private purposes of the contents of a non-electronic database;
2) extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
3) extraction or re-utilisation for the purposes of public security or an administrative or judicial procedure to the extent justified by the purposes of public security or an administrative or judicial procedure;
4) extraction or re-utilisation for the purposes specified in subsection 25[3](1) of this Act;
[RT I, 27.11.2018, 1 – entry into force 28.11.2018]
5) extraction or re-utilisation is carried out in the cases specified in clause 3[2] of subsection 1 of § 19, §§ 19[1] and 19[2], clause 2 of subsection 1 of § 20 and § 57[4] of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 75[7]. Term of protection of rights of makers of databases

(1) The rights of the maker of a database shall run from the date of completion of the database, which is the date on which the making of the database is completed.

(2) The term of protection of the rights of the maker of a database shall expire in fifteen years from the first of January of the year following the date when the database was completed.

(3) If a database is made available to the public in whatever manner within the period provided for in subsection (2) of this section, the term of protection of the rights of the maker of the database shall expire in fifteen years from the first of January of the year following the date when the database was first made available to the public.

(4) If there is a substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from additions, deletions or alterations, which would result in the database being considered to be a substantial investment, evaluated qualitatively or quantitatively, the rights of the maker of the changed database shall expire in fifteen years from the making of corresponding changes. In such case, the term shall be calculated pursuant to the procedure provided for in subsection (2) or (3).

Chapter IX
COLLECTIVE EXERCISE OF RIGHTS

[RT I 1999, 10, 156 - entry into force 15.02.1999]

Subchapter 1
Principles of Operation of Collective Management Organisations

[RT I, 01.04.2016, 2 - entry into force 10.04.2016]

§ 76. Definitions

(1) Authors, performers, producers of phonograms, broadcasting service providers and other holders of copyright and related rights have the right to establish collective management organisations.

(2) A collective management organisation is a non-profit association that collectively exercises copyrights or related rights. The exercise of rights shall be the sole or main purpose of the respective legal person, and the respective legal person shall be controlled by the rightholders.

(3) An organisation founded in any legal form in any other Member State of the European Union or a state which is a contracting party to the EEA Agreement, which meets the characteristics of a collective management organisation, shall be deemed, within the meaning of this Act, as a collective management organisation that is entitled, inter alia, to collectively exercise the rights of the rightholders also in case of mandatory collective management.

(4) An independent management entity, within the meaning of this Chapter, means an organisation which exercises the rights of more than one rightholder for the collective benefit of such rightholders, as its sole or main purpose and which is:
1) not controlled, directly or indirectly, wholly or in part, by the rightholders;
2) is organised on profit-making bases.

(5) A rightholder, within the meaning of this Chapter, means any person or entity, other than a collective management organisation, that holds copyright or related rights or is entitled to a share of the rights revenue.

(6) A member, within the meaning of this Chapter, means a rightholder or an entity representing rightholders, including other collective management organisations and associations of rightholders, fulfilling the membership requirements of the collective management organisation and admitted by it as members.

(7) The rights revenue, within the meaning of this Chapter, means income collected by a collective management organisation on behalf of rightholders, whether deriving from an exclusive right or a right to remuneration.

(8) Management fees, within the meaning of this Chapter, means the amounts charged, deducted or offset by a collective management organisation from rights revenue or from any income arising from the investment of rights revenue in order to cover the costs of its service of exercising copyright or related rights.

(9) A representation agreement, within the meaning of this Chapter, means any agreement between collective management organisations whereby one collective management organisation permits or authorises another

collective management organisation to exercise the rights it represents, including entry into a European multi-territorial licence agreement on online rights in musical works.

(10) A user, within the meaning of this Chapter, means any person that is carrying out acts subject to the authorisation of rightholders, or remuneration of rightholders and is not acting in the capacity of a consumer.

(11) Repertoire, within the meaning of this Chapter, means the works or objects of related rights in respect of which a collective management organisation exercises rights.

(12) Online rights in musical works, within the meaning of this chapter, means any of the rights provided in subsections 13 (1), (9) and (9^1) of this Act, which are required for the provision of an online music service.

(13) A European multi-territorial licence agreement grants permission for using musical works online in the territory of more than one Member State of the European Union or a state which is a contracting party to the EEA Agreement.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 77. Notification obligation

(1) A collective management organisation that enters into a European multi-territorial licence agreement for online rights in musical works and shall conform to the requirements provided for in subsection 79^{19}(2) of this Act, shall submit a notice of economic activities prior to commencement of economic activities.

(2) The notice of economic activities shall contain, in addition to the information provided for in § 15 of the General Part of the Economic Activities Code Act, information on the categories of the rightholders whose rights are exercised collectively, and information on the rights or categories of rights exercised by the person submitting the notice of economic activities.

(3) The notification obligation provided for in this Act shall be performed only through the Estonian information portal or a notary.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 78. Application of provisions

(1) The provisions of this Chapter shall be applied to the entities controlled, directly or indirectly, wholly or in part, by a collective management organisation, provided that the substance of the activities of such entities is collective exercise of rights.

(2) §§ 77, $79^{12}$and 79^{14}, clauses 7915 1), 2), 4), 5) and 6) and §§ $79^{26}$and $79^{27}$of this Act apply to the activities of independent management entities.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79. Principles of collective exercise of rights

(1) Collective management organisations shall act on the basis of laws and the statutes of the organisation in the interests of the rightholders whose rights they exercise, and shall not impose on them any obligations which are not objectively necessary for the protection of their rights and interests or for the effective exercise of their rights.

(2) Collective management organisations have the right to obtain from all persons information available to them regarding the circumstances related to the object of rights and use thereof, which is necessary for collecting the rights revenue and for distribution and payment of amounts due to the rightholders. The respective information is to be submitted to the collective management organisation not later than 10 days after receipt of the respective inquiry in a form that takes the practice of collective exercise of rights into account, unless agreed otherwise.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3) Exercise of rights through a collective management organisation is mandatory in the cases specified in §§ $10^3$and 10^4, subsection 7 of § 13^3, subsections 6 and 7 of § 14, §§ 15, 27 and $67^1$and subsection 4 of § 68 of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(4) Subsection 3 of this section does not apply upon cable retransmission of a work or an object of related right if the rightholder is a broadcasting service provider, or with regard to a broadcasting service provider upon direct injection.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(5) A rightholder cannot exercise his or her rights during the period when a collective management organisation is representing the copyrights or related rights of the rightholder pursuant to law or a transaction.

(6) A collective management organisation protects and represents those rights of rightholders that are collectively exercised by the collective management organisation, including in court and other institutions.

