

**Federal Decree-Law no. (38) of 2021**

Issued on 20/09/2021

Corresponding to 13/Safar/1443H.

**ON COPYRIGHTS AND NEIGHBOURING RIGHTS****Abrogating:****Federal Law No. 7 of 2002**

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Pursuant to the perusal of the Constitution;
- Federal Law no. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
- Federal Law no. (18) of 1981 on the Regulation of Commercial Agencies and its amendments;
- Federal Law no. (5) of 1985 promulgating the Civil Transactions Law and its amendments;
- Federal Law no. (11) of 1992 promulgating the Civil Procedure Law and its amendments;
- Federal Law no. (35) of 1992 promulgating the Criminal Procedure Law and its amendments;
- Federal Law no. (18) of 1993 promulgating the Commercial Transactions Law;
- Federal Law no. (7) of 2002 on Copyrights and Neighbouring Rights and its amendments;
- Federal Law no. (1) of 2006 on Electronic Commerce and Transactions and its amendments;
- Federal Law no. (19) of 2016 on Anti-Commercial Fraud Law;
- Federal Decree no. (233) of 2016 on the State's accession to the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are blind, Visually Impaired or Otherwise Print Disabled;
- Federal Decree no. (20) of 2017 on the State's accession to the Beijing Treaty on Audio-Visual Performances;
- Federal Decree-Law no. (31) of 2021 promulgating the Crimes and Penalties Law;
- Federal Decree-Law no. (32) of 2021 on Commercial Companies;
- Federal Decree-Law no. (36) of 2021 on Trademarks;
- Federal Decree-Law no. (37) of 2021 on the Commercial Register; and
- Acting upon the proposal of the Minister of Economy and the approval of the Council of Ministers,

Hereby issue the following Decree-Law:

**Article 1- Definitions**

In implementing the provisions of this Decree-Law, the following terms and expressions shall have the meaning assigned against each of them, unless the context otherwise requires:

State: The United Arab Emirates.

Ministry: The Ministry of Economy.

Minister: The Minister of Economy.

Competent Court: The Federal Court of Appeal.

Civil Court: The Federal or Local Court of First Instance, as the case may be.

Grievances Committee: The committee stipulated in Article (37) of this Decree-Law.

Broadcasting Organisation: Any entity that carries out audio, visual or audio-visual broadcasting by wireless means.

Broadcasting: The means of broadcasting sounds, or images and sounds, or any representations thereof by wireless means for reception by the public. Broadcasting shall include every similar transmission that takes place via

satellite or the transmission of encrypted signals, in cases where the public is granted the means to decode those signals by and with the consent of Broadcasting Organisations.

**Accredited Entity:** The non-profit establishment that provides braille education, training, reading, or access to information services for the benefit of Beneficiary Persons. This includes government agencies and non-profit organisations that provide the same services to Beneficiary Persons within their basic activities or institutional obligations.

**Work:** Any innovative production in the fields of literature, arts, or science, of whatever type, manner of expression, significance, or purpose.

**Author:** The person who creates the work, or the person whose name is mentioned thereon or if, upon Publication, the Work is attributed to him as being the author thereof unless otherwise proven. Shall also be considered author, whoever publishes anonymous or pseudonymous work, or in any other manner, provided that there is no doubt as to the true identity of the Author; otherwise, the publisher or producer of the work, whether a physical or juristic person, shall be deemed as representing the Author in the exercise of his rights, until the true identity of the Author is recognised.

**Innovation:** The innovative character that bestows originality and distinction upon the work.

**Holders of Neighbouring Rights:** Performers, Producers of Phonograms, and Broadcasting Organisations, in accordance with the provisions of this Decree-Law.

**Performers:** Actors, singers, musicians, dancers, and other persons who recite, sing, play music or otherwise perform, in any manner, literary, artistic or other Works or any folklore expressions, that are protected pursuant to the provisions of this Decree-Law, or that have fallen into public domain.

**Person:** Any physical or juristic person.

**Producers of Phonograms:** The person who, on his own initiative and responsibility, undertakes the first fixation of the sounds making up the performance or any other sounds or the representation of sounds.

**Publication:** Making the work, sound or visual recording, radio program, or any performance available to the public, by any means whatsoever.

**Public Performance:** Communicating the Work to the public by any means, whether directly or otherwise, such as acting and presentation of audio or visual Works, artistic theatrical performances, presenting and playing musical Works and reading literary Works, whether live or recorded.

**Public Communication:** Wire or wireless Broadcasting of literary and artistic Works, including audio, visual or audio-visual Works, to the public by any means whatsoever, including making them available to the public in a manner that enables individual members thereof to access them at the place and time chosen by each of them separately.

**Reproduction:** The making of one or more copies of a Work, Sound Recording, Broadcasting program, or any performance, in any form or using any means, including downloading or permanent or temporary electronic storage, regardless of the method or device used for Reproduction.

