



June, 2005

Ministry of Justice
Stockholm, Sweden

*Division for Intellectual Property
and Transport Law*

Henry Olsson

**1. Act (2005:359) of May 26, 2005, Amending the Act (1960:729)
on Copyright in Literary and Artistic Works**

In accordance with the decision by the Parliament, it is hereby prescribed, as regards the Act (1960:729) on Copyright in Literary and Artistic Works,

that Article 15 shall no longer apply,

that the heading immediately before Article 15 shall be deleted,

that the present Articles 13, 26 d, 26 f and 26 i shall be numbered 42 c, 42 e, 42 f and 42 a,

that Articles 2, 12, 16-21, 23, 24, 26 k, 30, 45-49 a, 54, 58 and 59, the new Articles 42 a, 42 c, 42 e and 42 f and the headings immediately before Articles 12, 16, 17, 30 and 47 shall read as follows,

that the headings immediately before Articles 13 and 26 i shall be placed immediately before Articles 42 c and 42 a, respectively,

that in the Act shall be inserted fourteen new Articles, numbered 11 a, 20 a, 26 l, 26 m, 42 b, 42 d, 52 b – 52 h and 57 b, and immediately before Articles 11 a, 20 a, 42 b, 42 d, 42 e, 42 f, 52 b, 52 d, 52 f, 52 g and 52 h new headings, reading as follows,

that immediately before Article 14 a new heading shall be inserted, reading “**On the Making of Copies for Educational Purposes**”,

that in the Act immediately before the heading before Article 42 a and immediately before the heading before Article 52 b new chapter headings shall be inserted, reading as follows.

Article 2. Subject to the limitations prescribed hereinafter, copyright shall include the exclusive right to exploit the work by making copies of it and by making it available to the public, be it in the original or an altered manner, in translation or adaptation, in another literary or artistic form, or in another technical manner.

As the making of copies shall be considered any direct or indirect, temporary or permanent preparation of copies of the work, regardless

of the form or through which method this is carried out and regardless of whether it concerns the work in whole or in part.

The work is being made available to the public in the following cases

1. When the work is being communicated to the public. This is deemed to include any making available of the work to the public by wire or by wireless means that occurs from a place other than that where the public may enjoy the work. Communication to the public includes also acts of communication that occur in such a way that members of the public may access the work from a place and at a time individually chosen by them.
2. When the work is publicly performed. Such public performance includes only such cases where the work is being made available to the public, with or without the use of a technical device, at the same place as the one where the public may enjoy the work.
3. When copies of the work are publicly exhibited. Public exhibition includes only such cases where a copy of a work is being made available to the public, without the use of a technical device, at the same place as the one where the public may enjoy the copy. If a technical device is being used, the act is instead a public performance.
4. When copies of the work are placed on sale, leased, lent, or otherwise distributed to the public.

As acts of communication to the public and of public performance shall be deemed also acts of communication and performance that, in the framework of commercial activities, occur to or for a comparatively large closed group of persons.

On the Making of Temporary Copies

Article 11 a. Temporary forms of copies of works may be made, if the making of the copies is an integral and essential part of a technological process and if the copies are transient or have only a secondary importance in that process. The copies must not have any independent economic importance.

The making of copies under the first Paragraph is permissible only if the sole purpose of that making is to enable

1. a transmission in a network between third parties by an intermediary, or
2. a lawful use, that is, a use that occurs with the consent of the author or his successor in title or another use that is not un-permissible under this Act.

The provisions under the first and second Paragraphs do not confer a right to make copies of literary works in the form of computer programs or compilations.

On the Making of Copies for Private Purposes

Article 12. Anybody is entitled to make, for private purposes, one or a few copies of works that have been made public. As regards literary works in written form the making of copies may, however, concern only limited parts of works, or such works of limited scope. The copies must not be used for purposes other than private use.

The provisions in the first Paragraph do not confer a right to

1. construct works of architecture
2. make copies of computer programs, or
3. make copies in digital form of compilations in digital form.

Furthermore, the provisions in the first Paragraph do not confer a right to engage, for private purposes, another person to

1. make copies of musical works or cinematographic works
2. make utilitarian articles or sculptures, or
3. copy another person's work of fine art by means of artistic reproduction.

This Article does not confer a right to make copies of a work when the copy that constitutes the real master copy has been prepared or has been made available to the public in violation of Article 2.

On the Making and Distribution of Copies within Certain Archives and Libraries.

