

## 中华人民共和国著作权法

1990年9月7日第七届全国人民代表大会  
常务委员会第十五次会议通过

### 第一章 总则

第一条 为保护文学、艺术和科学作品作者的著作权，以及与著作权有关的权益，鼓励有益于社会主义精神文明、物质文明建设的作品的创作和传播，促进社会主义文化和科学事业的发展与繁荣，根据宪法制定本法。

第二条 中国公民、法人或者非法人单位的作品，不论是否发表，依照本法享有著作权。

外国人的作品首先在中国境内发表的，依照本法享有著作权。

外国人在中国境外发表的作品，根据其所属国同中国签订的协议或者共同参加的国际条约享有的著作权，受本法保护。

第三条 本法所称的作品，包括以下列形式创作的文学、艺术和自然科学、社会科学、工程技术等作品

- (一) 文字作品;
- (二) 口述作品;
- (三) 音乐、戏剧、曲艺、舞蹈作品;
- (四) 美术、摄影作品;
- (五) 电影、电视、录像作品;
- (六) 工程设计、产品设计图纸及其说明;
- (七) 地图、示意图等图形作品;
- (八) 计算机软件;
- (九) 法律、行政法规规定的其他作品。

## Copyright Law of People's Republic of China

(National Copyright Administration of China Translation)

(adopted at the Fifteenth Session of the Standing Committee of the Seventh National People's Congress on September 7, 1990)

### CHAPTER I General Provisions

**Article 1.** This Law is enacted, in accordance with the Constitution, for the purposes of protecting the copyright of authors in their literary, artistic and scientific works and the rights related to copyright, of encouraging the creation and dissemination of works which would contribute to the construction of socialist spiritual and material civilization, and of promoting the development and flourishing of socialist culture and sciences.

**Article 2.** Works of Chinese citizens, legal entities or entities without legal personality, whether published or not, shall enjoy copyright in accordance with this Law.

Works of foreigners first published in the territory of the People's Republic of China shall enjoy copyright in accordance with this Law.

Any work of a foreigner published outside the territory of the People's Republic of China which is eligible to enjoy copyright under an agreement concluded between the country to which the foreigner belongs and China, or under an international treaty to which both countries are party, shall be protected in accordance with this Law.

**Article 3.** For the purposes of this Law, the term "works" includes works of literature, art, natural science, social science, engineering technology and the like which are expressed in the following forms:

- (1) written works;
- (2) oral works;
- (3) musical, dramatic, quyi\* and choreographic works;  
\* Quyi refers to such traditional art forms as ballad singing, story telling, comic dialogues, clapper talks and cross talks (translator's note).
- (4) works of fine art and photographic works;
- (5) cinematography, television and videographic works;
- (6) drawings of engineering designs and product designs, and descriptions thereof;
- (7) maps, sketches and other graphic works;
- (8) computer software;
- (9) other works as provided for in laws and administrative

第四条 依法禁止出版、传播的作品，不受本法保护。著作权人行使著作权，不得违反宪法和法律，不得损害公共利益。

第五条 本法不适用于：  
(一) 法律、法规，国家机关的决议、决定、命令和其他具有立法、行政、司法性质的文件，及其官方正式译文；  
(二) 时事新闻；  
(三) 历法、数表、通用表格和公式。

第六条 民间文学艺术作品的著作权保护办法由国务院另行规定。

第七条 科学技术作品中应当由专利法、技术合同法等法律保护的，适用专利法、技术合同法等法律的规定。

第八条 国务院著作权行政管理部门主管全国的著作权管理工作；各省、自治区、直辖市人民政府的著作权行政管理部门主管本行政区域的著作权管理工作。

## 第二章 著作 权

### 第一节 著作权人及其权利

第九条 著作权人包括：  
(一) 作者；  
(二) 其他依照本法享有著作权的公民、法人或者非法人单位。

第十条 著作权包括下列人身权和财产权：  
(一) 发表权，即决定作品是否公之于众的权利；  
(二) 署名权，即表明作者身份，在作品上署名的权利；  
(三) 修改权，即修改或者授权他人修改作品的权利；  
(四) 保护作品完整权，即保护作品不受歪曲、篡改的权利；

regulations.

**Article 4.** Works the publication or distribution of which is prohibited by law shall not be protected by this Law. Copyright owners, in exercising their copyright, shall not violate the Constitution or laws or prejudice the public interest.

**Article 5.** This Law shall not be applicable to:  
(1) laws; regulations; resolutions, decisions and orders of state organs; other documents of a legislative, administrative or judicial nature; and their official translations;  
(2) news on current affairs; and  
(3) calendars, numerical tables, forms of general use and formulas.

**Article 6.** Regulations for the protection of copyright in expressions of folklore shall be established separately by the State Council.

**Article 7.** Where any scientific or technological work is protected under the Patent Law, the Law on Technology Contracts or similar laws, the provisions of those laws shall apply.

