

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/BHR/1
20 de enero de 1998

(98-0199)

Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio

Original: inglés

NOTIFICACIÓN DE LEYES Y REGLAMENTOS DE CONFORMIDAD CON EL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Bahrein

En una comunicación de la Misión Permanente del Estado de Bahrein de fecha 19 de diciembre de 1997, se ha recibido de Bahrein la siguiente notificación, de conformidad con el párrafo 2 del artículo 63 del Acuerdo.

NOTIFICACIÓN RELATIVA A LOS ARTÍCULOS 3, 4 Y 5

En relación con los artículos 3, 4 y 5 del Acuerdo sobre los ADPIC, considerados conjuntamente con el párrafo 2 del artículo 63 y la Decisión del Consejo de los ADPIC del 21 de noviembre de 1995, adjuntamos a la presente una copia del Decreto Legislativo del Estado de Bahrein N° (10) de 1993, relativo a la Ley de Derecho de Autor.¹

Asimismo, sírvanse tener en cuenta que el Estado de Bahrein se adhirió al Convenio de Berna para la Protección de las Obras Literarias y Artísticas en octubre de 1996.

¹Únicamente en inglés.

STATE OF BAHRAIN
MINISTRY OF CABINET AFFAIRS & INFORMATION
DIRECTORATE OF PUBLICATIONS

LEGISLATIVE DECREE NO.(10)
OF THE YEAR 1993
WITH RESPECT TO COPYRIGHT LAW

**LEGISLATIVE DECREE NO.(10) OF THE YEAR 1993
WITH RESPECT TO COPYRIGHT LAW**

We, Isa Bin Sulman Al Khalifa, Amir of the State of Bahrain,

Having reviewed the Constitution,

And Amiri Order No.(4) of 1975,

And Legislative Decree No.(12) of 1971 with respect to Promulgating the Civil and Commercial Procedures Act, as amended,

And Legislative Decree No.(20) of 1975 with respect to the Legal Deposit of Intellectual Works,

And Decree No.(5) of 1986 with respect to the Setting up and Organisation of the National Council for Culture, Arts and Literature,

And upon the submission of the Minister for Information,

And with the Approval of the Council of Ministers,

HEREBY DECREE THE FOLLOWING LAW:

Article (1):

An author is a person who produces or invents a work in the fields of literature, science, arts or who writes any written work or produces any creative work relating to any kind of knowledge, in which case such intellectual work is attributed to him by way of clearly displaying his name on it or with the use of a pen-name or by any other method unless there is proof to the contrary.

Article (2):

- (1) This Law shall protect authors of creative works which are of a literary, scientific, artistic and cultural nature in general regardless of the nature of such works, or the type thereof, or the method of expression used therein, or the purpose of writing or creation.
- (2) The aforesaid protection shall be applicable to the authors of the following works:

- (a) Books, brochures, research works and all printed materials.
- (b) Speeches, seminars and literary scientific and artistic lectures.
- (c) All works of drama and musicals.
- (d) Songs, musical compositions and tunes of songs.
- (e) Paintings, sculpture, decorative works, engraving and photography.
- (f) Photographs, maps, geographical charts, engineering and architectural plans and designs.
- (g) Plastic art works and works relating to topography, architecture and sciences.
- (h) Choreographic works and pantomime presentations.
- (i) Cinematographic, radio and television works.
- (j) Personally created computer software, including data bases. The aforesaid software is defined as the entire phrases and instructions expressed in any language, code or sign and intended for use by computers directly or indirectly with the aim of realising specific results.
- (k) Works involving compilation and classification of folk heritage items.

Protection shall be applicable to the title of the intellectual work if it is characterised by being of a creative nature and if the words are not common for indicating the subject of the intellectual work.

Article (3):

1. Protection under this Law shall be enjoyed by any person who translates, summarises, explains or simplifies the intellectual property indicated in Article (2) with the approval of their owners so that the said property takes a new form. The same protection shall be enjoyed by authors of encyclopedias, language dictionaries and selections of intellectual and creative works. However, copyright of photographic items shall not result in prohibiting a person

from taking new pictures of the object to be photographed even if these new photographs are taken from the same place and in general under the same conditions from which the earlier photographs were taken.

2. The protection provided for in the preceding paragraph shall not prejudice the protection enjoyed by authors of original intellectual property.

Article (4):

1. Protection provided for in Articles 2 and 3 of this Law shall not be applicable to:
 - (a) Court judgements passed by the law courts of various degrees and translations of such judgements.
 - (b) Official documents such as texts of laws, Amiri Decrees, administrative orders, international treaties, their translations and all official documents.
 - (c) News reports which are published or broadcast to the general public.
 - (d) Intellectual works which become part of the public domain.
2. However, if the materials provided for in the preceding Paragraph are published in compiled publications for a reason that is attributed to creative efforts, arrangement or any other personal effort, they shall be considered as intellectual property which shall enjoy protection by this Law.

Article (5):

1. Copyrights shall be attributed and confirmed in favour of the author solely unless there is a written agreement to the contrary.
2. An author shall have the exclusive right to determine whether to publish his intellectual property and to decide the method of such publication.
3. He shall have the exclusive right to financially exploit his intellectual property in the manner he deems appropriate. No third party shall exercise that right except by a written permission from him or his successor.

4. However, the rights of an author shall not be deemed prejudiced by the mention of his intellectual property in the course of a radio or television presentation of current events.

Article (6):

For the purpose of directly exploiting his intellectual property, an author shall be entitled to do the following or to give a written permission for the following:

1. Reproduce the Intellectual property by all available means, including photography, cinematography, audio or video recording.
2. Translating the aforesaid property into another language, adapting, modifying, abridging, summarising, explaining or musically reproducing it.
3. Presenting an intellectual property to the public by way of a public performance, television, cinematographic or theatrical presentation, radio broadcasting or any other method, especially publication.
4. Making an objection to any addition, deletion or alteration to his intellectual property without obtaining his permission.
5. Using any other method deemed fit by the author without being in conflict with the public interest or order.

Article (7):

Notwithstanding the provisions of the preceding Article, if an omission or alteration takes place in the translation of an intellectual property, modifying or developing it in any other manner, an author or his successor shall not have the right to make an objection unless this shall result in affecting the author's reputation, honour or academic or artistic status or if the content of the relevant work is prejudiced.

In all cases, mention shall be made about what the modified intellectual property contains in terms of alteration to the original property.

Article (8):

1. Government ministries and organisations shall have the right to make use of any intellectual property which was previously published for using it for educational information, cultural or religious purposes in order to serve the public interest, provided that the source of that intellectual property shall be indicated or the name of its author in a manner that shall not prejudice the author's financial rights.
2. The media, newspapers and official magazines may quote, publish or broadcast parts or extracts from any intellectual property without the approval of its owner if such action contributes to enhancing the awareness or education of the public opinion, provided that credit shall be given to the intellectual property in question and the name of its author in a manner that shall not prejudice the author's financial rights.

Article (9):

An author or his public or private successor may oppose the acts indicated in Article (8) should they have the effect of damaging the author's reputation, literary or artistic fame or cause harmful effects to his financial rights.

Article (10):

1. Academic and cultural institutes and universities, official documentation and research centres and public libraries shall be entitled to reproduce or photocopy literary, scientific and artistic intellectual property to the extent of the number of copies required for meeting the requirements and activities of these institutions and serving their objects without obtaining a prior permission from the author, provided that this shall not prejudice their legitimate financial interests.
2. The military forces music band shall have the right to play musical compositions without being under an obligation to pay any consideration to the composer so long as such playing does not yield any financial proceeds.

Article (11):

Once an author has published his intellectual property, he shall not be entitled to bar any person who reproduces his intellectual property, translates, abridges, photocopies or produces extracts therefrom, provided that such act shall be for his own personal use and shall not have the intent of reaping any financial returns, provided that credit shall be given to that particular property and the name of its author.

However, publication of the aforesaid property shall not take place except after obtaining a permission from the original owner and author.

Article (12):

Owners of original fine art works and writers of original music notes shall be empowered, despite having assigned the ownership of their intellectual property in favour of another person without consideration, to claim a compensation which shall not exceed one half of the value of such work of art if it is sold at a public auction or if it makes financial returns as a consequence of the sale or disposal thereof. This provision shall not be applicable to works of architecture or applied art.

Article (13):

If the public interest requires the publication of an intellectual property which has not been published or republished by the author's heirs in spite of formally requesting them to do so by the National Council for Culture, Arts and Literature, the Minister for Information may by virtue of an order to be issued by him instruct the aforesaid National Council to publish the said property after the lapse of one year from the date of the formal request to the heirs while giving them a fair compensation without prejudice to their right to contest the aforesaid order of the Minister for Information before the High Civil Court within thirty days from the date of becoming aware of such order.

The Ministry of Information may seek the issue of an order from the High Civil Court to oblige the heirs to deliver the intellectual property to the National Council for Culture, Arts and Literature, if necessary.

Article (14):

An author may do any legal act that has the effect of transferring all or some of the rights provided for in this Law.

Article (15):

1. All legal acts having the consequence of transferring copyrights must be confirmed in writing by virtue of contracts which shall be legalised and entered into between the author or whoever to whom the rights of an author and his beneficiary have been devolved. Such contracts shall be made in triplicate or in a number of copies in excess of the number of the contracting parties by one copy. The said contracts shall contain the full names of contracting parties, their nationalities, kind of intellectual property, the disposal affecting it and the legal consequences of such act.
2. One copy of every legal act involving a transfer of copyright shall be deposited with the Copyright Protection Office, at the Ministry of Information.
3. The Minister for Information shall issue an order regulating the setting up of an office belonging to the Ministry of Information for protection of copyright, method of depositing legal acts, determining ways and means of such deposit after obtaining the approval of the Council of Ministers to the prescribed fees in this respect.

Article (16):

A disposal by an author involving his entire intellectual works in future shall be deemed null and void.

Article (17):

A disposal of the ownership of the only original copy of an intellectual property or several copies thereof shall not have the consequence of transferring copyright to the aforesaid property.

Article (18):

If more than one person participate in producing an intellectual property so that it is not feasible to separate the share of each of them in this jointly produced work, all of them shall be considered equally as the joint owners of such property unless there is an agreement to the contrary.

In such case, the rights arising from such copyright may not be exercised except by the unanimous agreement of all the joint authors, failing which their difference shall be settled through the jurisdiction of the High Civil Court.

Each of the co-authors shall have the right to bring a summary legal action upon the occurrence of any breach of copyright and the right to commence a legal action of his share of the compensation for the damage occurring as a result thereof.

Article (19):

If several persons take part in producing an intellectual property so that it is possible to separate the share of each of them, each of the participants shall have the right to exploit the part that he has personally contributed, provided that this shall not prejudice the exploitation of the jointly owned intellectual property unless there is an agreement to the contrary.

Article (20):

Without prejudice to the author of the literary part of intellectual properties involving musicals, the music composer shall have the exclusive right to authorise the public performance of the entire jointly owned intellectual property, its presentation, publication or producing copies thereof.

The author of the literary part shall be entitled to publish his own work, provided that he may not dispose thereof to serve as a basis for producing another musical property unless there is an agreement to the contrary.

Article (21):

For co-productions of intellectual property accompanied by music and choreography and for all similar intellectual property, a choreographer shall have the right to be authorised to present public performances of the entire intellectual property, its execution or producing copies thereof.

The composer of the music shall be entitled to dispose of this particular element of the property, provided that he shall not use it in another intellectual property that is similar to the aforesaid co-production unless there is an agreement to the contrary.

Article (22):

The following shall be considered as a participant in the ownership of a cinematographic intellectual property or work intended for broadcasting on the radio or television:

1. Script writer or creator of the written concept of the intellectual property.
2. Person who has adapted the literary work in a manner rendering it suitable for this art.
3. Writer of the dialogue.
4. Composer of the music who has composed it especially for this kind of intellectual property.
5. Director if he maintains an actual control and undertakes a positive role from the intellectual aspect for the materialisation of any such intellectual property.

If a cinematographic intellectual property or work adapted for radio or television is produced as an adaptation of a previously produced property, the author of the aforesaid previously produced property shall be considered as a co-author of the new intellectual property.

Article (23):

The script writer, writer of the literary adaptation, dialogue writer and director shall jointly have the right to present the cinematographic production or the work adapted for radio and television notwithstanding any objection from the original author of the literary work or music composer without prejudice to the rights of persons making objections on grounds relating to their participation in creating the work.

The author of the literary element or musical element of the work shall be entitled to publish his intellectual property in another manner unless there is an agreement to the contrary.

Article (24):

If one of the participants in creating a cinematographic intellectual property abstains from completing the part of the work belonging thereto or is unable to complete the part for which he is responsible for reasons beyond his control, he shall

not have the right to bar the other participants from using the part that he previously completed. He shall be deemed as an author in respect of the part that has been completed, hence he shall enjoy the rights arising therefrom.

Article (25):

A producer of a cinematographic, radio or television intellectual property shall be considered as the natural or corporate person who undertakes its completion and assumes responsibility for such completion or who makes available to the authors of the said property the material and financial resources required for its production.

In all cases, a producer shall be deemed as the publisher of the intellectual property and he shall have all the rights of the publisher.

During the mutually agreed exploitation period, the producer shall be deemed as an agent acting on behalf of the authors of the intellectual property and for their successor in agreeing upon its presentation and exploitation without prejudice to the rights of authors of literary or musical intellectual properties unless there is an agreement to the contrary.

Article (26):

A collective intellectual property is a certain intellectual property created with the participation of a group under the guidance of a natural or corporate person so that it becomes impossible to separate the work of each of the participants and to identify it individually.

The natural or corporate person who guides the creation and co-ordination of such intellectual property shall solely exercise the rights of the author with respect to such intellectual property.

Article (27):

If an intellectual property is created for the account of a natural person or a private or public corporate entity, copyright shall be confirmed in favour of the person who created the aforesaid property unless there is an agreement to the contrary.

Article (28):

For the intellectual properties which carry a pseudonym or the works that do not carry the author's name, the publisher whose name appears on the intellectual property shall be deemed to have been authorised directly by the author in exercising the rights established therefor in this Law unless the opposite is proved.

Article (29):

A person who takes a photograph shall not be entitled to display, publish or distribute its negative or copies thereof without a permission from the persons who have been photographed unless there is an agreement to the contrary.

This provision shall not be applicable if the publication of the photograph takes place for special events which took place in public or relates to public figures or concerns well-known persons or authorised by the government authorities for the public good.

However, it shall not be permitted in the preceding instance to display or circulate the photograph if such action results in affecting the honour, reputation or esteem of the person it represents. The person appearing in the photograph shall have the power to authorise its publication in the newspapers, magazines and such other periodicals even if this is not permitted by the photographer unless otherwise agreed upon.

These provisions shall be applicable to pictures whatever may be the method of producing them whether they are paintings, engravings or any other methods.

Article (30):

- (1) Individual or joint rights of authors shall devolve upon their legal heirs after their death unless there is a will to the contrary.
- (2) Where an author has no heir or legatees under his will, the share of such author to the joint copyright shall devolve upon his co-authors unless otherwise agreed upon.

Article (31):

- (1) Copyright protection for an intellectual property shall

lapse fifty calendar years after the death of the author. For jointly owned intellectual properties, such period shall be calculated from the date of the death of the last survivor of the co-authors.

- (2) Copyright protection shall lapse upon the expiry of fifty calendar years from the date of publication for the following intellectual works:
 - (a) Cinematographic films, applied arts works and photographs.
 - (b) Intellectual properties that are published under a pseudonym or without carrying the author's name unless the identity of the author has been revealed during that period.
 - (c) Intellectual properties belonging to public or private corporate entities.
 - (d) Intellectual properties which are published for the first time after the author's death.
- (3) Protection period for computer software shall lapse upon the expiry of fifty years from the date of completing the work thereon or upon the expiry of forty years from the date of publication, whichever is earlier.
- (4) In all cases, if the intellectual property consists of several parts which were published separately and at different intervals, each part shall be deemed as an independent intellectual property in calculating the protection period.