Article 16. Archives and libraries referred to in the third and fourth Paragraphs are entitled to make copies of works, with the exception of computer programs,

1. for purposes of preservation, completion or research
2. in order to satisfy the desires of library borrowers, for single articles or short extracts of works or for material which, for security reasons, must not be given away in original form, or
3. for use in reading devices.

Copies that have been made on paper pursuant to the first Paragraph, item 2, may be distributed to library borrowers. Provisions on extended effect of collective licenses for the purposes of distribution to the public of copies in other cases and of communication to the public of works are contained in Article 42 d.

Entitled to the making of copies, and to the distribution, pursuant to the provisions of this Article are

1. governmental and municipal archival authorities
2. the National Archive for Recorded Sound and Moving Images

3. such scientific and research libraries that are operated by public authorities, and
4. public libraries.

The Government may in specific cases grant also certain archives and libraries other than those mentioned in the third Paragraph a right to make copies pursuant to this Article.

On the Making of Copies, etc. for Persons with a Disability

Article 17. Anyone is entitled to make, by means other than recording of sounds, such copies of literary and musical works which have been made public and of works of visual art which have been made public, that persons with a disability need in order to be able to enjoy the works. The copies may also be distributed to those persons.

Libraries and organizations as decided by the Government in specific cases may also

1. communicate copies of the works that are referred to in the first Paragraph to persons with a disability who need the copies in order to be able to enjoy the work,
2. by means of sound recording make such copies of literary works that have been made public which persons with a disability need in order to be able to enjoy the works, and to distribute and communicate such sound recordings to those persons, and
3. make such copies of works transmitted on sound radio or television, and of cinematographic works, that deaf or hearing-impaired persons need in order to be able to enjoy the works, and to distribute and communicate copies of the works to those persons.

The making of copies, the distribution and the communication to the public pursuant to this Article must not be carried out for commercial purposes, nor must the copies be used for purposes other than those mentioned in the Article.

When libraries and organisations distribute or communicate copies of works to persons with a disability in such a way that those persons may keep a copy of the work, the author has a right to remuneration. The same applies if anyone, pursuant to the first Paragraph, second sentence, transmits more than a few copies to persons with a disability.

Article 18. Anyone who, for use in educational activities, prepares a composite work consisting of works by a comparative large number of authors may reproduce minor portions of literary or musical works and such works of a limited scope, provided that five years have elapsed from the year in which the works were published. Works of fine art may be reproduced in connection with the text, provided that five years have elapsed from the year when they were made public. The authors have a right to remuneration.

The provisions of the first Paragraph do not apply to works that have been created for use in educational activities and does not confer a right to prepare composite works for commercial purposes.

Article 19. When a copy of a work has been transferred, with the consent of its author, within the European Economic Area, that copy may be further distributed.

The provisions of the first Paragraph do not confer a right to make available to the public

1. copies of works, with the exception of buildings and works of applied art, through rental or similar legal acts
2. copies of computer programs in machine-readable form or of cinematographic works, through lending.

Article 20. When a work has been published, the copies thus published may be publicly exhibited. The same applies in respect of copies of works of fine art that the author has transferred.

On Works of Fine Art Included in a Film, a Television Program or a Picture

Article 20 a. Anyone is entitled to make, by means of a film or a television program, and distribute, copies of works of fine art, publicly perform works of fine art and communicate works of fine art to the public, if the exploitation made of the work is incidental in relation to the contents of the film or the television program. Corresponding acts of exploitation may also be carried out of works of fine art that appear in the background, or otherwise form an insignificant part, of a picture.

Exploitation as referred to in the first Paragraph may, however, take place only if the master copy for the copy made when the work of fine art is being included in the film, the television program or the picture is a copy that is covered by an act of publication or a copy that has been transferred by the author. If no making of a copy occurs, the same applies to the copy that is directly communicated to the public through the television program.

Article 21. Anyone is entitled to publicly perform works, with the exception of cinematographic works and works made for the stage, that have been made public

1. on occasions where the performance of such works is not the main feature of the event, no admission fee is charged and the event is not organised for commercial purposes
2. in the course of educational activities or divine services.

The Parliament and governmental and municipal authorities may, in cases referred to in the first Paragraph, item 1, publicly perform also

cinematographic works and works made for the stage that have been made public. The works may be performed only through connection to an external network that is made available in order to satisfy a public information interest. The performance may occur only at the Parliament's or the authorities' own venues.

The provisions in the first Paragraph, item 2. do not confer a right to publicly perform, for commercial purposes, compilations in the course of educational activities.