(7) In the cases of evident violations of the rights and legitimate interests of rightholders, collective management organisations have the right to represent all rightholders without authorisation.

(8) A collective management organisation shall, in order to represent a rightholder of a Member State of the European Union or a state which is a contracting party to the EEA Agreement, enter into a contract on the same terms and conditions as apply to other rightholders represented by the collective management organisation.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[1]. Guarantees for members of collective management organisations

(1) The following rights shall be ensured to rightholders by the statutes of a collective management organisation or a document approved on the basis of the statutes, and the collective management organisation shall inform the rightholder of such rights before entering into an agreement necessary for exercising the rights:
1) right to agree with the collective management organisation chosen by the rightholder that the collective management organisation shall exercise the rights, categories of rights or manage types of works and objects of related rights in the territory chosen by the rightholder irrespective of the citizenship, Member State of the residence or registered office of the collective management organisation or rightholder, and provided that the collective management organisation has no objective reasons to refuse from exercising the rights;
2) right to enter into licence agreements for exercise of rights, categories of rights or objects of related rights of types of works for non-commercial purposes;
3) right of the rightholder, deriving from clause 1) of this section, to terminate a contract entered into with a collective management organisation, or claim withdrawal of the rights or categories of rights transferred to the collective management organisation with regard to one or several types of works, objects of related rights or territories of the choice of the rightholder, provided that the rightholder serves reasonable notice in advance not exceeding six months;
4) if there are amounts due to the rightholder for exploitation which occurred before the entry into force of the termination of the contract or withdrawal of rights or under a licence agreement which was entered into before entry into force of the given termination or withdrawal, the rights of the rightholder deriving from § 79[8], subsections 79[9](1)-(8), §§ 7912, 7914, 79[22]and subsections 87[1](2) and (3) of this Act shall survive;
5) collective management organisations shall not restrict the exercise of the rights provided for in clauses 3) and 4) of this section by requiring that the exercise of rights or categories of rights or types of works and objects of related rights be entrusted to another collective management organisation due to the termination of the contract or due to withdrawal, except in the cases specified in subsection 79 (3) of this Act;
6) if a rightholder agrees with a collective management organisation on exercise of the rights of the rightholder, the rightholder shall give a consent, in a format which can be reproduced in writing, specifically for each right or category of rights, types of works or objects of related rights.

(2) The time limit provided for in clause (1) 3) of this section shall apply unless the collective management organisation has decided that the given termination or withdrawal of rights will enter into force only at the end of the financial year.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[2]. Membership rules of collective management organisations

(1) The membership rules set out in the statutes of a collective management organisation or a document approved on the basis of the statutes shall be based on objective, uniform and non-discriminatory bases. If a collective management organisation refuses to admit a rightholder as a member, the collective management organisation shall provide a clear reason regarding its decision to the rightholder.

(2) The statutes of a collective management organisation or a document approved on the basis of the statutes shall provide for appropriate and effective mechanisms for the participation of its members in the decision-making process of the organisation. The representation of the different categories of members in the decision-making process shall be fair and balanced.

(3) A collective management organisation shall allow its members to communicate with it by electronic means, including for the purposes of exercising members' rights.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[3]. Guarantees of rightholders who are not members of collective management organisation

The provisions of subsection 79[2](3), § 79[14], subsection 79[23](3) and subsections 87[1](2) and (3) of this Act apply in respect of rightholders who have a direct legal relationship by law or by a transaction with a collective management organisation but are not its members.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[4]. General assembly of members of collective management organisation

(1) A general assembly shall be convened at least once a year.

(2) The general assembly is competent to:
1) issue guidelines for the distribution of amounts due to rightholders, use of non-distributable amounts, investments of rights revenue and any income arising from the investment of rights revenue, making deductions from rights revenue and from any income arising from the investment of rights revenue, and development of risk-management policy;
2) grant consent for transactions for transfer or encumbrance of an immovable;
3) grant consent for entry into a loan agreement or a transaction for provision of security;
4) approve a transparency report submitted under subsection 79[16](1) of this Act;
5) approve reports submitted under subsection 79[5](2) and § 79[6]of this Act.

(3) The general assembly may delegate the powers listed in clauses (2) 2) and 3) of this section to a body exercising the supervisory function with respect of the collective management organisation. The issue of guidelines for development of risk-management policy set out in clause (2) 1) of this section may also be delegated to the body exercising the supervisory function.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[5]. Exercise of supervision over bodies of collective management organisation

(1) There shall be fair and balanced representation of the different categories of members of the collective management organisation in the body exercising the supervisory function over the activities of the collective management organisation.

(2) Each member of the body exercising the supervisory function shall make an annual statement on conflicts of interest, containing the information referred to in § 79[6]of this Act, to the general assembly of members.

(3) The body exercising the supervisory function shall give an overview of the performance of its functions to the general assembly at least once a year.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[6]. Statement of management board member of collective management organisation

The management board members of a collective management organisation shall submit an annual individual statement to the general assembly, containing the following information:
1) any interests related to the collective management organisation;
2) any remuneration received in the preceding financial year from the collective management organisation, including benefits from pension schemes, benefits in kind and other types of benefits;
3) any amounts received in the preceding financial year as a rightholder from the collective management organisation;
4) a declaration concerning any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any duty owed to any other natural or legal person.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[7]. Collection and use of rights revenue

(1) A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders, except where deductions are allowed in accordance with the guidelines received from the general assembly in compliance with clause 79[4](2) 1) of this Act.

(2) Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the interests of the rightholders whose rights it exercises, in accordance with the guidelines received from the general assembly.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[8]. Deductions

(1) A collective management organisation is required to provide the rightholder with information on management fees and other deductions made from the rights revenue and from any income arising from the investment of rights revenue, before the collective management organisation can start exercising the rights of the rightholder in accordance with the concluded agreement.

(2) Deductions related to the services provided to rightholders or with their consent by the collective management organisation shall be reasonable and established on objective bases.

(3) Management fees shall not exceed the justified and documented costs incurred by the collective management organisation for the purpose of exercising copyright and related rights.

(4) Where a collective management organisation provides social, cultural or educational services funded through deductions from rights revenue or from any income arising from the investment of rights revenue, such services shall be provided on the basis of fair criteria, in particular as regards access to, and the extent of, those services.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[9]. Distribution of amounts due to rightholders

(1) A collective management organisation shall distribute and pay the amounts due to rightholders as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected.

(2) The deadline provided in subsection (1) of this section does not apply if objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and objects of related rights and rightholders prevent the collective management organisation from meeting that deadline.