**Audio-Visual Fixation:** The embodiment of moving images, whether or not accompanied by sound, or a representation thereof, by which they can be perceived, reproduced, or conveyed using suitable devices.

**Sound Recording:** Fixation of the sounds that make up the performance or other sounds or the representation of sounds without affecting the rights arising therefrom by including it in a cinematic Work or an audio-visual work.

**Producer of Audio-Visual Work:** The person who provides the necessary facilities for producing an audio-visual Work and assumes the responsibility thereof.

**Collective Work:** The Work created with the participation of more than one Author, under the direction and management of a person who commits to publish it in their name, and in which the contribution of such Authors is incorporated, and where the Work of each Author cannot be separated and distinguished independently.

**Joint Work:** A Work created with the participation of more than one Author, whether or not it is possible to distinguish the contribution of each therein, and which cannot be classified as a Collective Works.

**Derived Work:** The Work whose origin derives from a previously existing Work, such as translations, collections of literary and artistic Works and collections of folklore expression, as long as they are innovative in their arrangement or the choice of their contents.

National Folklore: Every expression of folk traditions be it oral, musical or of movement as expressed in distinct elements reflecting a popular traditional heritage which arose and is preserved in the State, and which cannot be attributed to a known Author.

Beneficiary Person(s): A person with blindness or visual impairments to an extent that cannot be improved to become equivalent to the vision of a person without impairment, or the person who is unable to read, hold a book or use it for reading due to a physical disability, all without considering any other cases of disabilities.

Accessible Format Copy: A copy of a Work in an alternative style or format that permits the Beneficiary Person to have access to the original Work feasibly and comfortably as a physical person without visual impairment or any other disability preventing him from having access to Works, without prejudice to the moral rights of the original work.

Public Domain Works: All Works that are initially excluded from protection, or of which the economic rights protection period has expired.

## **Article 2- Works under protection**

Authors of Works and Holders of Neighbouring Rights shall enjoy the protection provided for in this Decree-Law, if their rights are violated within the State, namely as concerns the following Works:

- 1- Books, brochures, articles, and other written Works.
- 2- Smart applications, computer programmes and applications, databases, and similar Works determined by a decision of the Minister.
- 3- Lectures, speeches, oral and written sermons and other Works of a similar nature.
- 4- Theatrical Works, musical shows, and pantomime.
- 5- Musical Works, either with or without words.
- 6- Audio, visual, or audio-visual Works.
- 7- Architectural Works, and engineering drawings and plans.
- 8- Works of drawing with lines or colours, sculpting, engraving, and printing on stone, fabrics, wood, or metals, and any other similar Works.
- 9- Works of photography and similar Works.
- 10- Works of applied and plastic arts.
- 11- Illustrations, geographical maps, sketches, and three-dimensional Works related to geography, topography, architecture, and others.
- 12- Derivative Works, without prejudice to the protection granted to the original Works from which these Works were derived.

Protection shall cover the title of the work, if innovative, as well as the written innovative broadcast program.

## **Article 3**

Protection shall not cover the following:

- 1- Ideas, procedures, working methods, mathematical concepts, principles, and abstract facts, but it shall however extend to the innovative expression of any thereof.
- 2- Official documents, regardless of their original language, or the language transmitted to them, such as texts of laws, regulations, decisions, international agreements, judicial rulings, arbitrators' awards and decisions issued by administrative committees having a judicial jurisdiction.
- 3- News and reports on current incidents and events of a purely informative nature.
- 4- Public Domain Works.

Nevertheless, the items mentioned in clauses (2), (3), (4) of this article shall enjoy protection if their compilation, arrangement, or any effort deployed in their respect is innovative.

## **Article 4- Registration of Works rights**

1- The Implementing Regulation of this Decree-Law shall regulate the registration of the rights to the Work and dispositions made vis-à-vis them, and the registers of the Ministry shall be considered a reference for the data of the Work and its ownership.

2- The non-registration of the Work or the actions that occur thereto shall not result in a breach of any aspect of the protection or rights established by this Decree-Law.

#### **Article 5- Moral rights**

1- The Author and his universal successor shall enjoy perpetual moral rights which may not prescribe or be assigned.

2- The rights of the Author and his universal successor referred to in clause (1) of this article shall be as follows:

a- The right to decide the first Publication of his Work.

b- The right to claim the right of paternity over his work.

c- The right to prohibit any modification of the Work if it distorts the Work or prejudicial to the reputation of the Author.

d- The right to submit a request to the Civil Court to withdraw the Work from circulation, based on justifying reasons, with the exception of smart applications, computer programmes and applications.

#### **Article 6- Amendment to the translation**

Amendment to the translation shall not be deemed an infringement unless the translator has omitted reference to where the cancellation or change occurred or has caused thereby prejudice to the Author's reputation.