**Article 8.** The copyright administration department under the State Council shall be responsible for the nationwide administration of copyright. The copyright administration department of the People's Government of each province, autonomous region and municipality directly under the Central Government shall be responsible for the administration of copyright in its administrative area.

## CHAPTER II Copyright

### Section 1 - Copyright Owners and Their Rights

**Article 9.** The term "copyright owners" shall include:  
(1) authors;  
(2) other citizens, legal entities and entities without legal personality enjoying copyright in accordance with this Law.

**Article 10.** The term "copyright" shall include the following personality rights and property rights:  
(1) the right of publication, that is, the right to decide whether to make a work available to the public;  
(2) the right of authorship, that is, the right to claim authorship and to have the author's name mentioned in connection with the work;  
(3) the right of alteration, that is, the right to alter or authorize others to alter one's work;  
(4) the right of integrity, that is, the right to protect one's work against distortion and mutilation;

(五)使用权和获得报酬权,即以复制、表演、播放、展览、发行、摄制电影、电视、录像或者改编、翻译、注释、编辑等方式使用作品的权利;以及许可他人以上述方式使用作品,并由此获得报酬的权利。

## 第二节 著作权归属

第十一条 著作权属于作者,本法另有规定的除外。创作作品的公民是作者。由法人或者非法人单位主持,代表法人或者非法人单位意志创作,并由法人或者非法人单位承担责任的作品,法人或者非法人单位视为作者。如无相反证明,在作品上署名的公民、法人或者非法人单位为作者。

第十二条 改编、翻译、注释、整理已有作品而产生的作品,其著作权由改编、翻译、注释、整理人享有,但行使著作权时,不得侵犯原作品的著作权。

第十三条 两人以上合作创作的作品,著作权由合作作者共同享有。没有参加创作的人,不能成为合作作者。

合作作品可以分割使用的,作者对各自创作的部分可以单独享有著作权,但行使著作权时不得侵犯合作作品整体的著作权。

第十四条 作品由编辑人享有著作权,但行使著作权时,不得侵犯原作品的著作权。编辑作品中可以单独使用的作品的作者有权单独行使其著作权。

第十五条 电影、电视、录像作品的导演、编剧、作词、作曲、摄影等作者享有署名权,著作权的其他权利由制作电影、电视、录像作品的制片人享有。电影、电视、录像作品中剧本、音乐等可以单独使用的作品的作者有权单独行使其著作权。

第十六条 公民为完成法人或者非法人单位工作任务所创作的作品是职务作品,除本条第二款的规定以外,

(5) the right of exploitation and the right to remuneration, that is, the right of exploiting one's work by reproduction, live performance, broadcasting, exhibition, distribution, making cinematography, television or video production, adaptation, translation, annotation, compilation and the like, and the right of authorizing others to exploit one's work by the above-mentioned means and of receiving remuneration therefor.

## Section 2 - Ownership of Copyright

**Article 11.** Except where otherwise provided in this Law, the copyright in a work shall belong to its author. The author of a work is the citizen who has created the work. Where a work is created according to the intention and under the supervision and responsibility of a legal entity or entity without legal personality, such legal entity or entity without legal personality shall be deemed to be the author of the work. The citizen, legal entity or entity without legal personality whose name is mentioned in connection with a work shall, in the absence of proof to the contrary, be deemed to be the author of the work.

**Article 12.** Where a work is created by adaptation, translation, annotation or arrangement of a preexisting work, the copyright in the work thus created shall be enjoyed by the adapter, translator, annotator or arranger, provided that the exercise of such copyright shall not prejudice the copyright in the original work.

**Article 13.** Where a work is created jointly by two or more co-authors, the copyright in the work shall be enjoyed jointly by those co-authors.

Co-authorship may not be claimed by anyone who has not participated in the creation of the work. If a work of joint authorship can be separated into independent parts and exploited separately, each co-author shall be entitled to independent copyright in the parts that he has created, provided that the exercise of such copyright shall not prejudice the copyright in the joint work as a whole.

**Article 14.** The copyright in a work created by compilation shall be enjoyed by the compiler, provided that the exercise of such copyright shall not prejudice the copyright in the preexisting works included in the compilation. The authors of such works included in a compilation as can be exploited separately shall be entitled to exercise their copyright in their works independently.

**Article 15.** The director, scriptwriter, lyricist, composer, cameraman and other authors of a cinematography, television or videographic work shall enjoy the right of authorship in the work, while the other rights included in the copyright shall be enjoyed by the producer of the work. The authors of the screenplay, musical works and other works that are included in a cinematography, television or videographic work and can be exploited separately shall be entitled to exercise their copyright independently.

