

Naghti l-kunsens tieghi.

(L.S.)

GUIDO DE MARCO
President

25 ta' April, 2000

ATT Nru. XIII ta' l-2000

ATT biex jagħmel provvedimenti godda dwar id-drittijiet ta' l-awtur u drittijiet oħra relatati kif ukoll ċerti drittijiet ta' proprjetà intellettuali li huma "sui generis" b'sostituzzjoni għall-provvedimenti ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 196.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:-

1. It-titolu ta' dan l-Att huwa l-Att ta' l-2000 dwar id-Drittijiet ta' l-Awtur, u għandu jidhol fis-seħh f'dik id-data li l-Ministru responsabbli għall-protezzjoni tad-drittijiet ta' l-awtur jista' b'avviż jistabbilixxi u jistgħu jigu hekk stabbiliti dati differenti għal provvedimenti differenti u għal għanijiet differenti tiegħu.

Titolu
fil-qosor u dhul
fis-seħh.

TAQSIMA I: TIFSIRIET

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'oħra -

Tifsir.

"artisti" tinkludi kantanti, mużiċisti, atturi jew artisti oħrajn li jkantaw, jirreċtaw, jiddeklamaw, jagħmluha jew jilgħabuha ta' xi hadd iehor jew xort'oħra jipprezentaw fuq il-palk xogħlijiet letterarji, mużikali u artistici jew espressjonijiet ta' folklor u tinkludi wkoll kantanti, mużiċisti, atturi jew artisti oħra li jkantaw, jagħmluha ta' xi hadd iehor jew jirreċtaw f'wirjiet jew esibizzjonijiet ta' varjetà, ċirklu u folklor;

"awtorità dwar ix-xandir" tfisser l-Awtorità dwar ix-Xandir imwaqqfa bl-artikolu 118 tal-Kostituzzjoni ta' Malta;

"awtur" tfisser il-persuna naturali jew grupp ta' persuni naturali li jkunu holqu x-xogħol eliġgibbli għad-dritt ta' l-awtur iżda fil-każ ta' xogħol awdjoviziv tinkludi lid-direttur prinċipali

izda teskludi lill-produttur ta' l-ewwel fissazzjoni tax-xoghol awdjoviżiv;

“Bord” tfisser il-Bord dwar id-Drittijiet ta' l-Awtur imwaqqaf taht l-artikolu 45 ta' dan l-Att;

“*collecting society*” tfisser kull organizzazzjoni li timmanigga jew tamministra drittijiet ta' l-awtur jew drittijiet ohra relatati bhala l-ghan uniku taghha jew bhala wiehed mill-ghanijiet ewlenin taghha kif regolata bil-provvedimenti ta' dan l-Att;

“*database*” tfisser gabra ta' xoghlijiet indipendenti, data jew kull materjal iehor irrangati b'mod sistematiku jew metodiku u individwalment accessibbli b'mezzi elettronici jew mezzi ohra minghajr ma jkun mehtieg li dan il-materjal ikun gie fizikament mahzun b'mod organizzat izda ma jestendix ghal programmi ghall-*computer* li jintuzaw fl-ghemil jew fit-thaddim ta' *database* accessibbli b'mezzi elettronici komprizi fil-frazi “programm ghall-*computer*”;

“*disabilità percettiva*” tfisser *disabilità* li tipprevjeni jew tinibixxi persuna milli taqra' jew tisma' xi xoghol letterarju, muzikali, drammatiku jew artisitiku fil-format originali tieghu, u tinkludi kull *disabilità* bhal dik li tirrizulta minn:

- (a) tahsir ghalkollox jew gravi tal-vista jew tas-smigh jew l-inkapacità li tiffoka jew li ccaqlaq ghajnejk;
- (b) l-inkapacità li żzomm jew timmanipola ktieb; jew
- (c) indeboliment li ghandu x'jaqsam mal-kapacità li wiehed jifhem;

“*distribuzzjoni*” tfisser li taghmel disponibbli ghall-pubbliku permezz ta' bejgh jew kull trasferiment iehor ta' proprjeta;

“*drittijiet ta' l-awtur*” tfisser drittijiet ta' l-awtur skond dan l-Att;

“*esplotazzjoni kummerċjali*” tfisser dwar topografiji prodotti minn semikonduttur, il-bejgh, self b'renta, il-kiri jew kull metodu iehor ta' *distribuzzjoni kummerċjali*, jew offerta li ssir ghal dawn l-iskopijiet:

Izda meta l-*esplotazzjoni ssehh taht kundizzjonijiet ta' kunfidenzjalità* daqshekk li ma ssir ebda *distribuzzjoni ulterjuri* lil terzi, m'ghandux jitqies li kien hemm “*esplotazzjoni kummerċjali*”;

“fissazzjoni” tfisser l-inkorporazzjoni ta’ hsejjes, xbihat, jew it-tnejn, jew rapprezentazzjonijiet diġitali tagħhom, f’kull forma materjali, li minnha jkunu jistgħu jiġu perċepiti, riprodotti jew imwasslin permezz ta’ apparat;

“komunikazzjoni lill-pubbliku” tfisser it-trasmissjoni ta’ xogħol bil-fili jew minghajr fili u għall-iskop ta’ l-artikolu 7 ta’ dan l-Att tinkludi li tagħmel dak ix-xogħol disponibbli għall-pubbliku b’tali mod li l-membri tal-pubbliku jista’ jkollhom aċċess għax-xogħol minn lok u f’hin li jiġi individwalment magħżul minnhom:

Il-provdiment sempliċi ta’ faċilitajiet fiżiċi sabiex tkun tista’ ssir jew issir komunikazzjoni ma tammontax fiha nnifisha għal att ta’ komunikazzjoni lill-pubbliku;

“komunikazzjoni lill-pubbliku bis-satellita” tfisser l-att li jiġu introdotti, taht il-kontroll u r-responsabbiltà ta’ organizzazzjoni tax-xandir, is-sinjali li jittrasportaw il-programm li jkunu intiżi li jiġu riċevuti mill-pubbliku f’katina mhux interrotta ta’ komunikazzjoni li twassal lejn is-satellita u ’l isfel lejn id-dinja u l-Istat fejn dak l-att jokkorri għandu jitqies li jkun il-lok ta’ origini ta’ dak l-att ta’ komunikazzjoni lill-pubbliku bis-satellita:

Izda jekk is-sinjali li jittrasportaw il-programm ikunu mohbija f’*code*, għaldaqshekk ikun hemm komunikazzjoni lill-pubbliku b’satellita jekk il-mezzi biex ix-xandira tingieb lura fis-shuhija tagħha jkunu pprovduti lill-pubbliku mill-organizzazzjoni tax-xandir jew bil-kunsens tagħha:

Izda wkoll jekk l-att ta’ komunikazzjoni lill-pubbliku b’satellita jokkorri fi Stat li ma jkunx Malta jew li ma jkunx Stat li fih id-dritt esklużiv biex jawtorizza jew jipprevjeni ix-xandir bis-satellita ta’ xogħol eliġgibbli għad-dritt ta’ l-awtur jew drittijiet oħra relatati ikun protett taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih, jekk is-sinjali li jittrasportaw il-programm jiġu trasmessi lis-satellita minn *uplink station* li jkun jinsab Malta, dak l-att ta’ komunikazzjoni lill-pubbliku bis-satellita għandu jitqies bhala li jkun okkorra f’Malta sabiex id-drittijiet pprovduti b’dan l-Att għandhom ikunu eżerċitabbli kontra l-persuna li tkun qed topera dak l-*uplink station*, jew inkella fin-nuqqas ta’ *uplink station* f’Malta, jekk organizzazzjoni tax-xandir stabbilita f’Malta tkun ikkummissjonat l-att ta’ komunikazzjoni lill-pubbliku bis-satellita, dak l-att għandu jitqies bhala li jkun okkorra f’Malta u d-drittijiet li dan l-Att jipprovdi dwarhom għandhom ikunu eżerċitabbli kontra dik l-organizzazzjoni tax-xandir;

“kopja” tfisser riproduzzjoni b’forma miktuba jew grafika inkluża riproduzzjoni digitali, fil-forma ta’ registrazzjoni jew ta’ xogħol awdjoviziv, jew f’xi forma oħra materjali, iżda hekk illi oġġett ma għandux jittiehed li jkun kopja ta’ xogħol ta’ arkitettura jekk l-oġġett ma jkunx bini jew mudell;

“korp ta’ persuni” tfisser kull kumpannija jew ghaqda ta’ persuni, sew korporata sew mhux korporata, sew jekk ikollha personalità ġuridika sew jekk le, u tinkludi lil kull korp ieħor jissemma’ kif jissemma’ u li jkollu personalità ġuridika;

“legali” tfisser magħmul skond id-dispożizzjonijiet ta’ dan l-Att, u “legalment” għandha tiftiehem skond hekk;

“liċenza” tfisser liċenza mogħtija legalment li tippermetti l-għemil ta’ att kontrollat mid-drittijiet ta’ l-awtur jew minn drittijiet oħra relatati;

“Malta” għandha l-istess tifsir kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni ta’ Malta;

“Ministru” tfisser il-Ministru responsabbli għall-protezzjoni tad-drittijiet ta’ l-awtur u drittijiet oħra relatati u tinkludi sal-limitu ta’ l-awtorità mogħtija, kull persuna awtorizzata mill-Ministru għal hekk għal xi wiehed mill-għanijiet ta’ dan l-Att li ma jkunx l-għan li hemm fl-artikolu 59;

“organizzazzjoni tax-xandir” tfisser kull xandar sew jekk ikollu liċenza taht l-Att dwar ix-Xandir jew taht xi liġi oħra f’Malta, u tinkludi kuntrattur tax-xandir li jkun qed jopera f’Malta;

“persuna” tinkludi korp ta’ persuni;

“preskritt” tinkludi preskritt b’regolamenti magħmula taht l-artikolu 59 ta’ dan l-Att;

“prodott minn semikonduttur” tfisser forma finali jew intermedja ta’ xi prodott li jkun jikkonsisti f’korp ta’ materjal li jkun jinkludi saff ta’ materjal semikonduċenti, li jkollu strat wiehed jew iktar komposti minn materjal konduttiv, iżolanti jew semikonduttiv, b’dan li l-istrati jkunu rrangati skond firxa tridimensjonali predeterminata u li tkun intiża li twettaq, esklużivament jew flimkien ma’ funzjonijiet oħra, funzjoni elettronika;

“programm għall-*computer*” tinkludi programmi għall-*computer*, jkunu xi jkunu l-mod u l-ghamla ta’ l-espressjoni tagħhom inklużi dawk li jkunu inkorporati f’ *hardware, interfaces* li jipprovdu għall-interkonnessjoni fiżika u l-interazzjoni jew pjuttost l-interoperabilità bejn elementi ta’ *software* u *hardware* u materjal ta’ disinn preparatorju li jwassal għall-iżvilupp ta’ programm għall-*computer*:

Izda x-xorta ta’ materjal ta’ disinn preparatorju jkun tali li programm għall-*computer* jista’ jirriżulta minnu fi stadju ulterjuri;

“proprietarju ta’ drittijiet ta’ l-awtur” tfisser l-awtur li jkun l-ewwel proprietarju, ċessjonarju jew detentur esklużiv ta’ liċenza, skond il-każ, ta’ drittijiet ta’ l-awtur u fil-każ ta’ xogħol kollettiv, l-ewwel proprietarju tad-drittijiet ta’ l-awtur għandu jkun il-persuna naturali jew legali li bl-inizjattiva u direzzjoni tiegħu ix-xogħol ikun ġie mahluq;

“registrazzjoni ta’ smigh” tfisser il-fissazzjoni ta’ sekwenza ta’ hsejjes jew ta’ rappreżentazzjoni diġitali ta’ hsejjes li tkun tista’ tinstema’ bil-widna u li tkun tista’ tiġi riprodotta, iżda ma tinkludix kolonna sonora assoċjata ma’ xi xogħol awdjoviżiv;

“renta” tfisser li tagħmel disponibbli għall-użu, għal perjodu limitat ta’ żmien u għal vantaġġ ekonomiku jew kummerċjali, dirett jew indirett;

“riproduzzjoni” tfisser l-ghemil ta’ kopja wahda jew iżjed f’ xi forma materjali ta’ xogħol letterarju, mużikali jew artisitiku, ta’ xogħol awdjoviżiv jew ta’ registrazzjoni ta’ smigh u tinkludi l-hażna ta’ xogħol bhal dak f’ xi *medium* b’mezzi elettronici;

“ritrasmissjoni bil-*cable*” tfisser ir-ritrasmissjoni simultanja, mhux mittiefsa u mhux imqassra bil-*cable* jew permezz ta’ kull trasportatur materjali iehor għar-reċezzjoni mill-pubbliku ta’ trasmissjoni inizjali bil-fili jew fl-arja, inkluża dik li ssir bis-satellita, ta’ programmi televiżivi jew tar-radju li jkunu intiżi għar-reċezzjoni mill-pubbliku, minn ġewwa Malta jew minn xi Stat li fih id-dritt esklużiv biex tiġi awtorizzata dik ir-ritrasmissjoni bil-*cable* ta’ xogħlijiet eliġġibbli għal drittijiet ta’ l-awtur jew drittijiet oħra relatati ikun protett taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

“satellita” tfisser kull satellita li tkun topera fuq bandi tal-frekwenza li, taht il-liġi tat-telekomunikazzjonijiet internazzjonali huma riservati għax-xandir ta’ sinjali għar-reċezzjoni mill-pubbliku jew li huma riservati għal komunikazzjoni magħluqa minn punt

ghall-iehor. F'dan l-ahhar każ, madankollu, iċ-ċirkostanzi li fihom issir ir-reċezzjoni individwali tas-sinjali ghandha titqabbel sew ma' dawk li jkunu japplikaw fl-ewwel każ;

“self” tfisser li tagħmel disponibbli għall-użu, għal perjodu ta' żmien limitat u mhux għal xi vantaġġ ekonomiku jew kummerċjali, dirett jew indirett, meta dan isir minn stabbilimenti aċċessibbli għall-pubbliku:

Iżda, wkoll meta s-self minn dak l-istabbiliment jagħti lok għal hlas ta' xi flus, sakemm dak il-hlas ma jkunx jiżboq dak li jkun mehtieg biex ikopri l-ispejjeż operattivi ta' l-istabbiliment, ma jkunx hemm xi vantaġġ ekonomiku jew kummerċjali, dirett jew indirett, fis-sens ta' dan l-Att;

“topografija ta' prodott minn semikonduttur” tfisser serje ta' xbihat relatati, jkunu kif ikunu ffissati jew mogħtija *code*, li jkunu jirrappreżentaw il-firxa tridimensjonali tas-saffi li minnhom ikun kompost prodott minn semikonduttur u f'liema serje, kull xbieha jkollha l-firxa jew parti mill-firxa ta' wiċċ tal-prodott minn konduttur f'kull stadju tal-manifattura tieghu;

“wirja” tfisser it-tweqqiq dirett ta' xogħol quddiem il-pubbliku li jsir taht dawk iċ-ċirkostanzi li x-xogħlijiet li jintwerew ikunu jistgħu jiġu perċepiti mill-pubbliku mingħajr ebda komunikazzjoni intermedja;

“xandir” tfisser it-trasmissjoni b'mezzi mingħajr fili għar-reċezzjoni pubblika ta' hsejjes jew ta' xbihat u hsejjes jew tar-rappreżentazzjonijiet tagħhom, inkluż it-trasmissjoni bis-satellita. Xandir ma tinkludix xandir mill-ġdid;

“xandir mill-ġdid” tfisser xandir simultanju minn organizzazzjoni tax-xandir wahda tax-xandira ta' organizzazzjoni tax-xandir ohra li ma tkunx taht il-kontroll tagħha, sew jekk din tkun tinsab Malta jew barra minn Malta, u “ixxandar mill-ġdid” għandha tiftiehem skond hekk:

Iżda, “xandir mill-ġdid tardiv” għandha tfisser biss dak ix-xandir sussegwenti u “ixxandar mill-ġdid tardivament” għandha tiftiehem skond hekk;

“xogħol artistiku” tinkludi, irrispettivament mill-kwalità artistika, kull wiehed minn dawn li ġejjin, jew xogħlijiet simili għalihom:

(a) pitturi, disinji, kopji mehudin minn fuq pjanci incizi, litografiji, incizjonijiet fuq l-injam, incizjonijiet u stampat;

(b) mapep, pjanti, dijagrammi u xoghlijiet tridimensjonali relattivi għall-gjografija, xjenza jew topografija, iżda b'esklużjoni ta' topografiji prodotti minn semikonduttur;

(c) xoghlijiet ta' skultura;

(d) fotografiji mhux inkluzi f'xogħol awdjoviżiv;

(e) xoghlijiet ta' arkitettura fil-forma ta' bini jew mudelli; u

(f) xoghlijiet ta' sengħa artistika, inkluzi tessuti minsuġa bi stampi u oġġetti ta' arti applikata bl-idejn u ta' arti industrijali;

“xogħol awdjoviżiv” tfisser xogħol li jikkonsisti f'serje ta' xbihat relatati li jagħtu l-impressjoni ta' moviment, flimkien ma' hsejjes li jakkumpanjaw jew mingħajrhom, suxxettibbli li jsiru viżibbli u, meta dawn ikunu akkumpanjati bi hsejjes, suxxettibbli li jsiru li jistghu jinstemaw;

“xogħol ta' ko-awturi” tfisser xogħol prodott bil-kollaborazzjoni ta' żewġ awturi jew iżjed li fih il-kontribuzzjoni ta' kull awtur ma tkunx separabbli mill-kontribuzzjoni ta' l-awtur l-iehor jew ta' l-awturi l-oħra;

“xogħol kollettiv” tfisser xogħol li jkun ġie maħluq minn żewġ persuni fiżiċi jew iktar b'inizjattiva u taħt id-direzzjoni ta' persuna fiżika jew entità legali bil-fehmien li x-xogħol se jkun żvelat minn dik l-aħħar persuna jew entità f'isimha u li l-identità tal-persuni fiżiċi kontribwenti ma tiġix indikata fix-xogħol;

“xogħol letterarju” tfisser, irrispettivament mill-kwalità letterarja, kull wieħed minn dawn li ġejjin, jew xoghlijiet simili għalihom:

(a) rumanzi, stejjer u xoghlijiet poetiċi;

(b) kompożizzjonijiet teatrali, direzzjonijiet tal-palk, xoghlijiet koreografiċi jew trattenimenti fi spettakoli muti, xenarji ta' pellikoli u manuskritti għax-xandir;

- (c) kotba ta' test, trattati, storja, bijografiji, *essays* u artikoli;
- (d) enciklopediji u dizzjunarji;
- (e) ittri, rapporti u memoranda;
- (f) konferenzi, indirizzi u priedki;
- (g) programmi għall-*computer*,

iżda salv kif provdut fl-artikolu 12 ta' l-Att ta' l-1980 dwar ir-Revizjoni tal-Liġijiet Statutarji, ma tinkludi ebda liġi miktuba, rapport ta' kawzi jew deċiżjoni ġudizzjarja;

“xogħol mużikali” tfisser kull xogħol mużikali, irrispettivament mill-kwalità mużikali, u tinkludi xogħlijiet komposti għall-akkompanjament mużikali.

(2) Għall-finijiet ta' dan l-Att id-dispożizzjonijiet li ġejjin għandhom japplikaw relattivament għall-pubblikazzjoni:

(a) xogħol għandu jitqies li jkun ġie publikat jekk kopji tiegħu ikunu disponibbli fi kwantità raġonevoli għall-bejgħ, self b'renta, kiri jew b'kull mod iehor suffiċjenti li jagħmel ix-xogħol aċċessibbli għall-pubbliku;

(b) meta għall-bidu parti biss minn xogħol tkun publikata, dik il-parti għandha titqies għall-finijiet ta' dan l-Att bħala xogħol separat;

(c) publikazzjoni f'pajjiż għandha titqies li tkun l-ewwel publikazzjoni għalkemm tkun ġà saret qabel l-ewwel publikazzjoni band'ohra, jekk iż-żewġ publikazzjonijiet ikunu saru fi żmien ta' mhux iżjed minn tletin ġurnata.

TAQSIMA II: DRITTIJET TA' L-AWTUR

3. (1) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu x-xogħlijiet li ġejjin ikunu eliġibbli għad-drittijiet ta' l-awtur;

- (a) xogħlijiet artistici;
- (b) xogħlijiet awdjoviżivi;
- (c) *databases*;

Xogħlijiet eliġibbli għad-drittijiet ta' l-awtur.

- (d) xoghlijiet letterarji;
- (e) xoghlijiet mużikali.