Article 23. Works of fine art which have been made public may be reproduced

1. in connection with the text in a scientific presentation which has not been prepared for commercial purposes,
2. in connection with the text in a critical presentation, except if it is in digital form,
3. in a newspaper and a periodical in connection with a report on a current news event, except if the work has been created for reproduction in such a publication.

The provisions in the first Paragraph apply only if the use of the reproduction is carried out in conformity with proper usage and to the extent called for by the information purpose.

Article 24. Works of fine art may be reproduced in pictorial form

1. if they are permanently located outdoors on, or at, a public place
2. if the purpose is to advertise an exhibition or a sale of the works of fine art but only to the extent necessary for the promotion of the exhibition or the sale, or
3. if they form part of a collection, in catalogues, however not in digital form.

Buildings may be freely reproduced in pictorial form.

Article 26 k. When a businessman, in the course of his professional activities, manufactures or imports into this country material supports on which sounds or moving images may be recorded and which are especially suitable for the making of copies of works for private purposes, the authors of such protected works, that have thereafter been broadcast by sound radio or television or have been published on material supports by means of which they can be reproduced, have a right to remuneration from the businessman.

The authors have, however, no right to remuneration, where the material supports manufactured or imported are intended for

1. use for purposes other than the making of copies of works for private purposes
2. export from the country, or
3. use for the making of copies of works for persons with a disability.

Article 26 l. The remuneration pursuant to Article 26 k is:

1. In respect of material supports for analogue recording, two and a half "Öres" for each possible recording minute on the support.
2. In respect of material supports where digital recording can be made repeatedly, 0,4 "Öres" for each megabyte storage capacity.
3. In respect of other material supports for digital recording 0,25 "Öres" for each megabyte storage capacity.

The businessman is entitled to a reduction of the amounts of the remuneration pursuant to the first Paragraph, if

1. the authors have in some other form received compensation for the making of copies of such works as referred to in Article 26 k, or
2. the remuneration is unreasonably high, taking into account the circumstances relating to the material support or other conditions on the market.

Article 26 m. Only an organization representing a substantial number of Swedish authors and holders of neighbouring rights in the field concerned is entitled to collect the remuneration and to conclude agreements on the reduction of the remuneration pursuant to Articles 26 k and 26 l. The organisation shall collect the remuneration and distribute it to those entitled to it after deduction of a reasonable compensation to the organization for its costs. Right-owners who are not represented by the organization shall, for the purposes of the distribution, be treated in the same way as those right-owners who are represented by the organization.

The businessman referred to in Article 26 k, first Paragraph, shall give notice of himself to an organization as referred to in the first Paragraph. The businessman shall, upon request by the organization, provide an account of the number of material supports to which the right to remuneration applies, the recording time or the storage capacity, whether the supports can be used repeatedly for digital recording and when the supports were manufactured or imported. The account shall indicate the number of material supports referred to in Article 26 k, second Paragraph.

On Contracts Relating to Public Performance, etc.

Article 30. Where the right to communicate a work to the public or to perform it publicly has been transferred, the transfer shall be valid for a period of three years and shall not confer exclusivity. Where a longer term than three years has been determined and exclusivity has been agreed on, the author may himself nevertheless communicate the work or perform it or transfer rights in these respects to another person, if the right has not been exercised within a period of three years.

The provisions of this Article do not apply to cinematographic works.

Chapter 3 a. On the Extended Effect of Collective Licenses.

Article 42 a. An extended collective license as referred to in Articles 42 b - 42 f applies to the exploitation of works in a specific manner, when an agreement has been concluded concerning such exploitation of works with an organization representing a substantial number of Swedish authors in the field concerned. The extended collective license confers to the user the right to exploit works of the kind referred to in the agreement despite the fact that the authors of those works are not represented by the organization.

In order for a work to be exploited pursuant to Article 42 c, the agreement must have been concluded with someone who carries out educational activities in organised forms.

When a work is being exploited pursuant to the provisions in Article 42 e, the author has a right to remuneration.

When a work is being exploited pursuant to Articles 42 b – 42 d, or 42 f, the following applies. The conditions concerning the exploitation of the work that follow from the agreement apply. In respect of the remuneration deriving from the agreement and in respect of other benefits from the organization that are essentially paid for out of the remuneration, the author shall be treated in the same way as those authors who are represented by the organization. Without prejudice to what has been said now, the author has, however, always a right to remuneration for the exploitation, provided he forwards his claims within three years from the year in which the work was exploited. Claims for remuneration may be directed only towards the organization.

