
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

MALDIVES

The present document reproduces the text¹ of the Law on Copyright and Related Rights (Law No. 23/2010), as notified by the Maldives on 12 October 2011, under Article 63.2 of the Agreement (see document IP/N/1/MDV/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

MALDIVES

Le présent document contient le texte¹ de la Loi sur le droit d'auteur et les droits connexes (Loi n° 23/2010), notifiée par les Maldives le 12 octobre 2011 au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/MDV/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD
INTELLECTUAL NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2
DEL ARTÍCULO 63 DEL ACUERDO**

MALDIVAS

En el presente documento se reproduce el texto¹ de la Ley de Derechos de Autor y Derechos Conexos (Ley N° 23/2010), notificada por Maldivas el 12 de octubre de 2011 en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/MDV/1).

¹In English only/En anglais seulement./En inglés solamente.

UNOFFICIAL ENGLISH TRANSLATION

Law number: 23/2010

THE COPYRIGHT & RELATED RIGHTS ACT

SECTION 1

INTRODUCTION

- Introduction and name: 1. (a) This Act protects the copyrights and related rights in the Republic of Maldives and stipulates the actions and penalties resulting from infringement of these.
- (b) This Act shall be referred to as the "Copyright & Related Rights Act".
- Application of the Act: 2. (a) Upon coming into effect, this Act shall protect the works produced in Maldives and the works produced by signatories of international conventions which Maldives is party to.
- (b) Works that were produced before this Act came into force will be protected under the following circumstances.
- (1) The duration for which the work was protected under any regulation, prior to this Act coming into force, has not expired; or
- (2) The duration of such works protected by legislation of a signatory to international conventions to which Maldives is party to has not expired.
- (c) When calculating the duration of copyright and related rights for this sub-section (b), the registration date, if registered, shall be the date the work was registered and if not registered, shall be the date on which the work was first made available to the public.

SECTION 2

COPYRIGHTS

WORKS PROTECTED UNDER THIS ACT

3. The following types of works shall be protected under this Act.

- (a) Literary and artistic works that fall under intellectual and professional domain, and particularly the following works:
- (1) Books, pamphlets, articles and other writings;
- (2) Academic, literary and artistic speeches and addresses;

(3) Drama, musicals, stage performances, choreography, steps and other presentations and other works for stage productions;

(4) Poems, songs, tunes, and other musical products:

(5) Feature films, documentary films, drama, video songs and other video-visual presentations and works:

(6) Works of art and architecture:

(7) Photographic works;

(8) Works of applied arts;

(9) Illustrations, charts, plans, sketches and three-dimensional works related to geography, topography, architecture or science;

(10) Computer programs (even if represented as source codes or object codes).

(b) Under this Act, works shall be protected by the sole fact of their creation, irrespective of their mode or form of expression, as well as of their content, quality and purpose.

DERIVATIVE WORKS

4. (a) The following derivative works shall also be protected under this Act.

(i) Translations, adaptations, arrangements and other transformations or modifications of works;

(ii) Collections of works, collections of data (databases) in whatever form, and collections of expressions of folklore that are original by selection or arrangement.

(b) The protection of any work referred to in Subsection (a) shall not in any way affect any protection of pre-existing work or expression of folklore incorporated in or utilized for the making of such a work.

ORIGINALITY OF WORKS

5. The protection of any product or works referred to in Sections 3 and 4 of this Act shall only extend to originally created products or work.

WORKS NOT PROTECTED

6. Notwithstanding the provisions of Section 3 and 4, no protection shall extend under this Act to:

(a) any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work; and

(b) any official text of a legislative, administrative or legal nature, as well as any official translation of such documents.

REGISTRATION OF COPYRIGHT

7. (a) This Act does not deem it compulsory for parties to register their work in a Government authority in order to gain protection under this Act. However, the Act allows those parties who desire to register such works, to be registered in the allocated Government authority.
- (b) As per sub-section (a), the rights of those works not registered will not be affected in any way by not choosing to seek registration of copyrights. The main purpose of such a registration is to provide a means for a right holder to convey in a court judgment that the work is his creation.
- (c) Sub-section (a) allows the allocated Government authority to levy a registration fee to register copyrights under this Act.