**Article 16.** A work created by a citizen in the fulfillment of tasks assigned to him by a legal entity or entity without legal personality shall be deemed to be a work created in

著作权由作者享有，但法人或者非法人单位有权在其业务范围内优先使用。作品完成两年内，未经单位同意，作者不得许可第三人以与单位使用的相同方式使用该作品。

有下列情形之一的职务作品，作者享有署名权，著作权的其他权利由法人或者非法人单位享有，法人或者非法人单位可以给予作者奖励：

（一）主要是利用法人或者非法人单位的物质技术条件创作，并由法人或者非法人单位承担责任的工程设计、产品设计图纸及其说明、计算机软件、地图等职务作品；

（二）法律、行政法规规定或者合同约定著作权由法人或者非法人单位享有的职务作品。

**第十七条** 受委托创作的作品，著作权的归属由委托人和受托人通过合同约定。合同未作明确约定或者没有订立合同的，著作权属于受托人。

**第十八条** 美术等作品原件所有权的转移，不视为作品著作权的转移，但美术作品原件的展览权由原件所有人享有。

**第十九条** 著作权属于公民的，公民死亡后，其作品的使用权和获得报酬权在本法规定的保护期内，依照继承法的规定转移。

著作权属于法人或者非法人单位的，法人或者非法人单位变更、终止后，其作品的使用权和获得报酬权在本法规定的保护期内，由承受其权利义务的法人或者非法人单位享有；没有承受其权利义务的法人或者非法人单位的，由国家享有。

### 第三节 权利的保护期

**第二十条** 作者的署名权、修改权、保护作品完整权的保护期不受限制。

the course of employment. The copyright in such work shall be enjoyed by the author, subject to the provisions of the second paragraph of this Article, provided that the legal entity or entity without legal personality shall have a priority right to exploit the work within the scope of its professional activities. During the two years after the completion of the work, the author shall not, without the consent of the legal entity or entity without legal personality, authorize a third party to exploit the work in the same way as the legal entity or entity without legal personality does.

In the following cases the author of a work created in the course of employment shall enjoy the right of authorship, while the legal entity or entity without legal personality shall enjoy the other rights included in the copyright and may reward the author:

(1) drawings of engineering designs and product designs and descriptions thereof, computer software, maps and other works created in the course of employment mainly with the material and technical resources of the legal entity or entity without legal personality and under its responsibility;

(2) works created in the course of employment where the copyright is, in accordance with laws, administrative regulations or contracts, enjoyed by the legal entity or entity without legal personality.

**Article 17.** The ownership of the copyright in a commissioned work shall be agreed upon in a contract between the commissioning and the commissioned parties. In the absence of a contract or of an explicit agreement in the contract, the copyright in such a work shall belong to the commissioned party.

**Article 18.** The transfer of ownership of the original copy of a work of fine art, or other works, shall not be deemed to include the transfer of the copyright in such work, provided that the right to exhibit the original copy of a work of fine art shall be enjoyed by the owner of such original copy.

**Article 19.** Where the copyright in a work belongs to a citizen, the right of exploitation and the right to remuneration in respect of the work shall, after his death, during the term of protection provided for in this Law, be transferred in accordance with the provisions of the Inheritance Law.

Where the copyright in a work belongs to a legal entity or entity without legal personality, the right of exploitation and the right to remuneration shall, after the change or the termination of the status of the legal entity or entity without legal personality, during the term of protection provided for in this Law, be enjoyed by the succeeding legal entity or entity without legal personality which has taken over the former's rights and obligations, or, in the absence of such successor entity, by the State.

### Section 3 - Term of Protection

**Article 20.** The rights of authorship, alteration and integrity of an author shall be unlimited in time.

第二十一条 公民的作品，其发表权、使用权和获得报酬权的保护期为作者终生及其死亡后五十年，截止于作者死亡后第五十年的12月31日；如果是合作作品，截止于最后死亡的作者死亡后第五十年的12月31日。

法人或者非法人单位的作品、著作权（署名权除外）由法人或者非法人单位享有的职务作品，其发表权、使用权和获得报酬权的保护期为五十年，截止于作品首次发表后第五十年的12月31日，但作品自创作完成后五十年内未发表的，本法不再保护。

电影、电视、录像和摄影作品的发表权、使用权和获得报酬权的保护期为五十年，截止于作品首次发表后第五十年的12月31日，但作品自创作完成后五十年内未发表的，本法不再保护。

#### 第四节 权利的限制

第二十二条 在下列情况下使用作品，可以不经著作权人许可，不向其支付报酬，但应当指明作者姓名、作品名称，并且不得侵犯著作权人依照本法享有的其他权利：

（一）为个人学习、研究或者欣赏，使用他人已经发表的作品；

（二）为介绍、评论某一作品或者说明某一问题，在作品中适当引用他人已经发表的作品；

（三）为报道时事新闻，在报纸、期刊、广播、电视节目或者新闻纪录影片中引用已经发表的作品；

（四）报纸、期刊、广播电台、电视台刊登或者播放其他报纸、期刊、广播电台、电视台已经发表的社论、评论员文章；

（五）报纸、期刊、广播电台、电视台刊登或者播放在公众集会上发表的讲话，但作者声明不许刊登、播放的除外；

（六）为学校课堂教学或者科学研究，翻译或者少

**Article 21.** The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a work of a citizen shall be the lifetime of the author and fifty years after his death, expiring on December 31 of the fiftieth year after his death. In the case of a work of joint authorship, such term shall expire on December 31 of the fiftieth year after the death of the last surviving author.