As against the user exploiting a work pursuant to Article 42 f claims for remuneration may be forwarded only by the contracting organizations. All such claims shall be forwarded at the same time.

On the Making of Copies within Public Authorities, Enterprises and Organizations, etc.

Article 42 b. The Parliament, decision-making municipal assemblies, governmental and municipal authorities as well as enterprises and organizations may, in order to satisfy the need for information within their field of activities, make copies, by means of reprographic reproduction, of published literary works and works of fine art reproduced in connection with the text in such a work, where an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the reproduction with any of the contracting parties.

Article 42 c. Copies may be made for educational purposes of works which have been made public, where an extended collective license applies pursuant to Article 42 a. The copies may be used only in such educational activities that are covered by the agreement constituting the basis for the into being of the collective license.

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the reproduction with any of the contracting parties.

On the Possibilities for Archives and Libraries to Communicate Works to the Public, etc.

Article 42 d. The archives and libraries referred to in Article 16, third and fourth Paragraphs, are, where an extended collective license applies pursuant to Article 42 a, entitled to

1. communicate works, with the exception of computer programs, to library borrowers in so far as concerns single articles, short portions or material which, for security reasons, should not be delivered in its original form, and
2. distribute copies which have been prepared pursuant to Article 16, first Paragraph, item 2, to library borrowers in cases other than those referred to in Article 16, second Paragraph,

The provisions of the first Paragraph do not apply if the author has filed a prohibition against the communication or the distribution with any of the contracting parties.

On Sound Radio or Televisions Broadcasts

Article 42 e. Sound radio and television organizations as decided in specific cases by the Government are entitled to broadcast published literary and musical works and works of fine art which have been made public, provided that an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply to works made for the stage, nor to other works if the author has filed a prohibition with the organization to broadcast the work or there are otherwise special reasons to assume that he would oppose the broadcast. The provisions of the first Paragraph do not apply to re-transmissions referred to in Article 42 f.

As regards transmissions via satellite, the extended collective license applies only if the broadcasting organization simultaneously carries out a broadcast through a terrestrial transmitter.

On Re-transmissions of Works Contained in Sound Radio or Television Broadcasts

Article 42 f. Anyone is entitled to transmit to the public (re-transmit), simultaneously and in an unaltered form, by wireless means or by wire, works which form part of a wireless sound radio or television broadcast, provided that an extended collective license applies pursuant to Article 42 a.

The provisions of the first Paragraph do not apply to works where the re-transmission right belongs to the sound radio or television organization that carries out the original transmission.

Article 45. Subject to the limitations prescribed in this Act, a performing artist has the exclusive right to exploit his performance of a literary or artistic work or of an expression of folklore, by

1. fixing the performance on a gramophone record, a film or another material support from which it can be reproduced,
2. making copies of a fixation of the performance, and
3. making the performance or a fixation of it available to the public.

The rights referred to in the first Paragraph, items 2 and 3. last until the expiry of the fiftieth year from the year when the performance took place or, if the fixation has been published or made public within fifty years from the performance, from the year when the fixation was first published or made public.

The provisions of Article 2, second - fourth Paragraphs, 3, 6 - 9, 11 - 12, 16, 17, 21, 22, 25 -26 b., 26 e, 26 k - 26 m, and 27 - 29, 39, first sentence, 41, 42, 42 a, 42 c, 42 d. and 42 f shall apply in respect of performances referred to in this Article.

When a copy of a fixation pursuant to this Article has been, with the consent of the performing artist, transferred within the European Economic Area, the copy may be distributed further.

The provisions of the fourth Paragraph do not confer a right to make available to the public

1. copies of a recording, through rental or similar legal acts, or
2. copies of a film or another material support on which moving images have been recorded, through lending.

Article 46. Subject to the limitations prescribed in this Act, a producer of recordings of sounds or of moving images has an exclusive right to exploit his recording by

1. making copies of the recording, and
2. making the recording available to the public.

The rights referred to in the first Paragraph last until fifty years have elapsed from the year in which the recording was made. If a sound recording is being published within this period, the rights last, instead, until the expiry of the fiftieth year from the year in which the sound recording was first published. If the sound recording is not published

during the said period but is made public during the same period, the rights last, instead, until the expiry of the fiftieth year from the year in which the sound recording was first made public. If a recording of moving images has been published or made public within fifty years from the recording, the rights last until fifty years have expired from the year in which the recording of moving images was first published or made public.