(3) Where the amounts due to rightholders cannot be distributed within the deadline set in subsection (1) of this section because the relevant rightholders cannot be identified or located and the exception to that deadline as provided in subsection (2) of this section does not apply, those amounts shall be kept separate in the accounts of the collective management organisation.

(4) The collective management organisation shall take all necessary measures to identify and locate the rightholders. In particular, at the latest three months after the expiry of the deadline set in subsection (1) of this section, the collective management organisation shall make available information on works and objects of related rights for which one or more rightholders have not been identified or located to:
1) the rightholders that it represents; and
2) all collective management organisations with which it has concluded representation agreements.

(5) The information referred to in subsection (4) of this section shall include, provided that it is available, the following:
1) the title of the work or object of related rights;
2) the name of the rightholder;
3) the name of the relevant publisher or producer; and
4) any other relevant information available which could assist in identifying the rightholder.

(6) If the measures set out in subsection (4) of this section fail to produce results, the collective management organisation shall make that information available to the public on its website or in any other manner within one year after the expiry of deadline set out in subsection (4) of this section.

(7) Where the amounts due to rightholders cannot be distributed, after three years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in subsections (4) and (6) of this section, those amounts shall be deemed non-distributable.

(8) The collective management organisation may use the non-distributable amounts collected by the organisation in the general interests of the rightholders of the same category in accordance with clause 79[4](2) 1) of this Act.

(9) The collective management organisation shall pay the amounts received from another collective management organisation on the basis of subsection 79[10](3) to the rightholder whose rights it is exercising, as soon as possible but no later than within six months after receipt thereof.

(10) The deadline provided in subsection (9) of this section does not apply if objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and objects of related rights and rightholders prevent the collective management organisation from meeting that deadline.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[10]. Exercise of rights on behalf of other collective management organisation

(1) A collective management organisation does not discriminate against any rightholder whose rights it exercises under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of amounts due to rightholders.

(2) A collective management organisation shall not make deductions, other than in respect of management fees, from the rights revenue derived from the rights it exercises on the basis of a representation agreement, or from any income arising from the investment of the rights revenue.

(3) A collective management organisation shall carry out distribution and payments to other collective management organisations as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected.

(4) The deadline set out in subsection (3) of this section does not apply if objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and objects of related rights with rightholders prevent the collective management organisation from meeting that deadline.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[11]. Conditions for entry into agreement with users

(1) The terms of a licence agreement for exercise of rights shall be based on objective, non-discriminatory and uniform criteria. When entering into licence agreements, collective management organisations shall not be required to use, on the basis of an analogy, terms agreed with a user to such online services which have been available to the public in a Member State of the European Union or a state which is a contracting party to the EEA Agreement for less than three years.

(2) Rightholders shall receive appropriate remuneration for the use of their rights. The following circumstances shall be taken into account in establishment of reasonable tariffs for exclusive rights and rights to revenue:
1) the economic value of the rights in trade;
2) the nature and scope of the use of the work and objects of related rights; and
3) the economic value of the service provided by the collective management organisation.

(3) A collective management organisation shall allow users to communicate with it by electronic means.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[12]. Information provided to rightholders regarding exercise of their rights

(1) A collective management organisation shall make available, not less than once a year, to each rightholder to whom it has made payments in the period to which the information relates, at least the following information:
1) any contact details which the rightholder has authorised the collective management organisation to use in order to identify and locate the rightholder;
2) the rights revenue attributed to the rightholder;
3) the amounts paid by the collective management organisation to the rightholder per category of rights managed and per type of use;
4) the period during which the use took place for which amounts were attributed and paid to the rightholder, unless objective reasons relating to reporting by users prevent the collective management organisation from providing this information;
5) deductions made in respect of management fees;
6) deductions made for any purpose other than in respect of management fees; and
7) any rights revenue attributed to the rightholder which is outstanding for any period.

(2) Where a collective management organisation attributes rights revenue and has as members entities which are responsible for the distribution of rights revenue to rightholders, the collective management organisation shall provide the information listed in subsection (1) of this section to those entities, provided that they do not have that information in their possession. The entities shall make at least the information listed in subsection (1) of this section available, not less than once a year, to each rightholder to whom they have attributed rights revenue or made payments in the period to which the information relates.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[13]. Information provided to other collective management organisations in respect of exercise of rights under representation agreement

At least the following information shall be made available once a year to collective management organisations on whose behalf another collective management organisation exercises rights under a representation agreement:
1) the rights revenue attributed, the amounts paid by the collective management organisation per category of rights exercised, and per type of use, for the rights it exercises under the representation agreement, and any rights revenue attributed to rightholders which is outstanding for any period;
2) deductions made in respect of management fees;
3) other deductions made for any purpose other than in respect of management fees, in accordance with subsections 79[10](2)-(4) of this Act;
4) information on any licences granted or refused with regard to works and objects of related rights of repertoire covered by the representation agreement;
5) resolutions adopted by the general assembly relevant to the exercise of the rights under the representation agreement.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[14]. Information provided to rightholders, other collective management organisations and users at their request

(1) In response to a justified request, a collective management organisation shall make available, by electronic means and without delay, information on the works or objects of related rights with regard to which it exercises the rights, and the rightholder and the territory where rights are exercised.

(2) Where, due to the scope of activity of the collective management organisation, submission of information set out in subsection (1) of this section regarding the works or objects of related rights is unreasonably complicated, at least information on the types of works or objects or related rights, as well as the rights exercised and the territories of exercising the rights shall be made available.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[15]. Disclosure of information to public

A collective management organisation shall make public at least the following information and update it on its website:
1) its statutes and the documents approved on the basis of the statutes, including the information deriving from subsection 79[1](1) and subsections 79[2](1) and (2) of this Act;
2) the standard licence agreements and standard applicable tariffs, including disclounts;
3) the management board members;
4) the general policy on distribution of amounts due to rightholders;
5) the general policy on determination of management fees;
6) the general policy on deductions, other than in respect of management fees, from rights revenue or from any income arising from the investment of rights revenue;
7) a list of the representation agreements it has entered into, and the names of the collective management organisations with which those representation agreements have been concluded;
8) the general policy on the use of non-distributable amounts;
9) the complaint submission and dispute resolution procedures available as specified in subsections 87[1](2) –(4) of this Act and other Acts;
10) the transparency report prepared on the basis of subsection 79[16](1) of this Act and approved by the general assembly.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[16]. Transparency report

(1) The management board of a collective management organisation shall draw up and make public a transparency report, including the information established under subsection (2) of this section and provided for in the regulation of the minister responsible for the area, no later than eight months following the end of the previous financial year. Said information shall be presented to the general assembly of the collective management organisation.

(2) The minister responsible for the area shall establish, by a regulation, requirements for the information to be set out in a transparency report.