The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a work where the copyright belongs to a legal entity or entity without legal personality, or in respect of a work created in the course of employment where the legal entity or entity without legal personality enjoys the copyright (except the right of authorship), shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work, provided that any such work that has not been published within fifty years after the completion of its creation shall no longer be protected under this Law.

The term of protection of the right of publication, the right of exploitation and the right to remuneration in respect of a cinematography, television, videographic or photographic work shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work, provided that any such work that has not been published within fifty years after the completion of its creation shall no longer be protected under this Law.

#### Section 4 - Limitations on Rights

**Article 22.** In the following cases, a work may be exploited without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work shall be mentioned and the other rights enjoyed by the copyright owner by virtue of this Law shall not be prejudiced:

(1) use of a published work for the purposes of the user's own private study, research or self-entertainment;

(2) appropriate quotation from a published work in one's own work for the purposes of introduction to, or comments on, a work, or demonstration of a point;

(3) use of a published work in newspapers, periodicals, radio programs, television programs or newsreels for the purpose of reporting current events;

(4) reprinting by newspapers or periodicals, or re-broadcasting by radio stations or television stations, of editorials or commentators' articles published by other newspapers, periodicals, radio stations or television stations;

(5) publication in newspapers or periodicals, or broadcasting by radio stations or television stations, of a speech delivered at a public gathering, except where the author has declared that publication or broadcasting is not permitted;

(6) translation, or reproduction in a small quantity of

量复制已经发表的作品，供教学或者科研人员使用，但不得出版发行；

(七) 国家机关为执行公务使用已经发表的作品；

(八) 图书馆、档案馆、纪念馆、博物馆、美术馆等为陈列或者保存版本的需要，复制本馆收藏的作品；

(九) 免费表演已经发表的作品；

(十) 对设置或者陈列在室外公共场所的艺术作品进行临摹、绘画、摄影、录像；

(十一) 将已经发表的汉族文字作品翻译成少数民族文字在国内出版发行；

(十二) 将已经发表的作品改成盲文出版。

以上规定适用于对出版者、表演者、录音录像制作者、广播电台、电视台的权利的限制。

### 第三章 著作权许可使用合同

第二十三条 使用他人作品应当同著作权人订立合同或者取得许可，本法规定可以不经许可的除外。

第二十四条 合同包括下列主要条款：

(一) 许可使用作品的方式；

(二) 许可使用的权利是专有使用权或者非专有使用权；

(三) 许可使用的范围、期间；

(四) 付酬标准和办法；

(五) 违约责任；

(六) 双方认为需要约定的其他内容。

第二十五条 合同中著作权人未明确许可的权利，未经著作权人许可，另一方当事人不得行使。

第二十六条 合同的有效期限不超过十年。合同期

copies, of a published work for use by teachers or scientific researchers, in classroom teaching or scientific research, provided that the translation or reproduction shall not be published or distributed;

(7) use of a published work by a state organ for the purpose of fulfilling its official duties;

(8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery or similar institution, for the purposes of the display, or preservation of a copy, of the work;

(9) free-of-charge live performance of a published work;

(10) copying, drawing, photographing or video recording of an artistic work located or on display in an outdoor public place;

(11) translation of a published work from the Han language into minority nationality languages for publication and distribution within the country;

(12) transliteration of a published work into braille and publication of the work so transliterated.

The above limitations on rights shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.

### CHAPTER III Copyright Licensing Contracts

**Article 23.** Subject to provisions in this Law according to which no permission is needed, anyone who exploits a work created by others shall conclude a contract with, or otherwise obtain permission from, the copyright owner.

**Article 24.** A contract shall include the following basic clauses:

(1) the manner of exploitation of the work covered by the license;

(2) the exclusive or non-exclusive nature of the right to exploit the work covered by the license;

(3) the scope and term of the license;

(4) the amount of the remuneration and the method of its payment;

(5) the liability in the case of breach of the contract;

(6) any other matter that the contracting parties consider necessary.

**Article 25.** The licensee shall not, without permission from the copyright owner, exercise any right that the copyright owner has not expressly licensed in the contract.