(2) Xoghol letterarju, mużikali jew artistiku ma jkununx eliġibbli ghad-drittijiet ta' l-awtur kemm-il darba x-xoghol ma jkollux kwalità oriġinali u ma jkunx inkiteb, gie registrat, iffissat jew xort'ohra moghti forma materjali.

(3) Xoghol ma jkunx ineliġibbli ghad-drittijiet ta' l-awtur minhabba biss illi l-ghemil tax-xoghol, jew l-ghemil ta' xi att relattivament ghal dak ix-xoghol, ikun implika xi ksur tad-drittijiet ta' l-awtur fuq xi xoghol ieħor.

(4) *Database* ma tkunx eliġibbli ghad-drittijiet ta' l-awtur kemm-il darba minhabba fl-ghażla jew l-arranġament tal-kontenut tagħha, tkun tikkostitwixxi l-kreazzjoni intellettuali ta' l-awtur. Iktar minn hekk, id-drittijiet ta' l-awtur moghtija lil xi *database* ma ghandhomx jestendu għall-kontenut tagħha u ghandhom ikunu minghajr ebda preġudizzju ghad-drittijiet kollha li jibqghu jeżistu f'dak il-kontenut innifsu.

4. (1) Ghandhom jinghataw id-drittijiet ta' l-awtur b'dan l-artikolu fuq kull xoghol eliġibbli ghad-drittijiet ta' l-awtur li l-awtur tieghu jew, fil-każ ta' xoghol ta' ko-awturi, xi wiehed mill-ko-awturi jkun, fiż-żmien meta jsir ix-xoghol:

Kwalifika għall-protezzjoni tad-drittijiet ta' l-awtur minhabba fl-awturi.

(a) individwu li jkun ċittadin ta' Malta, jew ikun domiciljat jew residenti permanentement f'Malta jew fi Stat li fih id-drittijiet ta' l-awtur ikunu protetti taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih; jew

(b) korp ta' persuni jew soċjetà kummerċjali kostitwiti, stabbiliti, registrati u vestiti b'personalità ġuridika taht il-liġijiet ta' Malta jew ta' Stat li fih id-drittijiet ta' l-awtur ikunu protetti taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih.

(2) Il-perjodi ta' protezzjoni tad-drittijiet ta' l-awtur moghtija b'dan l-artikolu ghandhom jiġu kalkolati skond it-tabella li ġejja:

Perjodi ta' drittijiet ta' l-awtur.

TABELLA

Tip ta' Xoghol	Data meta Jiskadu d-Drittijiet ta' l-Awtur
(i) Xoghlijiet letterarji, muzikali jew artistici u <i>database</i>	Sebghin sena wara l-ahhar tas-sena li fiha jmut l-awtur, irrISPettivament mid-data meta x-xoghol ikun legittimament sar disponibbli ghall-pubbliku.
(ii) Xoghlijiet awdjovizivi	Sebghin sena wara l-ahhar tas-sena li fiha tmut l-ahhar minn dawn il-persuni li g'ejjin: id-direttur principali, l-awtur ta' l- <i>iscreenplay</i> , l-awtur tad-djalogu u l-kompozitur tal-muzika speċifikatament originata biex tintuza fix-xoghol awdjoviziv.

(3) Fil-każ ta' xoghol letterarju, muzikali jew artistiku anonimu jew bi psewdonimu, jew fil-każ ta' xoghol kollettiv, id-drittijiet ta' l-awtur dwaru ghandhom jibqghu jeżistu sakemm jiskadu sebghin sena mill-ahhar tas-sena li fiha jkun sar legittimament disponibbli ghall-pubbliku jew wara tmiem is-sena li fiha x-xoghol ikun sar jekk dan ma jkunx sar disponibbli ghall-pubbliku:

Izda meta l-psewdonimu adottat mill-awtur ma jhalli ebda dubju dwar l-identità tieghu jew fil-każ li l-identità ta' l-awtur tiġi maghrufa matul il-perjodu imsemmi fil-paragrafu ta' qabel dan ta' dan is-subartikolu jew meta fil-każ ta' xoghlijiet kollettivi minn korp ta' persuni, il-persuni naturali li jkunu originaw ix-xoghol ikunu individwalment identifikabbli fil-verżjonijiet tax-xoghol li jkun sar disponibbli ghall-pubbliku, il-perjodi ta' protezzjoni tad-drittijiet ta' l-awtur ghandhom jiġu kalkolati skond id-dispożizzjonijiet tal-paragrafu (i) tas-subartikolu li jiġi minnufih qabel dan.

(4) Fil-każ ta' xoghol ta' ko-awturi, ir-riferenza fit-tabella preċedenti ghall-mewt ta' l-awtur ghandha titqies li tirriferixxi ghall-ko-awtur li jmut l-ahhar, sew jekk ikun persuna kwalifikata sew jekk le skond is-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att.

(5) Fil-każ ta' persuna li ghall-ewwel darba legittimament tippubblika jew legittimament tikkommunika lill-pubbliku xi xoghol li qatt qabel ma jkun gie ppubblikat li tkun skadjet il-protezzjoni tad-drittijiet ta' l-awtur tieghu, huwa ghandu jibbenefika minn protezzjoni li tkun tiswa daqs id-drittijiet ekonomiċi koperti mid-drittijiet ta' l-awtur

izda limitament għal perjodu ta' hamsa u għoxrin sena minn meta x-xogħol ikun għe legittimament pubblikat jew legittimament komunikat lill-pubbliku għall-ewwel darba.

(6) Meta xogħol jiġi ppubblikat f' volumi, taqsimiet, puntati minn sensiela, hargiet jew episodji u l-perjodu ta' protezzjoni jibda għaddej minn meta x-xogħol ikun legittimament sar disponibbli għall-pubbliku, il-perjodu ta' protezzjoni għandu jibda għaddej għal kull tali oġġett separatament.

5. (1) Għandhom jingħataw id-drittijiet ta' l-awtur b'dan l-artikolu fuq kull xogħol eliġibbli għad-drittijiet ta' l-awtur li jsir jew ikun l-ewwel pubblikat f' Malta jew fi Stat li fih dawk ix-xogħlijiet ikunu protetti taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih u li ma kienx oġġett tad-drittijiet ta' l-awtur mogħtija bl-artikolu 4 ta' dan l-Att.

Kwalifika għall-protezzjoni tad-drittijiet ta' l-awtur b'riferenza għall-pajjiż fejn isir ix-xogħol jew ikun pubblikat.

(2) Id-drittijiet ta' l-awtur mogħtija fuq xogħol b'dan l-artikolu għandu jkollhom l-istess dewmien kif provdut bl-artikolu 4 ta' dan l-Att relattivament għall-istess tip ta' xogħol.

6. (1) Għandhom jingħataw id-drittijiet ta' l-awtur b'dan l-artikolu fuq kull xogħol li jkun eliġibbli għad-drittijiet ta' l-awtur u li jsir bi jew skond l-ordni jew kontroll tal-Gvern ta' Malta kif ukoll ta' dawk il-gvernijiet ta' Stati oħra, għaqdiet internazzjonali jew organizzazzjonijiet oħra inter-governattivi kif jista' jiġi preskritt mill-Ministru responsabbli għall-Uffiċċju tal-Proprietà Industrjali.

Drittijiet ta' l-awtur fuq xogħlijiet tal-Gvern u ta' għaqdiet internazzjonali.

(2) Id-drittijiet ta' l-awtur mogħtija b'dan l-artikolu fuq *databases* jew fuq xogħol letterarju, mużikali jew artistiku għandhom jibqgħu jeżistu sakemm jiskadu sebgħin sena mill-ahħar tas-sena li fiha x-xogħol ikun pubblikat għall-ewwel darba.

(3) Id-drittijiet ta' l-awtur mogħtija b'dan l-artikolu fuq xogħol awdjoviżiv għandu jkollhom l-istess dewmien kif provdut bl-artikolu 4 ta' dan l-Att relattivament għall-istess tip ta' xogħol.

(4) Is-subartikolu (5) ta' l-artikolu 4 għandu japplika bl-istess mod għal xogħlijiet eliġibbli għad-drittijiet ta' l-awtur li dwarhom japplika dan l-artikolu u li, għax ma kienux qabel pubblikati, ikunu legittimament pubblikati jew legittimament komunikati lill-pubbliku għall-ewwel darba wara li tkun skadiet il-protezzjoni tad-drittijiet ta' l-awtur.

(5) L-artikoli 4 u 5 ta' dan l-Att ma għandhomx jitqiesu li jagħtu drittijiet ta' l-awtur fuq xogħlijiet li għalihom japplika dan l-artikolu.

Xorta tad-drittijiet ta' l-awtur fuq xoghol awdjoviżiv, *database*, xoghol letterarju, mużikali jew artistiku, jkunu d-drittijiet esklużivi għall-awtorizzazzjoni jew projbizzjoni ta' l-għemil f'Malta dwar il-materjal protett kollu jew xi parti sostanzjali minnu, sew fil-forma tiegħu originali sew f'xi forma rikonossibilment derivata mill-original ta' xi wiehed minn dawn li ġejjin:

7. Id-drittijiet ta' l-awtur fuq xoghol awdjoviżiv, *database*, xoghol letterarju, mużikali jew artistiku, jkunu d-drittijiet esklużivi għall-awtorizzazzjoni jew projbizzjoni ta' l-għemil f'Malta dwar il-materjal protett kollu jew xi parti sostanzjali minnu, sew fil-forma tiegħu originali sew f'xi forma rikonossibilment derivata mill-original ta' xi wiehed minn dawn li ġejjin:

(a) ir-riproduzzjoni diretta jew indiretta, sew temporanja sew permanenti, b'kull mezz u f'kull għamla, kollha jew f'parti minnha;

(b) is-self b'renta u l-kiri;

(c) id-distribuzzjoni;

(d) it-traduzzjoni f'isna oħra inklużi lingwi tal-*computer* differenti;

(e) l-adattar, l-arranġament u kull alterazzjoni oħra u riproduzzjoni, distribuzzjoni, komunikazzjoni, wiri jew wirja għall-pubbliku tar-rizultati relattivi;

(f) ix-xandir jew ix-xandir mill-ġdid jew il-komunikazzjoni lill-pubbliku jew ir-ritrasmissjoni bil-*cable*;

(g) il-wiri jew il-wirja lill-pubbliku:

Iżda d-dritt ta' awtorizzazzjoni jew projbizzjoni tar-ritrasmissjoni bil-*cable* ta' xandira televiżiva ikun biss eżerċitabbli permezz ta' *collecting society*.

Eżawriment tad-dritt tad-distribuzzjoni.

8. L-ewwel bejgħ f'Malta tax-xoghol originali li jkollu d-drittijiet ta' l-awtur jew ta' kopja tiegħu, meta dak il-bejgħ isir mid-detentur tad-drittijiet ta' l-awtur innifsu jew bil-kunsens tiegħu, għandu jeżawrixi d-dritt esklużiv tad-distribuzzjoni għar-rigward ta' dak ix-xoghol jew tal-kopja tiegħu.

Eċċezzjonijiet għad-drittijiet ta' l-awtur.

9. Id-drittijiet ta' l-awtur f'xoghol awdjoviżiv, *database*, xoghol letterarju, mużikali jew artistiku, ma għandux jinkludi id-dritt ta' awtorizzazzjoni jew projbizzjoni -

(a) hlief fil-każ ta' programm tal-*computer*, l-għemil ta' xi wiehed mill-attijiet imsemmija fis-subartikolu (1) ta' l-artikolu 7 bl-użu kif jixraq għal skopijiet ta' xoghol ta' riċerka, użu privat, kritika jew rivista, jew ir-rapportar ta' avvenimenti korrenti, iżda jekk dak l-użu jkun pubbliku, ikollu miegħu rikonossiment tat-titolu tax-xoghol u ta' l-awtur tiegħu, hlief meta x-xoghol ikun incidentalment inkluż f'xandira jew f'xandira mill-ġdid jew komunikazzjoni lill-pubbliku jew ritrasmissjoni bil-*cable*:

Iżda meta skond dan il-paragrafu awtur ta' xoghol eliġibbli għad-drittijiet ta' l-awtur jbati deroga fid-dritt tiegħu esklużiv li jislef huwa jkollu jedd għal rimunerazzjoni għal self bħal dak li jkun jista' jingabar individwalment jew permezz ta' *collecting society* mill-istituzzjoni li jkun qed isellef dak ix-xoghol jew kopji tiegħu minbarra l-libreriji pubbliċi Statali, universitajiet u istituzzjonijiet edukattivi li jkollhom liċenza sabiex joperaw mill-Istat li huma lkoll esklużi minn dik l-obbligazzjoni. Fil-kalkolu ta' dik ir-rimunerazzjoni, fil-każ ta' xogħlijiet letterarji, mużikali u artistiki biss, għandhom jitqiesu l-oġġettivi ta' promozzjoni kulturali nazzjonali u fil-każ ta' nuqqas ta' qbil dwar ir-rimunerazzjoni li tkun dovuta, din għandha tiġi stabbilita mill-Bord;

(b) l-ghemil ta' xi wiehed mill-attijiet qabel imsemmija b'mod ta' parodija, *pastiche* jew karikatura;

(ċ) l-inklużjoni f'xogħol awdjoviziv, f'xandira jew f'xandira mill-ġdid jew komunikazzjoni lill-pubbliku jew ritrasmissjoni bil-*cable* ta' xi xogħol artistiku li jkun qiegħed f'post fejn ikun jista' jarah il-pubbliku;

(d) ir-riproduzzjoni u d-distribuzzjoni ta' kopji ta' xi xogħol artistiku li jkun qiegħed permanentement f'post fejn ikun jista' jarah il-pubbliku;

(e) l-inklużjoni inċidentali ta' xogħol artistiku f'xogħol awdjoviziv, f'xandira jew f'xandira mill-ġdid;

(f) ir-riproduzzjoni ta' parti qasira ta' xogħol ippubblikat, bħala illustrazzjoni, f'kitbiet jew reġistrazzjonijiet ta' smiġh jew awdjovizivi għal skopijiet ta' taġlim:

Iżda dik ir-riproduzzjoni għandha tkun kompatibbli ma' kull Prattika ġusta u ma tkunx taqbeż il-limitu ġustifikat bl-iskop relattiv u għandhom jiġu indikati l-ghajn tagħha u isem l-awtur skond kemm ikun prattikabbli ;

(g) ir-riproduzzjoni, għat-taġlim wiċċ imb'wiċċ li jsir f'istituzzjonijiet edukattivi li l-attivitajiet tagħhom ma jkunux għal qligħ kummerċjali, sew dirett sew indirett, sal-limitu ġustifikat bl-ghan, ta' artiklu ppubblikat jew xogħol ieħor qasir jew estratt qasir ta' xi kitba, sew bl-illustrazzjonijiet sew mingħajrhom:

Iżda l-att tar-riproduzzjoni irid ikun wiehed iżolat li jokkorri, jekk dan ikun ripetut, f'okkażjonijiet separati u li m'għandhomx x'jaqsmu ma' xulxin, u ma jkun hemm ebda liċenza

kollettiva disponibbli (jigifieri, li tkun offerta minn *collecting society* b' mod illi l-istituzzjoni edukattiva tkun konxja jew suppost li tkun konxja dwar id-disponibbiltà tal-liċenza) li taħtha tkun tista' ssir dik ir-riproduzzjoni:

Iżda wkoll għandu kemm jista' jkun prattikabbli jiġi indikat fuq kull kopja magħmula taħt dan is-subartikolu l-għajn tagħha u isem l-awtur;

(h) il-qari jew ir-reċitazzjoni fil-pubbliku minn persuna ta' xi estratt raġonevoli minn xogħol letterarju pubblikat, jekk akkompanjat minn rikonoxximent suffiċjenti;

(i) l-għemil ta' kopji singoli ta' xogħlijiet minn libreriji pubbliċi, ċentri ta' dokumentazzjoni mhux kummerċjali u istituzzjonijiet xjentifiċi bil-ghan ta' studju, skola jew riċerka privata, sakemm ebda liċenza kollettiva ma tkun disponibbli għal dik ir-riproduzzjoni u ma jidhol ebda introjtu minn dan u ma jithallas ebda dritt ta' ammissjoni għall-komunikazzjoni, jekk ikun hemm, lill-pubbliku tax-xogħol li hekk jintuża;

(j) l-għemil ta' kopji singoli ta' xogħlijiet minn libreriji pubbliċi, ċentri ta' dokumentazzjoni mhux kummerċjali u istituzzjonijiet xjentifiċi sabiex tiġi preservata u, jekk ikun meħtieġ, fil-każ li din tintilef, tinqered jew ma tkunx tista' tintuża aktar, rimpjazzata kopja, jew sabiex tiġi rimpjazzata, fil-kollezzjoni permanenti ta' xi librerija jew arkivju oħrajn simili, kopja li tkun intilfet, inqerdet jew ma tkunx tista' tintuża aktar:

Iżda għandu jkun impossibli li tinkiseb kopja bħal dik taħt kondizzjonijiet raġonevoli u l-att ta' riprodurrezzjoni ikun każ iżolat li jokkorri, jekk dan ikun ripetut, f'okkażjonijiet separati u li m'għandhomx x'jaqsmu ma' xulxin;

(k) l-għemil ta' xi wiehed mill-attijiet hawn aktar qabel imsemmija, fuq talba ta' persuna b'diżabilità perċettiva jew għal xi organizzazzjoni li ma tagħmilx profitti li tkun qegħda taġixxi għall-benefiċċju tiegħu jew tagħha:

Iżda dan ma japplikax meta x-xogħol li dwaru jkollu jsir dak l-att ikun kummerċjalment disponibbli f'format speċifikament imfassal għall-bżonnijiet ta' persuna imsemmija fil-paragrafu ta' hawn aktar qabel u li jkun jista' jiġi lokalizzat fi żmien raġonevoli, bi prezz raġonevoli bi sforz raġonevoli;

(l) attijiet ta' riprodurrezzjoni temporanji bħalma huma attijiet ta' riprodurrezzjoni transijenti u inċidentali li jiffurmaw parti integrali u essenzjali ta' proċess teknologiku, inklużi dawk li jiffaċilitaw il-funzjonament effettiv ta' sistemi ta' trasmissjoni, li l-ghan uniku tagħhom jkun sabiex ikun jista' jsir użu minn xi xogħol jew suġġett ieħor, u li ma jkollhom ebda sinjifikat ekonomiku indipendenti;

(m) ir-riproduzzjoni ta' xoghol bi jew skond l-ordni jew kontroll ta' organizzazzjoni tax-xandir, maghmula permezz tal-facilitajiet ta' l-organizzazzjoni tax-xandir innifisha u biss sabiex tintuza fix-xandir li jsir minnha, meta dik ir-riproduzzjoni jew xi kopji taghha jkunu maħsuba esklużivament ghal xandira jew xandira mill-ġdid legittima u dawn jiġu meqruda qabel ma jghaddi l-perjodu ta' sitt xhur tal-kalendarju minnufih wara l-ghemil tar-riproduzzjoni jew dak il-perjodu itwal kif jista' jsir qbil dwaru bejn l-organizzazzjoni tax-xandir u l-proprjetarju tad-drittijiet ta' l-awtur rilevanti fuq ix-xoghol;

Iżda kull riproduzzjoni ta' xoghol maghmul skond dan il-paragrafu tista', jekk tkun ta' karattru dokumentarju eċċezzjonali, tiġi konservata fl-arkivji ta' l-organizzazzjoni tax-xandir, iżda ma ghandhiex tiġi wżata għax-xandir, xandir mill-ġdid jew ghal xi skop iehor mingħajr il-kunsens tal-proprjetarju tad-drittijiet ta' l-awtur relattivi fix-xoghol;

(n) il-komunikazzjoni lill-pubbliku ta' xoghol, f'post fejn ma jithallas ebda dritt ta' ammissjoni relattivament ghal dik il-komunikazzjoni, minn xi *club* li l-iskop tiegħu ma jkunx li jagħmel qligh;

(o) kull użu ta' xi xoghol maghmul għall-iskop ta' proċedimenti ġudizzjarji jew ta' xi rapport ta' xi proċediment bhal dak;

(p) fil-każ ta' programm għall-*computer*, l-osservazzjoni, l-istudju jew l-ittestjar tal-funzjonament tal-programm mill-utent li jkollu liċenza ghal dak l-iskop sabiex jistabbilixxi l-ideat u l-prinċipji li jkunu l-bażi ta' kull element tal-programm jekk dan isir filwaqt li jkunu qeghdin jitwettqu xi attijiet ta' *loading*, wiri, thaddim, trasmissjoni jew hżin tal-programm li jkollu jedd jagħmel;

(q) fil-każ ta' programm għall-*computer*, ir-riproduzzjoni mill-utent li jkollu liċenza ghal dak l-iskop tal-*code* u tat-traduzzjoni tal-forma tiegħu li jkunu indispensabbli biex jinkiseb it-tagħrif mehtieg biex tintlahaq l-interoperabilità ta' programm għall-*computer* li jkun ġie originat indipendentement ma' programmi ohra, sakemm dawn l-attijiet jinżammu biss għall-partijiet tal-programm originali li huma mehtieġa biex tinkiseb l-interoperabilità u t-tagħrif mehtieg biex tinkiseb l-interoperabilità ma kienx qabel disponibbli bla ebda xkiel lill-utent li jkollu liċenza ghal dak l-iskop;

Iżda kull tagħrif li jinkiseb mir-riproduzzjoni tal-*code* u t-traduzzjoni tal-forma ta' programm għall-*computer* li jsir taht dan il-paragrafu ma ghandhomx:

(i) jintużaw ghal skopijiet li ma jkunux dawk li tinkiseb l-interoperabilità tal-programm għall-*computer* li jkun gie orġinat indipendentement;

(ii) jinghataw lil persuni oħra hliet meta dan ikun mehtieg għall-interoperabilità tal-programm għall-*computer* li jkun gie orġinat indipendentement;

(iii) jintużaw għall-iżvilupp, produzzjoni jew *marketing* ta' programm għall-*computer* li jkun sostanzjalment simili fl-espressjoni tiegħu għall-programm oriġinali, jew għal kull att iehor li jkun jikser id-drittijiet ta' l-awtur;

(r) l-ghemil ta' xi kopja jew ta' *back-up copy*, it-traduzzjoni, adattament, arrangament u kull alterazzjoni oħra ta' programm għall-*computer* u r-riproduzzjoni tar-riżultati ta' dan, sakemm dan ikun mehtieg għall-utent li jkollu liċenza għal dak l-iskop biex jagħmel użu sew tal-programm skond l-iskop tiegħu intiż, inkluża t-tiswija ta' żbalji, u d-dritt ta' l-utent li jkollu liċenza għal dak l-iskop li jagħmel *back-up copy* ta' programm għall-*computer* ma jistax ikun ristrett jew eskluż permezz ta' kuntratt sakemm dan ikun mehtieg għall-użu ta' dak il-programm għall-*computer*;

(s) fil-każ ta' *database*, it-twettiq ta' dawk l-attijiet li jkunu normalment mehtieġa sabiex l-utent li jkollu liċenza għal dak l-iskop jikseb aċċess għall-kontenut tad-*database* u l-użu normali tagħha, għar-rigward tad-*database* kollha jew parti minnha li l-utent ikollu liċenza juża u kull provvediment kuntrattwali li jmur kontra dak li jkun preskritt f'dan il-paragrafu jkun null u bla ebda effett;

(t) fil-każ ta' *database*, kull użu li jkun mehtieg għall-ghanijiet tas-sigurezza pubblika jew għall-ghanijiet ta' proċedura amministrattiva, sal-limitu ġustifikat b'dak l-ghan.