The provisions of Article 2, second - fourth Paragraphs, 6 - 9, 11, second Paragraph, 11 a., 12, 16, 17, 21, 22, 25 - 26 b, 26 e, 26 k - 26 m, 42 a, 42 c and 42 d shall apply to recordings referred to in this Article. In addition, Article 42 f. shall apply to recordings other than such referred to in Article 47.

When a copy of a recording pursuant to this Article has been, with the consent of the producer, transferred within the European Economic Area, that copy may be distributed further.

The provisions in the fourth Paragraph do not confer a right to make available to the public

1. copies of a recording through rental or other similar legal acts, or
2. copies of a film or other material support on which moving images have been recorded, through lending.

Use of Sound Recordings for Public Performance, etc.

Article 47. Notwithstanding the provisions in Article 45, first Paragraph, and Article 46, first Paragraph, sound recordings may be used

1. for a public performance, or
2. for a communication to the public, except in cases where the communication occurs in such a way that members of the public may access the sound recordings from a place and at a time individually chosen by them.

When an exploitation occurs as referred to in the first Paragraph, the producer and the performing artists whose performances appear in the recording, have a right to remuneration. Where two or more performing artists have cooperated in the performance, their right may be claimed by them only jointly. As against the user of the recording, the claims of the performers and those of the producer shall be forwarded at the same time.

If a sound recording is used for a communication in the form of a wireless sound radio or television broadcast which is re-transmitted by wireless means or by wire to the public simultaneously and without alteration (further transmission) the following applies. As against the person who carries out the retransmission, the claim for remuneration may be forwarded only through organisations representing a substantial number of Swedish performing artists or producers. The

organizations shall forward their claims at the same time as the claims referred to in Article 42 a., fifth Paragraph.

The provisions in Article 11, second Paragraph, shall apply to the cases referred to in this Article.

This Article does not apply to sound films.

Article 48. Subject to the limitations prescribed in the third Paragraph, a sound radio or television organization has an exclusive right to exploit a sound radio or television broadcast by

1. fixing the broadcast on a material support from which it can be reproduced,
2. making copies of a fixation of the broadcast,
3. distributing copies of a fixation of the broadcast to the public,
4. permitting a re-broadcast or a communication to the public in places accessible to the public against the payment of an entrance fee, or
5. permit that a fixation of the broadcast is being communicated, by wire or wireless means, to the public in such a way that members of the public may access the fixation from a place and at a time individually chosen by them.

The rights referred to in the first Paragraph, items 2, 3 and 5, last until the expiry of the fiftieth year from the year in which the broadcast took place.

The provisions in Article 2, second Paragraph, 6 - 9, 11, second Paragraph, 11 a, 12, 16, 17, 21, 22, 25 - 26 b and 26 e shall apply to sound radio and television broadcasts referred to in the Article.

When a copy of a fixation pursuant to this Article has been, with the consent of the organization, transferred within the European Economic Area, that copy may be distributed further.

If a sound radio or television organization has a claim for remuneration for such a retransmission as referred to in Article 42 f and which has been carried out with the consent of the organization, the claim shall be forwarded at the same time as the claims referred to in Article 42 a, fifth Paragraph.

Article 49. Anyone who has produced a catalogue, a table or another similar product in which a large number of information items have been compiled or which is the result of a significant investment, has an exclusive right to make copies of the product and to make it available to the public.

The right under the first Paragraph lasts until fifteen years have elapsed from the year in which the product was completed. If the product has been made available to the public within fifteen years

from the completion of the product, the right shall, however, last until fifteen years have elapsed from the year in which the product first was made available to the public.

The provisions of Article 2, second - fourth Paragraphs, 6 - 9, 11, second Paragraph, 12, first, second and fourth Paragraphs, 14, 16 - 22, 25, 26 - 26 b, and 26 e, 26 g, fifth and sixth Paragraphs, and Articles 42 a – 42 f shall apply to products referred to in this Article. If a product of this kind is the subject of copyright, also protection in this respect may be claimed.

Contractual stipulations that extend the rights of the producer pursuant to the first Paragraph, are null and void.

Article 49 a. Anyone who has prepared a photographic picture has an exclusive right to make copies of the picture and to make it available to the public. The right applies regardless of whether the picture is used in its original form or an altered form and regardless of the technique used.

As a photographic picture is considered also a picture that has been prepared by a process analogous to photography.

The right under the first Paragraph lasts until fifty years have elapsed from the year in which the picture was prepared.

The provisions of Article 2, second - fourth Paragraphs, 3, 7 - 9, 11 and 11 a, 12, first and fourth Paragraphs, 16 - 20, and 23, 24, first Paragraph, 25 - 26 b, 26 e, 26 j - 28, 31 - 38, 41, 42, 42 a – 42 f and 50 - 52 shall apply to pictures referred to in this Article. If such a picture is the subject of copyright, also copyright protection may be claimed.