REGISTERED COPYRIGHT WORKS TO BE FIXED IN A MEDIUM

8. (a) All works registered under this Act has to be fixed in a medium to be registered.
- However the rights of artists as stipulated in Section 2 will not be affected due to the conditions imposed by this sub-section.
- (b) Programs that can be copied automatically for the repair and maintenance of computers are not fixed, but these not being fixed shall not affect copyrights under this Act.
- (c) Any person who does not desire to register a work under this Act but wants to prove in a court of law that it is his own work, can fix the work in a medium and post the work through registered post to his personal address. However self-posted packages can only be admitted as evidence in such a court of law, if the post is unopened and intact, and if the date of postage can be determined from the cover of the post.

AUTHOR'S RIGHTS

9. (a) Unless written and specified otherwise, the copyright of a work belongs to the author of the work.
- (b) Unless written and specified under a contract, the author has the right to publish and or determine how his work shall be published.
- (c) Unless written and specified under a contract, the author of a work has the right to exploit his work for economic purposes and use it for commercial gain.

ECONOMIC RIGHTS

10. (a) Subject to the provisions of Section 13 to 20, the exclusive right to carry out or to authorize the following acts in relation to the work rests with the author or the copyright holder .
- I. reproduction of the work;
- II. translation of the work;
- III. adaptation or transformation of the work;

- IV. the distribution to the public by sale, rental, public lending or otherwise of the original or a copy of the work that has not already been authorized by the owner of copyright for the same to another party.
 - V. rental or public lending of the original or a copy of an audiovisual work, a work included in a sound recording, a computer program, a database or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
 - VI. public display of the original or a copy of the work;
 - VII. public performance of the work;
 - VIII. broadcasting of the work;
 - IX. publicizing of the work through other communicative media.
- (b) The rights of rental and lending under item (5) of sub-section (a) do not apply to rental or lending of computer programs where the program itself is not the main object of the rental or lending.

MORAL RIGHTS

11. (a) Independent of his economic rights, and even where he is no longer the owner of the said rights, the author of a work is entitled to:
- (1) The right to have his name indicated prominently on the copies of his product and in any public use of his work;
 - (2) The right to not have his name indicated on the copies of his product and in public use of his work, and the right to use a pseudonym; and
 - (3) the right to object to any distortion of his work which could cause damage to his honor or reputation and the right to object to any unjustified modifications of his work.
- (b) None of the rights mentioned in the subsection (a) shall be transferred to another person during the life of the author. However, the aforementioned rights can be transferred by testamentary disposition or by operation of law following the death of the author.
- (c) The author may waive all or any of the moral rights mention in subsection (a), provided that it is clearly specified in writing the right or rights waived and the circumstances the waiver is applicable to, and provided further that any waiver of the right in subsection (a) (3) specifies the nature and extent of the modification.
- (d) Following the death of the author, the physical person or the legal entity upon whom the rights rest can act as per subsection (c).

PRIVATE REPRODUCTION FOR PERSONAL PURPOSES

12. (a) Notwithstanding Section 10 (a) (1), and subject to the provisions of subsection (b), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a person exclusively for his own personal purposes.
- (b) The permission under subsection (a) shall not extend to the following.
- (1) to the reproduction of a work of architecture in the form of building or other construction;
 - (2) to reproduction in the form of the whole or a substantial part of a book or of a musical work in the form of notation;
 - (3) to reproduction of the whole or a substantial part of a database in digital form;
 - (4) to reproduction of a computer program, except as provided in Section 18 of this regulation; and
 - (5) to reproduction of any work in cases where reproduction would affect the normal proceedings the work may generate and could prejudice the legitimate interests of the author or other owner of the copyright.
 - (6) to reproduction of feature films, documentary films, dramas, video songs and other audiovisual presentations created for commercial use.

TEMPORARY REPRODUCTION

13. Notwithstanding the provisions of Section 10 (a)(1), the temporary reproduction of a work shall be permitted if all the following conditions are met;
- (a) the reproduction is made in the process of a digital transmission of the work or while making a digitally stored work perceptible,
 - (b) the reproduction is by a person or entity with the authorization of the owner of copyright or is entitled to it by law.
 - (c) it is an accessory to that transmission or making perceptible, that occurs during the normal operation of the equipment used and results in the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those specified in subsections (a) and (b).