(3) The information referred to in subsection (2) of this section shall include:
1) a general description of the legal and management structure of the collective management organisation;
2) information on refusal from entry into licence agreements;
3) financial information on rights revenue, costs of services provided to rightholders by the collective management organisation and amounts receivable by rightholders, and relationships with other collective management organisations;
4) a special report on amounts deducted during the financial year for the purpose of providing social, cultural and educational services.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[17]. Exercise of rights in case of retransmission and direct injection

[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(1) If a rightholder has not entered into a contract with a collective management organisation for the exercise of the right of retransmission within the meaning of § 10[3], the organisation representing holders of rights of the same category is authorised to represent the rightholder.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) If there are several collective management organisations specified in subsection 1 of this section, the organisation representing a vast majority of the holders of rights of the same category is authorised to represent the rightholder.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3) A rightholder represented pursuant to subsection 1 of this section has the same rights and obligations as the rightholder who is represented by a collective management organisation pursuant to a membership contract or any other contract.

(4) A rightholder represented pursuant to subsection 1 of this section may claim recognition of the rights deriving from a contract between a collective management organisation and a party carrying out the retransmission, and performance of obligations corresponding to the rights within three years after the date of retransmission of the radio or television broadcast which includes the work or the object of related rights.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(4^1) The procedure for exercising the rights specified in subsection 1 of this section is also applied to the grant of authorisation to a signal distributor for communication to the public or making available to the public, if the signal distributor participates in the technical process of direct injection within the meaning of subsection 2 of § $10^4$of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(5) Subsection 1 of this section does not apply to broadcasts of broadcasting service providers. Where a broadcasting service provider enters into negotiations with the rightholder or their representative to retransmit a broadcast within the meaning of § $10^3$of this Act or to communicate the broadcast to the public or make it available to the public as a participant in the technical process of direct injection within the meaning of § $10^4$of this Act, these negotiations are to be conducted in good faith.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 79^{18}. Exercise of right of communication by satellite

(1) § $79^{17}$of this Act applies to communication of a work or an object of related rights by satellite if the communication of the work to the public by a broadcasting service provider by satellite simulcasts a terrestrial broadcast by the same broadcaster.

(2) The rightholder represented by a collective management organisation pursuant to the procedure provided for in § $79^{17}$of this Act has at any time the right to demand that the representation be terminated and to exercise his or her rights either individually or collectively.

(3) This section does not apply to audiovisual works.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

Subchapter 2
Entry into European Multi-Territorial Licence Agreements on Online Rights in Musical Works by Collective Management Organisations

[RT I, 01.04.2016, 2 - entry into force 10.04.2016]

§ 79^{19}. European multi-territorial licence agreement and processing thereof

(1) A collective management organisation that enters into European multi-territorial licence agreements on online rights in musical works, has sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such agreements, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

(2) European multi-territorial licence agreements on online rights in musical works can be concluded by a collective management organisation that complies at least with the following conditions:
1) the ability to identify accurately the musical works, wholly or in part, for the representation of which the collective management organisation has entered into an agreement;
2) the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein, for the representation of which the collective management organisation has entered into an agreement;
3) the ability to make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international level, the European Union level, or the EEA level;

4) the ability to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations entering into European multi-territorial licence agreements on online rights in musical works.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[20]. Information on online music repertoire

(1) A collective management organisation that enters into European multi-territorial licence agreements on online rights in musical works, shall provide to online music service providers, to rightholders whose rights it represents and to other collective management organisations, by electronic means, in response to a justified request, relevant information allowing the identification of the online music repertoire, regarding which it exercises the rights. Such information shall include:
1) the musical works regarding which rights are exercised;
2) the rights exercised wholly or in part;
3) the territories covered.

(2) A collective management organisation that enters into European multi-territorial licence agreements on online rights in musical works, shall have in place arrangements to enable rightholders, other collective management organisations and online music service providers to request a correction of the data referred to in subsection 79[19](2) of this Act or in subsection (1) of this section, where such rightholders, collective management organisations and online service providers, on the basis of relevant evidence, believe that the data are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collective management organisation shall ensure that the data are updated without delay.

(3) A collective management organisation shall provide rightholders whose musical works are included in its own music repertoire with the means of submitting relevant information in electronic form. As far as possible, voluntary industry standards or practices regarding the exchange of data developed at international level or the European Union level or the EEA level shall be taken into account.

(4) Where a collective management organisation mandates another collective management organisation to enter into European multi-territorial licence agreements on the online rights in musical works under § 79[23]and § 79[24]of this Act, the mandated collective management organisation shall also apply subsection (3) of this section with respect to the rightholders whose musical works are included in the repertoire of the mandating collective management organisation, unless agreed otherwise.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[21]. Accurate and timely reporting and invoicing

(1) A collective management organisation monitors the use of online rights in musical works which it represents, wholly or in part, by online music service providers with which it has entered into a European multi-territorial licence agreement on those rights.

(2) A collective management organisation shall offer online music service providers the possibility of reporting by electronic means the actual use of online rights in musical works. The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international level or the European Union level or the EEA level for the electronic exchange of such data. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the organisation allows for reporting using an industry standard for the electronic exchange of data.

(3) A collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international level or the European Union level or the EEA level. The invoice shall identify the works and rights for which license agreements are concluded, wholly or in part, on the basis of the data referred to in the list of conditions under subsection 79[19](2) of this Act, and the corresponding actual use of the rights, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

(4) The collective management organisation shall invoice the online service provider accurately and without delay after the actual use of the online rights in that musical work is reported, except where this is not possible for reasons attributable to the online service provider.

(5) The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice, including when the online service provider receives

invoices from one or more collective management organisations for the same online rights in the same musical work.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[22]. Accurate and timely payments to rightholders

(1) A collective management organisation that enters into European multi-territorial licence agreements on online rights in musical works, shall distribute amounts due to rightholders accruing from such licence agreements accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

(2) A collective management organisation shall provide at least the following information to rightholders together with each payment it makes under subsection (1) of this section:
1) the period during which the uses of rights took place for which amounts are due to rightholders and the territories in which the rights were used;
2) the amounts collected, deductions made and amounts distributed by the collective management organisation for each online right in any musical work for which the collective management organisation exercises the rights of the rightholders, wholly or in part; and
3) the amounts collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of the online service providers.