Drittijiet ta' l-awtur fuq xogħol ta' arkitettura.

10. Id-drittijiet ta' l-awtur fuq xogħol ta' arkitettura għandhom jinkludu wkoll id-dritt esklużiv fuq l-awtorizzazzjoni jew il-prevenzjoni ta' l-erezzjoni ta' xi bini li jirriproduċi x-xogħol kollu jew parti sostanzjali minnu sew fil-forma tiegħu oriġinali sew f'xi forma li tkun rikonossibbilment derivata mill-oriġinali:

Iżda d-drittijiet ta' l-awtur fuq xi xogħol bħal dak ma għandhomx jinkludu d-dritt fuq l-awtorizzazzjoni jew il-prevenzjoni tar-rikostruzzjoni, fl-istess stil ta' l-oriġinali, ta' bini li għalih dawk id-drittijiet ta' l-awtur jiriferixxu jew id-dritt fuq l-awtorizzazzjoni jew il-prevenzjoni tas-self b'renta jew il-kiri ta' bini jew xogħlijiet ta' arti applikata.

11. (1) Id-drittijiet ta' l-awtur mogħtija bl-artikoli 4, 5 u 6 ta' dan l-Att ikunu inizjalment ta' l-awtur jew tal-ko-awturi:

L-ewwel
proprietarju tad-
drittijiet ta' l-awtur.

Izda fil-każ ta' programmi għall-*computers* u *databases* fejn xogħol isir filwaqt li l-awtur ikun impjegat, fl-eżekuzzjoni ta' dmirijietu jew fuq struzzjonijiet li jingħatawlu mill-prinċipal tiegħu, id-drittijiet ekonomiċi mogħtija bid-drittijiet ta' l-awtur għandhom jitqiesu bħala li jkunu trasferiti għalghand il-prinċipal ta' l-awtur, bla hsara għal kull ftehim bejn il-partijiet li jkun jeskludi jew jillimita trasferiment bħal dak. Għar-rigward ta' xogħlijiet ohra eliġgibbli għad-drittijiet ta' l-awtur, f'dawk iċ-ċirkostanzi, bla hsara għal kull ftehim għall-kuntrarju bejn il-partijiet, id-drittijiet ta' l-awtur għandhom dejjem ikunu fl-awtur jew fil-ko-awturi.

(2) Bla hsara għall-provvediment ta' l-ahhar subartikolu qabel dan -

(a) l-isem fuq xogħol li hu maħsub li jkun l-isem ta' l-awtur tiegħu għandu jitqies bħala tali, jekk ma jigix ippruvat il-kuntrarju;

(b) fil-każ ta' xogħol anonimu jew bi psewdonimu, dak li jkun ippubblikat u li ismu jkun jidher fuq ix-xogħol bħala li għandu jitqies li jkun, jekk ma jigix ippruvat il-kuntrarju, ir-rappreżentant legali ta' l-awtur anonimu jew bi psewdonimu u jkollu dritt li jeżerċita u jipprotegi d-drittijiet ta' l-awtur skond dan l-Att.

TAQSIMA III: DRITTIJET MORALI TA' L-AWTURI

12. (1) Ebda persuna, inkluż iċ-ċessjonarju ta' drittijiet ta' l-awtur jew detentur tal-liċenza bis-sahha tagħhom, ma tkun tista' mingħajr il-kunsens ta' l-awtur, timmutila, timmodifika, tghawweg jew tassogġetta għal xi azzjoni ohra ta' tmaqdir xi xogħol waqt il-perjodu tiegħu ta' drittijiet ta' l-awtur b'mod detrimental għall-unur jew għar-reputazzjoni ta' l-awtur.

L-awtur għandu
dritt jipprojbixxi
l-mutillar, modifika,
tagħwig jew
tmaqdir ta' xi
xogħol.

(2) L-awtur ta' xi xogħol eliġgibbli għad-drittijiet ta' l-awtur għandu, sakemm jiskadu dawk id-drittijiet ta' l-awtur, b'żjieda mad-drittijiet ta' l-awtur mogħtija għar-rigward ta' dak ix-xogħol, kif ukoll f'dawk il-każijiet meta d-drittijiet ta' l-awtur jkunu ġew trasmessi b'ċessjoni jew b'dispożizzjoni testamentarja, jgawdi d-dritt morali -

(a) li jivvanta li huwa l-awtur oriġinali tax-xogħol tiegħu, b'mod partikolari, tad-dritt li ismu kemm jista' jkun prattikabbli, jigi indikat b'mod prominenti fuq il-kopji, u f'dak li jkollu x'jaqsam ma' xi użu pubbliku ta' dak ix-xogħol; jew

(b) li ismu ma jġix indikat fuq il-kopji, u f'dak li jkollu x'jaqsam ma' xi użu pubbliku, tax-xogħol tiegħu, jew li l-pseudonimu tiegħu jiġi hekk indikat:

Iżda matul il-hajja ta' l-awtur ta' xi xogħol, dawk id-drittijiet hawn aktar qabel imsemmija ma jkunux jistgħu jiġu trasmessi legittimament.

(3) Mal-mewt ta' l-awtur -

(a) id-dritt jgħaddi lil dik il-persuna li huwa jista' permezz ta' dispozizzjoni testamentarja speċifikament jindika, b'dan illi meta dik il-persuna tmut id-dritt jgħaddi għalghand is-suċċessur tagħha;

(b) jekk ma jkunx hemm indikazzjoni bhal dik iżda d-drittijiet ta' l-awtur fuq ix-xogħol ikunu jagħmlu parti mill-eredità tiegħu, id-dritt jgħaddi għalghand il-persuna għand min jgħaddu d-drittijiet ta' l-awtur;

(ċ) jekk jew daqskemm id-dritt ma jgħaddix taht il-paragrafu (a) jew il-paragrafu (b) dan ikun eżerċitabbli mill-proprjetarji tad-drittijiet ta' l-awtur.

TAQSIMA IV: DRITTIJET VIĊINI

Ix-xorta ta' drittijiet ta' artisti.

13. Artisti għandu jkollhom id-dritt esklużiv li jawtorizzaw jew jipprojbixxu l-għemil f'Malta ta' kull wiehed minn dawn l-attijiet li ġejjin:

(a) il-fissazzjoni tal-wirjiet tagħhom;

(b) ir-riproduzzjoni temporanja jew permanenti, sew diretta sew mhux diretta, b'kull mezz li jkun u f'kull forma, kollha kemm hi jew parti minnha, ta' fissazzjoni tal-wirjiet tagħhom;

(ċ) is-self b'renta u l-kiri tal-wirjiet fissi tagħhom;

(d) id-distribuzzjoni tal-wirjiet oriġinali ffissati f'fonogrammi u ta' kopji tagħhom;

(e) li jagħmlu disponibbli għall-pubbliku l-fissazzjoni tal-wirjiet tagħhom, b'mezzi bil-fil jew minghajr fili, b'dak il-mod li l-membri tal-pubbliku jistgħu ikollhom aċċess għalihom minn post u hin li huma jagħzlu individwalment;

(f) ix-xandir u l-komunikazzjoni lill-pubbliku tal-wirjiet tagħhom, hlief meta l-wirja tkun fiha nnifisha sa minn qabel wirja li tixxandar jew li ssir minn fissazzjoni.

14. Id-drittijiet mogħtija b'dan l-artikolu għandhom idumu għal perjodu ta' hamsin sena minn tmiem is-sena li fiha l-fissazzjoni tal-wirja tkun għet ippubblikata legittimament għall-ewwel darba jew ikkomunikata lill-pubbliku legittimament għall-ewwel darba, skond liema tiġi l-aktar kmieni jew fin-nuqqas ta' tali pubblikazzjoni jew komunikazzjoni lill-pubbliku minn tmiem is-sena li fiha tkun għet ipprezentata għall-ewwel darba.

Perjodu ta' protezzjoni għad-drittijiet ta' artisti.

15. Il-produtturi ta' registrazzjonijiet ta' smiġh għandhom, għar-rigward tar-registrazzjonijiet ta' smiġh tagħhom, u produtturi ta' l-ewwel fissazzjonijiet ta' xogħlijiet awdjoviżivi, għar-rigward ta' l-original u ta' kopji tax-xogħlijiet awdjoviżivi tagħhom, ikollhom id-dritt esklużiv li jawtorizzaw jew jipprojbixxu:

Ix-xorta ta' drittijiet ta' produtturi.

(a) ir-riproduzzjoni temporanja jew permanenti, sew diretta sew mhux diretta, b'kull mezz li jkun u f'kull forma, kollha kemm hi jew parti minnha;

(b) is-self b'renta u l-kiri;

(c) id-distribuzzjoni;

(d) li jagħmlu disponibbli għall-pubbliku b'mezzi bil-fil jew mingħajr fili b'dak il-mod li l-membri tal-pubbliku jistgħu ikollhom aċċess għalihom minn post u hin li huma jagħzlu individwalment.

16. Id-drittijiet mogħtija b'dan l-artikolu fuq registrazzjonijiet tas-smiġh u xogħlijiet awdjoviżivi għandhom idumu għal perjodu ta' hamsin sena minn tmiem is-sena li fiha r-registrazzjonijiet tas-smiġh jew l-ewwel fissazzjoni tax-xogħol awdjoviżiv tkun għet ippubblikata legalment jew ikkomunikata lill-pubbliku legalment għall-ewwel darba, skond liema tiġi l-aktar kmieni jew fin-nuqqas ta' tali pubblikazzjoni jew komunikazzjoni lill-pubbliku minn tmiem is-sena li fiha tkun saret il-fissazzjoni għall-ewwel darba.

Perjodu ta' protezzjoni għad-drittijiet ta' produtturi.

17. (1) Organizzazzjonijiet tax-xandir għandu jkollhom id-dritt esklużiv li jawtorizzaw jew jipprojbixxu l-ghemil f'Malta ta' kull wieħed minn dawn l-attijiet li ġejjin:

Ix-xorta ta' drittijiet tax-xandara.

(a) il-fissazzjoni tax-xandir tagħhom, jew tat-trasmissjonijiet inizjali tagħhom fuq il-cable;

(b) ir-riproduzzjoni temporanja jew permanenti, sew diretta sew mhux diretta, b'kull mezz li jkun jew forma, kollha kemm hi jew parti minnha, ta' fissazzjoni tax-xandir tagħhom jew tat-trasmissjonijiet inizjali tagħhom fuq il-*cable* kif indikat fil-paragrafu (a) hawn aktar qabel;

(c) id-distribuzzjoni tal-fissazzjoni tax-xandir tagħhom jew tat-trasmissjonijiet inizjali tagħhom fuq il-*cable* kif indikat fil-paragrafu (a) hawn aktar qabel;

(d) ix-xandir mill-ġdid tax-xandir tagħhom kif ukoll il-komunikazzjoni lill-pubbliku tax-xandiriet tagħhom jekk dik il-komunikazzjoni ssir f'postijiet aċċessibbli għall-pubbliku bi hlas ta' dritt ta' ammissjoni;

(e) li jagħmlu disponibbli għall-pubbliku, l-fissazzjonijiet tax-xandir tagħhom jew tat-trasmissjonijiet inizjali tagħhom fuq il-*cable* kif indikat fil-paragrafu (a) hawn aktar qabel, b'mezzi bil-fil jew mingħajr fili, b'dak il-mod li l-membri tal-pubbliku jistgħu ikollhom aċċess għalihom minn post u hin li huma jagħzlu individwalment.

(2) Organizzazzjoni tax-xandir ma jkollhiex id-dritt li hemm ipprovdut fil-paragrafu (a) tas-subartikolu (1) hawn aktar qabel meta din semplicement terga' tittrasmetti bil-*cable* ix-xandiriet ta' organizzazzjonijiet tax-xandir.

Perjodu ta' protezzjoni għad-drittijiet ta' xandara.

18. Id-drittijiet mogħtija b'dan l-artikolu għandhom idumu għal perjodu ta' hamsin sena minn tmiem is-sena li fiha x-xandira tkun għet trasmessa għall-ewwel darba sew bil-fil sew fl-arja, kemm bil-*cable* kemm bis-satellita.

Rimunerazzjoni għal artisti u produtturi ta' registrazzjonijiet tas-smigh.

19. Meta registrazzjoni tas-smigh publikata għal skopijiet kummerċjali jew riproduzzjoni ta' dik ir-registrazzjoni tas-smigh tintuza sew direttament sew mhux direttament ghax-xandir b'mezzi mingħajr fili jew għal xi komunikazzjoni lill-pubbliku, għandha tithallas rimunerazzjoni unika ġusta mill-utent lill-artisti u lill-produtturi tar-registrazzjoni tas-smigh involuta sabiex din tinqasam b'mod indaqs bejniethom. Dak il-hlas għandu jsir lil *collecting society* li tkun tirrappreżenta sew lill-artisti sew lill-produtturi ta' registrazzjonijiet tas-smigh jew, fin-nuqqas ta' *collecting society* bhal dik, lill-produttur ta' registrazzjonijiet tas-smigh li jkollu l-obbligu li jqassam nofs ir-rimunerazzjoni lill-artisti.

Eżawriment tad-dritt għad-distribuzzjoni.

20. Id-dritt għad-distribuzzjoni għar-rigward tal-fissazzjonijiet ta' wirjiet, registrazzjonijiet tas-smigh, xoghlijiet originali u kopji ta'

xogħlijiet awdjoviżivi u fissazzjonijiet ta' xandiriet mogħtija bis-subartikoli ta' qabel dan l-artikolu lil artisti, produtturi ta' reġistrazzjonijiet tas-smigh, produtturi ta' l-ewwel fissazzjonijiet ta' xogħlijiet awdjoviżivi u organizzazzjonijiet tax-xandir rispettivament għandhom jiġu eżawriti bl-ewwel bejgħ f'Malta tax-xogħlijiet originali jew tal-kopji ta' dawk ix-xogħlijiet għar-rigward ta' dak ix-xogħol originali partikolari jew kopja tiegħu, meta dak il-bejgħ isir mill-proprjetarju tad-dritt viċin jew bil-kunsens tiegħu.

21. Id-dispożizzjonijiet tal-paragrafi (a), (b), (e), (f), (g), (i), (j), (k), (l) u (m) ta' l-artikolu 9 ta' dan l-Att għandhom japplikaw għad-drittijiet viċini mogħtija b'dan l-artikolu bl-istess mod bħalma japplikaw għad-drittijiet ta' l-awtur fuq xogħol letterarju, mużikali jew artistiku, jew awdjoviżiv jew *database*.

Eċċezzjonijiet għal drittijiet viċini.

22. Drittijiet viċini mogħtija b'din it-Taqsima għandhom japplikaw biss dwar xogħlijiet -

Min jikkwalifika għal protezzjoni taht drittijiet viċini.

(a) li tagħhom l-artist, il-produttur jew ix-xandar ikunu -

(i) individwu li jkun ċittadin ta' Malta jew ikun domiciljat jew proprjetarju permanenti f'Malta jew fi Stat fejn dawk ix-xogħlijiet ikunu protetti bi drittijiet viċini taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

(ii) korp ta' persuni jew soċjetà kummerċjali kostitwita, mwaqqfa, registrata u vestita b'personalità ġuridika taht il-liġijiet ta' Malta jew ta' Stat fejn dawk ix-xogħlijiet huma protetti bi drittijiet viċini taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

jew

(b) li jintgħamlu, jiġu għall-ewwel darba ppubblikati, mxandra jew komunikati lill-pubbliku f'Malta jew fi Stat li fih dawk ix-xogħlijiet ikunu protetti bi drittijiet viċini taht ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

jew

(ċ) li jintgħamlu minn jew taht id-direzzjoni jew il-kontroll tal-Gvern ta' Malta kif ukoll ta' dawk il-gvernijiet ta' Stati oħra, korpi internazzjonali jew organizzazzjonijiet inter-governamentali hekk kif jista' jiġi preskritt.

TAQSIMA V: DRITTLIJET MORALI TA' ARTISTI

Jiġu identifikati d-drittijiet ta' artisti u jiġu pprojbiti d-distorsjoni, mutilazzjoni u modifikazzjoni ta' wirjiet.

23. (1) Indipendentement mid-drittijiet ekonomiċi ta' l-artist, kif ukoll wara t-trasferiment ta' dawk id-drittijiet, l-artist ghandu sa żmien l-iskadenza tad-drittijiet ekonomiċi, ghar-rigward tal-wirjiet tiegħu u tas-smigh diretti jew ta' wirjiet iffissati fuq fonogrammi, ikollu d-dritt li jitlob li jiġi identifikat bhala l-artist tal-wirjiet tiegħu, hlief meta minhabba fl-użu li jsir mill-wirjiet dan ikollu jithalla barra, u li jipprojbixxi kull distorzjoni, mutilazzjoni jew modifikazzjoni ohra tal-wirjiet tiegħu li kieku jkunu ta' preġudizzju għall-fama tiegħu:

Iżda matul il-hajja ta' l-artist ma jkunux jistgħu jiġu trasmessi dawk id-drittijiet morali hawn aktar qabel imsemmija.

(2) Mal-mewt ta' l-artist -

(a) id-dritt jghaddi għal għand dik il-persuna li hu jista' permezz ta' dispożizzjoni testamentarja speċifikament jordna, b'dan illi mal-mewt ta' dik il-persuna d-dritt jghaddi għal għand is-suċċessur tagħha;

(b) jekk ma jkunx hemm ordni bħal dik iżda d-drittijiet ta' l-awtur fix-xogħol involut ikunu jagħmlu parti mill-eredità tiegħu, id-dritt jghaddi għal għand il-persuna li għandha jghaddu d-drittijiet ta' l-awtur.

TAQSIMA VI: TRASFERIMENT TA' DRITTLIJET TA' L-AWTUR U TA' DRITTLIJET VIĊINI

Ċessjonijiet u licenzi.

24. (1) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, id-drittijiet ta' l-awtur u drittijiet viċini ikunu trasmessi b'ċessjoni, bis-saħħa tal-Liġi jew b'dispożizzjoni testamentarja bhala proprjetà mobbli.