QUOTATION

14. (a) Notwithstanding the provisions of Section 10 (a) (1), the reproduction, in the form of quotation, of a short part of a published work shall be permitted without authorization of the author or other owner of copyright, provided that the reproduction is compatible with fair practice and does not exceed the extent justified by the purpose.
- (b) The quotation shall be accompanied by an indication of source, the name of the author, and form of publication as far as practicable of the provisions specified in subsection (a).

REPRODUCTION FOR TEACHING

15. (a) Notwithstanding the provisions of Section 10 (a) (1), a limited portion of a published work can be reproduced and presented as a quotation without the authorization of the author or other owner of copyright, provided that such reproduction is compatible with fair practice and does not exceed the extent justified by the purpose;
- (b) The reproduction shall be accompanied by an indication of source, the name of the author, and form of publication as far as practicable of the provisions specified in subsection (a).

REPROGRAPHIC REPRODUCTION BY LIBRARIES AND ARCHIVES

16. Notwithstanding the provisions of Section 10 (a) (1), any library or archive whose activities do not serve direct or indirect commercial gain may, without the authorization of the author or other owner of copyright, make a single copy of the work by reprographic reproduction in the following ways.

- (a) where the work reproduced is a published article, other short work or short extract of a work, and where the purpose of the reproduction is to satisfy the request of a particular person, provided that;
- (1) the library or archive is satisfied that the copy will be used solely for the purpose of study, scholarship or private research,
 - (2) the act of reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions, and
 - (3) there is no collective license available that is, offered by a collective administration organization of which the library or archive is or should be aware, under which such copies can be made; or
- (b) Where the copy is made in order to preserve and if necessary, replace a copy or to replace a copy which has been lost, destroyed or rendered unusable in the permanent collection of another similar library or archive, provided that it is impossible to obtain such a copy under reasonable conditions, and provided further that the act of reprographic reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.

REPRODUCTION, BROADCASTING AND OTHER COMMUNICATION TO THE PUBLIC FOR INFORMATORY PURPOSES

17. Notwithstanding the provisions of Section 10 (a), (8) and (9), the following acts shall be permitted in respect of a work without the authorization of the author or the other owner of the copyright, subject to the obligation to indicate the source and the name of the author as far as practicable:
- (a) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character. This permission shall not apply where the right to authorize reproduction, broadcasting or other communication to the public is expressly reserved on the copies by the author or other owner of copyright, or in connection with broadcasting or other communication to the public of the work;

(b) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a political speech, a lecture, sermon or other work of similar nature delivered in public, or a speech delivered during legal proceedings, to the extent justified by the purpose of providing current information; and

(c) for the purpose of reporting current events, the reproduction and the broadcasting or other communication to the public of short excerpts of a work seen or heard in the course of such events, to the extent justified by the purpose.

REPRODUCTION AND ADAPTATION OF COMPUTER PROGRAMS

18. (a) Notwithstanding Section 10 (a) (1) and (3), the reproduction, in a single copy, or the adaptation of a computer program by the lawful owner of a copy of that computer program shall be permitted without the authorization of the author or other owner of copyright, provided that the copy or adaptation is necessary for the following.

- (1) for use of the computer program with a computer, for the purpose and extent for which the computer program has been obtained; or
- (2) for archival purposes and for the replacement of the lawfully owned copy of the computer program in the event that the said copy of the computer program is lost, destroyed or rendered unusable.

(b) No copy or adaptation of a computer program shall be used for any purpose other than those specified in subsection (a). In the event that continued possession of the copy of the computer program ceases to be lawful, the relevant government authority has the power to destroy any such copy or adaptation without compensation.

DISPLAY OF WORKS

19. Notwithstanding the provisions of Section 10, (6) of subsection (a), the public display of originals or copies of works shall be permitted without the authorization of the author, provided that the display is made other than by means of a film, slide, television image or otherwise on screen or by means of any other device or process, and provided further that the work has been published or the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor in title.