(3) Where a collective management organisation enters into a representation agreement with another collective management organisation for entry into European multi-territorial licence agreements on the online rights in musical works under §§ 79[23]and 79[24]of this Act, the mandated collective management organisation shall distribute the amounts referred to in subsection (1) of this section accurately and without delay, and shall provide the information referred to in subsection (2) of this section to the mandating collective management organisation. The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to rightholders, unless the collective management organisations agree otherwise.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[23]. Agreements between collective management organisations in respect of entry into European multi-territorial licence agreements

(1) Any representation agreement between collective management organisations whereby a collective management organisation mandates another collective management organisation to enter into European multi-territorial licence agreements on the online rights in musical works in its own music repertoire shall be of non-exclusive nature.

(2) The mandated collective management organisation shall manage the online rights received under subsection (1) of this section on a uniform and non-discriminatory basis.

(3) The mandating collective management organisation shall inform its members of the main terms of the agreement referred to in subsection (1) of this section, including its duration and the costs of the services provided by the mandated collective management organisation.

(4) The mandated collective management organisation shall inform the mandating collective management organisation of the main terms according to which the licence agreements on online rights are to be concluded, including the nature of the exploitation, all provisions which relate to or affect the licence fee, the duration of the licence agreement, the accounting periods and the territories covered.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[24]. Obligation to represent another collective management organisation for entering into a European multi-territorial licence agreement

(1) Where a collective management organisation which does not enter into European multi-territorial licence agreements on the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to exercise those rights, the requested collective management organisation is required to agree to such a request if it is already entering into European multi-territorial licence agreements for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.

(2) The requested collective management organisation shall respond to the requesting collective management organisation in writing and without undue delay.

(3) The requested collective management organisation shall manage the repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire.

(4) If the representation agreements provides a mandate for exercising the rights regarding the repertoire of another collective management organisation upon entry into European multi-territorial licence agreements,

the mandated collective management organisation shall include the repertoire of the mandating collective management organisation in all offers it addresses to online service providers.

(5) The management fee for the service provided by the mandated collective management organisation to the mandating collective management organisation shall not exceed the costs reasonably incurred by the mandated collective management organisation.

(6) The mandating collective management organisation shall make available to the mandated collective management organisation information relating to its own music repertoire required for the entry into European multi-territorial licence agreements for online rights in musical works. Where information is insufficient or provided in a form that does not allow the mandated collective management organisation to meet the requirements of this Subchapter, the mandated collective management organisation shall be entitled to charge for the costs reasonably incurred in meeting such requirements or to exclude those works for which such information is insufficient or cannot be used.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[25]. Derogation for online rights in musical works required for radio and television programmes

The requirements under this Subchapter shall not apply to collective management organisations when they enter into European multi-territorial licence agreements on the online rights in musical works required by a broadcaster to make available to the public or to retransmit its radio or television programmes via cable network.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

Subchapter 3
State Supervision

[RT I, 01.04.2016, 2 - entry into force 10.04.2016]

§ 79[26]. State supervision

State supervision over compliance with the requirements provided in Subchapters 1 and 2 of this Chapter and in §§ 57[1] and 57[3] of this Act is exercised by the Patent Office.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 79[27]. Specific state supervision measures

In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the specific state supervision measures provided for in § 30 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 79[28]. Specifications for state supervision

(1) Where the Patent Office finds that the activities of a collective management organisation that is located in another Member State of the European Union or in a state which is a contracting party to the EEA Agreement but is acting in Estonia, may not be complying with the provisions of the national law of the state of location of the collective management organisation, which have been enacted on the basis of the requirements provided for in Directive 2014/26/EU of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.03.2014, pp 72-98), the Patent Office may transmit all relevant information to the competent authority of the state of location of the respective collective management organisation.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(2) A request received by the Patent Office from another Member State of the European Union or a state which is a contracting party to the EEA Agreement for the reason set out in subsection (1) of this section shall be replied to within three months.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

Chapter X
PROTECTION OF RIGHTS

§ 80. Protection of rights of makers of databases

(1) [Repealed – RT I 2002, 63, 387 – entry into force 01.09.2002]

(2) The provisions concerning the protection of copyright and related rights apply to the protection of the rights of makers of databases (Chapter VIII[1]) unless otherwise provided by law.
[RT I 2002, 63, 387 – entry into force 01.09.2002]

§ 80[1]. Pirated copy

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 80[2]. Trading in pirated copies

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 80[3]. Technological measure

(1) Authors and holders of related rights may, in order to protect their rights, add technological measures to a work or object of related rights.

(2) For the purposes of this Act, a technological measure means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts related to a work, an object of related rights or a database within the meaning of Chapter VIII[1] of this Act and for which the holder of copyright, the holder of related rights or the maker of the database has not granted the authorisation thereof within the meaning of Chapter VIII[1] of this Act.

(3) With the help of technological measures, the rightholders control the use of protected works or objects of related rights through the application of an access control or protection process which achieves the protection objective (such as encryption, scrambling or other transformation or a copy control mechanism). The technological measures voluntarily applied by the rightholders, including those applied in the implementation of voluntary agreements, shall enjoy protection.

(4) In the cases of free use of the works permitted by § 18, clauses 2, 3, 3[2], 5 and 6 of subsection 1 of § 19, §§ 19[1], 19[2], 20 and 23 of this Act, objects of related rights permitted by clauses 1, 2, 5 and 6 of subsection 1 of § 75, and works or other subject matter permitted by subsection 1 of § 25[3] of this Act, the rightholder shall adjust such measures to their work or object of related rights which allow the entitled persons to freely use the same to the extent prescribed for the free use by law on the condition that the persons entitled to free use have legal access to the work or object of related rights. If the person entitled to freely use the work or object of related rights and the rightholder fail to reach an agreement on application of the corresponding measures within a reasonable period of time, the person entitled to freely use the work or the object of related rights has the right to address the copyright committee under the conditions set out in § 87 of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(5) Subsection 4 of this section does not apply to such works and objects of related rights which have been made available to the public on the basis of an agreement in such a way that persons can use them from a place and at a time individually chosen by them, except the use of a work or other subject matter in the cases specified in clause 3[2] of subsection 1 of § 19, §§ 19[1] and 19[2], clause 2 of subsection 1 of § 20, and subsection 1 of § 25[3] of this Act.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(6) This section does not apply to computer programs.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 80[4]. Information on exercise of rights

(1) The authors and holders of related rights may add information on the exercise of rights to published works or objects of related rights.

(2) For the purposes of this Act, information on the exercise of rights is any information presented to the rightholders that defines the work, the object of related rights or database within the meaning of Chapter VIII[1] of this Act or the terms of their use and identifies the author, the holder of related rights or the maker of the database within the meaning of Chapter VIII[1]; figures and codes containing information on the exercise of rights is also deemed to be such information.