Article (32):

Copyright protection for an intellectual property published in a foreign language and the copyright belonging to the translator of such work in another foreign language to translate such work into Arabic shall lapse upon the expiry of fifty years from the date of publishing the first edition of the original or translated intellectual property.

However, the National Council for Culture, Arts and Literature may upon an order of the Minister for Information authorise the translation of foreign intellectual works into Arabic unless the author or translator exercises this right during three years from the date of publishing the first edition of the original or

translated intellectual property under the terms to be determined by the NCCAL, provided that consideration shall be given to the right of the author or his successor to a fair compensation.

Article (33):

- (1) An author's will shall be implemented with respect to prohibiting the publication of his intellectual work or adhering to the conditions of such publication and the date fixed therefor.
- (2) Contracts relating to the rights of authors to exploiting their intellectual properties and entered into with third parties prior to their death shall be carried out without alteration.

Article (34):

Every person whose rights set forth in this Law have been violated shall have the right to compensation.

Article (35):

Without prejudice to the provisions of Legislative Decree No.(20) of 1975 with respect to the Legal Deposit of Publications, the publishers of literary, artistic and scientific properties which are published by producing copies thereof in the State of Bahrain shall prior to the distribution thereof deposit at their expense three copies of each of such properties with the Copyright Protection Office at the Ministry of Information and details about the intellectual property shall be published in the Official Gazette.

An order of the Minister for Information shall be issued with respect to the rules of deposit and the prescribed fees for such deposit after securing the consent of the Council of Ministers with respect to such fees.

Failure to effect the said deposit shall be punishable by a fine not exceeding BD100 without prejudice to the requirement to effect the deposit. These provisions shall not be applicable to the intellectual works published in newspapers and magazines unless such works are published separately.

Article (36):

An attachment may not be placed over the author's copyright for the fulfilment of a court judgement but an attachment may be placed over copies of the published intellectual property. Further, intellectual properties the owner of which dies before their publication may not be subject to an attachment unless it is conclusively proved that he sought to publish them before his death.

Article (37):

A punishment of imprisonment for a period not exceeding one year and a fine of no more than BD1,000, or either penalty shall be inflicted upon the following:

- (a) Every person who violates the copyrights provided for in Articles 5 and 6 of this Law.
- (b) Every person who brings into the country with the intent to sell, sells or circulates with the aim of trading or promotes to the public in any manner whatsoever an imitated or forged intellectual property.
- (c) Every person who reveals or facilitates the revealing of computer software before the publication thereof.

In case of recurrence of any of the offences provided for in this Article within three years from the date of passing the judgement for the above penalty, the court may rule for inflicting the maximum penalty.

Article (38):

In addition to passing a judgement with respect to inflicting the penalty provided for in the preceding Article, the Court may order the confiscation and destruction of all the imitated intellectual works and the tools and facilities apprehended in respect of the case and used in committing the offence.

Article (39):

The Summary Proceedings Judge shall, upon a law-suit filed by the author or his successor and following the procedures set forth in the Civil and Commercial Procedures Act, be empowered to order that the following steps be taken in respect of every intellectual property which

has been published or performed in violation of the provisions of this Law:

1. Giving a detailed description of the intellectual property.
2. Suspending the publication, performance or production of the intellectual property.
3. Placing a precautionary attachment over the original or copy of the intellectual property as well as the items used in republishing the aforesaid property.
4. Proving the public performance in respect of presenting, acting or reciting any intellectual property for an audience and barring the continuation of the current performance or prohibiting it from taking place in the future.
5. Appointing a court receiver in respect of the intellectual property subject to the dispute to undertake the task of republishing or resume performance, making or reproducing copies of the intellectual property, provided that the proceeds shall be deposited in the Court Treasury. The receivership shall be terminated upon a mutual agreement to be reached by the concerned parties or by a court judgement.
6. Drawing up an account of the proceeds arising from publication or performance through an expert to be nominated for this purpose if required and placing a precautionary attachment over the revenues arising in all cases.