DURATION OF COPYRIGHT

20. (a) Subject to subsections (b), (c), (d) and (e), the economic and moral rights shall be protected during the life of the author and for full fifty years after his death.

(b) In the case of co and joint authorship, the economic and moral rights shall be protected under this Act, during the life of the last surviving author and for full fifty (50) years after his death.

(c) In the case of collective work, other than a work of applied art, and in the case of an audiovisual work, the economic and moral rights shall be protected for fifty (50) years from the date on which the work was either made, first made available to the public, or first published, whichever date is latest.

(d) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty (50) years from the date on which the work was

with made, first made available to the public or first published, whichever date is the latest. Provided where the author's identity is revealed or is no longer doubtful before the expiration of the said period, the provisions of subsections (a) or (b) shall apply.

(e) In the case of a work of applied art, the economic and moral rights shall be protected for twenty five (25) years from the making of the work.

(f) All periods mentioned in the preceding subsections shall run to the end of the calendar year in which it would otherwise expire

ORIGINAL OWNERSHIP OF ECONOMIC RIGHTS

21. (a) Subject to subsections (a) to (e), the original owner of the economic rights is the author who has created the work.

(b) In the case of a work of joint authorship, the co-authors shall be the original owners of the economic rights. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the economic rights in the part that he has created.

(c) In the case of a collective work, the individual or legal entity under whose initiative and direction which the work has been created shall be the original owner of the economic rights.

(d) In the case of work created by an author employed by an individual or legal entity in the course of his employment, the original owner of the economic rights shall be, unless provided otherwise in a contract, the employer.

(e) In the case of audiovisual work, the original owner of the economic rights shall be the producer, unless provided otherwise in a contract. The co-authors of the audiovisual work and if the new production incorporated an adaptation of a pre-existing work, the rights of authors shall be protected to the extent of their contribution or to the extent to their economic rights are protected.

PRESUMPTION OF AUTHORSHIP AND REPRESENTATION OF THE AUTHOR

22. (a) In the absence of proof to the contrary, the person whose name is indicated as the author on a work in the usual manner shall be presumed to be the author of the work. This provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

(b) In case of an anonymous or pseudonymous work, subject to the provision in the latter part of subsection (a), the publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the author and, in this capacity, shall be entitled to exercise and enforce the moral and economic rights of the author. This presumption shall cease to apply when the author reveals his identity.

ASSIGNMENT AND LICENSE OF AUTHOR'S RIGHTS

23. (a) The economic rights of an author can be assignable in whole or in part to another party.

(b) Any assignment of an economic right, and any license to do an act subject to authorization by the author or other owner of copyright, shall be in writing signed by the assignor and the assignee, or by the licensor and the licensee.

(c) In the case of an assignment in whole or in part of any economic right, or of a license to do an act is authorized by the author or other owner of copyright, it shall not be presumed to include the assignment or license of any other rights not explicitly referred in it.

THE ORGANIZATION THAT REPRESENTS THE OWNERS OF COPYRIGHT

24. As per the provisions of this Regulation, an organization can be created to represent the owners of copyright. The organization that represents the owners of copyright shall be one jointly created by owners of copyrights and related rights, or potential owners of copyrights and related rights, or the agents of said owners, or potential agents of these owners. The organization shall work together and negotiate with the relevant bodies, one of the main objects of which would be to issue licenses for other parties to access the works protected under this Act.

SECTION 3

PROTECTION OF PERFORMERS, PRODUCERS OF SOUND RECORDING AND BROADCASTING ORGANIZATIONS

ACTS REQUIRING AUTHORIZATION OF PERFORMERS

25. (a) Subject to the provisions of Section 29, a performer shall have the exclusive right to carry out or authorize any of the following acts:
- (1) the broadcasting or other communication to the public of his performance, except where the broadcasting or other communication;
 - (a) is made from a fixation of the performance, other than a fixation made under the terms of Section 29 or otherwise made without the authorization of the performer or
 - (b) is a re-broadcasting made or authorized by the organization initially broadcasting the performance;
 - (2) the fixation of his unfixed performance;
 - (3) the direct or indirect reproduction of a fixation of his performance, in any manner or form;
 - (4) the first making available to the public of a fixation of his performance, or copies of it, through sale or other transfer or ownership;
 - (5) rental to the public or public lending of a fixation of his performance, or copies of it, irrespective of the ownership of the copy rented or lent; and
 - (6) the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.