(2) Ċessjoni jew dispożizzjoni testamentarja ta' drittijiet ta' l-awtur jew ta' drittijiet viċini tista' tkun limitata b'mod li tapplika għal parti biss mill-attijiet li l-proprjetarju tad-drittijiet ta' l-awtur jew ta' drittijiet viċini għandu d-dritt esklużiv li jawtorizza jew li jipprevjeni, jew għal parti biss tal-perjodu tad-drittijiet ta' l-awtur jew drittijiet viċini, jew għal pajjiz speċifikat jew area ohra geografika.

(3) Meta awtur ghar-rigward tal-original jew kopja tax-xogħol tiegħu jew artist ghar-rigward tal-fissazzjoni tal-wirja tiegħu

jassenja d-dritt esklużiv tiegħu biex jawtorizza jew jipprevjeni l-kiri tagħhom lill-produttur tar-registrazzjoni bi smiġh jew lill-produttur tax-xogħol awdjoviżiv li jkun fih ix-xogħol ta' l-awtur jew il-wirja ffixxata ta' dak l-artist, dak l-awtur jew dak l-artist għandhom jibqgħu jzommu d-dritt li jiksbu individwalment jew permezz ta' *collecting society* rimunerazzjoni ġusta għall-kiri ta' dik ir-registrazzjoni bi smiġh jew oriġinal jew kopja ta' dak ix-xogħol awdjoviżiv mingħand il-produttur involut u dak id-dritt ma jkunx jista' jiġi miċhud. Fin-nuqqas ta' ftehim dwar ir-rimunerazzjoni li jkollha tithallas taht dan is-subartikolu, jkun il-Bord li jistabbilixxi kemm għandha tkun dik ir-rimunerazzjoni.

(4) Bla hsara għad-dispożizzjonijiet ta' l-artikolu 52 ta' dan l-Att, ebda ċessjoni ta' drittijiet ta' l-awtur jew ta' drittijiet viċini u ebda liċenza biex jintgħamel att li l-għemil tiegħu huwa kkontrollat minn drittijiet ta' l-awtur jew minn drittijiet viċini ma jkollha effett jekk ma ssirx bi ftehim bil-miktub bejn il-partijiet:

Izda meta jiġi konkluż kuntratt bejn artist u produttur ta' xogħlijiet awdjoviżivi għar-rigward tal-produzzjoni ta' xogħol awdjoviżiv, l-artist għandu jitqies bhala li jkun assenja lill-produttur id-drittijiet esklużivi tiegħu fuq il-fissazzjoni tal-wirja tiegħu, kemm-il darba ma jiġix miftiehem xort'ohra, bla hsara biss għad-dritt li ma jistax jincahad ta' l-artist għal rimunerazzjoni ġusta li tithallas malli jsir il-kuntratt mill-produttur lill-artist jew inkella jekk dan ikun hekk jippreferi lil *collecting society* li tkun tirrappreżentah, liema rimunerazzjoni għandha tiġi stabbilita, fin-nuqqas ta' ftehim bejn il-partijiet, mill-Bord.

Izda wkoll, meta jiġi konkluż kuntratt bejn awtur ta' xogħol awdjoviżiv jew l-awturi ta' xogħlijiet sottostanti li jintużaw bhala s-sies għax-xogħol awdjoviżiv u l-produttur tax-xogħol awdjoviżiv li jkun jirrigwarda l-produzzjoni ta' dak ix-xogħol awdjoviżiv, dawk l-awturi għandhom jitqiesu bhala li jkunu assenjaw lill-produttur id-drittijiet esklużivi tagħhom fuq ix-xogħlijiet tagħhom li jkollhom drittijiet ta' l-awtur, kemm-il darba ma jiġix miftiehem xort'ohra, bla hsara biss għad-dritt li ma jistax jincahad ta' l-awturi għal rimunerazzjoni ġusta li tithallas mal-konklużjoni tal-kuntratt mill-produttur lill-awtur individwalment jew inkella jekk l-awtur ikun hekk jixtieq, lil *collecting society* li tkun tirrappreżentah, liema rimunerazzjoni għandha tiġi stabbilita, fin-nuqqas li l-partijiet jiftehmu bejnithom, mill-Bord.

(5) Ċessjoni jew liċenza ta' drittijiet ta' l-awtur mogħtija minn ko-awtur jew ċessjoni jew liċenza ta' drittijiet viċini mogħtija minn ko-detentur tad-dritt ikollha effett bħallikieku tkun għet mogħtija mill-ko-awturi l-ohra jew mill-ko-detenturi tad-drittijiet rispettivament:

Iżda, meta xi ko-awtur iehor fil-każ ta' drittijiet ta' l-awtur jew ko-detentur tad-dritt fil-każ ta' drittijiet viċini ma jkunx sodisfatt mill-pattijiet li bihom tkun giet mogħtija dik iċ-ċessjoni jew liċenza, huwa jista', fi żmien tliet xhur mill-ġurnata li fiha jkunu ġew komunikati lilu bil-miktub l-imsemmija pattijiet, japplika lill-Bord biex jiddeċiedi dwar il-pattijiet li l-Bord iqis xierqa u raġonevoli.

(6) Ċessjoni, liċenza jew dispożizzjoni testamentarja tista' b'mod effettiv tiġi mogħtija jew tiġi magħmula dwar xogħol futur jew xogħol eżistenti li fuqu ma jkunux għadhom jeżistu d-drittijiet ta' l-awtur jew drittijiet viċini, u d-drittijiet ta' l-awtur prospettivi jew id-drittijiet viċini prospettivi fuq xi xogħol tali jkunu trasmisibbli bhala proprjetà mobbli:

Iżda fil-każ ta' drittijiet ta' l-awtur dik iċ-ċessjoni jew liċenza ma għandhiex titqies li tinkludi drittijiet ta' l-awtur li skond is-subartikolu (1) ta' l-artikolu 11 ta' dan l-Att ikunu ta' min jimpjega l-awtur, jekk il-pattijiet ma jinkluduhomx espressament.

(7) Dispożizzjoni testamentarja tal-materjal li fuqu xogħol ikun inkiteb għall-ewwel darba jew ġie xort'ohra registrat għandha, kemm-il darba t-testatur ma jkunx ipprovda xort'ohra, titqies li tinkludi kull drittijiet ta' l-awtur jew drittijiet viċini jew drittijiet ta' l-awtur prospettivi jew drittijiet viċini prospettivi fuq ix-xogħol li jkunu tal-mejjet.

TAQSIMA VII: DRITT SUI GENERIS DWAR DATABASES

Xorta ta' dritt
sui generis
dwar databases.

25. Minkejja d-dispożizzjonijiet ta' l-artikolu 7 (1) ta' dan l-Att, l-oriġinarju ta' *database* li jista' juri li kien hemm, sew fil-kwalità sew fil-kwantità, investment sostanzjali jew fil-ksib, verifika jew preżentazzjoni tal-kontenut tad-*database* ikollu, irrispettivament mill-eligibilità ta' dik id-*database* jew tal-kontenut tagħha għall-protezzjoni bid-drittijiet ta' l-awtur jew bi drittijiet ohra, id-dritt li jawtorizza jew jipprojbixxi atti ta' estrazzjoni jew utilizzazzjoni mill-ġdid tal-kontenut tagħha, kemm kollu kemm hu kemm f'parti sostanzjali minnu, valutat sew fil-kwalità sew fil-kwantità.

Eċċezzjonijiet
għad-dritt
sui generis
dwar databases.

26. (1) L-oriġinarju ta' *database* li tintgħamel disponibbli għall-pubbliku b'liema mod ikun ma jistax jipprevjeni utent tad-*database* li jkollu liċenza milli jeffettwa estrazzjoni jew utilizzazzjoni mill-ġdid ta' partijiet mhux sostanzjali tal-kontenut tagħha, valutat sew fil-kwalità sew fil-kwantità, għal liema skop ikun, sakemm l-utent li jkollu liċenza ma jwettaqx atti li jkunu jikkonfliggu ma' l-esplojtazzjoni normali tad-*database* jew jippreġudikaw b'mod mhux raġonevoli l-interessi legittimi ta' l-oriġinarju tad-*database* jew b'kull mod li jkun jikkawżaw preġudizzju għad-detentur tad-drittijiet ta' l-awtur jew drittijiet viċini

ghar-rigward ta' xoghlijiet jew is-sugġett kontenut fid-*database* u kull provvediment kontrattwali li jmur kontra dan il-proviso jkun null u bla ebda effett:

Iżda l-estrazzjoni u l-utilizzazzjoni mill-ġdid ripetuti u sistematiċi ta' partijiet mhux sostanzjali tal-kontenut tad-*database* li jkunu jimplikaw attijiet li jikkonfligġu ma' esplojtazzjoni normali ta' dik id-*database* jew li jippreġudikaw b'mod mhux raġonevoli l-interessi legittimi tal-originarju tad-*database*, ma jkunux permessi.

(2) Minkejja l-artikolu 25, utent li jkollu licenza jista', minghajr l-awtorizzazzjoni ta' l-originarju tad-*database* li tkun disponibbli għall-pubbliku b'liema mod ikun, jeffettwa estrazzjoni jew utulizzazzjoni mill-ġdid ta' parti sostanzjali mill-kontenut tagħha għal dawn ir-raġunijiet li ġejjin:

(a) l-estrazzjoni għal użu privat fil-każ ta' *database* mhux elettroniku;

(b) l-estrazzjoni bil-ghan ta' illustrazzjoni fit-tagħlim jew fir-riċerka xjentifika sal-limitu ġustifikat bl-ghan mhux kummerċjali li għandu jinkiseb sakemm tiġi indikata l-oriġni;

(c) l-estrazzjoni jew l-utilizzazzjoni mill-ġdid għall-ghanijiet ta' sigurtà pubblika jew ta' xi proċedura amministrattiva jew ġudizzjarja.

27. Id-dritt li hemm provdut dwaru fl-artikolu 25 jintemm wara hmistax il-sena mill-ewwel ta' Jannar tas-sena li tiġi wara d-data tat-tmiem tal-originar tad-*database* jew, jekk dan jitqiegħed disponibbli għall-pubbliku b'liema mod ikun qabel l-iskadenza ta' dak il-perjodu, dak id-dritt għandu jintemm wara l-iskadenza ta' hmistax il-sena mill-ewwel ta' Jannar tas-sena li tiġi minnufih wara d-data meta d-*database* kienet saret għall-ewwel darba disponibbli għall-pubbliku:

Perjodu ta' protezzjoni għad-dritt *sui generis* dwar *databases*.

Iżda kull bidla sostanzjali, valutata sew fil-kwalità sew fil-kwantità, fil-kontenut ta' *database*, inkluża kull bidla sostanzjali li tirriżulta mill-gabra shiħa ta' żjidiet, taħsriet jew bidliet li jsiru wara, li kieku jirriżultaw fid-*database* li jitqies bhala investment sostanzjalment ġdid, valutat fil-kwalità u fil-kwantità, għandhom jagħtu lok għall-originar ta' *database* ġdida li minn dak il-waqt ikollha jedd għall-perjodu ta' protezzjoni tagħha nnifisha li jkun ta' hmistax il-sena.

28. Dak id-dritt li jista' jiġi assenjat jew konċess taht licenza kontrattwali bla hsara għad-dispożizzjonijiet ta' l-artikolu 24 ta' dan l-Att għandu jkun minghajr preġudizzju għal kull dritt li jeżisti dwar il-kontenut tad-*database*.

Assenjament u licenzi.

Kwalifika għal protezzjoni għad-dritt *sui generis* dwar *databases*.

29. Id-dritt mogħti b'dan l-artikolu għandu jkun japplika biss għal *database* –

(a) li l-originarju tiegħu jew id-detentur tad-dritt tiegħu ikun filwaqt li tintgħamel id-*database* -

(i) individwu li jkun ċittadin ta' Malta, jew li jkun domiciljat jew permanentement residenti f'Malta jew fi Stat li fih dritt *sui generis* dwar *databases* bħal dak ikun protett taħt ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

(ii) korp ta' persuni jew soċjetà kummerċjali kostitwita, mwaqqfa, reġistrata u vestita b'personalità ġuridika taħt il-liġijiet ta' Malta jew ta' xi Stat li fih dritt *sui generis* dwar *databases* bħal dak ikun protett taħt ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

jew

(b) li tintgħamel jew li ssir għall-ewwel darba disponibbli għall-pubbliku f'Malta jew fi Stat li fih dritt *sui generis* dwar *databases* bħal dak ikun protett taħt ftehim internazzjonali li Malta tkun ukoll imsieħba fih;

jew

(c) li tintgħamel minn, jew taħt id-direzzjoni jew kontroll tal-Gvern ta' Malta kif ukoll ta' dawġ il-gvernijiet ta' Stati oħra, korpi internazzjonali jew organizzazzjonijiet inter-governamentali oħra hekk kif jiġi preskritt.

Tifsira ta' estrazzjoni u ta' utilizzazzjoni mill-ġdid.

30. (1) Għall-għanijiet ta' din it-Taqsima "estrazzjoni" tfisser it-trasferiment permanenti jew temporanju tal-kontenut kollu ta' *database* jew ta' parti sostanzjali minnu għal *medium* ieħor b'kull mezz jew forma li jkunu filwaqt li "użu mill-ġdid" tfisser kull għamla li tagħmel disponibbli mill-ġdid lill-pubbliku il-kontenut ta' *database* kollu jew ta' parti sostanzjali minnu bid-distribuzzjoni ta' kopji, b'kirjiet, permezz ta' trasmissjonijiet *on-line* jew għamliet oħra ta' trasmissjoni:

(2) Iżda s-self pubbliku ma għandux jitqies li jkun att ta' estrazzjoni jew ta' użu mill-ġdid.

Eżawriment ta' dritt ta' bejgħ mill-ġdid.

31. L-ewwel bejgħ f'Malta, ta' kopja ta' *database* mid-detentur ta' dritt jew bil-kunsens tiegħu għandu jeżawrixi l-jedd għall-kontroll tal-bejgħ mill-ġdid ta' dik il-kopja.

**TAQSIMA VIII: DRITT SUI GENERIS DWAR TOPOGRAFIJA
TA' PRODOTTI MINN SEMIKONDUTTUR**

32. L-originarji ta' topografiji ta' prodotti minn semikonduttur u s-suċċessuri tagħhom fit-titolu għandu jkollhom id-dritt esklużiv li jawtorizzaw jew jipprevjenu f'Malta r-riproduzzjoni tat-topografija u l-esplojtazzjoni kummerċjali jew l-importazzjoni għall-iskop ta' esplojtazzjoni kummerċjali tat-topografija jew ta' prodott minn semikonduttur manifatturat bl-użu tat-topografija.

Xorta ta' dritt *sui generis* dwar topografiji ta' prodotti minn semikonduttur.

33. Id-dritt mogħti bl-artikolu 32 ma għandux jipprevjeni:

Eċċezzjonijiet għad-dritt dwar topografija.

(a) ir-riproduzzjoni privata ta' topografija bi skopijiet li mhumiex kummerċjali;

(b) ir-riproduzzjoni għall-iskop li jiġi analizzat, valutat jew għat-tagħlim tal-kunċetti, proċessi, sistemi jew teknikalitajiet inkorporati fit-topografija jew it-topografija nnifisha;

(ċ) xi att għar-rigward ta' topografija li tkun skond il-htigiet ta' l-artikolu 35 ta' dan l-Att u originata fuq il-bażi ta' analiżi u valutazzjoni ta' xi topografija oħra, li ssir b'mod konformi mal-paragrafu (b) preċedenti.

34. Meta topografija jew il-prodott minn semikonduttur ikunu tqieghdu fis-suq f'Malta, minn detentur ta' dritt jew bil-kunsens tiegħu, id-dritt esklużiv li tiġi awtorizzata jew prevjenuta l-esplojtazzjoni kummerċjali jew l-importazzjoni ta' dik it-topografija jew ta' dak il-prodott ta' semikonduttur għandu jiġi eżawrit.

Eżawriment għad-għad-dritt dwar topografija.

35. Id-dritt mogħti bl-artikolu 32 ta' dan l-Att għandu japplika biss għar-rigward ta' topografiji ta' prodotti minn semikonduttur li jkunu r-riżultat ta' l-isforz intellettuali ta' l-originarju nnifsu u ma jkunux xi haġa komuni fl-industrija tas-semikondutturi iżda ma għandhomx jestendu għal xi kunċett, proċess, sistema, teknika jew tagħrif fl-għamla ta' *code* li jkun inkorporat fit-topografija:

Applikazzjoni tad-dritt dwar topografija biss dwar l-isforz intellettuali tal-proprietarju nnifsu.

Iżda meta t-topografija ta' prodotti minn semikonduttur tkun tikkonsisti f'elementi li jkunu hwejjeġ komuni fl-industrija tas-semikondutturi, din għandha tkun protetta biss sal-limitu li l-kombinazzjoni ta' dawk l-elementi, mehuda flimkien, tkun tissodisfa l-kondizzjonijiet hawn aktar qabel imsemmija.

Kwalifika ghal protezzjoni għad-dritt dwar topografija.

36. Id-dritt mogħti bl-artikolu 32 għandu jkun japplika favur oriġinarju jew is-suċċessur tiegħu fit-titolu li jkun individwu li jkun ċittadin ta', jew li jkun domiciljat jew residenti permanenti f'Malta jew fi Stat li fih dritt *sui generis* bħalma hu dak mogħti bl-artikolu 32 dwar topografiji ta' prodotti minn semikonduttur ikun protett taħt xi ftehim internazzjonali li Malta tkun imsieħba wkoll fih.

Topografiji oriġinati matul l-impieg ta' persuna.

37. Meta topografija tinholq matul l-impieg ta' l-oriġinarju, fit-tweqqif ta' dmirijietu jew fuq istruzzjonijiet li jingħatawlu mill-prinċipal tiegħu, id-dritt esklużiv mogħti bl-artikolu 32 għandu jitqies li jkun trasferit lill-prinċipal ta' l-oriġinarju jew lis-suċċessur tiegħu fit-titolu, bla hsara għal kull ftehim bejn il-partijiet li jkun jeskludi jew jillimita dak it-trasferiment:

Izda l-prinċipal ta' l-oriġinarju jew is-suċċessur tiegħu fit-titolu għandhom ukoll jissodisfaw il-kriterji ta' l-artikolu 36 jew ikun korp ta' persuni jew soċjetà kummerċjali kostitwita, mwaqqfa, registrata u vestita b'personalità ġuridika taħt il-liġijiet ta' Malta jew ta' Stat li fih dritt *sui generis* bħal dak bħalma hu mogħti bl-artikolu 32 dwar topografiji ta' prodotti minn semikonduttur, ikun protett taħt ftehim internazzjonali li Malta tkun ukoll imsieħba fih.

Meta ma jkunx jeżisti dritt għall-protezzjoni.

38. Meta ebda dritt għall-protezzjoni bħalma hu mogħti bl-artikolu 32 ma jkun jeżisti favur oriġinarju jew il-prinċipal tiegħu skond l-artikoli 36 u 37, id-dritt għandu jkun japplika favur il-persuna jew is-suċċessur tagħha fit-titolu li, filwaqt li tissodisfa xi wahda mill-kondizzjonijiet imsemmija fil-proviso għall-artikolu 37, tkun l-ewwel li kummerċjalment tesplojta f'Malta, jew fi Stat li fih dritt *sui generis* bħal dak bħalma hu mogħti bl-artikolu 32 dwar topografiji ta' prodotti minn semikonduttur ikun protett taħt ftehim internazzjonali li Malta tkun ukoll imsieħba fih, topografija li tkun għadha ma gietx esplojtata kummerċjalment imkien ieħor fid-dinja u tkun giet esklużivament awtorizzata li tesplojta kummerċjalment it-topografija fil-firxa ta' dak it-territorju mill-persuna li jkollha jedd li tiddisponi minnha.

Assenjament u licenzi.

39. Id-dritt mogħti bl-artikolu 32 jista' jiġi assenjat jew mogħti taħt licenza kontrattwali bla hsara għad-dispożizzjonijiet ta' l-artikolu 24 ta' dan l-Att.

Perjodu ta' protezzjoni għal dritt dwar topografija.

40. Id-dritt mogħti bl-artikolu 32 għandu jibqa' jeżisti għal għaxar snin minn tmiem is-sena li fiha t-topografija ta' prodott minn semikonduttur tkun giet esplojtata kummerċjalment għall-ewwel darba x'imkien fid-dinja jew għal hmistax il-sena mill-ewwel fissazzjoni jew ghemil bil-*code* tat-topografija ta' prodott minn semikonduttur jekk din ma tkunx giet esplojtata kummerċjalment:

Iżda fil-każ meta l-perjodu ta' protezzjoni jibda ghaddej mid-data ta' l-ewwel esplotazzjoni kummerċjali fid-dinja pjuttost milli minn l-ewwel fissazzjoni jew ghemil bil-*code* tat-topografija, r-rimedji legali pprovdut dwarhom bis-subartikolu (1) ta' l-artikolu 43 ghandhom ukoll ikunu disponibbli favur detentur ta' dritt li jista' jgħib prova ghas-sodisfazzjon tal-Qorti li l-konvenut ikun bi frodi rriproduċa jew esplota kummerċjalment jew importa għal dak l-ghan topografija ta' prodott minn semikonduttur ukoll jekk dawk l-attijiet kienu graw qabel il-bidu tal-perjodu ta' protezzjoni u ta' l-eżistenza tad-dritt mogħti bl-artikolu 32.