**Article 26.** The term of validity of a contract shall not

满可以续订。

第二十七条 使用作品的付酬标准由国务院著作权行政管理部门会同有关部门制定。合同另有约定的，也可以按照合同支付报酬。

第二十八条 出版者、表演者、录音录像制作者、广播电台、电视台等依照本法取得他人的著作权使用权的，不得侵犯作者的署名权、修改权、保护作品完整权和获得报酬权。

#### 第四章 出版、表演、录音录像、播放

##### 第一节 图书、报刊的出版

第二十九条 图书出版者出版图书应当和著作权人订立出版合同，并支付报酬。

第三十条 图书出版者对著作权人交付出版的作品，在合同约定期间享有专有出版权。合同约定图书出版者享有专有出版权的期限不得超过十年，合同期满可以续订。

图书出版者在合同约定期间享有的专有出版权受法律保护，他人不得出版该作品。

第三十一条 著作权人应当按照合同约定期限交付作品。图书出版者应当按照合同约定的出版质量、期限出版图书。

图书出版者不按照合同约定期限出版，应当依照本法第四十七条的规定承担民事责任。

图书出版者重印、再版作品的，应当通知著作权人，并支付报酬。图书脱销后，图书出版者拒绝重印、再版的，著作权人有权终止合同。

第三十二条 著作权人向报社、杂志社投稿的，自稿件发出之日起十五日内未收到报社通知决定刊登的，或者自稿件发出之日起三十日内未收到杂志社通知决定刊登的，可以将同一作品向其他报社、杂志社投稿。双方另有约定的除外。

exceed ten years. The contract may be renewed on expiration of that term.

**Article 27.** The tariffs for remuneration for the exploitation of works shall be established by the copyright administration department under the State Council in collaboration with other departments concerned. Where otherwise agreed to in a contract, remuneration may also be paid in accordance with the terms of the said contract.

**Article 28.** Publishers, performers, producers of sound recordings and video recordings, radio stations, television stations and other entities who or which have obtained, pursuant to this Law, the right to exploit the copyright of others, shall not infringe the authors' rights of authorship, alteration or integrity, or their right to remuneration.

#### CHAPTER IV Publication, Performance, Sound Recording, Video Recording and Broadcasting

##### Section 1 - Publication of Books, Newspapers and Periodicals

**Article 29.** A book publisher who publishes a book shall conclude a publishing contract with, and pay remuneration to, the copyright owner.

**Article 30.** During the term of the contract, a book publisher shall have the exclusive right to publish the work delivered to him by the copyright owner for publication. The term of the exclusive right to publish, enjoyed by the publisher as specified in the contract, shall not exceed ten years. The contract may be renewed on expiration.

During the term specified in the contract, the exclusive right to publish a work enjoyed by the book publisher shall be protected by law, and the work may not be published by others.

**Article 31.** The copyright owner shall deliver the work within the term specified in the contract. The book publisher shall publish the work in accordance with the quality requirements and within the term specified in the contract.

The book publisher shall bear the civil liability specified in Article 47 of this Law if he fails to publish the work within the term specified in the contract.

The book publisher shall notify, and pay remuneration to, the copyright owner when the work is to be reprinted or republished. If the publisher refuses to reprint or republish the work when stocks of the book are exhausted, the copyright owner shall have the right to terminate the contract.

**Article 32.** Where a copyright owner has submitted the manuscript of his work to a newspaper or a periodical publisher for publication and has not received, within 15 days from the newspaper publisher or within 30 days from the periodical publisher, counted from the date of submission of the manuscript, any notification of the said publisher's decision to publish the work, the copyright

作品刊登后，除著作权人声明不得转载、摘编的外，其他报刊可以转载或者作为文摘、资料刊登，但应当按照规定向著作权人支付报酬。

第三十三条 图书出版者经作者许可，可以对作品修改、删节。

报社、杂志社可以对作品作文字性修改、删节，对内容的修改，应当经作者许可。

第三十四条 出版改编、翻译、注释、整理、编辑已有作品而产生的作品，应当向改编、翻译、注释、整理、编辑作品的著作权人和原作品的著作权人支付报酬。

## 第二节 表演

第三十五条 表演者（演员、演出单位）使用他人未发表的作品演出，应当取得著作权人许可，并支付报酬。

表演者使用他人已发表的作品进行营业性演出，可以不经著作权人许可，但应当按照规定支付报酬，著作权人声明不许使用的不得使用。

表演者使用改编、翻译、注释、整理已有作品而产生的作品进行营业性演出，应当按照规定向改编、翻译、注释、整理作品的著作权人和原作品的著作权人支付报酬。

表演者为制作录音录像和广播、电视节目进行表演使用他人作品的，适用本法第三十七条、第四十条的规定。

第三十六条 表演者对其表演享有下列权利：

- （一）表明表演者身份；
- （二）保护表演形象不受歪曲；

owner may submit the manuscript of the same work to another newspaper or periodical publisher for publication, unless the two parties have agreed otherwise.

Except where the copyright owner has declared that reprinting or excerpting is not permitted, other newspaper or periodical publishers may, after the publication of the work by a newspaper or periodical, reprint the work or print an abstract of it or print it as reference material, but such other publishers shall pay remuneration to the copyright owner as prescribed in regulations.

**Article 33.** A book publisher may alter or abridge a work with the permission of the copyright owner.

A newspaper or periodical publisher may make editorial modifications and abridgments in a work, but shall not make modifications in the content of the work unless permission has been obtained from the author.