The Summary Proceedings Judge shall be empowered to order the appointment of an expert to enforce in the execution of the above actions and to instruct the plaintiff to deposit an appropriate guarantee. The plaintiff shall refer the fundamental dispute to the relevant court within the fifteen days following the passing of the judgement. If an action is not brought during this time limit, a judgement shall cease to have effect.

Article (40):

The court of law before which the issue of dispute is being heard may, at the request of the author or whoever acts on his behalf, resolve to destroy copies or reproductions of the intellectual property published in an illegal manner together with the materials used in its publication, provided that they shall not be fit for another work or by altering the features of the copies, reproductions and materials or rendering them unfit for business all of which shall be at the cost of the party rendered liable.

However, where the copyright will lapse after a period of less than two years with effect from the date of passing the judgement and without prejudice to the copyrights provided for in Articles 5 and 6 of this Law, the court may replace the judgement for destruction or altering the features pass a ruling for confirmation of the precautionary attachment for settlement of any award of compensation adjudged in favour of the author.

Nevertheless, a judgement for destruction or altering the features may not be handed down if the dispute in question relates to the translation of an intellectual property into Arabic in violation of the provision of Article (30) Paragraph 2, and the judgement shall be restricted to confirming the precautionary attachment over the translated work for settlement of compensations adjudged by the court in favour of the author.

In all cases, for the author's debt arising from his claim for compensation he shall have a lien over the net proceeds of selling things and cash funds subject to attachment for settlement of dues thereto and no priority shall exist over such lien save for the legal costs and expenses incurred towards the safekeeping and maintenance of the said items and for the collection of such amounts.

Article (41):

An author shall have the exclusive right to request the High Civil Court, should there be serious reasons deemed appropriate by the Court, to withdraw his intellectual work from circulation or make alterations thereof in spite of the legal disposal affecting the right of exploitation while the author shall express willingness to pay a fair compensation to whoever has been transferred the right of financial exploitation to be paid within a term to be determined by the Court otherwise the judgement shall cease to have effect.

Article (42):

Notwithstanding the provisions of Articles 36, 37 and 38 of this Law, it shall not be permitted to place an attachment over, alter the feature, confiscate or damage properties and buildings carrying architectural designs with the excuse of preserving the architect's copyright even if it has been proved that there is a breach of copyright to the drawing and design, but his right to claim damages shall be reserved.

Article (43):

The provisions of this Law shall be applicable to:

1. Intellectual properties of Bahraini authors that are published for the first time in Bahrain or outside it.
2. Intellectual properties of foreign authors that are published for the first time in Bahrain.
3. Intellectual properties of Arab authors who are nationals of the member states that ratified the Arab Copyright Protection Agreement of 1958 that are published for the first time in one of the member states that ratified the Agreement.

1985

Article (44):

Without prejudice to the provisions of the preceding Article, the provisions of this Law shall be applicable to all the intellectual properties in existence on the effective date thereof. However, for the calculation of the period for protection of such properties, it shall include the period which lapsed from the date of the fixed event for the commencement of the effective period until the date on which this Law comes into force.

The provisions of this Law shall be applicable to all the facts and agreements subsequent to the date of its coming into force even if they relate to intellectual properties published, screened or performed prior to that date.

For the agreements which were made before the effective date of this Law, its provisions shall not be applicable thereto but shall remain subject to the provisions in force at the time of completing them.

Article (45):

The Minister for Information shall issue the necessary orders for implementing the provisions of this Law. Every provision which conflicts with its provisions shall be revoked.

Article (46):

The Ministers, each in his respective capacity, shall implement this Law which shall come into effect from the date of its publication in the Official Gazette.

Signed: Isa Bin Sulman Al Khalifa,
Amir of the State of Bahrain,

Issued at Rifaa Palace
Dated: 17th Thilhija, 1413 Hijra
Corresp. 7th June, 1993.