#### **Article 7- Licence to use the Work**

Only the Author and his successor, or the holder of the Author's right may authorise the use of the work, in any manner whatsoever, namely through Reproduction, including downloading or electronic storage; acting, in any manner; Broadcasting; re-broadcasting; Public Performance or Public Communication; translation; assimilation; modification; rental; lending; or Publication in any manner, including making it available through computers, data or communication networks or any other means.

#### **Article 8- Renting computer software and audio-visual Works**

The rental right is not applicable to computer programmes and smart applications, unless such programme is, in itself, the subject-matter of the rent. It is equally not applicable to audio-visual Works if it does not affect the normal use thereof.

#### **Article 9- Transfer and licensing of the Author's economic rights**

1- The Author or his successor may transfer to or license a third party, be it a physical or a juristic person, all or some of his economic rights set forth in this Decree-Law. Such transfer is valid only if made in writing and specifies the transferred right together with mentioning the object of such transfer, duration and place of use.

2- The Author shall be the owner of all the economic rights that have not been explicitly assigned.

3- Without prejudice to the moral rights of the Author provided for in this Decree-Law, the Author may not take any action that is likely to obstruct the utilisation of the disposed right.

#### **Article 10- Consideration for the transfer of economic rights**

The Author or his successor may receive remuneration in cash or in kind, in exchange for transferring any of the economic rights of the Work to a third party. Such consideration shall be in the form of share in the revenue resulting from the utilisation of those rights, or on the basis of a lump sum, or a combination of the both of them.

#### **Article 11- Reconsidering the value of the agreed consideration**

Should the agreement referred to in Article (10) of this Decree-Law appear to be unfair to the Author or to any of Holders of Neighbouring Rights or should it become so due to circumstances subsequent to the conclusion of the contract, the Author, his successors or their successors may resort to the Civil Court to seek a review of the agreed upon consideration.

#### **Article 12- Licensing the economic rights to the Works of smart applications, computers, etc.**

Without prejudice to the provisions of Article (9) of this Decree-Law, the licensing of economic rights concerning the Works of smart applications, computer programmes and applications, or databases shall be subject to

the provisions of the contract received or affixed on the program, whether they appear on the support bearing the programme or on the screen of the computer, smart phones, or any other technical device on which the software has been downloaded or stored. The purchaser or user of such programme shall be bound by the terms included in the said contract terms.

### **Article 13- The Author's disposal of the original copy of the Work**

Unless otherwise agreed upon, the Author's disposal, by any means, of the original copy of his work, shall not entail the assignment of any of his economic rights over this Work.

Nonetheless, it is not permissible to impose upon the assignee, to whom the property of such copy has passed, without prior agreement, to enable the Author to reproduce the Work, exhibit the original copy thereof or communicate it to the public.

### **Article 14- Seizure of the Authors' economic rights**

The Author's economic rights related to his published Works may be seized. However, it is not permissible to seize the economic rights contained in the Work whose Author dies prior to its Publication, unless it is decisively proven that he intended to publish it before his death.

### **Article 15- Future production**

1- Any disposition an Author makes of his future intellectual opus shall be deemed null and void.

2- As an exception to clause (1) of this article, the Author may conclude a contract in respect of a number of his future Works as specified by the Implementing Regulation of this Decree-Law.

### **Article 16- Moral rights of the Performers**

Performers and their universal successors shall enjoy perpetual moral rights which may not prescribe or be assigned, entitling them to the following:

1- Attribute the performance, whether live or recorded, to themselves; and

2- Prohibit alteration, distortion, defacement, or modification of their performance, in a manner that would prejudice their reputation.

### **Article 17- Exclusive economic rights of Performers**

Performers shall enjoy the following exclusive economic rights:

1- The right to broadcast their unrecorded performance and communicate it to the public.

2- The right to fix their performance on Sound Recordings or audio-visual recordings.

3- The right to reproduce their performance fixed on Sound Recordings or audio-visual recordings.

4- The right to rent to the public, for commercial purposes, the original or copies of their recorded performance.

5- The right to distribute the original or copies of their recorded performance to the public, via sale or any other form of transfer of ownership

6- The right to communicate their performance to the public by wire or wireless means so that the public can view or access them in any way they wish.

Shall be deemed a use prohibited for third parties, the recording of such live performance on a tangible support, the rental thereof for the purpose of generating direct or indirect commercial returns; communicating the said performance or making it available to the public, in any manner, without previous consent from the right owner.

### **Article 18- Exclusive economic rights of Producers of Phonograms**

Producers of Phonograms shall enjoy the following exclusive economic rights over their recordings:

1- The right to reproduce them in any manner whatsoever.

2- The right to distribute the original or other copies of their Sound Recordings to the via sale or any other form of transfer of ownership.

3- The right to right to rent to the public, for commercial purposes, the original or copies of their Sound Recordings.