**Article 34.** When publishing works created by adaptation, translation, annotation, arrangement or compilation of preexisting works, the publisher shall pay remuneration both to the owners of the copyright in the works created by means of adaptation, translation, annotation, arrangement or compilation and to the owners of the copyright in the original works.

## Section 2 Performance

**Article 35.** A performer (an individual performer or a performing group) who for a performance exploits an unpublished work created by another shall obtain permission from, and pay remuneration to, the copyright owner.

A performer who for a commercial performance exploits a published work created by another does not need permission from, but shall, as prescribed by regulations, pay remuneration to, the copyright owner; such work shall not be exploited where the copyright owner has declared that such exploitation is not permitted.

A performer who for a commercial performance exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

Where a performer performs a work created by another and that performance is exploited for the production of a sound recording, video recording, radio program or television program, Article 37 and Article 40 shall apply.

**Article 36.** A performer shall, in relation to his performance, enjoy the right

- (1) to claim performership;
- (2) to protect the image inherent in his performance from distortion;

(三) 许可他人从观场直播;

(3) to authorize others to make live broadcasts;

(四) 许可他人为营利目的录音录像, 并获得报酬。

(4) to authorize others to make sound recordings and video recordings for commercial purposes, and to receive remuneration therefor.

### 第三节 录音录像

### Section 3 Sound Recording and Video Recording

第三十七条 录音制作者使用他人未发表的作品制作录音制品, 应当取得著作权人的许可, 并支付报酬。使用他人已发表的作品制作录音制品, 可以不经著作权人许可, 但应当按照规定支付报酬; 著作权人声明不许使用的不得使用。

**Article 37.** A producer of sound recordings who, for the production of a sound recording, exploits an unpublished work created by another, shall obtain permission from, and pay remuneration to, the copyright owner. A producer of sound recordings who, for the production of a sound recording, exploits a published work created by another, does not need permission from, but shall, as prescribed by regulations, pay remuneration to, the copyright owner; such work shall not be exploited where the copyright owner has declared that such exploitation is not permitted.

录像制作者使用他人作品制作录像制品, 应当取得著作权人的许可, 并支付报酬。

A producer of video recordings who, for the production of a video recording, exploits a work created by another shall obtain permission from, and pay remuneration to, the copyright owner.

录音录像制作者使用改编、翻译、注释、整理已有作品而产生的作品, 应当向改编、翻译、注释、整理作品的著作权人和原作品的著作权人支付报酬。

A producer of sound recordings or video recordings who exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

第三十八条 录音录像制作者制作录音录像制品, 应当同表演者订立合同, 并支付报酬。

**Article 38.** When producing a sound recording or video recording, the producer shall conclude a contract with, and pay remuneration to, the performers.

第三十九条 录音录像制作者对其制作的录音录像制品, 享有许可他人复制发行并获得报酬的权利。该权利的保护期为五十年, 截止于该制品首次出版后的第五十年的12月31日。

**Article 39.** A producer of sound recordings or video recordings shall have the right to authorize others to reproduce and distribute such sound recordings or video recordings and the right to obtain remuneration therefor. The term of protection of such rights shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of the recording.

被许可复制发行的录音录像制作者还应当按照规定向著作权人和表演者支付报酬,

A producer of sound recordings or video recordings who is authorized to reproduce and distribute a sound recording or video recording shall also pay remuneration to the copyright owner and to the performer as prescribed by regulations.

### 第四节 广播电台、电视台播放

### Section 4 Broadcasting by a Radio Station or Television Station

第四十条 广播电台、电视台使用他人未发表的作品制作广播、电视节目, 应当取得著作权人的许可, 并支付报酬。

**Article 40.** A radio station or television station that exploits, for the production of a radio or television program, an unpublished work created by another, shall obtain permission from, and pay remuneration to, the copyright owner.

广播电台、电视台使用他人已发表的作品制作广播、电视节目, 可以不经著作权人许可, 但著作权人声明不许使用的不得使用, 并且除本法规定可以不支付报酬的

A radio station or television station that exploits, for the production of a radio or television program, a published work created by another does not need a permission from the copyright owner, but such a work shall not be exploited