41. Minkejja l-artikolu 32 u d-dispożizzjonijiet ta' l-artikolu 42, persuna jew is-suċċessur tagħha fit-titolu li tikseb prodott ta' semikonduttur ma għandhiex tkun prevjenuta milli tesplojta kummerċjalment lil dak il-prodott jekk filwaqt tal-ksib tiegħu hija ma kienetx taf u ma setgħetx raġonevolment tkun mistennija li tkun taf li kien hemm jeżisti f'dak ix-xogħol dritt *sui generis* bħalma hu mogħti bl-artikolu 32: Dritt għal rimunerazzjoni.

Iżda, fuq istanza tad-detentur tad-dritt jew tas-suċċesuri tiegħu fit-titolu, il-Qorti Ċivili, Prim'Awla, għandha tordna lil dik il-persuna li thallas kumpens xieraq lill-attur għar-rigward ta' l-attijiet li huwa jkun għamel wara li jkun sar jaf jew kellu tassew għaliex jahseb li l-prodott ta' semikonduttur ikun protett minn dritt *sui generis* bħal dak.

TAQSIMA IX: KONTRAVVENZJONIJIET

42. (1) Id-drittijiet ta' l-awtur, drittijiet viċini u drittijiet *sui generis* jiġu miksuru minn kull persuna li tagħmel jew iġġieghel lil haddiehor li jagħmel, mingħajr liċenza tal-proprjetarju jew detentur ta' dawk id-drittijiet, att li l-għemil tiegħu huwa kontrollat minn drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis*. Attijiet kontravvenjenti.

(2) Id-drittijiet ta' l-awtur, drittijiet viċini u drittijiet *sui generis* jiġu miksuru wkoll minn kull persuna li, mingħajr il-liċenza tal-proprjetarju tad-drittijiet ta' l-awtur jew detentur tad-dritt, timporta f'Malta, jekk mhux għall-użu tagħha personali u domestiku, jew tidistribwixxi f'Malta b'negozju, kiri jew mod iehor, jew b'negozju tesibixxi fil-pubbliku jew ikollha fil-pussess tagħha jew timmanifattura bil-ghan ta' kummerċ jew toffri jew tesponi għall-bejgħ jew kiri xi oġġett li dwaru jiġu miksuru d-drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis* skond l-aħħar subartikolu qabel dan.

(3) Id-drittijiet ta' l-awtur, drittijiet viċini u drittijiet *sui generis* jiġu miksuru wkoll minn kull persuna li, mingħajr il-liċenza tal-proprjetarju tad-drittijiet ta' l-awtur jew detentur tad-dritt, timporta f'Malta, ikollha filwaqt li tmexxi negozju jew tbiegħ jew tagħti b'kiri,

jew toffri jew tesponi għall-bejgħ jew għall-kiri oġġett li l-uniku għan tiegħu huwa li jiffaċilita t-tnehhija mhux awtorizzata jew iqarraq b'xi mezz tekniku li seta' gie applikat biex jiproteġi lil xi xogħol jew xi materjal iehor eliġibbli għad-drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis* taht dan l-Att kontra li jiġu kkupjati, murijin, segwiti, mismugħa jew perċepiti b'kull mod li jkun.

Responsabbiltà għal kontravvenzjoni ta' drittijiet ta' l-awtur, drittijiet viċini u drittijiet *sui generis*.

43. (1) Meta xi hadd jikser id-drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis* fuq xi xogħol huwa jkun jista', fuq istanza tal-proprjetarju ta' dawk id-drittijiet ta' l-awtur jew ta' detentur ta' drittijiet, jiġi kundannat mill-Qorti Ċivili, Prim'Awla għall-ħlas tad-danni jew għall-ħlas ta' penali li tiġi stabbilita skond skala ta' multi li tiġi preskritta mill-Ministru, kif dik il-Qorti, wara li tiegħu kont taċ-ċirkostanzi tal-każ, jidhrilha xieraq, u għar-restituzzjoni tal-qligh kollu li jkun sar mill-kontravvenzjoni tad-drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis*:

Izda meta l-konvenut iġib prova għas-sodisfazzjon tal-Qorti li fiż-żmien tal-kontravvenzjoni ma kienx jaf u ma setgħax ikun raġonevolment mistenni li jkun jaf li kienu jeżistu drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis* fuq ix-xogħol li għalih l-azzjoni tirriferrixxi, il-Qorti ma għandhiex tikkundannah għar-restituzzjoni tal-qligh.

(2) Il-Prim'Awla tal-Qorti Ċivili tista' f'azzjoni għall-ksur tad-drittijiet ta' l-awtur, drittijiet viċini jew drittijiet *sui generis* filwaqt li tqis iċ-ċirkostanzi kollha u b'mod partikolari l-flagranza tal-kontravvenzjoni u kull benefiċċju li jmur favur il-konvenut minhabba fil-kontravvenzjoni, tagħti dawk id-danni addizzjonali skond ma l-każ partikolari jista' jkun gustament jehtieg.

(3) Il-Qorti tista', barra minn dan, f'kawża istitwita skond dan is-subartikolu, fuq rikors ta' l-attur, tordna li l-oġġetti kollha kontravvenjenti li jkunu għadhom fil-pussess tal-konvenut jiġu konsenjati lill-attur.

(4) F'kawża dwar kontravvenzjoni ta' drittijiet ta' l-awtur relattivi għall-kostruzzjoni ta' bini, ebda mandat ta' inibizzjoni jew ordni iehor ma għandu jsir :

(a) wara li l-kostruzzjoni ta' bini jkun inbeda, sabiex jimpedih milli jiġi kompletat, jew

(b) sabiex jordna li l-bini, safejn ikun gie kostruwit, jiġi mwaqqa'.

44. (1) Salvi d-dispożizzjonijiet ta' l-aħħar artikolu qabel dan, kull min jikser id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 12 jista' fuq istanza ta' l-awtur jew tal-werrieta tieghu jiġi kundannat mill-Prim'Awla tal-Qorti Ċivili għall-ħlas ta' penali, bħala u għal danni li jiġu stabbiliti skond skala ta' multi li jiġu preskritti mill-Ministru.

Responsabbiltà għal kontravvenzjoni ta' drittijiet morali.

(2) Fi proċedimenti taht l-aħħar subartikolu qabel dan il-Qorti għandha tordna l-qirda ta' l-oġġetti kollha kontravvenjenti li jkun għadhom fil-pussess tal-konvenut meta tkun sodisfatta illi l-preġudizzju kaġunat lill-awtur jkun hekk serju li jiġġustifika dik il-miżura.

(3) Id-dispożizzjoni ta' l-aħħar subartikolu qabel dan ma għandhiex tapplika meta l-oġġett kontravvenjenti jkun bini.

(4) Kull min jikser id-dispożizzjonijiet tas-subartikoli (1) u (2) ta' l-artikolu 12 u s-subartikolu (1) ta' l-artikolu 23 jista' jiġi kkundannat, fuq istanza ta' l-awtur jew tal-persuna fiżika, jew ta' l-enti legali, li lilhom ikun ġie trasmess id-dritt li jwettqu dawk id-drittijiet morali msemmija taht il-proviso għas-subartikolu (2) ta' l-artikolu 11, mill-Qorti Ċivili, Prim'Awla għall-ħlas ta' penali, u għal dawk id-danni li jiġu deċiżi skond skala ta' penali li jiġu preskritti mill-Ministru.

TAQSIMA X: IL-BORD DWAR ID-DRITTIJET TA' L-AWTUR

45. (1) Il-Ministru għandu b'avviż fil-Gazzetta tal-Gvern jinnomina Bord dwar id-Drittijiet ta' l-Awtur, li jikkonsisti minn *Chairman* u żewġ membri oħra sabiex jaqdi l-funzjonijiet mogħtija lil dak il-Bord bid-dispożizzjonijiet ta' dan l-Att.

Haħra tal-Bord.

(2) Iċ-*Chairman* ta' l-imsemmi Bord ikun Imhalled irtirat jew Maġistrat irtirat jew persuna li tkun eżercitat bħala avukat f'Malta għal perjodu ta', jew perjodi li jammontaw fit-total għal, mhux anqas minn seba' snin.

(3) Il-Ministru għandu jinnomina wkoll żewġ persuni oħra biex jaġixxu bħala membri tal-Bord, wiehed biex jissostitwixxi liċ-*Chairman* u l-ieħor biex jissostitwixxi lil xi wiehed miż-żewġ membri l-oħra, kull meta iċ-*Chairman* jew xi wiehed mill-membri l-oħra, skond il-każ, ikun, għal xi raġuni, inkapaċi li jaqdi l-funzjonijiet tieghu.

(4) Kull membru tal-Bord għandu jibqa' fil-kariga sakemm joghġob lill-Ministru u l-Ministru jista', mingħajr ma jagħti ebda raġuni, ihassar in-nomina ta' kull membru u jinnomina membru ġdid meta jidhirlu li jkun hekk meħtieġ.

(5) Il-membri tal-Bord, bl-eċċezzjoni ta' *Chairman*, jekk ikun Magiŝtrat, għandhom, qabel ma jidhlu fil-kariga tagħhom, jieħdu quddiem l-Avukat Ġenerali l-ġurament li jeżaminaw u jiddeċiedu kull haġa li tiġi quddiemhom b'ekwità u imparzjalità.

Astensjoni
u rikuża.

Kap. 12.

46. *Chairman* jew kull membru ieħor tal-Bord jista' jastjeni jew jista' jiġi rikużat minn kull wiehed mill-partijiet kontendenti għal kull waħda mir-raġunijiet imsemmija fl-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kull kwistjoni li tirrigwarda xi raġuni ta' astensjoni jew rikuża u kull kwistjoni li tkun kwistjoni ta' liġi biss għandha tiġi deċiża mi' *Chairman* tal-Bord.

Setgħa ta'
taħrik.

47. Il-Bord ikollu s-setgħa li jharrek kull persuna biex tixhed jew biex tipproduċi kotba jew dokumenti oħra quddiemu, u *Chairman* tal-Bord ikollu, relattivament għat-taħrik u eżami ta' xhieda quddiem il-Bord, l-istess setgħat kif mogħtija bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili lill-Prim'Awla tal-Qorti Ċivili.

Proċedimenti.

48. (1) Il-proċedimenti tal-Bord għandhom isiru fil-pubbliku u d-deċiżjoni tal-Bord għandha tiġi notifikata lill-partijiet bil-posta reġistrata fl-indirizz tan-negozju jew privat rispettiv tagħhom u, jekk ma jiġix pruvat il-kuntrarju, dik id-deċiżjoni għandha titqies li tkun għet notifikata lill-parti interessata mhux aktar tard mit-tielet ġurnata li taħbat wara l-ġurnata meta għet impustata lil dik il-parti.

(2) Il-Ministru jista' jagħmel regolamenti li jirregolaw il-proċedimenti quddiem il-Bord u jista', mingħajr hsara għall-ġeneralità ta' dak hawn aktar qabel imsemmi, jagħmel regolamenti -

(a) li jippreskrivu l-mod li fih kull haġa tista' tintbghat quddiem il-Bord;

(b) li jippreskrivu l-proċedura li għandha tiġi adottata mill-Bord meta jittratta xi haġa mibghuta lilu skond dan l-Att u *records* li għandhom jinżammu mill-Bord;

(ċ) li jippreskrivu l-mod li bih il-Bord għandu jiġi msejjah u l-post fejn il-Bord għandu jzomm is-seduti tiegħu;

(d) li jippreskrivu skala ta' multi, spejjeż u drittijiet; u

(e) b'mod ġenerali għat-tmexxija aħjar tal-funzjonijiet mogħtija lill-Bord b'dan l-Att.

Dritt ta'
appell.

49. (1) Ikun hemm dritt ta' appell mid-deċiżjonijiet kollha tal-Bord.

(2) Kull appell ghandu jingieb quddiem il-Qorti ta' l-Appell maghmul bil-mod kif hemm provdut fis-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili b'rikors fi żmien hmistax il-jum min-notifika tad-deċiżjoni tal-Bord.

(3) Il-Ministru jista' jagħmel regoli li jkunu jirregolaw l-appelli quddiem il-Qorti ta' l-Appell skond dan l-Att, u li jippreskrivu skala ta' spejjeż u drittijiet dwar dawk l-appelli.

50. L-ispejjeż u d-drittijiet dwar proċeduri quddiem il-Bord u quddiem il-Qorti ta' l-Appell għandhom jithallsu mill-partijiet b'dak il-mod kif l-imsemmi Bord jew Qorti, skond il-każ, jiddeċiedi. Spejjeż u drittijiet.

51. (1) F'kull każ meta jidher lill-Bord li *collecting society* jew proprjetarju ta' drittijiet ta' l-awtur jew drittijiet viċini -

Rifjut jew pattijiet mhux raġonevoli dwar ritrasmissjoni jew xandir mill-ġdid bil-cable.

(a) ikun qiegħed jiċhad mingħajr raġuni li jagħti liċenza dwar ir-ritrasmissjoni jew xandir mill-ġdid bil-cable, jew

(b) ikun qiegħed jimponi pattijiet jew kondizzjonijiet mhux raġonevoli għall-ġħoti ta' dik il-liċenza,

il-Bord jista' jordna li, relattivament għall-ghemil ta' xi att li jirriferrixxi għal xi xogħol li fih il-*collecting society* jew il-proprjetarju, skond il-każ, ikun interessat, liċenza għandha titqies li tkun giet mogħtija mill-*collecting society* jew mill-proprjetarju fil-waqt li jkun sar l-att, kemm-il darba d-drittijiet xierqa stabbiliti minn dak il-Bord ikunu thallsu jew ġew offruti qabel ma jgħaddi dak il-perjodu jew dawk il-perjodi li l-Bord jista' jiddeċiedi dwarhom.

(2) Il-Ministru jista' b'regolamenti jordna li d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx jibqgħu fis-seħħ minn data li tiġi msemmija f'ordni bħal dik.

TAQSIMA XI: AMMINISTRAZZJONI KOLLETTIVA TA' DRITTIJET

52. Awturi u sidien ohra tad-drittijiet ta' l-awtur u ta' drittijiet viċini jistgħu jawtorizzaw *collecting society* tamministralthom id-drittijiet ekonomiċi tagħhom.

Awtorizzazzjoni lill-*collecting societies*.

53. (1) Il-*collecting societies* għandhom jitwaqqfu fl-ghamla ta' soċjetajiet ċivili u għandhom ikunu regolati mid-dispożizzjonijiet tat-Titolu X u tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi Ċivili.

Twaqqif u inkorporazzjoni ta' *collecting societies*.
Kap. 16.

(2) Talba għal inkorporazzjoni ta' *collecting society* għandha ssir fil-Ministeru responsabbli għall-protezzjoni tad-drittijiet ta' l-awtur u ta' drittijiet viċini hawnhekk iżjed 'il quddiem imsejjah "l-awtorità sorveljanti" u magħha għandha tintehmeż kopja ta' l-istatuti tal-*collecting society* u tar-regolamenti tagħha li jirrigwardaw is-sistema u l-ammonti, kif ukoll il-ġbir u t-tqassim, ta' drittijiet u ta' rimunerazzjoni ġusta.

(3) L-awtorità sorveljanti għandha tinkorpora lill-*collecting society* hlief fil-każ li:

(a) l-istatuti jew ir-regolamenti msemmija fis-subartikolu (2) ta' dan l-artikolu ma jkunux iħarsu d-dispożizzjonijiet ta' dan l-Att jew il-provvedimenti rilevanti tal-Kodiċi Ċivili;

(b) jkun hemm provi fattwali li jkunu jndikaw li persuna fiżika li tista' legittimament tirrappreżenta lill-*collecting society* taht l-istatuti ta' l-organizzazzjoni ma jkollhiex il-kwalifiki professjonali jew il-fiduċja meħtieġa għall-eżerċizzju ta' attivitá bħal dik;

(c) jkun hemm provi fattwali li jkunu jndikaw li l-*collecting society* ma tkunx tista' twettaq il-funzjonijiet tagħha għal kull raġuni li tinkludi n-nuqqas ta' mezzi ekonomiċi u tekniċi, jew ta' persunal xieraq;

(d) *collecting society* ohra tkun diġà giet approvata fl-istess qasam ta' amministrazzjoni, sakemm l-awtorità sorveljanti tkun sodisfatta li l-eżistenza ta' iktar minn organizzazzjoni waħda f'dak il-qasam partikolari ta' amministrazzjoni ma jkunx benefiku għall-interessi ta' l-awturi u ta' sidien ohra ta' drittijiet ta' l-awtur u ta' drittijiet viċini u ta' l-utenti.

(4) Kull deċizzjoni ta' l-awtorità sorveljanti li ma tinkorporax *collecting society* tkun tista' tiġi appellata mill-parti aggravata b'ċitazzjoni quddiem il-Prim'Awla tal-Qorti Ċivili.

Hidmiet ta'
collecting societies.

54. Tista' *collecting society*, f'isem u minhabba fl-awtorizzazzjoni mogħtija mill-awturi u mis-sidien l-ohra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li huma membri tagħha jew li xort'ohra tkun tirrappreżenta minhabba f'kull ftehim ma kull *collecting society* barranija, twettaq dawn il-hidmiet li ġejjin:

(a) tagħti awtorizzazzjoni lil terzi li jwettqu attijiet koperti bid-drittijiet ekonomiċi esklużivi amministrati;

(b) tiġbor drittijiet għall-awtorizzazzjoni msemmija fil-paragrafu (a) u tiġbor rimunerazzjoni ġusta meta l-liġi tkun tipprovdi għal dik ir-rimunerazzjoni;

(ċ) tqassam id-drittijiet u r-rimunerazzjoni ġusta hekk miġbura fost l-awturi u s-sidien l-oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini involuti;

(d) tiehu kull azzjoni legali mehtieġa għall-infurzar tad-drittijiet amministrati minnha;

(e) twettaq kull att iehor awtorizzat, b'mod konformi ma' l-artikolu 24, mill-awturi u mis-sidien l-oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini, jew mill-korpi li jirrapprezentawhom, li jkollhom id-drittijiet ekonomiċi esklużivi jew drittijiet għal rimunerazzjoni ġusta amministrati.

55. (1) Deciżjonijiet dwar il-metodi u r-regoli għall-ġbir u t-tqassim ta' drittijiet u rimunerazzjoni ġusta u dwar aspetti oħra ta' amministrazzjoni kollettiva għandhom jittiehdu mill-awturi u minn sidien oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li jkollhom id-drittijiet tagħhom amministrati jew mill-korpi li jkunu jirrapprezentawhom.

Metodi ta' thaddim ta' *collecting societies*.

(2) L-awturi u sidien oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li jkollhom id-drittijiet tagħhom amministrati, għandu jkollhom id-dritt li jiksbu tagħrif shih u dettaljat dwar l-attivitajiet kollha tal-*collecting society* li jkunu jirrigwardaw it-twettiq ta' dawk id-drittijiet.

(3) Mingħajr l-awtorizzazzjoni ta' l-awturi u ta' sidien oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li jkollhom id-drittijiet tagħhom amministrati jew tal-korpi li jkunu jirrapprezentawhom, ebda dritt jew rimunerazzjoni ġusta li jingabru minn *collecting society* ma għandhom jintużaw għal għanijiet oħra bħalma huma dawk kulturali jew soċjali, jew għall-finanzjament ta' attivitajiet promozzjonali hlief għal għanijiet li jkopru l-ispejjeż attwali ta' amministrazzjoni tad-drittijiet involuti u t-tqassim ta' l-ammonti ta' drittijiet jew rimunerazzjoni ġusta li jibqgħu wara t-tnaqqis ta' dawk l-ispejjeż, b'mod konformi mas-subartikolu (4) ta' dan l-artikolu.

(4) L-ammonti ta' drittijiet u rimunerazzjoni ġusta li tingabar minn *collecting society* għandhom, wara t-tnaqqis ta' l-ispejjeż attwali ta' amministrazzjoni kollettiva u kull tnaqqis possibbli iehor li jista' jiġi awtorizzat b'mod konformi mas-subartikolu (3) ta' dan l-artikolu, jitqassmu fost l-awturi u sidien oħra tad-drittijiet ta' l-awtur u ta' drittijiet viċini, kemm jista' jkun possibbli u prattiku, fi proporzjon ma' l-użu attwali tax-xogħlijiet tagħhom.