- 4- The right to make their Sound Recordings available to the public in any manner whatsoever.
- 5- The right to broadcast and communicate Sound Recordings to the public in any manner whatsoever.
- 6- The right to prevent any use of their recordings in any manner whatsoever without their permission.

Shall be considered a use prohibited for third parties, the Reproduction, rental, Broadcasting, re-broadcasting or making these recordings available to the public, through computers or any other means.

#### **Article 19- Exclusive economic rights of Broadcasting Organisations**

The Broadcasting Organisation shall enjoy the following exclusive economic rights:

- 1- The right to grant licence for use of its recordings and broadcasts.
- 2- The right to prohibit any Public Communication of its programmes and recordings, without its prior authorisation, and in particular, the recording of such programmes by copying, reproducing, renting, re-broadcasting, or communicating them to the public in any manner whatsoever.

#### **Article 20- Protection period**

1- The Author's economic rights provided for in this Decree-Law shall be protected throughout his lifetime and for a period of (50) fifty years thereafter commencing on the first day of the calendar year following the year of his death.

2- The economic rights of Authors of Joint Works shall be protected throughout their lifetime and for a period of (50) fifty years thereafter commencing on the first day of the calendar year following the year in which the last surviving Author dies.

3- The economic rights of Authors of Collective Works, without the artists of applied arts Works, shall be protected for a period of (50) fifty years commencing on the first day of the calendar year following the year in which those Works were first published, should the Author be a juristic person. In case the Author is a physical person, the calculation of the protection period shall be computed on basis of the rule provided for in clauses (1) and (2) of this article.

4- The economic rights of Works first published after the death of the Author thereof shall be protected for a period of (50) fifty years commencing on the first day of the calendar year following the year in which such Works have been first published.

5- The economic rights of anonymous and pseudonymous Works shall be protected for a period of (50) fifty years commencing on the first day of the calendar year following the year in which such Works have been first published. In case the Author of such Works has been known or identified, or if he reveals his identity, the protection period shall be calculated according to clause (1) of this article.

6- The economic rights of the Authors of Works of applied arts shall expire upon the lapse of (25) twenty-five years commencing on the first day of the calendar year following the year in which such Works have been first published.

7- In case the protection period is calculated as of the date of first Publication, such date shall be taken as a basis for calculating the period, irrespective of re-Publication unless the Author has made substantial modifications to such Work upon re-Publication, so that it may be considered a new work. Should the Work be composed of several parts or volumes that have been separately published at intervals, each part or volume shall be deemed independent when computing the protection period.

8- The economic rights of the Performers shall be protected for a period of (50) fifty years commencing on the first day of the calendar year following the year in which the performance has taken place. If the performance is fixed on a Sound Recording, the period shall be calculated as of the end of the year in which the Work has been fixed.

9- The economic rights of the Producers of Phonograms shall be protected for a period of fifty (50) commencing on the first day of the calendar year following the year in which the recording has been published or the year in which the recording has been fixed, if not published.

10- The economic rights of Broadcasting Organisations shall be protected for a period of twenty (20) years commencing on the first day of the calendar year following the year in which the radio and television programme was first broadcast.

#### **Article 21- Compulsory Reproduction or translation licence**

Any person may request the Ministry to be granted a compulsory licence for reproducing and/or translating any Work protected in accordance with the provisions of the present Decree-Law, after the lapse of (3) three years as of the date of publishing such work, in case of a licence for translation. Licences shall be issued, pursuant to a reasoned decision, in which is specified the scope of time and place of its use as well as the fair consideration due to the Author, provided that this is done in the manner that ensures that no prejudice shall be unjustifiably caused to the legitimate interests of the Author or his successor or to the normal use of the work, and that the objective of granting such licence is restricted to the fulfilment of the requirements of education, of all kinds and on all levels, or the requirements of public libraries and archives, as stipulated by the Implementing Regulation of the present Decree-Law.

## **Article 22- Restrictions and exceptions**

Without prejudice to the moral rights of the Author, provided for in this Decree-Law, and in a manner that does not conflict with the normal use of the Work and does not cause unjustified damage to the legitimate interests, the Author may not prevent third parties, after the Publication of his work, from performing any of the following acts:

1- Reproducing one single copy of the Work for purely personal use, for non-profit and non-professional purposes, with the exception of the following Works:

a- Works of fine or applied arts unless they are displayed in a public place with the consent of the right owner or his successor.

b- Works of architecture if they are permanently located in public places.

c- Computer programmes, applications, and databases, unless pursuant to the provisions of clause (2) of this article.

2- Making one single copy of the computer programme or applications or databases, with the knowledge of the legitimate possessor thereof. Such person may alone make extracts thereof provided that they fall within the licensed purpose or for the purpose of saving or replacement in case the original copy is lost, damaged or becomes unfit for use; and on condition that the backup or extracted copy be destroyed, even if downloaded or stored in the computer hardware, once there is no more reason for keeping the original copy.