以外，应当按照规定支付报酬。

广播电台、电视台使用改编、翻译、注释、整理已有作品而产生的作品制作广播、电视节目，应当向改编、翻译、注释、整理作品的著作权人和原作品的著作权人支付报酬。

**第四十一条** 广播电台、电视台制作广播、电视节目，应当同表演者订立合同，并支付报酬。

**第四十二条** 广播电台、电视台对其制作的广播、电视节目，享有下列权利：

(一) 播放；

(二) 许可他人播放，并获得报酬；

(三) 许可他人复制发行其制作的广播、电视节目，并获得报酬。

前款规定的权利的保护期为五十年，截止于该节目首次播放后第五十年的12月31日。

被许可复制发行的录音录像制作者还应当按照规定向著作权人和表演者支付报酬。

**第四十三条** 广播电台、电视台非营业性播放已经出版的录音制品，可以不经著作权人、表演者、录音制作者许可，不向其支付报酬。

**第四十四条** 电视台播放他人的电影、电视和录像，应当取得电影、电视制片者和录像制作者的许可，并支付报酬。

## 第五章 法律责任

**第四十五条** 有下列侵权行为的，应当根据情况，承担停止侵害、消除影响、公开赔礼道歉、赔偿损失等民事责任：

(一) 未经著作权人许可，发表其作品的；

where the copyright owner has declared that such exploitation is not permitted. In addition, remuneration shall be paid as prescribed by regulations unless this Law provides that no remuneration need to be paid.

A radio station or television station that exploits, for the production of a radio or television program, a work created by adaptation, translation, annotation or arrangement of a preexisting work, shall pay remuneration both to the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and to the owner of the copyright in the original work.

**Article 41.** When producing a radio program or television program, the radio station or television station shall conclude a contract with, and pay remuneration to, the performers.

**Article 42.** A radio station or television station shall, in respect of a program produced by it, enjoy the right:

(1) to broadcast the program;

(2) to authorize others to broadcast the program, and to receive remuneration therefor;

(3) to authorize others to reproduce and distribute the radio or television program, and to receive remuneration therefor.

The term of protection of the rights specified in the preceding paragraph shall be fifty years, expiring on December 31 of the fiftieth year after the first broadcasting of the program .

A producer of sound recordings or video recordings who is authorized to reproduce and distribute a radio or television program shall also pay remuneration to the copyright owner and to the performer as prescribed by regulations.

**Article 43.** A radio station or television station that broadcasts, for non-commercial purposes, a published sound recording needs not obtain permission from, or pay remuneration to, the copyright owner, performer or producer of the sound recording.

**Article 44.** A television station that broadcasts a cinematography, television or videographic work produced by another shall obtain permission from, and pay remuneration to, the producer of the cinematography, television or videographic work.

## CHAPTER V Legal Liabilities

**Article 45.** Anyone who commits any of the following acts of infringement shall bear civil liability for such remedies as ceasing the infringing act, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances:

(1) publishing a work without the consent of the copyright owner;

(二) 未经合作作者许可, 将与他人合作创作的作品当作自己单独创作的作品发表的;

(三) 没有参加创作, 为谋取个人名利, 在他人作品上署名的;

(四) 歪曲、篡改他人作品的;

(五) 未经著作权人许可, 以表演、播放、展览、发行、摄制电影、电视、录像或者改编、翻译、注释、编辑等方式使用作品的, 本法另有规定的除外;

(六) 使用他人作品, 未按照规定支付报酬的;

(七) 未经表演者许可, 从现场直播其表演的;

(八) 其他侵犯著作权以及与著作权有关的权益的行为。

第四十六条 有下列侵权行为的, 应当根据情况, 承担停止侵害, 消除影响、公开赔礼道歉、赔偿损失等民事责任, 并可以由著作权行政管理部门给予没收非法所得、罚款等行政处罚:

(一) 剽窃、抄袭他人作品的;

(二) 未经著作权人许可, 以营利为目的, 复制发行其作品的;

(三) 出版他人享有专有出版权的图书的;

(四) 未经表演者许可, 对其表演制作录音录像出版的;

(五) 未经录音录像制作者许可, 复制发行其制作的录音录像的;

(六) 未经广播电台、电视台许可, 复制发行其制作的广播、电视节目的;

(七) 制作、出售假冒他人署名的美术作品的。

第四十七条 当事人不履行合同义务或者履行合同义务不符合约定条件的, 应当依照民法通则有关规定承担民事责任。

(2) publishing a work of joint authorship as a work created solely by oneself, without the consent of the other co-authors;

(3) having one's name mentioned in connection with a work created by another, in order to seek personal fame and gain, where one has not taken part in the creation of the work;

(4) distorting or mutilating a work created by another;

(5) exploiting a work by performance, broadcasting, exhibition, distribution, making cinematography, television or video productions, adaptation, translation, annotation, compilation, or by other means, without the consent of the copyright owner, unless otherwise provided in this Law;

(6) exploiting a work created by another without paying remuneration as prescribed by regulations;

(7) broadcasting a live performance without the consent of the performer;

(8) committing other acts of infringement of copyright and of other rights related to copyright.

**Article 46.** Anyone who commits any of the following acts of infringement shall bear civil liability for such remedies as ceasing the infringing act, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances, and may, in addition, be subjected by a copyright administration department to such administrative penalties as confiscation of unlawful income from the act or imposition of a fine:

(1) plagiarizing a work created by another;

(2) reproducing and distributing a work for commercial purposes without the consent of the copyright owner;

(3) publishing a book where the exclusive right of publication belongs to another;

(4) reproducing and publishing a sound recording or video recording of a performance without the consent of the performer;

(5) reproducing and distributing a sound recording or video recording produced by another, without the consent of the producer;

(6) reproducing and distributing a radio or television program produced by a radio station or television station without the consent of the radio station or television station;

(7) producing or selling a work of fine art where the signature of an artist is counterfeited.