Chapter 6 a. On the Protection of Technological Measures, etc.

Introductory Provisions

Article 52 b. This Chapter contains provisions on the protection of technological measures and of electronic information on the management of rights.

The expression “Technological measure” as used in this Chapter means any effective technology, device or component designed to prevent or restrict, in the normal course of its operation, the reproduction or the making available to the public of a copyright-protected work without the consent of the author or his successor in title.

The expression “Information on the management of rights” means any information, also in the form of numbers or codes, that is linked to a

copy of a copyright-protected work or appears in connection with the communication to the public of such a work and which aims at identifying the work or the author or his successor in title or at informing about the conditions of use of the work. The information must have been provided by the author or his successor in title.

Article 52 c. The provisions on protection of technological measures in this Chapter do not apply to computer programs. Nor do they apply to the making available of official documents pursuant to Chapter 2 of the Freedom of the Press Act, to such use of works in the interest of the administration of justice or of public security that is referred to in Article 26 b, second Paragraph, or to research into cryptography.

The Act (2000:171) on Prohibition of Certain Decoding Equipment contains provisions aiming at preventing unauthorised access to certain services. As regards technological measures or arrangements used in connection with such conditional access to services in the form of such sound radio or television broadcasts as referred to in Article 2, item 1, in that Act, the provisions on technological measures in this Chapter do not apply.

On the Protection of Technological Measures

Article 52 d. It is prohibited to circumvent, without the consent of the author or his successor in title, any digital or analogue lock which prevents or limits the making of copies of a work protected by copyright, to circumvent a technological process, such as encryption, that prevents or limits the making available to the public of a work protected by copyright, or to circumvent any other technological measure that prevents or limits such acts of making available.

The provisions of the first Paragraph do not apply when someone, who in a lawful way has access to a copy of a work protected by copyright, circumvents a technological measure in order to be able to watch or listen to the work.

Article 52 e. It is prohibited to manufacture, import, transfer, distribute by, for instance, sale or rental, or to possess for commercial purposes any devices, products or components, or to make available services, which

1. are promoted, advertised or marketed for the purpose of circumvention of a technological measure,
2. other than to circumvent a technological measure, have only a limited interest from a commercial point of view, or a limited scope of commercial use, or
3. are primarily designed, constructed, adapted or produced for the purpose of enabling or facilitating a circumvention of a technological measure.

On the Right to Use, in Certain Cases, Works Protected by Technological Measures

Article 52 f. Anyone who, pursuant to the provisions in Articles 16, 17, 26, 26 a. or 26 e, is entitled to exploit a work protected by copyright shall be entitled to make use of a copy of a work that he lawfully has access to as referred to in the relevant provision, notwithstanding the fact that the copy is protected by a technological measure.

Where a technological measure prevents such a use, a Court may, at the request by a user entitled to that use, order, upon penalty of a fine, the author or his successor in title to make it possible for the user to exploit the work in the way prescribed in the provision referred to.

The provisions in the first and the second Paragraphs do not apply to works that have been made available to the public in accordance with agreed contractual stipulations in a way that makes it possible for members of the public to get access to the work by means of a communication from a place and a time that they themselves have chosen.

On the Protection of Electronic Rights Management Information

Article 52 g. It is, without the consent by the author or his successor in title, prohibited to

1. remove or alter any electronic rights management information relating to a work protected by copyright
2. exploit a work protected by copyright, or a copy of it, that has been altered in violation of item 1, by distributing it, importing it for the purpose of distribution or communicating it to the public.

The provisions of the first Paragraph apply only if the measure undertaken induces, enables, facilitates or conceals an infringement of a right protected under this Act.

On the Application of the Provisions on Neighbouring Rights

Article 52 h. The provisions in this Chapter relating to works shall apply correspondingly to subject matter protected pursuant to Articles 45, 46 and 48 as well as to such compilations and photographs which are protected under Articles 49 and 49 a.

Article 54. Anyone who exploits a work in violation of this Act or of directions given pursuant to Article 41, second Paragraph, shall pay such a remuneration to the author or his successor in title that would constitute a reasonable compensation for the exploitation.

Where the exploitation has been carried out wilfully or with negligence, compensation shall be paid also for losses other than lost compensation as well as for mental suffering or other injury.