(5) Awturi u sidien ohra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li ma jkunux ta' nazzjonalità Maltija, jew li jkollhom ir-residenza abitwali tagħhom jew il-kwartieri generali tagħhom barra minn Malta, u li jkollhom id-drittijiet tagħhom amministrati minn *collecting society*, għandhom igawdu, għar-rigward ta' l-amministrazzjoni tad-drittijiet tagħhom, l-istess trattament bħal dawk l-awturi u sidien ohra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li jkunu membri ta', jew xort'ohra jkunu rappreżentati mill-*collecting society* u li jkollhom nazzjonalità Maltija jew ikollhom ir-residenza abitwali tagħhom jew il-kwartieri generali tagħhom f'Malta.

(6) *Collecting societies* barranin għandhom jirċievu tagħrif regolari, shiħ u dettaljat dwar l-attivitajiet kollha ta' *collecting society* li jkunu għamlu xi ftehim magħha dwar ir-rappreżentazzjoni tad-drittijiet minnhom rappreżentati, li jistgħu jolqtu l-eżerċizzju tad-drittijiet ta', u t-tqassim ta' hlasijiet lil, awturi u sidien ohra tad-drittijiet ta' l-awtur u ta' drittijiet viċini li jkollhom id-drittijiet tagħhom amministrati minn dawk il-*collecting societies* barranin.

Obbligazzjonijiet ta' utenti ta' xoghlijiet lejn *collecting societies*.

56. Dawk li jwettqu attijiet awtorizzati minn *collecting society* jew attijiet li dwarhom, għalkemm ma tkunx mehtieġa awtorizzazzjoni, jkollha tithallas rimunerazzjoni ġusta lil *collecting society*, għandhom -

(a) jiffacilitaw is-sorveljar, mir-rappreżentanti tal-*collecting society*, ta' l-attijiet li jkunu awtorizzati jew li dwarhom ikollha tithallas rimunerazzjoni ġusta;

(b) jekk ikun mehtieġ, jagħtu lill-*collecting society* kull tagħrif li jkollhom disponibbli u li jkun jirrigwarda l-attijiet imwettqa għar-rigward tax-xoghlijiet involuti.

Sorveljar ta' *collecting societies*.

57. (1) Kull *collecting society* għandha minnufih tforni lill-awtorità sorveljanti b'kopja ta' -

(a) kull emenda għall-istatuti jew ir-regolamenti tagħha msemmija fis-subartikolu (2) ta' l-artikolu 53 ta' dan l-Att;

(b) kull kuntratt bilaterali jew multilaterali li jolqot l-amministrazzjoni ta' drittijiet ta' awturi barranin u tas-sidien barranin tagħhom tad-drittijiet ta' l-awtur u ta' drittijiet viċini;

(c) kull riżoluzzjoni ta' l-assembleja generali u ta' kull bord ta' sorveljanza jew li jagħti pariri tal-*collecting society*;

(d) il-bilanċ annwali, ir-rapport annwali u r-rapport ta' l-awditur li jinvolvu t-thaddim tal-*collecting society*.

(2) Kull *collecting society* għandha minnufih tgharraf lill-awtorità sorveljanti b'kull bidla li tinvolvi lill-persuni fiżiċi li jistgħu legittimament jirrapreżentawha.

(3) L-awtorità sorveljanti tista' f' kull żmien titlob minghand *collecting society* kull taghrif ulterjuri li jkun mehtieg biex jiġi stabbilit jekk it-thaddim tal-*collecting society* ikunx konformi jew le ma' l-istatuti ta' l-organizzazzjoni, mal-provvedimenti ta' dan l-Att u jekk ikunx qiegħed jiġi żgurat jew le t-twettiq xieraq tal-funzjonijiet tal-*collecting society*.

58. Minkejja d-dispożizzjonijiet generali li japplikaw għax-xoljiment tas-soċjetajiet ċivili taht il-provvedimenti tal-Kodiċi Ċivili - Xoljiment ta' *collecting societies*.

(a) talba għal xoljiment ta' *collecting society* tista' wkoll tiġi ppreżentata mill-awtorità sorveljanti lill-Prim'Awla tal-Qorti Ċivili;

(b) il-Qorti għandha xxolji *collecting society* jekk jirriżulta li jkun hemm xi raġuni ta' ċhid dwar l-inkorporazzjoni tal-*collecting society*, kemm-il darba ċ-ċirkostanzi li jagħtu lok għal dawk ir-raġunijiet ma jkunux rimejati fi żmien raġonevoli li jiġi stabbilit mill-awtorità sorveljanti, jew inkella, jekk, minkejja avviz li jingħata mill-awtorità sorveljanti, il-*collecting society* tkun ripetutament tikser l-istatuti tagħha, ir-regolamenti tagħha imsemmija fis-subartikolu (2) ta' l-artikolu 53 ta' dan l-Att jew id-dispożizzjonijiet ta' dan l-Att.

TAQSIMA XII: REGOLAMENTI

59. Il-Ministru jista' jagħmel regolamenti li jippreskrivu dak kollu li jista' jiġi preskritt taht dan l-Att. Setgħa tal-Ministru li jagħmel regolamenti.

TAQSIMA XIII: PROVVEDIMENTI TRANSITORJI U THASSIR

60. (1) Dan l-Att japplika:

Applikazzjoni għal xoghlijiet.

(a) relattivament għal xoghlijiet magħmula wara l-bidu fis-seħħ ta' dan l-Att; u

(b) salvi d-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, għal xoghlijiet magħmula qabel il-bidu fis-seħħ ta' dan l-Att meta l-perjodu ta' protezzjoni ma jkunx, mal-bidu fis-seħħ ta' dan l-Att, skada taht l-Att dwar id-Drittijiet ta' l-Awtur, imhassar bl-artikolu 61 ta' dan l-Att. Kap. 196.

(2) (a) Id-drittijiet ta' artisti għar-rigward tal-fissazzjoni tal-wirja tagħhom fuq fonogram biex jipprevjenu il-fissazzjoni tal-wirja mhux fissata tagħhom li tkun saret qabel il-bidu fis-seħħ ta' dan l-Att u r-riproduzzjoni ta' dik il-fissazzjoni meta din tkun saret mingħajr l-awtorizzazzjoni tagħhom u d-drittijiet ta' artisti biex jipprevjenu x-xandir b'mezzi mingħajr fili u l-komunikazzjoni lill-pubbliku tal-wirja tagħhom filwaqt li tkun qiegħda ssir meta din issir

minghajr l-awtorizzazzjoni tagħhom għandhom ikunu protetti taht dan l-Att sa tmiem perijodu ta' hamsin sena li jibda għaddej minn tmiem is-sena kalendarja li fiha tkun saret il-wirja. B'dan li dawn id-drittijiet jiġu eżerċitati permess ta' *collecting society*.

(b) Id-dritt ta' produttori ta' registrazzjonijiet bil-hoss li jsiru qabel il-bidu fis-sehh ta' dan l-Att biex tiġi awtorizzata jew ipprojbata l-kirja ta' daww ir-registrazzjonijiet bil-hoss għandu jkun protett taht dan l-Att għal żmien ta' hamsin sena li jibdeu għaddejin minn tmiem is-sena kalendarja li fiha tkun saret ir-registrazzjoni bil-hoss. B'dan li dawn id-drittijiet jiġu eżerċitati permess ta' *collecting society*.

(ċ) Id-detentur ta' dritt tad-drittijiet ta' l-awtur għar-rigward ta' xogħol letterarju li jkun jikkonsisti fi programm tal-*computer* biex jawtorizza jew jipprojbixxi il-kiri ta' dak il-programm għandu jkun protett sa tmiem perijodu ta' hamsin sena li jibda għaddej minn tmiem is-sena kalendarja li fiha l-awtur ta' dak il-programm tal-*computer* imut.

(3) Ma tista' tittiehed ebda azzjoni taht dan l-Att għar-rigward ta' xi haġa li tkun saret qabel il-bidu fis-sehh ta' dan l-Att għar-rigward ta' drittijiet rikonoxxuti b'dan l-Att iżda li ma kienux rikonoxxuti bl-Att dwar id-Drittijiet ta' l-Awtur, imhassar bl-artikolu 61 ta' dan l-Att.

Kap. 196.

Thassir u emendi.
Kap. 196.

61. (1) Salv id-dispożizzjonijiet ta' l-artikolu 60, l-Att dwar id-Drittijiet ta' l-Awtur, qiegħed b'dan jiġi mħassar.

Kap. 29.

(2) Is-subartikolu (4) ta' l-artikolu 69 ta' l-Ordinanza dwar il-Protezzjoni tal-Proprietà Industrjali, qiegħed b'dan jiġi mħassar.

Att IX ta' l-1980.

(3) Fis-subartikolu (3) ta' l-artikolu 12 ta' l-Att ta' l-1980 dwar ir-Revizjoni tal-Liġijiet Statutarji, minflok il-kliem "tal-proviso li hemm mas-subartikolu (1) ta' l-artikolu 7 ta' l-Att dwar id-Drittijiet ta' l-Awtur" għandhom jidhru l-kliem "ta' l-artikolu 9 ta' l-Att ta' l-2000 dwar id-Drittijiet ta' l-Awtur".

Mghoddi mill-Kamra tad-Deputati fis seduta Nru. 282 tal-11 ta' April, 2000.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

25th April, 2000

ACT No. XIII of 2000

AN ACT to make new provision in respect of copyright and neighbouring rights and certain "sui generis" intellectual property rights in substitution of the provisions of the Copyright Act, Cap 196.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. This Act may be cited as the Copyright Act, 2000, and shall come into force on such date as the Minister responsible for the protection of copyright may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof. Short title and commencement.

PART I : DEFINITIONS

2. (1) In this Act, unless the context otherwise requires – Interpretation.
- “artistic work” shall include, irrespective of artistic quality, any of the following, or works similar thereto:
- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
 - (b) maps, plans, diagrams and three-dimensional works relative to geography, science or topography, but excluding semiconductor product topographies;
 - (c) works of sculpture;
 - (d) photographs not comprised in an audiovisual work;
 - (e) works of architecture in the form of buildings or models; and
 - (f) works of artistic craftsmanship, including pictorial woven tissues and articles of applied handicraft and industrial art;

“audiovisual work” means a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible;

“author” means the natural person or group of natural persons who created the work eligible for copyright but in the case of an audiovisual work it includes the principal director but excludes the producer of the first fixation of the audiovisual work;

“Board” means the Copyright Board established under section 45 of this Act;

“body of persons” means any company or association of persons whether corporate or unincorporated, whether vested with legal personality or not, and includes any other body however called having legal personality;

“broadcasting” means the transmission by wireless means for the public reception of sounds or of images and sounds or of the representations thereof, including transmission by satellite. Broadcast does not include a rebroadcast;

“broadcasting authority” means the Broadcasting Authority established by section 118 of the Constitution;

“broadcasting organization” means any broadcaster whether licensed under the Broadcasting Act or under any other law, and includes a broadcasting contractor operating in Malta;

“cable retransmission” means the simultaneous, unaltered and unabridged retransmission by a cable or any other material carrier for reception by the public of an initial transmission by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public, from within Malta or from a State in which the exclusive right to authorize cable retransmission of works eligible for copyright or neighbouring rights is protected under an international agreement to which Malta is also a party;

“collecting society” means any organization which manages or administers copyright or neighbouring rights as its sole purpose or as one of its main purposes as regulated by the provisions of this Act;

“collective work” means a work which has been created by two or more physical persons at the initiative and under the direction of a physical person or legal entity with the understanding that it will be disclosed by the latter person or entity under his or its own name and that the identity of the contributing physical persons will not be indicated in the work;

“commercial exploitation” in relation to semiconductor product topographies means the sale, rental, leasing or any other method of commercial distribution, or an offer for these purposes:

Provided that where exploitation takes place under conditions of confidentiality to the extent that no further distribution to third parties occurs there shall not be deemed to have been “commercial exploitation”;

“communication to the public” means the transmission of a work by wire or wireless means and for the purpose of section 7 of this Act includes the making available to the public of the work in such a way that members of the public may access the work from a place and at a time individually chosen by them:

The mere provision of physical facilities for enabling or making of a communication does not in itself amount to an act of communication to the public;

“communication to the public by satellite” means the act of introducing, under the control and responsibility of a broadcasting organization, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth and the State where such an act takes place shall be deemed to be the place of origin of that act of communication to the public by satellite:

Provided that if the programme-carrying signals are encrypted, then there is communication to the public by satellite if the means for decrypting the broadcast are provided to the public by the broadcasting organisation or with its consent:

Provided further that if the act of communication to the public by satellite takes place in a State other than Malta or other than a State in which the exclusive right to authorize or prevent the satellite broadcasting of a work eligible for copyright or neighbouring rights is protected under an international agreement to which Malta is also a party, if the programme-carrying signals are transmitted to the satellite from an uplink station situated in Malta, that act of communication to the public by satellite shall be deemed to have occurred in Malta so that the rights provided for by this Act shall be exercisable against the person operating the uplink station, or else in the absence of an uplink station in Malta, if a broadcasting organisation established in Malta has commissioned the act of communication to the public by satellite, that act shall be deemed to have occurred in Malta and the rights provided for by this Act shall be exercisable against that broadcasting organisation;

“computer program” includes computer programs whatever may be the mode or form of their expression including those which are incorporated in hardware, interfaces which provide for the physical interconnection and interaction or the interoperability between elements of software and hardware and preparatory design material leading to the development of a computer program:

Provided that the nature of the preparatory design material is such that a computer program can result therefrom at a later stage;

“copy” means a reproduction in written or graphic form including digital reproduction, in the form of a recording or audiovisual work, or in any other material form, so however that an object shall not be taken to be a copy of an architectural work unless the object is a building or model;

“copyright” means copyright under this Act;

“database” means a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means without it being necessary for these materials to have been physically stored in an organized manner but does not extend to computer programs used in the making or operation of a database accessible by electronic means comprised within the term “computer program”;

“distribution” means the making available to the public by sale or other transfer of ownership;

“fixation” means the embodiment of sounds, images, or both, or digital representations thereof, in any material form, from which they can be perceived, reproduced or communicated through a device;

“lawful” means done in compliance with provisions of this Act, and “lawfully” shall be construed accordingly;

“lending” means making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public:

Provided that even when lending by such an establishment gives rise to payment of an amount, as long as this amount does not go beyond what is necessary to cover the operational costs of the establishment, there is no direct or indirect economic or commercial advantage within the meaning of this Act;

“licence” means a lawfully granted licence permitting the doing of an act controlled by copyright or neighbouring rights;

“literary work” shall include, irrespective of literary quality, any of the following, or works similar thereto:

- (a) novels, stories and poetical works;
- (b) plays, stage directions, choreographic works or entertainment in dumb show, film scenarios and broadcasting script;
- (c) textbooks, treatises, histories, biographies, essays and articles;
- (d) encyclopaedias and dictionaries;
- (e) letters, reports and memoranda;
- (f) lectures, addresses and sermons;
- (g) computer programs,

but save as provided in section 12 of the Statute Law Revision Act, 1980, does not include any written law, law report or judicial decisions;

“Malta” shall have the same meaning as assigned to it by section 124 of the Constitution of Malta;

“Minister” means the Minister responsible for the protection of copyright and neighbouring rights and includes to the extent of the authority given, any person authorised by the Minister in that behalf for any purpose of this Act other than for the purpose of section 59;

“musical work” means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment;

“owner of copyright” means the author who is first owner, an assignee or an exclusive licensee, as the case may be, of a copyright and in the case of a collective work, the first owner of copyright shall be the natural or legal person under whose initiative and direction the work has been created;

“perceptual disability” means a disability that prevents or inhibits a person from reading or hearing a literary, musical, dramatic or artistic work in its original format, and includes such a disability resulting from:

- (a) severe or total impairment of sight or hearing or the inability to focus or move one’s eyes;
- (b) the inability to hold or manipulate a book; or
- (c) an impairment relating to comprehension.

“performance” means the direct rendition of the work to a public which takes place under such circumstances that the works performed can be perceived by the public without any intermediate communication;

“performers” includes singers, musicians, actors or other artists who sing, deliver, declaim, play in, act in or otherwise perform literary, musical and artistic works or expressions of folklore and includes also singers, musicians, actors or other artists who sing, play in or perform in variety, circus and folklore shows or exhibitions;

“person” includes a body of persons;

“prescribed” means prescribed by regulations made under section 59 of this Act;

“rebroadcast” means simultaneous broadcasting by one broadcasting organization of the broadcast of another broadcasting organization not under its control, whether situated in Malta or abroad, and “rebroadcasting” shall be construed accordingly:

Provided that “later rebroadcast” shall mean only any such subsequent broadcast and “later rebroadcasting” shall be construed accordingly;

“rental” means making available for use, for a limited period of time and for direct or indirect economic or commercial advantage;

“reproduction” means the making of one or more copies in any material form of a literary, musical or artistic work, audiovisual work or sound recording and includes storing such work in any medium by electronic means;

“satellite” means any satellite operating on frequency bands which, under international telecommunications law are reserved for the broadcast of signals for reception by the public or which are reserved for closed, point-to-point communication. In the latter case, however, the circumstances in which individual reception of the signals takes place must be comparable to those which apply in the first case;

“semiconductor product” means the final or an intermediate form of any product consisting of a body of material which includes a layer of semiconducting material, having one or more layers composed of conducting, insulating or semiconducting material, the layers being arranged in accordance with a predetermined three-dimensional pattern and intended to perform, exclusively or together with other functions, an electronic function;

“semiconductor product topography” means a series of related images, however fixed or encoded, representing the three dimensional pattern of the layers of which a semiconductor product is composed and in which series, each image has the pattern or part of the pattern of a surface of the semiconductor product at any stage of its manufacture;

“sound recording” means the fixation of a sequence of sounds or of a digital representation of sounds capable of being perceived aurally and of being reproduced, but does not include a soundtrack associated with an audiovisual work;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors.

(2) For the purposes of this Act the following provisions shall apply with respect to publication:

(a) a work shall be deemed to have been published if copies thereof have been made available in a reasonable quantity for sale, rental, lending or in any other manner sufficient to render the work accessible to the public;

(b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work;

(c) a publication in any country shall be treated as being a first publication notwithstanding that there has been an

earlier first publication elsewhere, if the two publications took place within a period of not more than thirty days.

PART II : COPYRIGHT

Works eligible for copyright.

3. (1) Subject to the provisions of this section the following works shall be eligible for copyright:

- (a) artistic works;
- (b) audiovisual works;
- (c) databases;
- (d) literary works;
- (e) musical works.

(2) A literary, musical, or artistic work shall not be eligible for copyright unless the work has an original character and it has been written down, recorded, fixed or otherwise reduced to material form.

(3) A work shall not be ineligible for copyright by reason only that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

(4) A database shall not be eligible for copyright unless by reason of the selection or arrangement of its contents, it constitutes the author's intellectual creation. Moreover the copyright conferred to a database shall not extend to its contents and shall be without prejudice to any rights subsisting in such contents themselves.

Qualification for copyright protection by virtue of authors.

4. (1) Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in the case of a work of joint authorship, any of the joint authors, is, at the time when the work is made:

- (a) an individual who is a citizen of, or is domiciled or permanently resident in Malta or in a State in which copyright is protected under an international agreement to which Malta is also a party.

(b) a body of persons or a commercial partnership constituted, established, registered and vested with legal personality under the laws of Malta or of a State in which copyright is protected under an international agreement to which Malta is also a party.

(2) The terms of copyright protection conferred by this Term of copyright. section shall be calculated according to the following table:

TABLE

Type of Work	Date of Expiration of Copyright
(i) Literary, musical or artistic works and database	Seventy years after the end of the year in which the author dies, irrespective of the date when the work is lawfully made available to the public.
(ii) Audiovisual works	Seventy years after the end of the year in which the last of the following persons dies: the principal director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the audiovisual work.

(3) In the case of an anonymous or pseudonymous literary, musical or artistic work, or in the case of a collective work, the copyright in the work subsists until the end of the expiration of 70 years from the end of the year in which it was lawfully made available to the public or after the end of the year in which the work was made if it has not been made available to the public:

Provided that when the pseudonym adopted by the author leaves no doubt as to his identity or in the event of the identity of the author becoming known during the period referred to in the preceding paragraph of this subsection or where in the case of collective works by a body of persons the natural persons who have created the work are individually identifiable in the versions of the work made available to the public the terms of copyright protection shall be calculated in accordance with the provision of paragraph (i) of the last preceding subsection.

(4) In the case of joint authorship reference in the preceding table to the death of the author shall be deemed to refer to the joint author who dies last, whether or not he is a qualified person in terms of subsection 1 of section 4 of this Act.