(3) Subsection (1) of this section applies only if information on the exercise of rights accompanies the work, object of related rights or database within the meaning of Chapter VIII[1] of this Act or is presented at same time with their communication to the public.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 81. [RT I 2002, 53, 336 – entry into force 01.07.2002]

Chapter X[1]
LIABILITY

§ 81[1]. [Repealed – RT I 2007, 13, 69 – entry into force 15.03.2007]

§ 81[2].–§ 81[6].[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 81[7]. Protection of copyright and related rights under civil law

(1) In the case of the unlawful use of a work or an object of related rights, the author or holder of related rights may, among other, claim the following:
1) compensation, pursuant to § 1043 of the Law of Obligations Act, for the patrimonial and non-patrimonial damage caused through the unlawful use of a work or an object of related rights;
2) termination of the unlawful use of a work or an object of related rights and refrainment from further violation pursuant to § 1055 of the Law of Obligations Act;
3) delivery of that which was received by way of the unlawful use of a work or an object of related rights pursuant to §§ 1037 and 1039 of the Law of Obligations Act.

(2) If, as a result of a violation of copyright legislation, a work or an object of related rights is communicated to the public, reproduced, distributed or altered etc., an entitled person may claim:
1) restoration of the work or object of related rights in the original form;
2) alteration of copies of the work or object of related rights by specific means, or
3) destruction of pirated copies.

(3) The provisions of clauses (2) 2) or 3) of this section do not apply to works of architecture.

(4) It is prohibited to transfer pirated copies to the author, holder of related rights or to their representatives.
[RT I 2007, 13, 69 – entry into force 15.03.2007]

§ 82.–§ 84.[Repealed – RT I 2002, 63, 387 – entry into force 01.09.2002]

§ 84[1]. [Repealed – RT I 2007, 13, 69 – entry into force 15.03.2007]

Chapter XI
IMPLEMENTATION OF ACT

[RT I 1999, 10, 156 - entry into force 15.02.1999]

§ 85. Identification of pirated copies and prevention of further circulation thereof

(1) In civil, criminal or administrative procedure, the following is taken as the basis for considering a copy of a work to be a pirated copy:
1) statements given and documents provided by the author, holder of the author's rights or holder of related rights or by a representative thereof, legal copies of the work or any other factual information received from the above-mentioned persons; or
2) the absence of a required special marking on the object of related rights or its packaging.

(2) Pirated copies are subject to confiscation regardless of the imposition of penalties.

(3) Pirated copies are subject to seizure regardless of the fact to whom they belong.

(4) Illegal copies of objects of architecture are not subject to confiscation.

(5) Seized pirated copies are destroyed.

(6) A person who obtains a pirated copy in good faith has the right to file an action in court against the person who sold or transferred the pirated copy to that person.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 86. Further handling of seized computer system

[Repealed – RT I, 31.12.2016, 2 – entry into force 01.02.2017]

§ 87. Copyright committee

(1) A copyright committee (hereinafter the committee) shall be formed at the Patent Office and the committee shall act in the capacity of an expert committee. The minister responsible for the area shall appoint the members of the committee for a period of five years. The committee shall:
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]
1) monitor compliance of the level of protection of copyright and related rights with the international obligations assumed by the Republic of Estonia;
2) analyse the practice of implementation of copyright legislation;
3) make proposals to the minister responsible for the area for amendment of copyright legislation and accession to international agreements;
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]
4) resolve, at the request of the parties or their representatives, disputes related to copyright and related rights, including disputes deriving from §§ $49^1$and $49^2$of this Act, by way of conciliation of the parties;
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]
4^1) resolve, by way of conciliation pursuant to the procedure set out in the Conciliation Act, the applications submitted pursuant to subsection 4 of § $80^3$of this Act concerning measures applicable to allow the free use of works and objects of related rights in certain cases, and resolve disputes arising between online content-sharing service users and online content-sharing service providers or rightholders regarding an issue of whether the communication to the public or making available to the public of an object of rights by an online content-sharing service provider via its website infringes the copyright or related rights; [RT I, 28.12.2021, 1 – entry into force 07.01.2022]
5) perform other functions assigned to the committee by the minister responsible for the area.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(1^1) The copyright committee is a conciliation body within the meaning of § 19 of the Conciliation Act. The provisions of the Conciliation Act with the specifications arising from this Act apply to proceedings conducted by the copyright committee. In the resolution of a dispute by the copyright committee, the membership of the committee shall be such that its independence and impartiality is beyond reasonable doubt. If necessary, independent experts from outside the committee shall be invited to participate in its work by an order of the Director General of the Patent Board.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

(1^2) [Repealed – RT I 2009, 59, 385 – entry into force 01.01.2010]

(1^3) An agreement on waiver of the opportunity to resolve the disputes deriving from §§ $49^1$and $49^2$of this Act by the mediation of the copyright committee is void.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(1^4) If, in order to resolve a dispute specified in clause $4^1$of subsection 1 of this section, a party has applied to the copyright committee, the parties are required to enter into negotiations through the committee and conduct the negotiations in good faith. The parties may not prevent or hinder negotiations without valid justification.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(2) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]

(3) [Repealed – RT I 2008, 18, 123 – entry into force 15.05.2008]

(4) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 87^1. Negotiations and resolution of disputes in respect of rights exercised via collective management organisations

[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

(1) In the cases specified in subsection 76 (3) of this Act, a collective management organisation and a user are required to enter into and conduct negotiations in good faith. The parties shall not avoid or hinder negotiations without valid justification.

(2) The provisions of subsection (1) of this section shall apply also in case a collective management organisation receives a complaint made by its member, a rightholder or another collective management organisation whose rights are exercised by the collective management organisation on the basis of a

representation agreement, and the complaint concerns the mandate to exercise rights, terms of membership, collection of, deductions from and distribution of amounts due to rightholders.

(3) In the case referred to in subsection (2) of this section, the collective management organisation shall respond in writing to the person filing a complaint. Where the collective management organisation rejects a complaint, it shall give reasons.

(4) Where parties are unable to reach an agreement in the cases referred to in subsections (1) and (2) of this section, one or both parties have the right to call upon the assistance of a conciliator for the resolution of the dispute. The copyright committee or one or several persons who have been selected by the parties and who comply with the conditions set out in § 3 of the Conciliation Act may act as conciliators. The provisions of the Conciliation Act with the specifications arising from this Act shall apply to such proceedings.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 88. Protection of works and results of work of performers, producers of phonograms or broadcasting service providers created before entry into force of this Act

[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(1) This Act also extends to works and results of the work of performers, producers of phonograms or broadcasting service providers which are created before 12 December 1992.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(2) The requirements established by this Act for the use of works and results of the work of performers, producers of phonograms or broadcasting service providers do not extend to cases where use occurred before 12 December 1992.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(3) In the case of works whose term of protection of copyright has expired, the authorship of the works, the names of authors and their honour and reputation shall be protected by the Ministry of Justice (subsection 44 (1)). This provision also applies to performers (subsection 74 (4)).
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 88[1]. Application of specific provisions of Act

(1) Section 15 of this Act also applies in respect of the states party to the Berne Convention for the Protection of Literary and Artistic Works which ensure for the citizens or permanent residents of the Republic of Estonia the same level of protection as that prescribed in Article 14 *ter*of the Berne Convention for the Protection of Literary and Artistic Works.