- (b) Once the performer has authorized the incorporation of his performance in an audiovisual fixation, the provisions of subsection (a) shall cease to be applicable.
- (c) Independent of the performer's economic rights and even after the transfer of those rights, the performer shall, with regard to his live performances and fixation of performances, have the right to claim to be identified as the performer of said performance; and to object to any distortion or modification of his performances that would be prejudicial to his reputation. The provisions of subsections (b) and (c) of Section 11 apply in consideration of the event to the rights granted under this subsection.
- (d) Nothing in this Section shall deprive performers of the right to agree by contracts on terms and conditions more favourable to them in regard of their performances.
- (e) The rights under this Section shall be protected until the end of the fiftieth calendar year following the year in which the performance was fixed in a phonogram, or in the absence of such a fixation, from the end of the year in which the performance took place.

ACTS REQUIRING AUTHORIZATION OF PRODUCERS OF SOUND RECORDINGS

26. (a) Subject to Section 29, a producer of a sound recording shall have the exclusive right to carry out or to authorize any of the following acts:
- (1) direct or indirect reproduction of sound recording in any manner or form;
 - (2) the making available to the public by sale or other transfer of ownership, of the original or copies of the sound recording that has not already been subject to a distribution authorized by the producer;
 - (3) rental to the public or public lending of a copy of the sound recording, irrespective of the ownership of the copy rented or lent;
 - (4) the making available to the public of the sound recording, by wire or wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.
- (b) The rights under Subsection (a) shall be protected from the publication of the sound recording until the end of the fiftieth (50th) calendar year following the year of publication or, if the sound recording has not been published from the fixation of the sound recording until the end of the fiftieth (50th) calendar year, following the year of fixation.

EQUITABLE REMUNERATION FOR USE OF SOUND RECORDING

27. (a) If a sound recording published for commercial purposes, or a reproduction of such recording is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user to the producer.
- (b) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under Subsection (a) shall be paid by the producer to the performer or performers.

(c) The right to equitable remuneration under this Section shall begin from the date of publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, if sound recording has not been published from the date of fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

(d) For the purposes of this Section, sound recordings that have been made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be regarded as having been published for commercial purposes.

ACTS REQUIRING AUTHORIZATION OF THE BROADCASTING ORGANIZATIONS

28. (a) Subject to Section 29 a broadcasting organization shall have the exclusive right to carry out or to authorize any of the following acts:
- (1) the re-broadcasting of its broadcast;
 - (2) the communication to the public of its broadcast;
 - (3) the fixation of its broadcast; and
 - (4) the reproduction of its broadcast.
- (b) The rights under this Section shall be protected from the moment when the broadcasting takes place until the end of the fiftieth calendar year.

WORKS NOT PROTECTED

29. Section 25, 26, 27 and 28 shall not apply where the acts referred to in those sections are related to
- (a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
 - (b) reproduction solely for scientific research;
 - (c) reproduction solely for the purpose of face-face teaching activities, except for performances and phonograms which have been published as teaching or instructional materials; and
 - (d) cases where, under Section 2, a work can be used without the authorization of the author or other owner of copyright.

SECTION 4

ENFORCEMENT OF RIGHTS

MEASURES

30. (a) The court having jurisdiction of civil action arising under this Act, shall have the authority, to act as per law and order and fair practice on the following.

- (1) to grant injunctions to prohibit the committing, or continuation of committing, of infringement of any right protected under this Act; and
 - (2) to order impounding of copies of works or sound recordings suspected of being made or imported without the authorization of an owner of any right protected under this Act.
- (b) For relevant Government authorities to check, investigate and take necessary steps as per civil and criminal procedures of the country in instances where there is reason to suspect infringement of the rights protected under this Act.