(5) In the case of a person who for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work the copyright protection of which has expired, he shall benefit from a protection equivalent to the economic rights covered by copyright but limitedly for a period of twenty-five years from the time when the work was first lawfully published or lawfully communicated to the public.

(6) Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

Qualification for copyright protection by reference to country where work is made or published.

5. (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made or first published in Malta or in a State in which such works are protected under an international agreement to which Malta is also a party and which has not been the subject of copyright conferred by section 4 of this Act.

(2) Copyright conferred on a work by this section shall have the same duration as is provided for in section 4 of this Act in relation to the same type of work.

Copyright works of Government and international bodies.

6. (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made by or under the direction or control of the Government of Malta and also such governments of other States, international bodies or other inter-governmental organisations as may be prescribed by the Minister responsible for the Industrial Property Office.

(2) Copyright conferred by this section on databases or on a literary, musical or artistic work shall subsist until the end of the expiration of seventy years from the end of the year in which it was first published.

(3) Copyright conferred by this section on an audiovisual work shall have the same duration as is provided for by section 4 of this Act in relation to the same type of work.

(4) Subsection (5) of section 4 shall apply in like manner to works eligible for copyright to which this section applies which, having

been unpublished, are lawfully published or lawfully communicated to the public for the first time after copyright protection has expired.

(5) Sections 4 and 5 of this Act shall not be deemed to confer copyright on works to which this section applies.

7. Copyright in an audiovisual work, a database, a literary, musical or artistic work shall be the exclusive right to authorise or prohibit the doing in Malta in respect of the protected material in its totality or substantial part thereof, either in its original form or in any form recognisably derived from the original of any of the following:

Nature of copyright in an audiovisual work, database, literary, musical and artistic works.

(a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part;

(b) the rental and lending;

(c) the distribution;

(d) the translation in other languages including different computer languages;

(e) the adaptation, the arrangement and any other alteration and the reproduction, distribution, communication, display or performance to the public of the results thereof;

(f) the broadcasting or rebroadcasting or the communication to the public or cable retransmission;

(g) display or performance to the public:

Provided that the right to authorise or prohibit the cable retransmission of a television broadcast shall be exercisable only through a collecting society.

8. The first sale in Malta of the original work enjoying copyright or of a copy thereof, when such sale is effected by or with the consent of the copyright owner himself, shall exhaust the exclusive distribution right in respect of that work or its copy.

Exhaustion of the distribution right.

9. Copyright in an audiovisual work, a database, a literary, musical or artistic work shall not include the right to authorize or prohibit -

Exceptions to copyright.

(a) other than in the case of a computer program the doing of any of the acts mentioned in subsection (1) of section 7 by way of fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, provided that, if such use is public, it is accompanied by an acknowledgement of the title of the work and its authorship, except where the work is incidentally included in a broadcast or rebroadcast or communication to the public or cable retransmission:

Provided that when in terms of this paragraph an author of a work eligible for copyright suffers a derogation of his exclusive lending right he shall be entitled to a remuneration for such lending which can be collected individually or through a collecting society from the establishment lending such work or copies thereof other than State public libraries, universities and educational establishments licensed to operate by the State which are all excluded from such an obligation. In the calculation of such remuneration, in the case of literary, musical and artistic works only, account shall be taken of national cultural promotion objectives and in case of disagreement over the remuneration due, this shall be determined by the Board;

(b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;

(c) the inclusion in an audiovisual work, broadcast or rebroadcast, communication to the public or cable retransmission of any artistic work situated in a place where it can be viewed by the public;

(d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;

(e) the incidental inclusion of an artistic work in an audiovisual work, broadcast or rebroadcast;

(f) the reproduction of a short part of a published work, by way of illustration, in writings or sound or audiovisual recordings for teaching purposes:

Provided that such reproduction is compatible with fair practice and its extent does not exceed the extent justified by the purpose and its source and the name of the author shall, as far as practicable, be indicated;

(g) the reproduction, for face-to-face teaching in activities do not serve direct or indirect commercial gain, to the extent justified by the purpose, of a published article or other short work or short extract of a writing, with or without illustrations:

Provided that the act of reproduction is an isolated one occurring, if repeated, on separate and unrelated occasions, and there is no collective licence available (that is, offered by a collecting society in a way that the educational institution is aware or should be aware of the availability of the licence) under which such reproduction can be made:

Provided further that on any copy made under this subsection there shall be indicated as far as practicable its source and the name of the author;

(h) the reading or recitation in public by a person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgement;

(i) the making of single copies of works by public libraries, non-commercial documentation centres and scientific institutions for the purpose of study, scholarship or private research, provided no collective licence for such reproduction is available and no revenue is derived therefrom and no admission fee is charged for the communication, if any, to the public of the work thus used;

(j) the making of single copies of works by public libraries, non-commercial documentation centres and scientific institutions in order to preserve and, if necessary, in the event that it is lost, destroyed or rendered unusable, to replace a copy, or to replace, in the permanent collection of another similar library or archive, a copy which has been lost, destroyed or rendered unusable:

Provided that it is impossible to obtain such a copy under reasonable conditions and the act of reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions;

(k) the doing of any of the aforesaid acts, at the request of a person with a perceptual disability or for a non-profit organisation acting for his or her benefit:

Provided that this does not apply when the work in respect of which such an act is to be done is commercially available in a format specially designed to meet the needs of any person referred to in the above paragraph and may be located within a reasonable time, for a reasonable price with reasonable effort;

(l) temporary acts of reproduction such as transient and incidental acts of reproduction which are an integral and essential part of a technological process, including those which facilitate effective functioning of transmission systems, whose sole purpose is to enable use to be made of a work or other subject matter, and which have no independent economic significance;

(m) the reproduction of a work by or under the direction or control of a broadcasting organisation, made by means of the broadcasting organisation's own facilities and only for use in its own broadcast, where such reproduction or any copies thereof are intended exclusively for a lawful broadcast or rebroadcast and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting organisation and the owner of the relevant copyright in the work:

Provided that any reproduction of a work made under this paragraph may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting organisation, but shall not be used for broadcasting, rebroadcasting or for any other purpose without the consent of the owner of the relevant copyright in the work;

(n) the communication to the public of a work, in a place where no admission fee is charged in respect of such communication, by any club whose aim is not profit-making;

(o) any use made of a work for the purpose of a judicial proceeding or of any report of any such proceeding;

(p) in the case of a computer program, the observation, the study or testing of the functioning of the program by the licensed user in order to determine the ideas and principles which underlie any element of the program if this is done whilst performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do;

(q) in the case of a computer program, the reproduction by the licensed user of the code and translation of its form indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that these acts are confined to the parts of the original program which are necessary to achieve interoperability and the information necessary to achieve interoperability has not previously been readily available to the licensed user:

Provided that any information obtained from the reproduction of the code and the translation of the form of a computer program made under this paragraph shall not :

(i) be used for purposes other than to achieve the interoperability of the independently created computer program;

(ii) be given to other persons, except when necessary for the interoperability of the independently created computer program;

(iii) be used for the development, production or marketing of a computer program substantially similar in its expression to the original program, or for any other act which infringes copyright;

(r) the making of a copy or a back-up copy, the translation, adaptation, arrangement and any other alteration of a computer program and the reproduction of the results thereof, in so far as this is necessary for the licensed user to make proper use of the program in accordance with its intended purpose, including error correction, and the right of the licensed user to make a back-up copy of a computer program may not be restricted or excluded by contract in so far as it is necessary for the use of that computer program;

(s) in the case of a database, the performance of those acts which are normally necessary in order that the licensed user obtains access to the contents of the database and normal use thereof, in respect of the whole or part of the database which the user is licensed to use and any contractual provisions running counter to what is prescribed in this paragraph shall be null and void;

(t) in the case of a database, any use which is necessary for the purposes of public security or for the purposes of an administrative procedure, to the extent justified by the purpose.

10. Copyright in a work of architecture shall also include the exclusive right to authorize or prevent the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original:

Copyright in a work
of architecture.

Provided that the copyright in any such work shall not include the right to authorise or prevent the reconstruction, in the same style as the original, of a building to which that copyright relates or the right to authorize or prevent the rental or lending of buildings or works of applied art.

First ownership of copyright.

11. (1) Copyright conferred by sections 4, 5 and 6 of this Act shall vest initially in the author or in the joint authors:

Provided that in the case of computer programs and databases where a work is made in the course of the author's employment, in the execution of his duties or following the instructions given by his employer, the economic rights conferred by copyright shall be deemed to be transferred to the author's employer, subject to any agreement between the parties excluding or limiting such transfer. In respect of other works eligible for copyright, in such circumstances, subject to any agreement to the contrary between the parties, the copyright shall always vest in the author or joint authors.

(2) Subject to the provision of the last preceding subsection-

(a) the name on a work purporting to be the name of its author shall be considered as such, unless the contrary is proved;

(b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be deemed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Act.

PART III : MORAL RIGHTS OF AUTHORS

Author's right to prohibit the mutilation, modification, distortion or subjecting to derogatory treatment of any work.

12. (1) It shall not be lawful for any person, including the assignee of the copyright or a licensee thereunder, without the author's consent, to mutilate, modify, distort or subject to any other derogatory action any work during its term of copyright in a way prejudicial to the honour or reputation of the author.

(2) The author of a work eligible for copyright shall, until the expiry of copyright, in addition to copyright conferred in relation to that work, and also in those cases where copyright shall have been transmitted by assignment or by testamentary disposition enjoy the moral right -

(a) to claim authorship of his work, in particular, the right that his name as far as practicable, be indicated in a prominent way on the copies, and in connection with any public use of that work; or

(b) that his name be not indicated on the copies, and in connection with any public use, of his work, or that his pseudonym be so indicated:

Provided that during the lifetime of the author of a work it shall not be lawful to transmit any of the aforesaid moral rights.

(3) On the death of the author –

(a) the right passes to such person as he may by testamentary disposition specifically direct, provided that on this person's death the right passes to his successor;

(b) if there is no such direction but the copyright in the work in question forms part of his estate, the right passes to the person to whom the copyright passes;

(c) if or to the extent the right does not pass under paragraph (a) or paragraph (b) it would be exercisable by the owners of the copyright.

PART IV : NEIGHBOURING RIGHTS

13. Performers shall have the exclusive right to authorise or prohibit the doing in Malta any of the following acts: Nature of performers' rights.

- (a) the fixation of their performances;
- (b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of a fixation of their performances;
- (c) the rental and lending of their fixed performances;
- (d) the distribution of the original performances fixed in phonograms and of copies thereof;
- (e) the making available to the public of the fixation of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and a time individually chosen by them;
- (f) the broadcasting and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation.

Term of protection for performers' rights.

14. The rights conferred by this section shall have the duration of fifty years from the end of the year in which the fixation of the performance was first lawfully published or first lawfully communicated to the public, whichever is the earlier or in the absence of such publication or communication to the public from the end of the year in which it was first performed.

Nature of producers' rights.

15. Producers of sound recordings shall, in respect of their sound recordings, and producers of the first fixations of audiovisual works, in respect of the original and copies of their audiovisual works, have the exclusive right to authorize or prohibit:

- (a) the direct or indirect, temporary or permanent reproduction by any means or form in whole or in part;
- (b) the rental and lending;
- (c) the distribution;
- (d) the making available to the public by wire or wireless means in such a way that members of the public may access them from a place and a time individually chosen by them.

Term of protection for producers' rights.

16. The rights conferred by this section on sound recordings and audiovisual works shall have the duration of fifty years from the end of the year in which the sound recording or the first fixation of the audiovisual work was first lawfully published or lawfully communicated to the public, whichever is the earlier or in the absence of such publication or communication to the public from the end of the year in which the first fixation was made.

Nature of broadcasters' rights.

17. (1) Broadcasting organisations shall have the exclusive right to authorize or prohibit the doing in Malta of any of the following acts:

- (a) the fixation of their broadcasts or initial cable transmissions;
- (b) the direct or indirect, temporary or permanent reproduction by any means or form in whole or in part of fixations of their broadcast or initial cable transmissions as set out in paragraph (a) above;
- (c) the distribution of fixation of their broadcasts or initial cable transmissions as set out in paragraph (a) above;
- (d) the rebroadcasting of their broadcasts as well as the communication to the public of their broadcasts if such

communication is made in places accessible to the public against payment of an entrance fee;

(e) the making available to the public, of fixations of their broadcast or initial cable transmissions as set out in (a) above, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

(2) A broadcasting organisation shall not have the right provided in paragraph 1(a) above when it merely retransmits by cable the broadcasts of broadcasting organisations.

18. The rights conferred by this section on broadcasts shall have the duration of fifty years from the end of the year in which the broadcast was first transmitted whether by wire or over the air, be it by cable or satellite.

Term of protection of broadcasters' rights.

19. Where a sound recording published for commercial purposes or a reproduction of such sound recording is used directly or indirectly for broadcasting by wireless means or for any communication to the public a single equitable remuneration shall be paid by the user to the performers and to the producers of the sound recording concerned to be shared equally between them. Such payment shall be made to a collecting society representing both performers and producers of sound recordings or, in the absence of such a collecting society, to the producer of sound recordings who shall be obliged to distribute half of the remuneration to the performers.

Remuneration for performers and producers of sound recordings.

20. The distribution right in respect of fixations of performances, sound recordings, original and copies of audiovisual works and fixations of broadcasts conferred by the preceding subsections of this Section on performers, producers of sound recordings, producers of the first fixations of audiovisual works and broadcasting organisations respectively shall be exhausted by the first sale in Malta of the originals or copies of such works in regard to that particular original or copy, when such sale is effected by the neighbouring right owner or with his consent.

Exhaustion of distribution right.

21. The provisions of paragraphs (a), (b), (e), (f), (g), (i), (j), (k), (l) and (m) of section 9 of this Act shall apply to the neighbouring rights conferred by this Section in like manner as they apply to copyright in a literary, musical or artistic or audiovisual work or database.

Exceptions to neighbouring rights.

22. Neighbouring rights conferred by this Part shall apply only in respect of works -

Qualification for neighbouring rights protection.

(a) of which the performer, the producer or broadcaster is –

(i) an individual who is a citizen of, or is domiciled or permanently resident in Malta or in a State in which such works are protected by neighbouring rights under an international agreement to which Malta is also a party;

(ii) a body of persons or a commercial partnership constituted, established, registered and vested with legal personality under the laws of Malta or of a State in which such works are protected by neighbouring rights under an international agreement to which Malta is also a party;

or

(b) which are made, first published, broadcast or communicated to the public in Malta or in a State in which such works are protected by neighbouring rights under an international agreement to which Malta is also a party;

or

(c) which are made by or under the direction or control of the Government of Malta and also such governments of other States, international bodies or other inter-governmental organisations as may be prescribed.

PART V : MORAL RIGHTS OF PERFORMERS

Performers' rights to be identified and to prohibit the distortion, mutilation and modification of performances.

23. (1) Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall until the expiry of the economic rights, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performances, and to prohibit any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation:

Provided that during the lifetime of the performer it shall not be lawful to transmit any of the aforementioned moral rights.

(2) On the death of the performer –

(a) the right passes to such person as he may by testamentary disposition specifically direct, provided that on this person's death the right passes to his successor;

(b) if there is no such direction but the copyright in the work in question forms part of his estate, the right passes to the person to whom the copyright passes.

PART VI : TRANSFER OF COPYRIGHT AND NEIGHBOURING RIGHTS

24. (1) Subject to the provisions of this section, copyright and neighbouring rights shall be transmissible by assignment, operation of law or by testamentary disposition as movable property. Assignment and licences.

(2) An assignment or testamentary disposition of copyright or neighbouring rights may be limited so as to apply to some only of the acts which the owner of the copyright or neighbouring rights has the exclusive right to authorize or prevent, or to a part only of the period of the copyright or neighbouring right, or to a specified country or other geographical area.

(3) When an author in relation to the original or copy of his work or a performer in relation to the fixation of his performance assigns his exclusive right to authorize or prevent the rental thereof to the producer of the sound recording or the producer of the audiovisual work containing the author's work or the performer's fixed performance, that author or performer shall retain the right to obtain individually or through a collecting society an equitable remuneration for the rental of the said sound recording or original or copy of the said audiovisual work from the producer concerned and such right may not be waived. In the absence of agreement on the remuneration payable under this subsection, the amount of such remuneration shall be determined by the Board.

(4) Subject to the provisions of section 52 of this Act no assignment of copyright or neighbouring rights and no licence to do an act the doing of which is controlled by copyright or by neighbouring rights shall have effect unless it is effected by an agreement in writing between the parties:

Provided that when a contract is concluded between a performer and a producer of audiovisual works concerning the production of an audiovisual work the performer shall be deemed to have assigned to the producer his exclusive rights on the fixation of his performance, unless agreed otherwise, subject only to the right, which may not be waived, of the performer to an equitable remuneration payable on the conclusion of the contract by the producer to the performer or should he so desire to a collecting society representing him, which remuneration shall, in the absence of agreement between the parties, be determined by the Board.

Provided further that, when a contract is concluded between the author of an audiovisual work or the authors of the underlying works used as the basis for the audiovisual work and the producer of the audiovisual work concerning the production of that audiovisual work such authors shall be deemed to have assigned to the producer their exclusive rights on their copyright works, unless agreed otherwise, subject only to the right, which may not be waived, of the authors to an equitable remuneration payable on the conclusion of the contract by the producer to the author individually or should the author so desire, to a collecting society representing him, which remuneration shall, in the absence of agreement between the parties, be determined by the Board.

(5) An assignment or licence of copyright granted by a joint author or an assignment or licence of a neighbouring right granted by a joint rightholder shall have effect as if granted by the other joint authors or joint rightholders respectively:

Provided that, where any other joint author in the case of copyright or joint rightholder in the case of neighbouring rights is not satisfied with the terms on which such assignment or licence has been granted, he may, within three months from the day on which the said terms have been communicated in writing to him, apply to the Board for the determination by it of such terms as the Board may consider fair and reasonable.

(6) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work or an existing work in which copyright or a neighbouring right does not yet subsist, and the prospective copyright or prospective neighbouring right in any such work shall be transmissible as movable property:

Provided that in the case of copyright such assignment or licence shall not be deemed to include a copyright which in terms of subsection (1) of section 11 of this Act vests in the author's employers, unless the parties expressly include it.

(7) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, unless the testator has provided otherwise, be deemed to include any copyright or neighbouring right or prospective copyright or prospective neighbouring right in the work which is vested in the deceased.

PART VII : *SUI GENERIS* RIGHT IN RESPECT OF DATABASES

Nature of *sui generis* right in respect of databases.

25. Notwithstanding the provisions of section 7(1) of this Act, the maker of a database who can show that there has been qualitatively

or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents of the database shall have, irrespective of the eligibility of that database or its contents for protection by copyright or by other rights, the right to authorise or prohibit acts of extraction or re-utilization of its contents, in whole or in substantial part, evaluated qualitatively or quantitatively.

26. (1) The maker of a database which is made available to the public in whatever manner may not prevent a licensed user of the database from extracting or re-utilizing insubstantial parts of its contents, evaluated qualitatively or quantitatively, for any purpose whatsoever, as long as the licensed user does not perform acts which conflict with the normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database or in any way cause prejudice to the holder of a copyright or neighbouring right in respect of the works or subject matter contained in the database and any contractual provisions running counter to this proviso shall be null and void:

Exceptions to the *sui generis* right in respect of databases.

Provided that the repeated and systematic extraction or re-utilization of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database shall not be permitted.

(2) Notwithstanding section 25, a licensed user may, without the authorization of the maker of a database made available to the public in whatever manner, extract or re-utilize a substantial part of its contents for the following purposes:

(a) extraction for private use in the case of a non-electronic database;

(b) extraction for the purposes of illustration for teaching or for scientific research to the extent justified by the non-commercial purpose to be achieved provided the source is indicated;

(c) extraction or re-utilization for the purposes of public security or an administrative or judicial procedure.

27. The right provided for in section 25 shall expire fifteen years from the first of January of the year following the date of completion of the making of the database, or if made available to the public in whatever manner before expiry of the said period, such a right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public:

Term of protection of *sui generis* right in respect of databases.

Provided that any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively or quantitatively, shall give rise to the creation of a new database, which shall be entitled from that moment to its own term of protection of fifteen years.

Assignment and licences.

28. Such a right which may be assigned or granted under contractual licence subject to the provisions of section 24 of this Act shall be without prejudice to rights existing in respect of the contents of the database.

Qualification for protection for *sui generis* right in respect of databases.

