

# Law No. 2000/011 of December 19, 2000

## on Copyright and Neighbouring Rights

1. This law shall govern copyright and neighbouring rights in Cameroon.

### Part I

#### General Provisions

2. For the implementation of this law and subsequent statutory instruments arising therefrom:

1. “original work” shall mean one which, by virtue of its characteristics or expression, can be differentiated from previous works;

2. “joint work” shall mean one produced jointly by two or more authors, working separately or together;

3. “composite work” shall mean one to which is added a pre-existing work, not produced by the author of the latter;

4. “audiovisual work” shall be one that is made up of a series of interrelated motion pictures, with or without the sound track;

5. “posthumous work” shall be one that is made public after the death of its author;

6. “anonymous work” shall be one that does not bear the name of its author;

7. “pseudonymous work” shall be one in which the author uses a false name;

8. “work belonging to the public domain” shall be one whose term of protection has lapsed;

9. “work derived from folklore” shall be one based on facts and ideas borrowed from the traditional cultural heritage of the country;

10. “folklore” shall mean all productions involving aspects characteristic of traditional cultural heritage, produced and perpetuated by a community or by individuals who clearly reflect the expectations of such community, comprising particularly folk tales, folk dances and shows, as well as artistic

expressions, rituals and productions of popular art;

11. “computer program” or “software” shall be all the instructions given to a computer to carry out certain operations;

12. “databases” or “data bank” shall be a collection of works, data or other elements systematised in such a way that they can be retrieved and processed using a computer;

13. “commissioned work” shall be one produced for an individual or corporate body for payment;

14. “collective work” shall be one produced by several authors at the initiative and under the authority of an individual or of a corporate body which publishes it in its name, and in which the contributions of the authors who participated in producing the work are reflected in the whole work, without the possibility of identifying the individual contribution of each of the authors in the whole;

15. “performing artists” shall be authors, singers, musicians, dancers and other persons who represent, sing, recite, play or perform in any other way literary or artistic works, including folklore expressions;

16. “phonogram” shall be any fixation of sound coming from a rendering or performance of other sounds, or of a representation of sounds other than in the form of a fixation incorporated in an audiovisual work;

17. “videogram” shall be any fixation of pictures with or without sound;

18. “programme” shall be any set of pictures, sounds or pictures and sounds, recorded or otherwise, incorporated in signals destined for distribution;

19. “audiovisual communication firm” shall be a radio or television broadcasting body or any other medium for broadcasting programmes to the public;

20. “phonogram producer” shall mean the individual or corporate body which is first to fix the sounds coming from a performance or other sounds, or from a transcription of sounds or the individual or corporate body which took the initiative to fix same;

21. “videogram producer” shall mean the individual or corporate body which first fixes pictures with or without sound, or the transfer of such images, or the individual or corporate body who took the fixation initiative;

22. “publication” shall mean the act of making public the original or copy of a literary or artistic work, interpretation, programme, phonogram or videogram;

23. “rebroadcast” shall mean the simultaneous or delayed broadcast by an audiovisual communication firm.

## Part II Copyright

### Chapter I *Protected Works and the Rightholder*

3. — (1) This law shall protect all literary or artistic works, irrespective of the mode, worth, genre or purpose of the expression, notably:

- (a) literary works, including computer programs;
- (b) musical compositions with or without lyrics;
- (c) dramatic, dramatico-musical, choreographic works and pantomimes created for the stage;
- (d) audiovisual works;
- (e) drawings, paintings, lithographs, etchings or wood engravings and other works of the same genre;
- (f) all kinds of sculptures, bas-reliefs and mosaics;
- (g) architectural works, including the drawings, models and the construction itself;
- (h) tapestries and objects created by the arts and applied arts, including the sketches or patterns and the works themselves;
- (i) maps as well as graphic and plastic drawings and reproductions of a scientific or technical nature;
- (j) photographic works including works expressed by a process similar to photography.

(2) Copyright shall relate to the expression through which ideas are

described, explained and illustrated. It shall cover the distinctive features of works, such as the plan of a literary work insofar as it is materially linked to the expression.

(3) This law shall protect only expressions or original distinctive features resulting from a creation.

(4) Copyright shall not protect:

(a) ideas in themselves;

(b) laws, court judgments and other official instruments, as well as their official translations;

(c) coats of arms, decorations, currency marks and other official insignia.

4. — (1) A work shall refer to a creation not only in its original form, but also in its derivative or composite forms.

(2) In addition to the works referred to in Section 3 above, the following shall be protected as composite works, without prejudice to the copyright in the already existing work:

(a) translations, adaptations, arrangements or other alterations of literary or artistic works;

(b) collections of works, including those which express folklore or simple facts or data, such as encyclopedias, anthologies, compiled data, which are reproduced either on machine-readable mediums or on any other form which, by the choice or arrangement of their contents, constitute original works;

(c) folklore-inspired works.

5. — (1) Folklore shall belong originally to the national cultural heritage.

(2) The representation or direct or indirect fixation of folklore for private purposes shall be allowed.

(3) Its representation, direct or indirect fixation for profit-making purposes shall be subject to prior authorization from the service in charge of culture, in return for payment of royalty whose amount shall be fixed by statutory instrument following the conditions applicable in each of the categories of creation considered.

(4) The amount received shall be deposited in a cultural policy support fund.

6. — (1) The title of a work shall be protected as the work itself insofar as it has an original feature.

(2) Even when the work is no longer protected, no one may use its title for another work of the same genre when such use is likely to cause confusion in the mind of the public.

7. — (1) The author shall be the individual who created a literary or artistic work. The author shall equally be the individual who designed the work and initiated its realization by an automatic process.

(2) The author of a work protected by virtue of this law shall be the holder of the copyright in the said work.

(3) The work shall be deemed to be created independently of any disclosure, solely from the personal though incomplete realization of the design, even where such design is incomplete. A photographic work or any other work resulting from a realization through an automatic process shall be considered as a created work.

(4) Except where otherwise proved, the author shall be the person(s) in whose name(s) or pseudonym(s) the declaration of the work was filed with the competent collective management body or was published.

8. — (1) Co-authors shall be the first joint holders of the copyright in a joint work. However, except where otherwise agreed between the co-authors, if a joint work can be divided into independent parts, each co-author shall be free to use the independent part which he created while remaining a joint holder of the rights linked to the joint work considered as a whole. However, the use shall not be prejudicial to that of the joint work.

(2) Co-authors shall exercise their rights by mutual agreement. The co-author who takes the initiative of going to court to defend his patrimonial rights shall be bound, under pain of inadmissibility, to involve his co-authors.

(3) The updating of the components of a work belonging to one of the co-authors may not be done without his consent or without a formal notification to do so if he objects.

(4) The co-author who voluntarily allows the exploitation of a joint work without making any claims shall be considered as having disclaimed the profits derived from the exploitation. However, he may exercise the rights of co-author in future.

- (5) Except as otherwise agreed, the share of each co-author in profits derived from exploiting the work shall be proportionate to his contribution in the creation.
- (6) A joint work shall be subject to a collaboration agreement. In case of disagreement, the court with jurisdiction shall rule.
- (7) Notwithstanding the rights of the co-author arising from his contribution to a joint work, the other co-authors may, by mutual agreement, put an end to the contribution which this co-author did not complete following a refusal or in a case of *force majeure*.
- (8) The joint work shall be considered as having been completed when the final version was established by mutual agreement between the co-authors. For joint works which are commissioned works, the final version shall be established by mutual agreement between the co-authors and the person who commissioned the work.
9. — (1) Authors of pseudonymous or anonymous works shall enjoy in respect thereof the advantages referred to in Section 13 below. However, they shall be represented by the publisher of their works where they failed to indicate their civil identity or to justify their capacity.
- (2) The provisions of previous subsection (1) above shall not be applicable when the pseudonym leaves no doubt as to the civil identity of the author.
10. The author of a composite work shall be the first holder of the copyright in the work, subject to the respect of the copyright in each pre-existing work included in the derivative work.
11. — (1) The first holder of the copyright in a work jointly produced shall be the individual or body corporate on whose initiative and under whose responsibility the work was created and that published it in its name.
- (2) Except as otherwise provided, each author of a work included in the collective work shall keep the right to use his contribution independently of the joint work, provided that it is not prejudicial to the use of the said work.
12. — (1) In the case of a commissioned work, the first holder of the copyright shall be the author. However, except as agreed, the patrimonial rights in such work shall be considered as having been transferred to the person who places the commission, who shall exercise the rights within the agreed limits.

(2) The author shall exercise his moral rights in the commissioned work without undermining the enjoyment of the transferred patrimonial rights.

(3) In the case of a commissioned work used for advertisement, the contract between the sponsor and the author shall, except as otherwise provided, lead to the transfer to the sponsor of the patrimonial rights in the work, provided the contract specifies the special payment for each mode of use for the work, especially depending on the geographical zone, the duration of use, the size of the run and the type of medium.

## *Chapter II*

### *Attributes of Copyright*

13. — (1) Authors of creative works shall in respect of such works and by reason of their creation, enjoy a right of exclusive ownership vis-à-vis all other persons, referred to as “copyright”, the protection of which shall be organized by this law.

(2) The law shall comprise moral and patrimonial implications.

14. — (1) Moral implications shall confer on the author, independently of his patrimonial rights and even after the transfer of such rights, the right to:

(a) decide on disclosure and determine the procedures and conditions of such disclosures;

(b) claim ownership of his work by requiring that his name or capacity be mentioned each time the work is made available to the public;

(c) defend the integrity of his work by objecting especially to its deformation or mutilation; and

(d) put an end to the dissemination of his work and make changes thereto.

(2) The author may exercise the right of withdrawal and alteration referred to in subsection (1) above only after compensating any beneficiary of an authorization in respect of such work.

(3) The legal bankruptcy or liquidation of the property shall justify the automatic withdrawal of the work by the author.

(4) Moral implications shall be linked to the person of the author. They shall be perpetual, inalienable and imprescriptible.

15.—(1) The patrimonial implications of copyright shall comprise the exclusive right of the author to use or authorize the use of his work in any form whatsoever and to reap the financial benefit therefrom.

(2) The exploitation right shall comprise representation right, reproduction right, transformation right, distribution right and indefeasible mortgagee right.

(3) The debts attached to the patrimonial implications of copyright shall be subject to the same regulations as wage debts.

16.—(1) “Representation” shall mean the communication of a literary or artistic work to the public, including its publication in such a way that everyone can have individual access to it where and when he so chooses. Representation shall comprise notably:

(a) public recitation, drama performance and rendering of the work through any means or procedure;

(b) public exhibition of the original or copies of a work of art; and

(c) telecasting, that is to say, either wireless broadcast, such as radio or television broadcast, by wire or any other similar technical device, of sounds, images, texts or messages of the same nature.

(2) The satellite broadcast of a work shall be considered as a representation, even if such broadcast takes place out of the national territory, where it is done at the request, on behalf or under the supervision of a communication firm having its main establishment in the national territory.

17.—(1) Reproduction shall mean the material fixation of all or part of a literary or artistic work through any means that will enable its indirect communication, including permanent or temporary electronic storage. It shall be done through photography, printing, drawing, engraving, casting, and audiovisual, tape or mechanical recording.

(2) For works of architecture, the repeated execution of a plan or blueprint shall be considered as reproduction.

18. Transformation shall mean the adaptation, translation, arrangement or any other alteration of a literary or artistic work.

19. Distribution shall mean the offer to sell or lease, the sale, rental or any other act of marketing the original or copies of a literary or artistic work.



20. — (1) The right of pursuit shall confer on the author of graphic or plastic works or of manuscripts, notwithstanding any transfer of the original of the work or manuscript, an inalienable right to share in the proceeds of any sale of such original work or manuscript in a public auction or through a merchant, irrespective of the terms and conditions under which the latter carried out the transaction.

(2) The amount corresponding to this right and the payment conditions shall be determined by statutory instrument.

(3) This right shall be transferable upon death.

21. — (1) The incorporeal ownership of a work shall be independent of ownership of the material object. Unless otherwise stipulated, the acquisition of the object shall not confer on the buyer any of the rights provided for in this law. These rights shall subsist in the person of the original copyright owner or his rightful claimants who may not, however, require the buyer to place the said object at their disposal.

(2) Unless otherwise stipulated in the contract and notwithstanding the provisions of subsection (1) above, the rightful buyer of an original or a copy of a work shall enjoy the rights of the live presentation in public of this original or copy.

(3) The right provided for in subsection (2) above shall not extend to persons who obtain originals or copies of a work by rental or any other means of which they are not owners.

22. — (1) Exploitation of a work by any person other than the author may not be allowed without the latter's written authorization or that of his rightful claimant in writing including any electronic devices.

(2) The authorization must be in writing, on pain of nullity.

(3) The authorization to exploit may cover all or part of the rights, either free of charge or in return for payment.

(4) Where authorization is total, its scope shall be limited to the forms of exploitation provided for in the authorization.

(5) An authorization dealing with audiovisual adaptation rights must be written separately from that which deals with the actual publishing of the printed work.

(6) The authorization shall be limited to the patrimonial rights expressly stated in the document. Each right shall be stated separately.

(7) The authorization shall determine the mode, duration and place of exploitation.

(8) The failure to specify the place of exploitation shall be considered as limiting the authorization to the country where it is granted.

(9) The failure to specify the place of exploitation shall be considered as limiting the authorization to the mode of exploitation expressed at the granting of the authorization.

23. — (1) The licence contract may be exclusive or not.

(2) A non-exclusive licence shall allow the holder, within the scope authorized him, to perform acts that concern the licence, the initial copyright holder and other likely holders of non-exclusive licences.

(3) An exclusive licence shall allow the holder, within the scope authorized him, to the exclusion of any other party, including the initial copyright holder, to perform acts concerning the licence.

(4) No licence shall be considered exclusive except as expressly stipulated in the contract between the author and the holder of the licence.

24. — (1) The author's remuneration shall be proportional to the proceeds [from] exploitation.

(2) It may be a fixed amount when:

(a) the basis for calculating the proportional share cannot be practically determined;

(b) the control charges are out of proportion with expected results;

(c) the utilization of the work is only of an incidental nature to the object exploited.

(3) Where a fixed amount remuneration is determined in violation of the rule provided for in subsection (1) above, such remuneration shall be 20% of the proceeds from exploitation.

25. The beneficiary of an authorization shall pursue effective exploitation

that conforms to the practices of the profession and the nature of the work.

26. Except it is granted to a collective management body, an authorization to exploit all of an author's future works shall be null and void.

27. The clause by which an author undertakes not to create any works shall be considered as null and void.

28. Copyright shall be transferable upon death.

29. — (1) Where the work was published with the authorization of the author, he may not forbid:

(a) private performances strictly within family circles, provided they do not give rise to any proceeds;

(b) performances given free of charge for educational and academic purposes, or during a religious service, and within premises reserved for such purposes;

(c) reproductions and transformations in one copy for strictly personal and private use of the person who makes them, excluding any collective use or any exploitation for profit, except in the cases provided for in subsections (2) and (3) below;

(d) analysis, press reviews, short quotations justified by the critical, pedagogic, scientific or informative nature of the work on condition that they be accompanied by the indication of the "source" and the name of the author, if the name is contained in the source;

(e) the use of literary or artistic works as teaching illustration through publication, broadcast programmes or sound or visual recordings, provided such use is fair and non-profit making;

(f) parody, pastiche and cartoon, taking into account the laws governing the genre;

(g) Braille reproductions for the blind;

(h) reproductions and transformations intended to serve as evidence in administrative or legal proceedings.

(2) The temporary reproduction of a work shall be allowed on condition that such reproduction:

(a) takes place during a digital broadcast of the work or a performance to

expose a work stored digitally;

(b) is undertaken by an individual or corporate body authorized by the owner of the copyright or by law to carry out the transmission of the work or the act aimed at making it perceptible;

(c) is accessory to the transmission, is done under the normal conditions of use of the equipment and is automatically cancelled without allowing for the electronic recuperation of the work for purposes other than those provided for in (a) and (b) above.

(3) The restriction for private copies provided for in subsection (1) above shall not apply to:

(a) the reproduction of architectural works in the form of similar buildings or constructions;

(b) the reprographic reproduction of an entire book or musical piece in graphic form;

(c) the reproduction of databases or banks and software, unless as provided for in Section 36;

(d) any other reproduction of a work that violates the normal exploitation of the work or which will be unjustifiably detrimental to the legitimate interests of the author.

30. Literary or artistic works viewed, heard or recorded during a topical event may, for information purposes, be reproduced in short extracts and made available to the public in a report on the said event by means of photography or through broadcast or any other public communication process.

31. Unless the exploitation right is expressly reserved, articles on topical political, social, economic or religious issues, political speeches, submissions during court hearings as well as sermons, conferences, addresses and other similar works may be reproduced by the press or broadcast in their original or translated version. However, the source, as well as the name of the author, must always be clearly stated.

32. — (1) Works of art, including works of architecture, permanently kept in a public place, may be reproduced and made available to the public through photographic and audiovisual means.

(2) Any exploitation for profit of these reproductions without the prior

authorization of the author of the works referred to in the preceding paragraph shall be unlawful.

33.—(1) Where the authorization to broadcast has been granted to an audiovisual communication corporation, the said authorization shall cover all free sound or visual communications made by the said corporation using its own technical and artistic means and under its responsibility.

(2) The authorization referred to above shall not apply to performances given in public places such as cafés, restaurants, hotels, cabarets, various shops, cultural centres, public transport means, private clubs, for which prior authorization must be obtained.

34. Unless otherwise stipulated:

(a) the authorization to broadcast a work by radio shall not include the cable distribution of the broadcast, unless it is done simultaneously and solely by the beneficiary firm of this authorization and without the broadcast extending beyond the agreed geographical area;

(b) the authorization to broadcast a work shall not be considered as an authorization to broadcast it in a public place;

(c) the authorization to broadcast by radio shall not include satellite transmission that allows other radio corporations to receive the work, unless the author or his rightful claimants have authorized these corporations to broadcast the work to the public, in which case the broadcasting corporation shall be exempted from payment of any fee.

35.—(1) For broadcast programmes, audiovisual corporations shall be allowed to use their own means to make one or several ephemeral recordings of works which they shall be allowed to broadcast. Such recordings may not be sold, rented or lent.

(2) Ephemeral recordings shall be destroyed within three months, unless the owner of the reproduction right has expressly consented to a longer preservation period.

(3) Without prejudice to the author's right to an equitable remuneration, reproductions may be preserved in official archives.

36.—(1) For software and database or data bank reproduction and transformation rights, in addition to the exceptions provided for in Section 29(2), only the exceptions under this law shall be allowed.

(2) The owner of copyright may not prevent the legitimate owner of a database or bank from:

(a) reproducing minor parts of this database or bank;

(b) reproducing or transforming them in compliance with their purpose, including error correction;

(c) reproducing them with a view to replacing them in case of loss, destruction or in case they become unusable;

(d) making a recompilation, that is, reproducing and translating a software, where such acts enable the obtaining of information necessary for the development of another software that is compatible with the former, or with one or several other software.

37.—(1) The patrimonial rights of an author shall last for his lifetime. They shall subsist after his death throughout the current calendar year and for the next fifty years. They shall also subsist for all his successors or rightful claimants during the year of the death of the last surviving co-author plus fifty years for joint works.

(2) The patrimonial rights of an author shall last for fifty years with effect from the calendar year during which the work was published with the consent of the author. If such publication did not take place within fifty years starting from the date of creation, the rights shall last for fifty years with effect from the end of the calendar year of creation. This shall apply to:

(a) audiovisual works;

(b) works of applied arts;

(c) collective works.

(3) For anonymous or pseudonymous works, the rights shall last for fifty years starting from the end of the calendar year during which publication was authorized. The term of copyright shall be that provided for in subsection (1) where the pseudonym does not leave room for any doubts as to the identity of the author, or where the latter reveals his identity before the deadline expires. If such publication does not take place within fifty years from the date of creation, the rights shall last for fifty years starting from the end of the calendar year of creation.

(4) For posthumous works, the term of copyright protection shall be fifty

years with effect from the end of the calendar year of authorized publication of the work. The patrimonial rights shall belong to the author's successors in title or rightful claimants where the work is published during the period provided for in subsection (1) above. Where publication took place after this period, the rights shall belong to the successor in title or rightful claimant who did the publication or caused it to be done.

38. Posthumous works shall be published separately, unless they are just a fragment of a previously published work. They may not be joined together with other previously published works of the same author unless the successors in title or rightful claimants still enjoy the exploitation right in these latter works.

39. — (1) Upon expiry of the protection time limits referred to in Section 37 above, the exclusive right shall become public property.

(2) The exploitation of public works shall be subject to the respect of moral rights, to a prior declaration addressed to the Minister in charge of culture, and to the payment of royalty whose proceeds shall be kept in a cultural policy support account provided for in Section 5(4) above.

(3) The rate of the royalty shall be fixed by regulations.

### *Chapter III*

#### *Performance and Publishing Contracts*

40. A performance contract shall mean an agreement by which the copyright holder authorizes a show organizer to perform or cause or allow the performance of the said work in public under conditions laid down by them.

41. — (1) A performance contract shall be signed for a limited duration and for a determined number of communications to the public. Except where exclusive right is expressly stipulated, the performance contract shall not confer any exploitation monopoly on the show organizer.

(2) Public performance must take place under conditions that will guarantee the respect of the moral rights of the copyright holder referred to in Section 40 above.

(3) The organization of shows shall be subject to the obtention of an authorization and to the payment of royalty by the organizer under conditions laid down by regulations. The show organizer may not transfer the advantages of his contract without the written consent of the copyright holder.

42. The publishing contract shall be the agreement by which the copyright holder authorizes a person called publisher, under defined conditions, to print a fixed number of copies of the work, and to ensure their publication.

43. — (1) The copyright holder shall be bound to:

(a) guarantee the publisher a peaceful and, unless otherwise agreed upon, exclusive exercise of the transferred or granted right;

(b) ensure the respect of the right and protect it against infringement;

(c) permit the publisher to fulfil his obligations, and in particular, hand him the object to be published within the deadline stated in the contract and in a form that will enable a normal printing.

(2) The publisher shall be bound to:

(a) publish or ensure publication under the conditions and following the modes of expression provided for in the contract;

(b) refrain from making any alterations without the written authorization of the copyright holder;

(c) ensure that each copy bears the name, pseudonym or mark of the copyright holder unless otherwise agreed upon;

(d) publish within a deadline consistent with the practice of the trade, unless there is a special agreement;

(e) ensure permanent and steady exploitation, as well as commercial distribution in accordance with the practice of the trade;

(f) return the object to be published to the copyright holder after printing.

44. — (1) The publisher shall be equally bound to provide the copyright holder with all evidence as to the exactness of his accounts.

(2) Where the contract makes no provision for special terms and conditions, the copyright holder may, at least once a year, require the publisher to produce a statement indicating the number of copies manufactured in the course of the financial year and specifying the date and circulation, as well as the number of copies in stock.

(3) Unless otherwise agreed upon or contrary to practice, the statement referred to in subsection (2) above shall indicate the number of copies sold



by the publisher, the number of copies which have become unusable or damaged through chance or unforeseeable circumstances as well as the amount of royalties owed or paid to the copyright holder.

45. — (1) When the business, in case of receivership or liquidation of assets, is managed by a receiver or liquidator, the latter shall be bound by all the obligations of the publisher. Otherwise, where no transfer of the business was made within a period of one year as from the date of publication of the bankruptcy judgment, the publishing contract may be terminated at the request of the copyright holder.

(2) Where the business is sold, the buyer shall be bound by the obligations of the transferor.

(3) The receiver or liquidator may not clear or realize the manufactured copies before the lapse of fifteen days at least as from the date he notified the copyright holder of his intention through registered mail with acknowledgement of receipt. The author shall possess a right of pre-emption on all or part of the copies. Failing any agreement, the redemption price shall be fixed by an expert.

46. — (1) The publisher may not, for free or against payment, or as contribution to capital, and independently of his business, transfer the benefit of the publishing contract to a third party without obtaining prior authorization from the copyright holder.

(2) In case of transfer of business that may seriously jeopardize the material and moral interests of the copyright owner, he shall have the right to obtain compensation, even by way of termination of the contract.

(3) Where the publishing business was operated in partnership or as a joint enterprise, the attribution of the said business to one of the former partners or joint owners as a result of liquidation or sharing out may, under no circumstance, be considered as transfer.

47. — (1) The publishing contract shall, irrespective of the cases provided for by ordinary law or by the preceding sections, come to an end when the publisher completely destroys all copies of the work.

(2) The contract shall be rightfully terminated when the publisher fails to republish the work after the copyright holder has served him formal notice giving him a deadline for stocks to run out. The edition shall be considered to be out of print if two requests for supply of copies sent to the publisher are not met within six months.

(3) If the copyright holder dies or, as the case may be, is dissolved without completing the work, the contract shall be terminated for the unfinished part of the work, unless the publisher and the rightful claimants of the holder reach an agreement.

48. The copyright holder may grant the publisher preferential rights for the publication of his future works provided they relate to a specified genre. However, this right shall, for each genre, be limited to five new works.

49. — (1) The following shall not constitute a publishing contract:

(a) the “author-financed” contract whereby the copyright holder pays the publisher an agreed sum to make a specified number of copies of the work under the form and following the modes of expression defined in the contract, and to ensure their publication and distribution. This contract shall constitute a hiring of the work;

(b) the “fifty-fifty” contract whereby the copyright holder assigns a publisher to make at his own cost a specified number of copies of the work in the form and following the modes of expression defined in the contract, and to ensure their publication and distribution in return for a mutually contracted undertaking to share proportionally the profits and losses occurring therefrom. This contract shall be a partnership.

(2) The contracts referred to in subsection (1) above shall be deemed concluded only after the approval of the competent collective management body.

## *Chapter IV*

### *Audiovisual Production Contract*

50. The audiovisual production contract shall be the agreement whereby one or more individuals undertake, in return for payment, to create an audiovisual work for an individual or a corporate body known as the producer.

51. — (1) The contract binding the producer to the authors of an audiovisual work other than the author of a musical composition shall, unless otherwise stipulated and without prejudice to the recognized rights of the author, entail the transfer to the producer of the exclusive rights to explore the said work.

(2) The audiovisual production contract shall not entail the transfer to the producer of the graphic or theatrical rights to the work. It shall include the list of elements used in the production of the work which are preserved as well as the terms and conditions of such preservation.

(3) Authors shall be due remuneration for each kind of exploitation. Subject to the provisions of Section 24 above, when the public pays a price to receive a specific and specifiable audiovisual work, the remuneration shall be proportional to that price, taking into account possible degressive rates which may be granted by the distributor. It shall be paid to the authors by the producer.

52. — (1) The producer shall, at least once a year, provide the author and co-authors with a statement of receipts earned from exploiting each mode of the work. He shall, at their request, provide all proofs to ascertain the correctness of accounts, particularly the copies of contracts by which he transfers all or part of the rights at his disposal.

(2) The author shall assure the producer of the peaceful exercise of the rights transferred.

53. — (1) The producer shall ensure that the audiovisual work is exploited in accordance with the practices of the profession and the nature of the work.

(2) The producer shall consult the director prior to any transfer of the audiovisual work to another type of medium in view of another mode of exploitation.

54. In view of the payment of authors' remuneration accruing from the exploitation of the audiovisual work, authors shall enjoy the same preferential rights as those provided for in Section 15(3) above.

55. — (1) Receivership or liquidation of property shall not give rise to termination of the audiovisual production contract. Where the production or exploitation of the work continues, all the obligations of the producers towards the co-authors shall be fulfilled by the receiver, the administrator or any other person involved in the operations of the enterprise during receivership or liquidation of property.

(2) In case of transfer of all or part of the enterprise or liquidation, the administrator, the debtor, or the liquidator, as the case may be, shall arrange in a separate set each audiovisual work that may be transferred or auctioned. He shall be bound, on pain of nullity, to notify each of the authors and co-producers of the work through registered letter at least one month prior to any decision concerning the transfer or liquidation procedure. The buyer shall equally be bound by the obligations of the transferor. The author and co-authors shall have pre-emptive right over the works, unless one of the co-producers decides to buy it. Failing any agreement, the purchase

price shall be fixed by an expert.

(3) Where the enterprise has been out of business for more than three months or where liquidation has been pronounced, the author and co-authors may demand the termination of the audiovisual production contract.

### Part III

#### Rights Neighbouring on Copyrights

56.—(1) The rights neighbouring on copyright shall comprise the rights of performers, producers of phonograms or videograms and audiovisual communication companies.

(2) Enjoyment of the rights conferred on the natural persons or corporate bodies listed above may under no circumstances infringe on copyright or limit the exercise thereof.

57.—(1) The performer shall have exclusive right to carry out or authorize the following acts:

(a) a communication of his performance to the public, supply his recording on phonogram or videogram to the public through cable or wireless such that any person may have access to it whenever and wherever he so desires individually except when such communication:

— is done from a recording, or public communication of the performance;

— is a rebroadcast authorized by the audiovisual broadcasting firm which first aired the performance;

(b) the mounting of his unrecorded performance;

(c) the reproduction of a recording of his performance;

(d) the distribution of a recording of his performance through sale, exchange, public hiring;

(e) the separate use of the sound and pictures of the performance, where both the sound and pictures of the latter were recorded.

(2) In the absence of an agreement to the contrary:

(a) any authorization to broadcast granted to an audiovisual communication enterprise shall be personal;

(b) the authorization to broadcast shall not imply an authorization to fix the performance;

(c) the authorization to broadcast and fix the performance shall not imply an authorization to reproduce the fixation;

(d) the authorization to fix the performance and to reproduce such fixation shall not imply an authorization to broadcast the performance from the fixation or copies thereof.

58. — (1) The performing artist shall be entitled to respect for his name, his authorship and his performance.

(2) This right shall be vested in the artist and shall, in particular, be perpetual and inalienable. It shall be assignable in case of death.

59. — (1) The phonogram producer shall enjoy the exclusive right to undertake or authorize any reproduction, supply to the public through sale, exchange, rental, or communication of the phonogram to the public including supply of the phonogram to the public through cable or wireless such that any person may have access to it whenever and wherever he so desires.

(2) The rights vested in the phonogram producer under Section 59(1) above, as well as the copyright and performers' rights which he may have in the recorded works may not be transferred separately.

60. Where a phonogram is put into circulation for commercial purposes, neither the performer nor the producer may object to its direct communication in a public place so long as it is not used in a show, to its being broadcast on radio or television or its simultaneous and integral distribution by cable.

61. — (1) The use under the conditions defined in Section 60 above, of phonograms put into circulation for commercial purposes shall, irrespective of the place of their fixation, entitle performers and producers to remuneration.

(2) Such remuneration shall be paid by the person using the phonograms for commercial purposes. It shall be based on the proceeds of such exploitation or, failing that, paid as a fixed amount. It shall be shared in half between the performers and the phonogram producers.

62. — (1) The scale and conditions of payment of the remuneration shall be fixed by the competent collective management body in conjunction with the persons using phonograms under the conditions referred to in Sections 59 and

61 above.

(2) In the absence of an agreement within six months following the entry into force of this law or in the case where there is no agreement at the expiry of a previous agreement, an arbitration commission whose composition shall be determined by regulation shall give a final ruling on the matter.

63. — (1) Persons using phonograms for commercial purposes must upon fulfilling their obligations furnish to the competent collective management body the exact schedules of the uses to which they shall put such phonograms and all the documents indispensable to the sharing of fees.

(2) The remuneration hereunder shall be collected on behalf of and shared among the legal representatives by the competent collective management body.

64. — (1) The videogram producer shall enjoy the exclusive right to carry out or authorize any reproduction, supply to the public through sale, exchange, rental or communication to the public of the videogram, including the supply of the videogram to the public by cable or wireless such that any person may have individual access to it whenever and wherever he so desires.

(2) The rights of the videogram producer pursuant to Section 64(1) as well as the copyright and performers' rights which he may have on the fixed works may not be transferred separately.

65. The audiovisual broadcasting firms shall enjoy the exclusive right to carry out or authorize:

— the fixation, reproduction of the fixation, programmes rebroadcast and the communication of its programmes to the public including the supply thereof to the public by cable or wireless such that any person may have individual access to it wherever and whenever he so desires;

— the supply of its programmes to the public through sale, rental or exchange.

66. The authorizations hereunder shall, under pain of nullity, be issued through any written medium including the electronic media.

67. — (1) The beneficiaries of the rights stipulated herein may not prohibit:

(a) private and free performance in an exclusive family setting;

(b) reproductions reserved strictly for private use by the person having made them and which are not intended for collective use;

(c) subject to sufficient information for the identification of the source:

— analyses and short quotations made necessary by the critical, controversial, pedagogic, scientific or informative nature of the work containing them;

— press review;

— the broadcasting, even in their entirety for news purposes, of speeches intended for the public meetings of a political nature and in official ceremonies;

(d) parody, pastiche and caricature, considering the laws governing each genre.

(2) Performers may not prohibit the reproduction and public communication of their performances if they are incidental to an event which is the main subject of an audiovisual series, work or document.

68. The duration of the patrimonial rights dealt with in this Part shall be fifty years with effect from:

— the end of the calendar year of fixation, for phonograms, videograms and the performances fixed thereon;

— the end of the calendar year of execution, for performances not fixed on phonogram or videogram;

— the end of the calendar year of broadcast, for the programmes of audiovisual broadcasting firms.

## Part IV

### Remuneration for Private Copying

#### Chapter I

#### *Remuneration for Private Copying of Commercial Phonograms and Videograms*

69. The authors and performers of works and recordings fixed on phonograms or videograms as well as producers of these phonograms or videograms shall be entitled to remuneration in respect of reproductions for strictly personal and private use.

70. — (1) The remuneration provided for in Section 69 shall be paid by the manufacturer or importer of recording media employed for the reproduction for private use of works or recordings fixed on phonograms or videograms upon the circulation of such recording in Cameroon.

(2) The amount of the remuneration shall be fixed according to the type of medium and the length of recording possible.

71. — (1) The types of medium as well as the amount of the remuneration and the conditions of payment shall be determined by regulation.

(2) The remuneration provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body.

(3) Remuneration for private copying of phonograms or videograms shall be shared equally by the authors, the performers, the producers and the cultural policy support fund provided for in Section 5(4) above.

## *Chapter II*

### *Remuneration for Private Copying of Printed Works*

72. The authors and publishers of printed works shall be entitled to remuneration in respect of the reproduction for strictly personal and private use.

73. The remuneration provided for in this chapter shall be paid by the manufacturer or the importer of machines and used for the reproduction for private use of a printed work, when such machines are put in circulation in Cameroon.

74. — (1) The types of machines subject to a fee and the amount of such fee, as well as the conditions of payment shall be determined by regulation.

(2) The fee provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body.

(3) Proceeds from private copying of printed works shall be shared equally among the authors, the publishers and the cultural policy support fund provided for in Section 5(4) above.

## **Part V**

### **Collective Management**



75.—(1) Owners of copyrights or neighbouring rights may, for purposes of exercising their rights, set up copyright and neighbouring rights collective management bodies.

(2) Only one body may be created for each category of copyright or neighbouring right. The categories shall be determined by genre or by necessary association.

(3) The provisions of Section 75(1) shall be without prejudice to the freedom of authors and holders of neighbouring rights to directly exercise their rights hereunder.

76. Conditions for controlling the setting up and functioning of collective management bodies in charge of copyright and neighbouring rights shall be defined by regulation.

77.—(1) Authors, performers, phonogram and videogram producers, publishers or their legal representatives may be members of a collective management body.

(2) Unless otherwise agreed upon, membership of an organization shall confer the right to undertake any collective management activity such as authorization to exploit works, collection and distribution of royalties and legal defence of rights.

78.—(1) Collective management bodies must make available to interested persons the list of members and their works.

(2) Collective management bodies shall use part of their proceeds following a scale laid down in their by-law and other basic instruments approved by the Minister in charge of culture.

79.—(1) Any collective management body must submit to the Minister in charge of culture, spontaneously or upon his request:

(a) annual accounts;

(b) amendments to its by-laws and other basic instruments as well as rules for collecting and sharing royalties, at least one month before their consideration by the general assembly;

(c) cooperation agreements and other conventions signed with third parties;

(d) decisions of the general assembly;

- (e) balance sheets and reports, as well as auditor' s reports;
  - (f) the names of the organization' s representatives.
- (2) The Minister in charge of culture or his representative may collect on actual evidence and on the spot, information mentioned in this section.

## Part VI

### Infringement, Penalties and Procedures

80. The following shall constitute forgery:

- (a) any exploitation of a literary or artistic work done in violation of this law, through performance, reproduction, transformation or distribution by any means whatsoever;
- (b) any reproduction, communication or supply to the public through sale, exchange, rental of a recording, a phonogram, videogram, undertaken without the authorization of the performer, phonogram or videogram producer, or the audiovisual communication firm, where such authorization is required;
- (c) any infringement of moral rights through violation of the right of disclosure, the right of authorship or the right to respect of a literary or artistic work;
- (d) any infringement of the right of authorship and the right of integrity of a performance.

81.—(1) The following shall also be considered forgery:

- (a) the importation, exportation, sale or putting up for sale of forged objects;
- (b) the importation or exportation of phonograms or videograms produced without the authorization of their performer or producer, where such authorization is required;
- (c) manufacturing or importing, with the intention of selling or renting or setting up equipment, material, device or instrument entirely or partially designed to fraudulently record programmes broadcast where such programmes are reserved for a specific public that receives them in return for a fee paid to their operator or his legal representatives;
- (d) the fraudulent neutralization of effective technical measures used by

owners of copyrights or neighbouring rights to protect their works against unauthorized acts;

(e) allowing the irregular reproduction or performance in one's establishment of works protected by this law;

(f) failure to pay or unjustified late payment of a fee as provided for by this law;

(g) carrying out the following acts, knowingly or, for civil sanctions, having good reason to believe that this act will lead to, enable, facilitate or conceal infringement of a right provided for in this law:

— unauthorized removal or alteration of any electronic information relating to the copyright regime;

— the distribution, importation for distribution, unauthorized communication of originals or copies of works, performances, videograms, phonograms, programmes, while knowing that the electronic information relating to the copyright regime has been removed or altered without authorization.

(2) "Information on copyright regime" shall mean information that helps to identify the work, performance, videogram, phonogram or programme, or information on the conditions of use of such productions and any number or code representing such information where one of these elements of information is attached to a copy of a production or is linked to the communication of a production to the public.

**82.** — (1) The offences referred to in Sections 80 and 81 [shall] be punishable by imprisonment of from 5 (five) to 10 (ten) years or a fine of from 500,000 to 10,000,000 CFA francs or both such imprisonment and fine.

(2) The penalties provided for in this section shall be doubled where the offender is a partner of the owner of the infringed right.

**83.** Infringements of the provisions of Section 20 above may entail a court sentencing to jointly pay damages to the owners of the right of pursuit the buyer, vendor and the person entrusted with the sale by public auction.

**84.** — (1) In any case, the court may order the confiscation of forged copies, the equipment used to commit the offence as well as proceeds derived therefrom.

(2) The equipment used by the forger and forged copies may be destroyed.

(3) The court may order the publication of the decision under the conditions laid down in Section 33 of the Penal Code.

**85.**—(1) In case of violation of or threat to violate the rights provided in this law, the natural persons or corporate bodies or their legal representatives who own such rights, may request a judicial police officer or a bailiff to establish the said infringements and, if need be, seize, on the authorization of the State Counsel or competent judge, the forged copies, the illegally imported copies and objects and the equipment used or to be used for performance or reproduction, and set up to commit such forbidden acts.

(2) The president of the civil court with jurisdiction may, by a ruling on petition, also order:

(a) the suspension of any ongoing manufacture that may lead to the unlawful reproduction of a work;

(b) the suspension of unauthorized public performances or shows;

(c) the seizure, even on non-working days or beyond working hours, of unlawfully reproduced copies of the work, already manufactured or still in the process, of the proceeds realized as well as the forged copies;

(d) the seizure of the equipment used for the manufacture;

(e) the seizure of the proceeds from any exploitation done in violation of copyrights or neighbouring rights.

**86.**—(1) Within fifteen days of the date of the seizure report, the distrainee or garnishee may petition the president of the court to limit the effects or to authorize resumption of manufacture or performance under the authority of an assignee who shall own the proceeds from such manufacture or exploitation.

(2) The president of the court ruling in chambers may, if he upholds the petition of the distrainee or garnishee, order the petitioner to deposit an amount to guarantee damages that the author may claim.

**87.** Where the distrainee fails to refer the matter to the court with jurisdiction within fifteen days following the seizure, the president of the court ruling in chambers may order replevin at the request of the distrainee or garnishee.

**88.** Where the proceeds from exploitation due the owner of a copyright and neighbouring rights have been seized, the president of the civil court with

jurisdiction shall order the payment of some amount or specific quota of the amount seized, to the author for subsistence.

89. Where a party infringes copyrights or neighbouring rights in the customs clearance of goods, the president of the court may order cessation of such infringement.

90. — (1) Where the owner of a copyright or neighbouring rights suspects imminent importation or exportation of goods that infringe his rights, he may petition the Minister in charge of customs or the president of the court to request the customs authorities to suspend the free circulation of the said goods.

(2) The petitioner shall support his petition by providing a description of the goods and furnishing proof of infringement under the law of the importing country or this law.

(3) In order to enable the petitioner to institute and justify his court action, the customs service must provide him with all the information concerning the goods seized, notwithstanding the provisions of the customs code relating to professional secrecy. The customs clearing agent, the lighter owner or any other person shall be bound by the same obligation.

(4) The judge or the Minister may require an affidavit from the petitioner.

(5) The importer or exporter and the petitioner shall be informed of the suspension within five days following the decision.

(6) Where 10 (ten) days after the petitioner is informed of the suspension, the customs authorities are not aware that any person other than the defendant has not referred the matter to the competent court, or where the competent authority has extended the suspension, the suspension shall be lifted.

(7) The petitioner must repair the damage caused by the unjustified detention of the goods.

91. For the application of the above penalties, the deadline for opposition and appeal shall be 15 (fifteen) days and 1 (one) month with effect from the date of notification of judgment.

## Part VII

### Scope of Implementation of the Law

92. Works, performances, phonograms, videograms and programmes by Cameroonians

shall be protected by this law. In case of joint authorship, it shall suffice for one of the co-authors to be a Cameroonian.

93. — (1) Foreigners in Cameroon shall enjoy the copyright and neighbouring rights that they own, on condition that the rights of Cameroonians are protected by the law of the State on whose territory they are resident or have their head office or firm.

(2) Copyright and neighbouring rights enjoyed by foreigners shall be protected in accordance with this law.

94. The provisions of this law relating to the protection of literary and artistic works, performances, phonograms, videograms and programmes shall apply to works which are entitled to protection in accordance with an international treaty to which Cameroon is signatory.

95. Any issue prior to the principal issue of protecting the rights of foreigners, in particular, that of determining the authorship of the rights, shall be settled by this law.

## Part VIII

### Transitional and Final Provisions

96. Collective management bodies must comply with the provisions of this law within 12 (twelve) days following its entry into force.

97. This law which repeals all previous provisions repugnant hereto, in particular Law No. 90/10 of 10 August 1990, shall be registered, published according to the procedure of urgency, and inserted in the Official Gazette in English and French.