(2) The copyright provisions of this Act also apply in respect of the citizens and permanent residents of the contracting states of the World Trade Organisation (WTO) pursuant to Agreement on the Trade-Related Aspects of Intellectual Property Rights in Annex 1C of the Agreement Establishing the World Trade Organisation (Marrakesh Agreement).

(3) Section 15 of this Act also applies in respect of the contracting states of the World Trade Organisation which ensure for the citizens or permanent residents of the Republic of Estonia the same level of protection as that prescribed in Article 14 *ter*of the Berne Convention for the Protection of Literary and Artistic Works.

(3[1]) The provisions of Subchapter 4 'Use of Orphan Works' of Chapter IV of this Act 'Limitations on Exercise of Economic Rights of Authors (Free Use of Works)' are applied to every work or phonogram specified in § 27[2]of this Act which is protected pursuant to this Act on 29 October 2014 or thereafter.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

(3[2]) Upon application of §§ 27[7]and 27[8]of this Act, the information on partial or full invalidation of orphan work status gathered from 29 October to 31 December 2014 shall be added to the respective information gathered during the year 2015, and the amount of the fee shall be determined and paid in the course of processing the information gathered during the year 2015.
[RT I, 29.10.2014, 2 – entry into force 30.10.2014]

(3[3]) The requirements deriving from § 49[1]of this Act are applied from 7 June 2022.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3[4]) The rights deriving from subsection 2 of § 73[2]of this Act are not applied to press publications which were first published before 6 June 2019.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3[5]) In case of an agreement entered into for the provision of ancillary online services which is valid as at 7 June 2022, subsections 4–8 of § 73 of this Act are applied from 7 June 2023, if the term of the respective agreement expires after said date.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(3[6]) In case of an agreement entered into for communication to the public via the technical process of direct injection which is valid as at 7 June 2022, § 10[4] of this Act is applied from 7 June 2025, if the term of the respective agreement expires after said date.
[RT I, 28.12.2021, 1 – entry into force 07.01.2022]

(4) Section 74[1] of this Act does not apply in respect of the contracting states of the Berne Convention for the Protection of Literary and Artistic Works and the World Trade Organisation.

(5) The provisions of clauses 67 (2) 1) – 3) and 7) of this Act and other provisions arising from the given section of this Act apply in respect of persons who are citizens of a contracting state of the World Trade Organisation.

(6) The provisions of clauses 70 (1) 1) and 4) of this Act and other provisions arising from the given section of this Act apply in respect of producers of phonograms who are citizens of a contracting state of the World Trade Organisation, or in respect of legal persons which have their registered office in a contracting state of the World Trade Organisation.

(7) The provisions of clauses 73 (1) 1), 2), 4) and 5) of this Act and other provisions arising from the given section of this Act apply in respect of broadcasting service providers which have their headquarters in the territory of a contracting state of the World Trade Organisation.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(8) The provisions of § 67[1], subsections 68 (5) – (8), subsection 74 (1) and subsection 76 (3) of this Act apply to the recordings and phonograms of performances subject to the related rights of the performer and rights of the producer of phonograms that were still protected as at 31 October 2011 pursuant to the provisions of the Act that were in force before the entry into force of said provisions on 1 November 2013, and to the recordings and phonograms of performances made after 31 October 2011.
[RT I, 14.06.2013, 3 – entry into force 01.11.2013]

(9) A collective management organisation shall inform the rightholders who have entered into a respective agreement with the collective management organisation, of the rights set out in § 79[1] of this Act not later than by 10 October 2016.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

(10) Where a collective management organisation does not enter into European multi-territorial licence agreements on online rights in musical works and does not mandate another collective management organisation to exercise the respective rights under a representation agreement by 10 April 2017, at the latest, the rightholder who has mandated the collective management organisation to exercise such rights or assigned such rights to the collective management organisation, may claim amendment of the licence agreement or withdrawal of rights in such manner that the rightholder would retain the right to exercise online rights in musical works in all territories. The provisions of the first sentence of this subsection need not comprise the online rights in musical works in the territory of the Republic of Estonia.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

(11) Unless clearly provided otherwise in the agreement, the agreement concluded by a collective management organisation in the course of its economic and professional activities before 10 April 2016 shall remain in force also after the entry into force of §§76-79[28] and 87[1] of this Act.
[RT I, 01.04.2016, 2 – entry into force 10.04.2016]

§ 88[2]. Extension and amendment of agreement for assignment or transfer entered into before 1 November 2013

(1) Unless expressly provided otherwise in an agreement, the agreement set out in subsection 68 (5) of this Act that has been entered into before 1 November 2013 shall remain in force after the entry into force of § 67[1], subsections 68 (5)–(8), subsection 74 (1) and subsection 76 (3) of this Act.

(2) An agreement for assignment and transfer whereby the performer has the right to receive regular income and that has been entered into before 1 November 2013 can be amended after fifty years has passed since the lawful publication of the phonogram, or if no such publication occurred, after fifty years since the lawful communication of the phonogram to the public.
[RT I, 14.06.2013, 3 – entry into force 01.11.2013]

§ 88[3]. Proceedings related to petitions and actions filed with court before 1 April 2019

Proceedings related to petitions or actions filed with a court pursuant to this Act before 1 April 2019 shall be conducted by a county court other than Harju County Court also in case Harju County Court has exclusive jurisdiction over adjudication of the respective petition or action starting from said date.
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 89. Implementing Acts

(1) The Government of the Republic or, by its authorisation, the minister responsible for the area has the right to issue regulations for the implementation of copyrights provided for in §§ 13 and 15 of this Act.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(1[1]) [Repealed – RT I 2002, 92, 527 – entry into force 18.11.2002]

(1[2]) Subsection 13 (6) of this Act enters into force on 1 January 2003.

(1[3]) [Repealed – RT I 2006, 28, 210 – entry into force 30.06.2006]

(2) The Government of the Republic has the right to establish requirements for documenting the circulation of certain objects of related rights.