31. CIVIL REMEDIES

- (a) The owner of any right protected under this Regulation whose right has been infringed shall be entitled to payment, by the infringer, of damages for the property and the prejudice sustained as a consequence of infringement, as well as the payment of expenses caused by these acts, inclusive of legal costs incurred in obtaining the damages.
- (b) The amount of damages specified in subsection (a) shall be fixed after assessing the extent of damages suffered by the owner of the right, as well as the infringer's profits attributable to the infringement.
- (c) Where the infringer did not know or had no way of knowing that he was engaged in infringing activity, the court may limit damages to the profits of the infringer attributable to the infringement.
- (d) Where infringing copies exist, and if the owners of rights do not request otherwise, the court shall have the authority to order the destruction of those copies in a manner which does not harm the right holder. This provision shall not be applicable to copies which were acquired by a third party in good faith, with no intention of infringing of the rights of anyone.
- (e) Where there is reason to believe that there is danger that a material may be used to commit or continue to commit acts of infringement against the rights of an individual, the court shall, order their destruction or order them to be returned to the owner of the right.
- (f) Where there is reason to believe that there is a danger that acts of infringement may be continued, the court has the authority to order such acts not be committed. Further, if the order is not respected, the court shall fix a fine of between 10,000/- (ten-thousand) Rufiyaa and 300,000/- (three hundred thousand) Rufiyaa, which shall be paid depending on the extent of the violation.

CRIMINAL PROCEEDINGS

32. (a) Deliberate or inadvertent infringement of any rights protected under this Regulation will result in a levy of a fine between 50,000/- (fifty thousand) Rufiyaa and 300,000/- (Three hundred thousand) Rufiyaa by the court. The amount of fine shall be fixed based on the damages incurred to the right holder or of the damages that are foreseen to incur on the right holder.

- (b) If any infringer who was proven to have infringed a right stated in subsection (a) commits any subsequent infringements within 5 (five) years of the first infringement, the court has the power to levy two times the highest amount of fine as stated in subsection (a).
- (c) During criminal proceedings, and if civil proceedings as stated in Sections 30 and 31 have not been completed, the proceedings for civil damages can also be continued with the criminal proceedings.

MEASURES, REMEDIES AND SANCTIONS AGAINST ABUSES IN RESPECT OF TECHNICAL MEANS OF PROTECTION AND RIGHTS MANAGEMENT INFORMATION

33. (a) The following acts shall be considered unlawful and in the application of Sections 30, 31 and 32, shall be considered as infringements of rights protected under this Act:
- (1) The manufacture for sale or rental of any device or means specifically designed or adapted to prevent any device or means intended to impair the quality of copies made or prevent making copies;
 - (2) The manufacture for sale or rental of any device or means that facilitate or enable the reception of an encrypted program, which is broadcast or transmitted through satellite, or otherwise communicated to the public, by those who are not entitled to receive the program;
 - (3) The removal or modification of any electronic rights management information without authorization;
 - (4) Unauthorized distribution, import for distribution, broadcasting, communication to the public or making available to the public, of works, performances, sound recordings or broadcasts, knowing or having reason to know that electronic rights management information has been removed or modified without authority.
- (b) If any party conducts any acts stated in subsection (a) of this Section, it shall be considered as an infringement of copyright or related rights and the infringer will be fined an amount between 1000/- (one thousand) Rufiyaa and 100,000/- (one hundred thousand) Rufiyaa. The right holder also has the option to take action under sanctions provided for in Sections 30 and 31 of this Act.

SECTION 5

MISCELLENEOUS

SCOPE OF APPLICATION

34. (a) The provisions of this Act concerning the protection of literary and artistic works shall apply to;
- (1) works of authors who are nationals of, or have their habitual residence in the Republic of Maldives;
 - (2) works that are eligible for protection in the Republic of Maldives in accordance with any international convention or international agreement to which the Republic of Maldives is party to.