3- Reproducing protected Works for use in judicial proceedings, or the like, within the limits required by such procedures and provided that the source and the name of the Author are mentioned.

4- Making a single copy of the Work by a non-profit archive or library or authentication offices, either directly or indirectly, in one of the two following instances:

a- If the Reproduction is made for the purpose of preserving the original copy or of an original which is lost, damaged, or unusable, if it has become impossible to obtain a replacement thereof under reasonable conditions.

b- If purpose of the Reproduction is to respond to a request made by a physical person who wishes to use it for a study or research, provided that the Reproduction is made just once or on separate occasions, in case it was impossible to obtain a licence for Reproduction pursuant to the provisions of the present Decree-Law.

5- Citations of short paragraphs, excerpts, or analyses, within the customary limits of the work, for the purpose of criticism, discussion or information, with mention of the source and name of the Author.

6- Performance of a Work in meetings with family members or by students in an educational institution, so long as such performance has not been made for direct or indirect consideration.

7- Exhibiting Works of fine, applied, plastic or architectural arts in broadcasts, if such Works permanently exist in public places.

8- Reproducing brief extracts of a Work in the form of manuscripts or sound, visual, or audio-visual recordings, for the purposes of cultural or religious education, or vocational training provided that Reproduction is made within the reasonable limits and does not go beyond the purpose thereof, that mention is made of the name of the Author and the title of the work, whenever possible, that the reproducer does not directly or indirectly seek profit, and that it was not possible to obtain a licence for Reproduction pursuant to the provisions of the present Decree-Law.

9- Reproduction is an incidental and integral part of the process of transmitting a Work between different parties over a medium or network or a part of a process that involves enabling access to a legal copy of a digitally stored Work.

10- Reproduction is made by a person authorised by the rightful party or by law to carry out the broadcast or the process referred to in clause (9) of this article.

11- Reproduction takes place in the context of steps which, from a technical standpoint, are incidental and inevitable in order to accomplish a lawful action, and in a manner that ensures that the copy is automatically erased without being able to be retrieved for any purposes other than those mentioned in the preceding clauses (9) and (10) of this article.

### **Article 23- Accessible Format Copy**

1- The Beneficiary Person or his representative shall make accessible format copies for his personal use.

2- The Accredited Entity may prepare accessible format copies without making any unnecessary changes or obtain them from another Accredited Entity without the Author's permission to make them available to Beneficiary Persons inside or outside the country whenever it has legal access to the Work or a copy thereof and when the activity is not seeking profit.

3- For the purposes of preparing accessible format copies, the Implementing Regulation of this Decree-Law shall specify the conditions and controls that shall be met by the Approved Bodies.

### **Article 24- Publication of some Works**

1- Without prejudice to the Author's moral rights pursuant to the provisions of this Decree-Law, the Author shall not prevent Reproduction through the newspapers, periodicals, or Broadcasting Organisations, within the limits justified by the purpose thereof, the Publication any of the following, provided that mention be made as to the source thereof and to the name of the Author:

a- Extracts of his Works that have been lawfully made available to the public. This shall apply on communicating extracts of a Work which has been seen or heard in the context of current incidents or Broadcasting or communicating the same to the public in any other manner.

b- Articles published in newspapers and related to discussions of issues, which have preoccupied public opinion at a certain time, as long as upon Publication such articles is not prohibited.

c- Speeches, lectures, and discussions that take place during public sittings delivered in the course of public sessions of parliamentary councils, judicial councils and public meetings, so long as such speeches, lectures and discussions are addressed to the public, and are reproduced within the framework of reporting current news.

2- Subject to clause (1) of this article, the Author alone or his successor shall have the right to compile such Works in compilations attributed to him.

### **Article 25- Restrictions on the Holders of Neighbouring Rights**

Restrictions applicable to the economic rights of the Author provided for in the present Decree-Law shall apply to the Holders of Neighbouring Rights.

### **Article 26- Special provisions for some Works**

If more than one person contributes to the formation of a Joint Work, in such a manner where it is impossible to separate the share of each of them from the others, all joint authors shall be deemed equal Authors of the Work unless otherwise agreed upon in writing, and in this case, no Author may individually exercise the copyrights except by virtue of a prior written agreement reached between them.

If the contribution of each of the Authors to the Joint Work represents a different and distinct form of art such that the contributions can be distinguished from one another, then each of them shall have the right to use the part to which he contributed separately, provided that this does not harm the use of the Joint Work, unless otherwise agreed upon in writing.

Each Author shall have the right file a lawsuit upon infringement of any of the copyrights protected under this Decree-Law.

In case of death of any of the joint authors, without a universal successor, his share shall be transferred to the rest of the joint authors or their successors thereafter, unless otherwise agreed upon in writing.