(3) The upper limit of the remuneration provided for in subsection 13[3](8) of this Act shall be taken into account upon the payment of the remunerations of the previous calendar year as of the year 2005.
[RT I 2005, 37, 287 – entry into force 01.07.2005]

Chapter XII
PROVISIONS WHICH ENTER INTO FORCE UPON ACCESSION TO EUROPEAN UNION

[RT I 2004, 30, 208 - entry into force 01.05.2004]

§ 90. Protection of databases

(1) The first sale in a Member State of the European Union of a copy of a database by the author or with his or her consent shall exhaust the right of the author as provided for in clause 13 (1) 2) of this Act to control resale of that copy within the European Union.

(2) The first sale in a Member State of the European Union of a copy of a database by the maker of the database or with his or her consent shall exhaust the right of the maker of the database as provided for in clause 75[4](2) 2) of this Act to control resale of that copy within the European Union.

(3) The provisions of Chapter VIII[1] of this Act also apply if:
1) the maker of a database or rightholder is a citizen of a Member State of the European Union or a person who has his or her habitual residence in the territory of the European Union;
2) the maker of a database or rightholder is a company founded in accordance with the law of a Member State of the European Union and having its registered office, central administration or principal place of business in the territory of the European Union. If such company has only its registered office in the territory of the European Union, its operations must be genuinely linked on an ongoing basis with the economy of a Member State of the European Union.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 91. Protection of computer programs

The first sale in a Member State of the European Union of a copy of a computer program by its author or with his or her consent shall exhaust the right of the author provided for in clause 13 (1) 2) of this Act to distribute that copy within the European Union, with the exception of the right to rent the program or a copy thereof.
[RT I 2004, 30, 208 – entry into force 01.05.2004]

§ 92. Terms of protection

(1) Where the country of origin of a work, within the meaning of subsection 4 of Article 5 of the Berne Convention, is a third country, and the author of the work is not a citizen of a Member State of the European

Union, the term of protection of copyright in the European Union shall expire within a period prescribed by the law of the country of origin of the work, but may not exceed the term specified in subsection 38 (1).

(2) The terms of protection prescribed in § 74 of this Act also apply in respect of holders of related rights who are not citizens of a Member State of the European Union, provided that the Member States grant them protection. Such rights shall expire within a period prescribed by the law of the Member State of which the rightholder is a citizen, but may not exceed the term prescribed in § 74, unless otherwise prescribed by an international agreement.

(3) The terms of protection provided for in Chapter VI, and §§ 74 and 757 of this Act apply to all works and objects of related rights which are protected in at least one Member State of the European Union.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 93. Related rights

(1) Section 74[1] and Chapter VIII[1] of this Act also apply in respect of citizens and permanent residents of the Member States of the European Union and in respect of legal persons which have their registered office in a Member State of the European Union.

(2) The Government of the Republic or, by its authorisation, the minister responsible for the area shall notify the Commission of any intention to create new related rights including the basic reasons for their introduction and the term of protection envisaged.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 94. Rental right and lending right

The distribution right prescribed in Chapter VIII of this Act shall only be exhausted if the first sale of an object of related rights is made in the territory of the European Union by the rightholder or with his or her consent, except for the rental right which is not exhausted.
[RT I 2004, 71, 500 – entry into force 29.10.2004]

§ 95. Communication by satellite

(1) The act of communication by satellite occurs solely in the Member State where, under the control and responsibility of the broadcasting service provider, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.
[RT I, 06.01.2011, 1 – entry into force 16.01.2011]

(2) If an act of communication by satellite occurs in a non-Community State which does not provide the level of protection provided for in this Act, then:
1) if the programme-carrying signals are transmitted to the satellite from an uplink station situated in a Member State of the European Union, that act of communication by satellite is deemed to have occurred in that Member State and the rights provided for in this Act shall be exercisable against the person operating the uplink station;
2) if no uplink station situated in a Member State of the European Union is used but a broadcasting service provider established in a Member State has commissioned the act of communication by satellite, that act is deemed to have occurred in the Member State in which the broadcasting service provider has its principal establishment in the European Union and the rights provided for in this Act shall be exercisable against the broadcasting service provider.
[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

§ 96. Cable retransmission

[Repealed – RT I, 28.12.2021, 1 – entry into force 07.01.2022]

§ 97. Application of this Chapter to countries party to European Free Trade Association (EFTA)

Pursuant to an international agreement of the Republic of Estonia, this Chapter applies in the territory of the European Economic Area which, in addition to the Member States of the European Union, covers the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway.
[RT I 2004, 30, 208 – entry into force 01.05.2004]

§ 98. Entry into force of this Chapter

The provisions of this Chapter enter into force by a separate Act.

[1]Council Directive 91/250/EEC on the legal protection of computer programs (OJ No. L 122, 17.05.1991, pp 114–118); Council Directive 92/100/EEC on the rental right and lending right and certain rights related in copyright in the field of intellectual property (OJ No. L 346, 27.11.1992, pp 120–125); Council Directive 93/83/EEC on the coordination of certain rules concernng copyright and rights related to copyright applicable to satlletite broadcasting and cable retransmission (OJ No. L 248, 06.10.1993, pp 134–140); Council Directive 93/98/EEC harmonizing the term of protection of copyright and certain related rights (OJ No. L 290, 24.11.1993, pp 141–145); European Parliament and Council Directive 96/9/EC on the legal protection of

databases (OJ No. L 77, 27.3.1996, pp 459–467); Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society (OJ No. L 167, 22.06.2001, pp 230–239); Directive 2001/84/EC of the European Parliament and of the Council on the resale right for the benefit of the author of an original work of art (OJ No. L 272, 13.10.2001, pp 240–244); Directive 2001/116/EC of the European Parliament and of the Council on the term of protection of copyright and certain related rights (OJ No. L 372, 27.12.2006, pp 12–18), amended by Directive 2011/77/EU (OJ No. L 265, 11.10.2011, pp 1–5); Directive 2012/28/EU of the European Parliament and of the Council on certain permitted uses of orphan works (OJ No. L 299, 27.10.2012, pp 5–12). [RT I, 29.10.2014, 2 – entry into force 30.10.2014] Directive 2014/26/EU of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.03.2014, pp 72–98). [RT I, 01.04.2016, 2 – entry into force 10.04.2016] Directive (EU) 2017/1564 of the European Parliament and of the Council on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 242, 20.9.2017, p. 6–13). [RT I, 27.11.2018 – entry into force 28.11.2018] Directive (EU) 2019/789 of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.05.2019, pp 82–91); Directive (EU) 2019/790 of the European Parliament and of the Council on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.05.2019, pp 92–125). [RT I, 28.12.2021, 1 – entry into force 07.01.2022]