- (3) audiovisual works of producers who have his head office established in or is a resident of the Republic of Maldives; and
 - (4) architectural works in the Republic of Maldives and other artistic works incorporated in buildings and other structures located in the Republic of Maldives.
- (b) The provisions of this Act shall protect the works of the following performers:
- (1) performers who are nationals of the Republic of Maldives;
 - (2) performers who are nationals of Republic of Maldives but whose performances;
 - (a) take place within the territory of the Republic of Maldives; or
 - (b) are incorporated in sound recordings that are protected under this Act; or
 - (c) have not been fixed in a sound recording but are included in broadcast qualifying for protection under this Act.
- (c) The provisions of this Act protect the following sound recordings;
- (1) sound recordings produced by nationals of the Republic of Maldives;
 - (2) sound recordings first fixed in the Republic of Maldives;
 - (3) sound recordings first published in the Republic of Maldives.
- (d) The provisions of this Act protect the following broadcasts;
- (1) broadcasts of broadcast organizations, the head offices of which are situated in the Republic of Maldives; and
 - (2) broadcasts transmitted from transmitters situated in the Republic of Maldives
- (e) The provisions in this Act shall also apply to performers, producers of sound recordings and broadcasting organizations that are eligible for protection in accordance with any international convention other international agreement to which the Republic of Maldives is party to.

WORKS PROTECTED BEFORE THE ACT CAME INTO FORCE

35. (a) Works that were produced before this Act came into force will be protected under the following circumstances:
- (1) The duration for which the work was protected under any regulation, prior to this Act came into force, has not expired.
 - (2) The duration of such works protected by legislation of a signatory to international conventions to which Maldives is party to has not expired.
- (b) When calculating the duration of copyright and related rights for this Section, the registration date, if registered, shall be the date the work was registered and if not registered, shall be the date on which the work was first made available to the public.

WORKS NOT INCLUDED

36. Protection of literary and artistic works, performers, producers of sound recordings and broadcasting organizations, books, pamphlets, articles, library and archive materials, teaching aids and other writings produced before this Act came into force ceases to have effect.

APPLICATION OF INTERNATIONAL TREATIES

37. The provisions of any international treaties in respect of copyright and related rights to which the Republic of Maldives is a party, shall apply to matters specified in this Act and, in case of conflicting provisions between the two, the provisions of the international treaty shall prevail over this Act.

ENACTMENT AND ENFORCEMENT OF REGULATIONS UNDER THE ACT

38. The regulations governing the implementation of this Act shall be formulated within six (6) months of this Act coming into force. The Regulation shall be promulgated by the Ministry designated by the President of the Republic of Maldives.

DATE ACT COMES INTO FORCE

39. This Act shall come into force upon passing from the Parliament and ratification of the Act by the President and on being gazetted. The Act shall be fully complied with, within 180 (one hundred and eighty) days of ratification.

ACTS BEING REPEALED

40. Once this Act comes into force, the following Regulations stated in Annex 1 of this Act, Act Number 6/2008 (General Regulations Act), will be repealed.

- (a) Regulation number 51, (The Regulation governing books produced in the Maldives)
- (b) Regulation number 52, (The Regulation governing approval of songs and poetry)
- (c) Regulation number 53, (The Regulation governing registration of original music and musical compilations)
- (d) Regulation number 54, (The Regulation governing the registration of audio albums).

INTERPRETATIONS

41. For the purpose of this Act, the following terms have the following meaning:

"Reproductive rights", or "reproduction" is stated to mean;

- (a) if the economic rights are available to the author, then such rights,
- (b) if the economic rights are transferred to another person(s) or legal entities, other than the author, then such rights,

"Notation" means music written to be performed;

"Rights management information" is any information which identifies the works specified under this Regulation, the authors of the work, the performer, the performance of the performer, the sound recording, the producer of the sound recording, the broadcast, the broadcaster, and information that identifies the rights and the owner of any right under this Act, or information about the terms and conditions of use of the work, the performance, the sound recording or the broadcast. If such numbers or codes represent such information, these are also included in the meaning of this term.

"Broadcasting" is the communication of a work, a performance or a sound recording to the public by wireless transmission, including transmission by satellite.