### **Article 27**

Unless there is an agreement to the contrary, the physical or juristic person at whose initiative and under whose guidance a Collective Work is created may solely exercise the moral and economic rights to that Collective Work.



### **Article 28- The Author's economic rights in relation to third parties**

Unless otherwise agreed upon in writing, the Author's economic rights in relation to third parties shall be as follows:

1- If the Author creates the Work for the benefit of another person, the copyright belongs to the person in whose favour it was made.

2- If the employee or worker, during his work, creates a Work related to the activities or Works of the employer and is instructed directly or indirectly by him or uses to reach the creation of this Work the experiences, information, tools, machines, or materials of the employer placed at his disposal, the Author's economic rights shall be for the employer taking into account the intellectual effort of the worker.

3- If the employee or worker creates a Work that is not related to the business of the employer and does not use the employer's experiences, information, tools, or raw materials in reaching this Innovation, the Author's economic rights shall be for the employee or worker.

### **Article 29- Joint author**

1- Shall be considered as a joint author of an audio-visual, sound, or visual Work:

- a- The scriptwriter or the originator of the written idea for the Work.
- b- The party who modifies an existing literary Work to make it compatible with an audio-visual format.
- c- The dialogist.
- d- The composer of the musical score, if his composition is made specifically for the Work in question.
- e- The director, if he exercised effective supervision over the completion of the Work.

2- If the Work is derived or extracted from another previous work, the Author of the previous Work shall be considered a joint author of the new work.

3- Unless otherwise agreed upon in writing, the Author of a literary or musical partition may publish his respective partition in a manner other than that specified for publishing the Joint Work.

4- Failure by one of the parties contributing to the creation of an Audio-Visual Work to complete his part thereof, does not preclude the right of the other partners to use the part he has completed, without prejudice to the rights accruing to the former party from his contribution to the authorship.

5- Throughout the period of use of an audio-visual, audio or visual Work that has been agreed upon, the producer shall be the representative of the Authors of such Work and of their successors in the agreement on the use of such work, without prejudice to the rights of the Authors of the extracted or adapted literary or musical Works, unless a written agreement is made to the contrary. The producer shall be deemed the publisher of such Work and shall be entitled to the publisher's rights on it and on the copies thereof, within the purposes of financial use.

6- If the Performer agrees to the Audio-Visual Fixation of his performance, the exclusive economic rights for licensing the use of the audio-visual fixed performance provided for in this Decree-Law shall be transferred to the producer of the Audio-Visual Fixation or whomever is authorised to exercise them, unless otherwise agreed in writing between the Performer and an Audio-Visual Fixation producer.

### **Article 30**

The publisher of the Work shall be deemed authorised to exercise the rights stipulated in this Decree-Law in the event that the Work is anonymous or pseudonymous, unless the Author appoints another proxy or reveals his identity and proves his capacity or if there is no doubt as to his real identity.

### **Article 31- Architectural copyrights**

1- Copyright in architectural designs shall be considered the property of the property owner or the like, unless explicitly agreed otherwise.

2- The property owner or the like may make any improvements or changes to the existing building subject of the engineering drawings, designs, and plans in accordance with the legislation in force.

3- Buildings may neither be attached nor their destruction, change of their characteristics or confiscation be ordered, for the purpose of preserving the architectural rights of the Author whose engineering designs, drawings or plans have been unlawfully used, without prejudice to his right to a fair compensation.

Rules of Work of Associations or Bodies

## Undertaking Copyright Administration (Collective Administration)

### Article 32

Owners of the copyright and Holders of Neighbouring Rights may delegate specialised professional associations to administer such rights or entrust other bodies with the exercise of such rights.

Contracts concluded in this respect through such associations or bodies, shall be construed as civil contracts.

### Article 33

The associations or bodies provided for in Article (32) of this Decree-Law shall not discriminate between the applicants requesting to conclude agreements therewith for the use of Works whose administration is entrusted to them. Shall not be considered discrimination the act of delivering, by the association or body, licences for use against reduced financial consideration, in the following two instances, provided their decision is justified:

- 1- Use of Works in public events through live performance.
- 2- Use of Works within the framework of educational or cultural activities, which do not generate direct or indirect income.

### Article 34

1- Associations or bodies stipulated in Article (32) of this Decree-Law may not perform the activities of administering copyright and neighbouring rights unless after obtaining a permit from the Ministry.

2- The Implementing Regulation of this Decree-Law shall specify the conditions, controls, and procedures for the permit, the obligations of the authorised person, and the administrative penalties to be imposed on the authorised person upon violation of the provisions of this Decree-Law and its Implementing Regulation.