Anyone who otherwise wilfully or with negligence commits an act constituting an infringement or a violation pursuant to Article 53, shall pay to the author or his successor in title a compensation for losses, mental suffering or other injury caused by the act.

The obligation to pay a compensation according to the first or second Paragraph does not apply to anyone who, in connection with the making of copies for private purposes, violates only Article 12, fourth Paragraph, unless this violation is carried out wilfully or with gross negligence.

Article 57 b. Anyone who, in cases other than those referred to in Article 53, wilfully or with gross negligence violates Articles 52 e or 52 g, shall be punished by fines or imprisonment for not more than six months.

Anyone who, in cases other than those referred to in Article 53, wilfully or with gross negligence violates Article 52 d, shall be punished by fines.

Article 58. The District Court of Stockholm shall have jurisdiction in cases involving sound radio or television broadcasts in violation of this Act. The same shall apply in cases involving claims for compensation under Articles 17 and 18, 26 a, first Paragraph, 42 a, third Paragraph, or 47, and in cases where a corresponding compensation is claimed on the basis of a reference in Articles 45, 46, 48, 49 or 49 a, and in cases concerning compensation for retransmissions referred to in Article 42 f.

Article 59. Violations referred to in Article 57 b, second Paragraph may be the subject of a criminal action by a public prosecutor only if this is called for in the public interest. Criminal actions for other violations of this Act may be instituted by a public prosecutor if there is a complaint from an injured party or if such an action is called for in the public interest.

An action relating to a violation of the provisions in Article 3 or of directions given under Article 41, second Paragraph, may always be instituted by the surviving spouse of the author, by his relatives in the direct ascending or descending line or by his brothers or sisters.

If there is reason to believe that a criminal violation under this Act has occurred, property referred to in Article 55 may be taken into custody. In such cases the rules governing custody in criminal cases in general apply.

1. This Act enters into force on July 1, 2005.
 2. Subject to the exceptions indicated in items 3 - 5, the new provisions shall apply also to works and subject matter that have come into being before the entry into force.
 3. Previous provisions in Article 19, first Paragraph, shall continue to apply to such copies of works that have, with the consent of the author, been transferred within the European Economic Area before the entry into force.
 4. The provision in Article 46, second Paragraph, on the calculation of the term of protection for sound recordings shall not apply to sound recordings for which the term of protection has expired at the time of the entry into force of the Act.
 5. Previous provisions shall apply to acts that have been undertaken or rights that have been acquired before the entry into force.
-

2. Act (2005:360) of May 26, 2005, Amending the Act (1960:729) on Copyright in Literary and Artistic Works

In accordance with the decision by the Parliament it is hereby prescribed, as regards the Act (1960:729) on Copyright in Literary and Artistic Works,
that the present Article 53 a shall be numbered Article 53 b,
that Articles 53 and 55 as well as the new Article 53 b, shall read as follows,
that in the Act shall be inserted a new Article, numbered Article 53 a, reading as follows.

Article 53. Anyone who, in relation to a literary or artistic work, commits an act which infringes the copyright enjoyed in the work under the provisions of Chapters 1 and 2 or which violates directions given under Article 41, second Paragraph, or Article 50, shall, where the act is committed wilfully or with gross negligence, be punished by fines or imprisonment for not more than two years.

Anyone who for his private use copies a computer program which is published or of which a copy has been transferred with the authorisation of the author shall not be subject to criminal liability, if the master copy for the copying is not used in commercial or public activities and he or she does not use the copies produced of the computer program for any purposes other than his private use. Anyone who for his private use has made a copy in digital form of a compilation in digital form which has been made available to the public shall, under the same conditions, not be subject to criminal liability for the act.

The provisions of the first Paragraph apply also if a person imports copies of a work into Sweden for distribution to the public, if such a copy has been produced abroad under such circumstances that a similar production here would have been punishable under that paragraph.

Anyone who has violated an injunction issued under penalty of a fine pursuant to Article 53 b, may not be held liable under criminal law for the infringement covered by the injunction.

Attempts to commit acts implying violations referred to in the first and third Paragraphs, and preparations for such acts are punishable pursuant to Chapter 23 of the Criminal Code.

Article 53 a. Property in relation to which a violation has occurred pursuant to this Act shall be declared forfeited, if that is not considered obviously unreasonable. Instead of the property itself, its value may be declared forfeited. Also profits from such a violation shall be declared forfeited, if it is not obviously unreasonable. The same applies to what someone has received in compensation for costs related to such a violation, or the value of what has been received, where the act of receiving constitutes a violation pursuant to this Act.