"Rental" is the transfer of the possession of the original or a copy of a work or sound recording for a particular period of time for profit-making purposes;

A "computer" is an electronic or similar device having information processing capabilities;

"Computer program" is a set of instructions expressed in words, codes, schemes or in any other form, which enables a computer to perform or achieve a particular task or result;

A "collective work" is a work created by two or more persons at the initiative and under the direction of a person or legal entity, with the understanding that it will be presented by the person or entity under his own name and that the identity of the contributing persons will not be indicated;

An "expression of folklore" is a creation of groups or individuals which represents a group's traditions, its cultural and social identity, its standards and values that are transmitted orally, by imitation or by other means, including:

- (a) Folk tales, folk poetry, and folk riddles;
- (b) Folk songs and instrumental folk music;
- (c) Folk dances and folk plays;
- (d) Productions of folk arts in particular, drawings, paintings, carvings, sculptures, poetry, terracotta, mosaic, woodwork, metal ware, jewelry, handicrafts, costumes, and indigenous textiles.

A "work" is any literary or artistic work under Sections 3(a) and 4(a).

"An artistic work produced to facilitate another work" is any work that is produced either by hand or mechanically to facilitate another work.

"Reproduction" is making of one or more copies of a work or sound recording in any manner or form, including any permanent or temporary storage of the work or sound recording in electronic form.

An "audiovisual work" is a work that consists of a series of related images with motion, with or without accompanying sounds, which are made visible.

"Sound recording" is any exclusively aural fixation of the sounds of a performance or of other sounds, or of a representation of sounds, regardless of the method by which the sounds are fixed or the medium in which the sounds are embodied. Audiovisual works and soundtracks that have a fixation of sounds and images are not included in the meaning of this term.

"Economic rights" are the rights mentioned in Section 10;

"Moral rights" are the rights mentioned in Section 11;

"Author" is the person who has created the work;

"Performers" are singers, musicians, and other persons, who sing, deliver, play in, or otherwise perform literary and artistic and cultural works.

"Fixation" means the embodiment of sounds, or of the representation of it, from which they can be perceived, reproduced or transmitted through a device;

"A photographic work" is a recording of light or other radiation on any medium on which an image is produced or from which an image may be produced, irrespective of the chemical, electronic or other techniques by which such recording is made. A still picture extracted from an audiovisual work will not be considered as a photographic work, but as an audiovisual work.

A "work of joint authorship" is a work to the creation of which two or more authors have contributed, provided the work does not qualify as a "collective work" as stated in the interpretation above;

"Perform" means any presentation by an artist;

"Performance" means songs, music, drama, and other dramatic-musical, literary and cultural works.

The "producer" of an audiovisual work or a sound recording is the person or legal entity that undertakes the initiative and responsibility for the making of the audiovisual work or sound recording;

"Public performance" is where a performance can be perceived at a place or at places where persons outside the normal circle of the family and its closest acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time, or at different places and/or times, without intending it be a communication to the public as specified in this Section, in the following ways:

- (a) In the case of a work other than an audiovisual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process;
- (b) In the case of an audiovisual work, the showing of images in sequence and of the making of accompanying sounds audible; and
- (c) In the case of sound recording, making the recording sounds audible.

"Communication to the public" is the transmission by wire or without wire of the images or sounds, or both, of a work, a performance, a sound recording or a broadcast in such a way that images or sounds can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the images or sounds would not be perceivable and further, irrespective of whether the persons can receive the images or sounds at the same place and time, or at different places and/ or times individually chosen by them;

"Public display" is the showing of the original or a copy of the work where it can be perceived at a place or at places where persons outside the normal circle of the family and its closest acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time, or at different places and/or times, without intending it be a communication to the public as specified in this Section, in the following ways:

- (1) Direct display;
- (2) By means of a film, slide, television image or otherwise on screen;
- (3) By means of any other device or process other than those mentioned in (1) and (2); or
- (4) By an audiovisual method, with separate images.

"Public lending" is the release of the original or a copy of a work or a sound recording for a limited period of time for non-profit making purpose, by an institution or a public service facility such as a public library or archive.

"Published" refers to a work or a sound recording, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending, provided that, in the case of a work, the making available to the public took place with the consent of the author or other owner of copyright, and in the case of a sound recording, consent of the author or other owner of copyright, and in case of a sound recording, with the consent of the producer of the sound recording or his successor in title.

"Originality of the work" refers to the substantiality of the work.

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21st October 2010