### Actions to be Taken by the Court Against Infringing Works

### Article 35

Notwithstanding the provisions of Federal Law no. (11) of 1992, the Magistrate of Summary Justice of the Competent Civil Court may, at the request of the Author or his successor, and pursuant to an order on a petition, order the following procedures be taken in respect of each Work that has been published or displayed without written permission from the Author or his successor:

- 1- Stopping the Publication, display, or production of the work.
- 2- Effecting provisional seizure on the original or copies of the work, as well as on the materials that are used in re-publishing or reproducing such work, provided that such materials are not valid except for re-publishing or reproducing of the work
- 3- Evidencing Public Performance as regards playing, acting, or reciting a Work to the public and preventing the going display or prohibiting it for the future.
- 4- Effecting provisional seizure on the revenue resulting from Publication or display.
- 5- Proving the fact of the infringement of any of the rights protected in accordance with the provisions of this Decree-Law.

The Magistrate of Summary Justice may order the petitioner to deposit an appropriate surety, and the petitioner shall file a lawsuit as regards the dispute with the Civil Court within (20) twenty days following the issuance of the order, otherwise, it shall be deemed of no effect.

### Article 36

The person against whom the order mentioned in Article (35) of this Decree-Law was issued may file a grievance against it before the president of the court in which the order was issued within (15) fifteen days following the date of its issuance. In this case, the president of the court shall either confirm the order or cancel it totally or partially or appoint a receiver whose assignment is to re-publish the Work subject-matter of the dispute, use it, exhibit it or make copies thereof. The resulting revenue shall be deposited with the court's treasury until adjudication of the dispute.

### Article 37- Grievances Committee

1- A committee called “The Grievances Committee for Copyrights and Neighbouring Rights” shall be established at the Ministry under the chairmanship of a specialised judge nominated by the Minister of Justice, with the membership of two specialists chosen by the Minister, and it shall be competent to adjudicate grievances filed by the interested parties against the decisions issued by the Ministry.

2- The Minister shall issue a decision designating the members of the Grievances Committee, its functioning system, and the procedures for filing grievances before it.

3- Any interested party may file an appeal against the decision of the Grievances Committee before the Competent Court within (30) thirty days from the date of being notified thereof.

4- In all cases, a lawsuit filed before the competent court requesting the cancellation of the decisions issued by the Ministry in application of the provisions of this Decree-Law shall not be accepted except after a grievance has been filed with the Grievances Committee.

### **Article 38- Customs clearance**

1- Subject to the legislation in force in the country, the customs authorities may, on their own or at the request of the Author, the right holder, their successors, or their representatives, may order by a reasoned decision not to clear customs - for a maximum period of twenty (20) days - in respect of any items in violation of the provisions of this Decree-Law.

2- The customs authorities may not prevent the Author, the right holder, their successors, or their representatives from inspecting the items ordered not to be cleared by customs.

3- The Implementing Regulation of this Decree-Law shall specify the conditions, controls, and procedures related to inspection and the filing of an application to stop the customs clearance and decide thereon.

### **Penalties**

#### **Article 39**

1- Without prejudice to any more severe penalty provided for in any other law, a penalty of imprisonment for a period of no less than (2) two months and a fine of no less than (10,000) ten thousand dirhams and not more than (100,000) one hundred thousand dirhams, or by either of these two penalties, shall be imposed on whomever, without the written permission of the Author or the Holder of the Neighbouring Right, or their successors, commits any of the following acts:

a- Infringing one of the moral or economic rights of the Author or the Holder of the Neighbouring Right stipulated in this Decree-Law, including making public any work, performance, Sound Recording, or broadcast programme that is covered by the protection stipulated in this Decree-Law, either through computers, internet, information and communication networks, or other means or devices.

b- Selling, renting, or putting into circulation, in any manner, a Work, Sound Recording, or broadcast protected under the provisions of this Decree-Law, and the penalty shall be multiplied by the multiplicity of the Work, performance, programme, or recording, subject-matter of the crime.

2- In case of recidivism, the penalty shall be imprisonment for a period of no less than six months and a fine of no less than (100,000) one hundred thousand dirhams, and not more than (500,000) five hundred thousand dirhams.

#### **Article 40**

1- Without prejudice to any more severe penalty stipulated in any other law, a penalty of imprisonment for a period of no less than (6) six months and a fine of no less than (100,000) one hundred thousand dirhams and not more than (700,000) seven hundred thousand dirhams, or either of these two penalties, shall be imposed on whomever commits any of the following acts:

a- Unlawfully manufacturing or importing, for the purpose of sale, rental or circulation, any counterfeit Work or copies thereof, any apparatuses, equipment, devices or materials specially designed or prepared for defrauding protection or technology used by the Author or the Holder of the Neighbouring Right for transmitting, putting into circulation, regulating or managing such rights, or preserving a specific standard of purity of the copies

b- Unlawfully disrupting or impairing any technical protection or electronic data aiming at regulating and managing the rights prescribed by this Decree-Law.

c- Downloading or storing in the computer any copy of the computer programme or applications thereof or databases, without obtaining a licence from the Author or right holder or successors thereof.