**Article 47.** A party who fails to fulfill his contractual obligations, or executes them in a manner that is not in conformity with the agreed conditions of the contract, shall bear civil liability in accordance with the relevant provisions of the General Principles of the Civil Law.

第四十八条 著作权侵权纠纷可以调解，调解不成或者调解达成协议后一方反悔的，可以向人民法院起诉。当事人不愿调解的，也可以直接向人民法院起诉。

第四十九条 著作权合同纠纷可以调解，也可以依据合同中的仲裁条款或者事后达成的书面仲裁协议，向著作权仲裁机构申请仲裁。

对于仲裁裁决，当事人应当履行。当事人一方不履行仲裁裁决的，另一方可以申请人民法院执行。

受申请的人民法院发现仲裁裁决违法的，有权不予执行。人民法院不予执行的，当事人可以就合同纠纷向人民法院起诉。

当事人没有在合同中订立仲裁条款，事后又没有书面仲裁协议的，可以直接向人民法院起诉。

第五十条 当事人对行政处罚不服的，可以在收到行政处罚决定书三个月内向人民法院起诉，期满不起诉又不履行的，著作权行政管理部门可以申请人民法院执行。

## 第六章 附则

第五十一条 本法所称的著作权与版权系同义语。

第五十二条 本法所称的复制，指以印刷、复印、临摹、拓印、录音、录像、翻录、翻拍等方式将作品制作一份或者多份的行为。

按照工程设计、产品设计图纸及其说明进行施工、生产工业品，不属于本法所称的复制。

第五十三条 计算机软件的保护办法由国务院另行规定。

**Article 48.** A dispute over copyright infringement may be settled by mediation. If mediation is unsuccessful, or if one of the parties fails to carry out an agreement reached by mediation, proceedings may be instituted in a people's court. Proceedings may also be instituted directly in a people's court if the parties do not wish to settle the dispute by mediation.

**Article 49.** A dispute over a copyright contract may be settled by mediation. It may also be submitted for arbitration to a copyright arbitration body under the arbitration clause in the contract, or under a written arbitration agreement concluded after the contract has been signed.

The parties shall implement the arbitration award. If one of the parties fails to implement the award, the other party may apply to a people's court for enforcement.

If the people's court that has been requested to enforce an arbitration award finds the award unlawful, it shall have the right to refuse the enforcement. If a people's court refuses to enforce an arbitration award, the parties may institute proceedings concerning the contractual dispute in a people's court .

Any party may institute proceedings directly in a people's court in the absence of an arbitration clause in the contract or in the absence of a written arbitration agreement concluded after the contract has been signed.

**Article 50.** Any party who objects to an administrative penalty may institute proceedings in a people's court within three months of having received the written decision on the penalty. If a party neither institutes proceedings nor implements the decision within the above time limit, the copyright administration department concerned may apply to a people's court for enforcement.

## CHAPTER VI Supplementary Provisions

**Article 51.** For the purposes of this Law, the terms "zhuzuoquan\*" and "banquan\*" are synonymous. \* Zhuzuoquan corresponds to "author's right," but literally translated means "right in a work"; banquan is the literal translation of "copyright." This Article has been included in the Law as both expressions are used in Chinese.

**Article 52.** The term "reproduction" as used in this Law shall mean the act of producing one or more copies of a work by printing, photocopying, copying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means.

The term "reproduction" as used in this Law shall not cover the construction or the manufacture of industrial products on the basis of drawings of engineering designs and product designs, and descriptions thereof.

**Article 53.** Regulations for the protection of computer software shall be established separately by the State Council.

第五十四条 本法的实施条例由国务院著作权行政管理部门制定，报国务院批准后施行。

第五十五条 本法规定的著作权人和出版者、表演者、录音录像制作者、广播电台、电视台的权利，在本法施行之日尚未超过本法规定的保护期的，依照本法予以保护。

本法施行前发生的侵权或者违约行为，依照侵权或者违约行为发生时的有关规定和政策处理。

第五十六条 本法自1991年6月1日起施行。

**Article 54.** The implementing regulations of this Law shall be drawn up by the copyright administration department under the State Council and implemented on approval by the State Council.

**Article 55.** The rights of copyright owners, publishers, performers, producers of sound recordings and video recordings, radio stations and television stations as provided for in this Law, of which the term of protection specified in this Law has not yet expired on the date of this Law's entry into force, shall be protected in accordance with this Law.

Any infringements of copyright and the rights related to copyright or breaches of contract committed prior to the entry into force of this Law shall be dealt with under the relevant regulations or policies in force at the time when the act was committed.

**Article 56.** This Law shall enter into force on June 1, 1991.