Property that has been used as a tool in connection with a violation under this Act may be declared forfeited, where this is needed in order to prevent violations or where there are otherwise special reasons. The same applies to property that has been intended to be used as a tool in connection with such a violation, where the violation has been carried out or has constituted a punishable attempt or a punishable preparation. Instead of the property itself, its value may be forfeited.

Article 53 b. At the request of the author or his successor in title or of a person who, on the basis of a license, has the right to exploit the work, the Court may issue an injunction prohibiting, under penalty of a fine, a person who commits an act implying an infringement or a violation referred to in Article 53 to continue that act.

If the plaintiff shows a probable cause that an act implying an infringement or a violation as referred to in Article 53 takes place, or a contribution to that act, and if it can reasonably be expected that the defendant, through the continuation of the act, or the contribution thereto, diminishes the value that the exclusive right under copyright confers, the Court may issue an injunction, on penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided.

No injunction may be issued before the defendant has been given an opportunity to respond, unless a delay would entail a risk for damage.

An injunction as mentioned in the second Paragraph may be issued only if the plaintiff deposits a security with the Court for the damage which may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him from making such a deposit. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has accepted it.

When the case is adjudicated, the Court shall decide whether a prohibition issued under the second Paragraph shall continue to apply.

The provisions on appeal against decisions in Chapter 15 of the Code of Judicial Procedure shall apply as regards appeals against decisions under the second and third Paragraphs and as regards the proceedings in higher Courts.

A request for the imposition of a fine may be made by the person who has requested the injunction. In connection with such an imposition, a request may be made for a new injunction to be issued under penalty of a fine.

Article 55. Anyone who commits an act involving an infringement or a violation under Article 53 shall, if this is considered reasonable, surrender to the author or his successor in title, for a compensation, the property involved in the infringement or the violation. The same shall apply to type matter, printing blocks, moulds or other similar devices which can be used only for the production of property of the kind now mentioned.

Instead of issuing an order for surrender as prescribed pursuant to the first Paragraph, the Court may, at the request of the author or his successor in title, in accordance with what is considered reasonable, order that such property shall be destroyed or altered in specific ways or that other measures shall be taken to prevent wrongful use.

The provisions of the first and the second Paragraphs shall not apply in respect of persons who have in good faith acquired the property or a right in it, nor in cases involving the construction of a work of architecture.

Decisions pursuant to this Article shall not be issued, if forfeiture or measures for the prevention of wrongful use are to be decided pursuant to Article 53 a or the Criminal Code.

-
1. This Act enters into force on July 1, 2005.
 2. In respect of criminal acts perpetrated before this Act entered into force, the provisions of the previous version of Article 55 apply.

3. Act (2005: 361) of May 26, 2005, Amending the Act (1980:612) on Mediation in Certain Copyright Disputes.

In accordance with the decision by the Parliament, it is hereby prescribed that Article 1 of the Act (1980:612) on Mediation in Certain Copyright Disputes shall read as follows.

Article 1. This Act applies when a dispute arises concerning the conclusion of such an agreement that is a condition for the extended effect of collective licenses pursuant to Articles 42 b – 42 d. or, in so far as retransmission by cable is concerned, Article 42 f of the Act (1960:729) on Copyright in Literary and Artistic Work. The Act applies also in corresponding disputes which may arise because of the references to Articles 42 b - 42 d. and 42 f. in Articles 45, 46, 49 and 49 a. in the Act on Copyright in Literary and Artistic works, and when an agreement on the making of copies shall be concluded with Swedish sound radio or television organizations or an agreement on retransmission by cable shall be concluded with sound radio and television organizations which carry out broadcasts within the European Economic Area.

This Act enters into force on July 1, 2005.

**4. Regulation (2005:362)
Amending the Copyright Regulation (1993:1212)**

The Government prescribes that Section 3, and the heading immediately before Section 3, of the Copyright Regulation (1993:1212) shall read as follows.

On the Making of Copies etc. for Persons with a Disability

Section 3. When libraries and organizations make or communicate copies of works pursuant to Article 17, second Paragraph, of the Copyright Act shall

1. the author be informed where this can be done without inconvenience,
2. on the copies information be put on the title of the work, the year of the preparation and the producer of the copy as well as the information items prescribed pursuant to Article 11 of the Copyright Act, and
3. the producer establish a register of the copies produced.

Where a library or an organization distributes or communicates copies to persons with a disability in such a way that those persons may keep a copy, the author shall be informed also about this. This applies only if this can be done without inconvenience.

This Regulation enters into force on July 1, 2005.