2- In case of recidivism, the penalty shall be imprisonment for a period of no less than (9) nine months and a fine of no less than (500,000) five hundred thousand dirhams and not more than (1,000,000) one million dirhams.

#### **Article 41**

Whoever uses a computer program, applications, smart applications, or databases without prior permission from the Author or his successor, shall be punished with a fine of no less than (30,000) thirty thousand dirhams and not more than (100,000) one hundred thousand dirhams, for each program, application, or database.

In case of recidivism, the penalty shall be a fine of no less than (100,000) one hundred thousand dirhams, and not more than (1,000,000) one million dirhams.

If the crime is committed in the name or for the account of a juristic person or a commercial or professional establishment, the court may order the closure thereof for a period not exceeding (3) three months.

#### **Article 42**

Without prejudice to the penalties prescribed in Articles (39), (40) and (41) of this Decree-Law, the court shall order the confiscation and destruction of counterfeit copies, subject-matter of the crime, or copies reproduced therefrom, as well as the confiscation of the equipment and devices used in the perpetration of the offence, and which cannot be used for any other purpose, and may order the closure of the establishment in which the counterfeiting has been committed, for a period not exceeding (6) six months and the Publication of the summary of the conviction judgment in one or more daily newspapers at the expense of the convict.

#### **Article 43- Compensation in case of infringement of rights**

The Author or the right holder shall have the right to claim compensation in case of infringement of his moral and economic rights in accordance with the general rules.

#### **Article 44- Exercising the copyright in the absence of an heir**

The moral and economic rights of the Author and Performer over any Work shall devolve to the Ministry in the absence of an heir or legatee. The Ministry shall continue to exercise the moral rights stipulated in this Decree-Law with the aim of preserving the work, after the expiry of the period of protection of the economic rights prescribed for the work.

#### **Article 45- Photographs, sound, or visual recordings of others**

Subject to Clause (9) of Article (2) of this Decree-Law, it shall not be permissible for anyone with whom it has been agreed to take photograph of another or sound or visual recording, in any way whatsoever, to keep, publish, exhibit, or distribute the original or Reproductions thereof without the permission of that person, unless otherwise agreed upon.

An exception is made for publishing a photograph in the following cases:

- 1- On the occasion of public events, unless Publication is prohibited by the competent authorities.
- 2- If it is related to the coverage and photography of the events and activities of government agencies that are held for the public in a public place.
- 3- If the competent authorities have authorised such Publication in the service of the public interest.

All of this, taking into account that the Publication or circulation of the photograph does not prejudice the honour, reputation, or standing of the person concerned.

In all cases, the person portrayed in the photograph, his successor or the entity he represents if the photograph is in the course of performing his work, may authorise its Publication in the various means of Publication, its exploitation or its use, even without the photographer's permission, unless otherwise agreed upon.

#### **Article 46- Obligation of national carriers**

Without prejudice to any provision stated in this Decree-Law, national carriers, including planes, ships, and trains, shall abide by the provisions hereof.

#### **Article 47- Supervision and control**

The Ministry shall supervise and control the implementation of the provisions of this Decree-Law, and the control of crimes and violations that occur in violation of its provisions. A Cabinet decision - based on a proposal by the Minister - may entrust any of the competent local authorities with these tasks or some of them.

#### **Article 48- Law enforcement capacity seizure**

The employees of the Ministry or the employees of the local authorities who are designated by a decision of the Minister of Justice in agreement with the Minister or the head of the local judicial authority shall be granted the capacity of law enforcement officers in proving violations of the provisions of this Decree-Law or its Implementing Regulation, within the scope of their respective competencies

#### **Article 49- Fees**

The Council of Ministers shall issue a decision determining the fees necessary to implement the provisions of this Decree-Law.

#### **Article 50- The Implementing Regulation**

The Council of Ministers, based on a proposal by the Minister, shall issue the Implementing Regulation for this Decree-Law.

#### **Article 51- Executive decisions**

The Minister shall issue the necessary decisions to implement the provisions of this Decree-Law.

#### **Article 52- Abrogation**

- 1- Federal Law no. (7) of 2002 on Copyrights and Neighbouring Rights and its amendments shall be abrogated.
- 2- Every provision that violates or contravenes the provisions of this Decree-Law shall be abrogated.
- 3- Decisions and regulations in force prior to the entry into force of the provisions of this Decree-Law shall continue to be in force, in a manner that does not conflict with its provisions, until the issuance of their replacement in accordance with the provisions of this Decree-Law.

#### **Article 53- Publication and entry into force of the Decree-Law**

This Decree-Law shall be published in the Official Gazette and shall come into force as of 2 January 2022.

Issued by us at the Presidential Palace in Abu Dhabi:

On 13/Safar/1443H.

Corresponding to 20/September/2021

**Khalifa bin Zayed Al Nahyan**  
**President of the United Arab Emirates**

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