29. The right conferred by this section shall only apply to a database -

(a) whose maker or rightholder is at the time when the database is made -

(i) an individual who is a citizen of, or is domiciled or permanently resident in Malta or in a State in which such a *sui generis* right in respect of databases is protected under an international agreement to which Malta is also a party;

(ii) a body of persons or a commercial partnership constituted, established, registered and vested with legal personality under the laws of Malta or of a State in which such a *sui generis* right in respect of databases is protected under an international agreement to which Malta is also a party;

or

(b) which is made or first made available to the public in Malta or in a State in which such a *sui generis* right in respect of databases is protected under an international agreement to which Malta is also a party;

or

(c) which is made by or under the direction or control of the Government of Malta and also such governments of other States, international bodies or other inter-governmental organisations as may be prescribed.

30. (1) For the purposes of this Part “extraction” means the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form while “re-utilization” means any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission:

Definition of extraction and re-utilization.

(2) Provided that public lending shall not be deemed to be an act of extraction or re-utilization.

31. The first sale in Malta of a copy of a database by the rightholder or with his consent shall exhaust the right to control the resale of that copy.

Exhaustion of resale right.

PART VIII : *SUI GENERIS* RIGHT IN RESPECT OF SEMICONDUCTOR PRODUCT TOPOGRAPHIES

32. Creators of semiconductor product topographies and their successors in title shall have the exclusive right to authorize or prevent in Malta the reproduction of the topography and the commercial exploitation or the importation for the purpose of commercial exploitation of the topography or of a semiconductor product manufactured by using the topography.

Nature of *sui generis* right in respect of semiconductor topographies.

33. The right conferred by section 32 shall not prevent:

Exceptions to the topography right.

(a) reproduction of a topography privately for non-commercial aims;

(b) reproduction for the purpose of analyzing, evaluating or teaching the concepts, processes, systems or techniques bodied in the topography or the topography itself;

(c) any act in relation to a topography meeting the requirements of section 35 of this Act and created on the basis of an analysis and evaluation of another topography carried out in conformity with the preceding paragraph (b).

34. When the topography or the semiconductor product has been put on the market in Malta by the rightholder or with his consent the exclusive right to authorize or prevent the commercial exploitation or the importation of that topography or of that semiconductor product shall be exhausted.

Exhaustion of topography right.

Application of topography right only in respect of creator's own intellectual effort.

35. The right conferred by section 32 of this Act shall apply only in respect of semiconductor product topographies which are the result of the creator's own intellectual effort and are not commonplace in the semiconductor industry but shall not extend to any concept, process, system, technique or encoded information embodied in the topography:

Provided that where the semiconductor product topography consists of elements that are commonplace in the semiconductor industry, it shall be protected only to the extent that the combination of such elements, taken as a whole, fulfils the above-mentioned conditions.

Qualification for protection of topography right.

36. The right conferred by section 32 shall apply in favour of a creator or his successor in title who is an individual who is a citizen of, or is domiciled or permanently resident in Malta or in a State in which such a *sui generis* right as is conferred by section 32 on semiconductor product topographies is protected under an international agreement to which Malta is also a party.

Topographies created in course of employment.

37. Where a topography is created in the course of the creator's employment, in the execution of his duties or following the instructions given by his employer the exclusive right conferred by section 32 shall be deemed to be transferred to the creator's employer or his successor in title, subject to any agreement between the parties excluding or limiting such transfer:

Provided that the creator's employer or his successor in title must also satisfy the criteria of section 36 or be a body of persons or a commercial partnership constituted, established, registered and vested with legal personality under the laws of Malta or of a State in which such a *sui generis* right as is conferred by section 32 on semiconductor product topographies is protected under an international agreement to which Malta is also a party.

Where no right to protection exists.

38. Where no right to protection as conferred by section 32 exists in favour of a creator or his employer in accordance with sections 36 and 37, the right shall apply in favour of the person or his successor in title, who, satisfying either of the conditions mentioned in the proviso to section 37, first commercially exploits, in Malta or in a State in which such a *sui generis* right as is conferred by section 32 on semiconductor product topographies is protected under an international agreement to which Malta is also a party, a topography which has not yet been exploited commercially anywhere in the world and has been exclusively authorized to exploit commercially the topography throughout such territory by the person entitled to dispose of it.

39. The right conferred by section 32 may be assigned or granted under contractual licence subject to the provisions of Section 24 of this Act.

Assignment and licences.

40. The right conferred by section 32 shall subsist for ten years from the end of the year in which the semiconductor product topography was first commercially exploited anywhere in the world or for fifteen years from the first fixation or encoding of the semiconductor product topography if it has not been commercially exploited:

Term of protection for topography right.

Provided that in the case where the term of protection commences from the date of first commercial exploitation in the world rather than from the first fixation or encoding of the topography, the legal remedies provided for by subsection (1) of section 43 shall also be available in favour of a rightholder who can prove to the satisfaction of the Court that the defendant fraudulently reproduced or commercially exploited or imported for that purpose a semiconductor product topography even though such acts occurred prior to the commencement of the term of protection and the coming into existence of the right conferred by section 32.

41. Notwithstanding section 32 and the provisions of section 42, a person or his successor in title who acquires a semiconductor product shall not be prevented from commercially exploiting that product if at the time of acquisition he was not aware and could not reasonably be expected to be aware that a *sui generis* right as is conferred by section 32 subsisted in that work:

Right of remuneration.

Provided that, at the suit of the rightholder or his successors in title, the Civil Court, First Hall, shall order that person to pay adequate compensation to the plaintiff in respect of the acts committed by him after he became aware or had reasonable grounds to believe that the semiconductor product is protected by such a *sui generis* right.

PART IX : INFRINGEMENT

42. (1) Copyright, neighbouring rights and *sui generis* rights are infringed by any person who does or causes another person to do, without a licence from the owner or holder thereof, an act the doing of which is controlled by copyright, neighbouring rights or *sui generis* rights.

Infringing acts.

(2) Copyright, neighbouring rights and *sui generis* rights are also infringed by any person who, without the licence of the copyright owner or right holder, imports into Malta otherwise than for private and domestic use, or distributes therein by way of trade, hire or otherwise, or by way of trade exhibits in public or is in possession or manufactures in the course of business or offers or exposes for sale or hire an article

in respect of which copyright, neighbouring rights or *sui generis* rights are infringed under the last preceding Section.

(3) Copyright, neighbouring rights or *sui generis* rights are also infringed by any person who without the licence of the copyright owner or rightholder makes, imports into Malta, possesses in the course of trade or sells or lets for hire, or offers or exposes for sale or hire an article the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of any technical device which may have been applied to protect a work or other subject matter eligible for copyright, neighbouring rights or *sui generis* rights under this Act against being copied, seen, viewed, heard or otherwise perceived.

Liability for infringement of copyright, neighbouring rights and *sui generis* rights.

43. (1) Where any person infringes the copyright, neighbouring rights or *sui generis* rights in respect of a work, he shall be liable, at the suit of the copyright owner or right holder to be condemned by the Civil Court, First Hall to the payment of damages or to the payment of a fine to be determined in accordance with a scale of fines to be prescribed by the Minister, as the said Court, having regard to the circumstances of the case, may deem proper and to the restitution of all the profit derived from the infringement of the copyright, neighbouring rights or *sui generis* rights:

Provided that where the defendant proves to the satisfaction of the Court that at the time of the infringement he was not aware and could not reasonably be expected to be aware that copyright, neighbouring rights or *sui generis* rights subsisted in the work to which the action relates, the Court shall not condemn him to the restitution of the profit.

(2) The Civil Court, First Hall may in an action for infringement of copyright, neighbouring rights or *sui generis* rights having regard to all the circumstances and in particular to the flagrancy of the infringement and any benefit accruing to the defendant by reason of the infringement, award such additional damage as the justice of the case may require.

(3) The Court may, moreover, in a suit instituted under this Section, on the application of the plaintiff, order that all the infringing articles still in possession of the defendant be delivered to the plaintiff.

(4) In an action for infringement of copyright in respect of the construction of a building, no prohibitory injunction or other order shall be made -

(a) after the construction of the building has been begun, so as to prevent it from being completed; or

(b) so as to require the building, in so far as it has been constructed, to be demolished.

44. (1) Saving the provisions of the last preceding section, any person who contravenes the provision of subsection (1) of section 12, shall be liable at the suit of the author or his heirs to be condemned by the Civil Court, First Hall, to the payment of a fine, and for damages to be determined in accordance with a scale of fines to be prescribed by the Minister.

Liability for infringement of moral rights.

(2) In any proceedings under the last preceding subsection the Court shall order the destruction of all the infringing articles still in possession of the defendant where it is satisfied that the prejudice caused to the author is so serious as to justify such measure.

(3) The provision of the last preceding subsection shall not apply where the infringing article is a building.

(4) Any person who contravenes the provisions of subsection (1) and (2) of Section 12 and subsection (1) of section 23 shall be liable at the suit of the author or the physical person to whom, or the legal entity to which, the right to exercise the aforesaid moral rights has been transmitted under the proviso to subsection (2) of section 11, to be condemned by the Civil Court, First Hall to the payment of a fine, and for damages to be determined in accordance with a scale of fines to be prescribed by the Minister.

PART X : THE COPYRIGHT BOARD

45. (1) The Minister shall by notice in the Government Gazette appoint a Copyright Board, consisting of a chairman and two other members for the purpose of performing the functions assigned to such Board by the provisions of this Act.

Appointment of the Board.

(2) The Chairman of the said Board shall be a retired Judge or a retired Magistrate or a person who has practised as an advocate in Malta for a period of, or periods amounting in the aggregate to, not less than seven years.

(3) The Minister shall also appoint two other persons to act as members of the Board, one to replace the chairman and the other to replace any of the other two members, whenever the chairman or any of the other members, as the case may be, is, for any reason, unable to carry out his functions.

(4) Every member of the Board shall hold office during the Minister's pleasure and the Minister may, without assigning any reason,

revoke the appointment of any member and appoint a new member whenever he deems it to be necessary.

(5) The members of the Board, with the exception of the Chairman if he is a Magistrate, shall, before entering upon their office, take before the Attorney General the oath to examine and decide any matter referred to them with equity and impartiality.

Abstention and challenge.

Cap. 12.

46. The Chairman or any other member of the Board may abstain or may be challenged by any of the contending parties for any of the causes mentioned in section 734 of the Code of Organization and Civil Procedure. Any question regarding any cause of abstention or challenge and any question which is a question of law alone shall be decided by the Chairman of the Board.

Power to summon.

47. The Board shall have the power to summon any person to give evidence or to produce books or other documents before it, and the Chairman of the Board shall have, in regard to the summoning and examining of witnesses before the Board, the same powers as are by the Code of Organization and Civil Procedure conferred on the Civil Court, First Hall.

Proceedings.

48. (1) Proceedings of the Board shall be held in public and the Board's decision shall be notified to the parties by registered post to their respective business or private addresses and, unless the contrary is proved, such decision shall be deemed to have been served on the party concerned not later than the third day succeeding the day when it was posted to such party.

(2) The Minister may make regulations governing proceedings before the Board and, without prejudice to the generality of the foregoing, may make regulations -

(a) prescribing the manner in which any matter may be referred to the Board;

(b) prescribing the procedure to be adopted by the Board in dealing with any matter referred to it under this Act and the records to be kept by the Board;

(c) prescribing the manner in which the Board shall be convened and the place where the Board shall hold its sittings;

(d) prescribing a scale of fines, costs and fees; and

(e) generally for the better carrying out of the functions assigned to the Board by this Act.

49. (1) There shall lie a right of appeal from all decisions of the Board. Right of appeal.

(2) Any appeal shall be brought before the Court of Appeal composed in the manner provided in subsection (6) of section 41 of the Code of Organisation and Civil Procedure by application within fifteen days of service of the Board's decision.

(3) The Minister may make rules governing appeals to the Court of Appeal under this Act, and prescribing a scale of costs and fees in relation to such appeals.

50. Costs and fees in respect of proceedings before the Board and before the Court of Appeal shall be borne by the parties in such manner as the said Board or Court, as the case may be, shall decide. Costs and fees.

51. (1) In any case where it appears to the Board that a collecting society or an owner of copyright or neighbouring right - Unreasonable refusal or unreasonable terms in respect of cable retransmission or rebroadcasting.

(a) is unreasonably refusing to grant a licence in respect of cable retransmission or rebroadcasting, or

(b) is imposing unreasonable terms or conditions for the granting of such licence,

the Board may direct that, as respects the doing of any act relating to a work with which the collecting society or the owner, as the case may be, is concerned, a licence shall be deemed to have been granted by the collecting society or by the owner at the time the act is done, provided the appropriate fees fixed by such Board are paid or tendered before the expiration of such period or periods as the Board may determine.

(2) The Minister may by regulations order that the provisions of this section shall not remain in force as from the date mentioned in such order.

PART XI : COLLECTIVE ADMINISTRATION OF RIGHTS

52. Authors and other owners of copyright and of neighbouring rights may authorize a collecting society to administer their economic rights. Authorisation of collecting societies.

53. (1) Collecting societies shall be established in the form of civil partnerships and shall be regulated by the provisions of Title X of Part II of Book Second of the Civil Code. Establishment and incorporation of collecting societies. Cap. 16.

(2) A request for incorporation of a collecting society shall be made at the Ministry responsible for the protection of copyright and neighbouring rights thereafter referred to as the “supervisory authority” along with the submission of a copy of the statutes of the collecting society and its regulations concerning the system and the amounts, as well as the collection and distribution, of fees and equitable remuneration.

(3) The supervisory authority shall incorporate the collecting society unless:

(a) the statutes or regulations mentioned in subsection (2) of this section do not conform to the provisions of this Act or to the relevant provisions of the Civil Code;

(b) there is factual evidence indicating that a physical person who may lawfully represent the collecting society under the statutes of the organisation does not possess the professional qualifications or reliability necessary for the exercise of such activity;

(c) there is factual evidence indicating that the collecting society is not able to fulfil its functions for any reason including the absence of economic and technical means, or of appropriate staff;

(d) another collecting society has already been approved in the same field of administration, provided that the supervising authority is satisfied that the existence of more than one organisation in that particular field of administration would not be beneficial to the interests of the authors and other owners of copyright and of neighbouring rights and the users.

(4) Any decision of the supervisory authority not to incorporate a collecting society, shall be appealable by the aggrieved party by writ of summons before the Civil Court, First Hall.

Tasks of collecting societies.

54. A collecting society, on behalf of, and on the basis of the authorisation by, the authors and other owners of copyright and of neighbouring rights that are its members or that it otherwise represents on the basis of agreements with foreign collecting societies may fulfil the following tasks:

(a) to give authorization to third parties to carry out acts covered by the exclusive economic rights administered;

(b) to collect fees for authorization mentioned in paragraph (a) and to collect equitable remuneration where the law provides for such remuneration;

(c) to distribute the fees and equitable remuneration thus collected among the authors and other owners of copyright and of neighbouring rights concerned;

(d) to take any legal action necessary for the enforcement of the rights administered by it;

(e) to carry out any other acts authorized, in keeping with section 24, by the authors and other owners of copyright and of neighbouring rights, or by the bodies representing them, whose exclusive economic rights or rights to equitable remuneration are administered.

55. (1) Decisions about the methods and rules of collection and distribution of fees and equitable remuneration and about other aspects of collective administration shall be taken by the authors and other owners of copyright and of neighbouring rights whose rights are administered or by the bodies representing them.

Methods of
operation of
collecting societies.

(2) The authors and other owners of copyright and of neighbouring rights whose rights are administered shall have the right to obtain full and detailed information about all the activities of the collecting society that concern the exercise of their rights.

(3) Without the authorization of the authors and other owners of copyright and of neighbouring rights whose rights are administered or of the bodies representing them, no fees or equitable remuneration collected by a collecting society shall be used for any purposes such as for cultural or social purposes, or for financing promotion activities other than the purposes of covering the actual costs of administration of the rights involved and of distributing the amounts of fees or equitable remuneration that remain after the deduction of such costs, in keeping with subsection (4) of this section.

(4) The amounts of fees and equitable remuneration collected by a collecting society shall, after the deduction of the actual costs of collective administration and other possible deductions that may be authorized in keeping with subsection (3) of this section, be distributed among the authors and other owners of copyright and of neighbouring rights, as much as is possible and practicable, in proportion to the actual use of their works.

(5) Authors and other owners of copyright and of neighbouring rights who or which are not nationals of, or have their habitual residence or their headquarters outside, Malta and whose rights are administered by a collecting society shall enjoy, in respect of the administration of their rights, the same treatment as those authors and other owners of copyright and of neighbouring rights who or which are members of, or are otherwise represented by, the collecting society and who or which are nationals of, or have their habitual residence or their headquarters in, Malta.

(6) Foreign collecting societies shall receive regular, full and detailed information on all the activities of a collecting society with which they have concluded an agreement on the representation of the rights administered by them, that may concern the exercise of the rights of, and the distribution of fees to, the authors and other owners of copyright and of neighbouring rights whose rights are administered by such foreign collecting societies.

Obligations of users of works towards collecting societies.

56. Those who carry out acts authorized by a collecting society or acts for which, although authorization is not needed, equitable remuneration is to be paid to a collecting society, shall –

(a) facilitate the monitoring, by the representatives of the collecting society, of the acts authorized or for which equitable remuneration is to be paid;

(b) if required, give the collecting society all information available to them concerning the acts performed in respect of the works concerned.

Supervision of collecting societies.

57. (1) Any collecting society shall immediately furnish the supervisory authority with a copy of –

(a) any amendment to its statutes or regulations mentioned in subsection (2) of section 53 of this Act;

(b) any bilateral or multilateral contract concerning the administration of rights of foreign authors and of their foreign owners of copyright and of neighbouring rights;

(c) any resolution of the general assembly and of any supervisory or advisory board of the collecting society;

(d) the yearly balance sheet, annual report and auditor's report concerning the operation of the collecting society.

(2) Any collecting society shall immediately inform the supervisory authority of any change concerning the physical persons who may lawfully represent it.

(3) The supervisory authority may at any time demand from any collecting society any further information that is necessary to determine whether or not the operation of the collecting society conforms to the statutes of the organisation, to the provisions of this Act and whether or not the appropriate fulfilment of the functions of the collecting society is ensured.

58. Notwithstanding the general provisions applicable to the dissolution of civil partnerships under the relevant provisions of the Civil Code – Dissolution of collecting societies.

(a) a request for dissolution of a collecting society may also be submitted by the supervisory authority to the Civil Court, First Hall;

(b) the Court shall dissolve a collecting society if any ground for which the incorporation of the collecting society would have been denied arises, unless the circumstances giving rise to such grounds are remedied within a reasonable period fixed by the supervisory authority, or, if, despite a warning by the supervisory authority, the collecting society repeatedly violates its statutes, its regulations mentioned in subsection (2) of section 53 of this Act or the provisions of this Act.

PART XII : REGULATIONS

59. The Minister may make regulations prescribing anything which may be prescribed under this Act . Power of the Minister to make regulations.

PART XIII : TRANSITORY PROVISIONS AND REPEAL

60. (1) This Act shall apply: Application to works.

(a) in relation to works made after the coming into force of this Act; and

(b) saving the provisions of subsection (2) of this section, to works made before the coming into force of this Act where the term of protection has not, upon the coming into force of this Act, expired under the Copyright Act repealed by section 61 of this Act. Cap. 196.

(2) (a) The rights of performers in respect of a fixation of their performance on a phonogram to prevent the fixation of their unfixed performance which took place prior to the commencement of this Act and the reproduction of such fixation when undertaken without their authorisation and the rights of performers to prevent the broadcasting by wireless means and the communication to the public of their live performance when undertaken without their authorisation shall be protected under this Act until the end of a period of fifty years computed from the end of the calendar year in which the performance took place. Provided that these rights are exercised through a collecting society.

(b) The right of producers of sound recordings made prior to the commencement of this Act to authorize or prohibit the rental of the said sound recordings shall be protected under this Act for a term of fifty years computed from the end of the calendar year in which the sound recording was made. Provided that these rights are exercised through a collecting society.

(c) The right of the holder of copyright in respect of a literary work consisting of a computer programme to authorise or prohibit the rental of the said programme shall be protected until the end of a period of fifty years computed from the end of the calendar year in which the author of the said computer programme dies.

(3) No action may be taken under this Act in respect of an action which took place prior to the commencement of this Act in respect of rights recognised by this Act but which were not recognised by the Copyright Act repealed by section 61 of this Act.

Cap. 196.

Repeals and
amendments.
Cap. 196.

61. (1) Saving the provisions of section 60, the Copyright Act is hereby repealed.

(2) Subsection (4) of section 69 of the Industrial Property (Protection) Ordinance is hereby repealed.

Cap. 29.

Act IX of 1980.

(3) In subsection (3) of section 12 of the Statute Law Revision Act 1980, for the words "the proviso to subsection (1) of section 7 of the Copyright Act" there shall be substituted the words "section 9 of the Copyright Act, 2000".

2000

Passed by the House of Representatives at sitting No. 282 of the 11th April,

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati