

CHINESE

中英文对照法律类编

# 著作权法

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COPYRIGHT LAW

中国法制出版社

ENGLISH

## 图书在版编目 (CIP) 数据

中英文对照法律类编/中国法制出版社编. —北京:  
中国法制出版社, 2002.12

ISBN 7-80182-049-5

I. 中… II. 中… III. 法律-汇编-中国  
-汉、英 IV. D920.9

中国版本图书馆 CIP 数据核字 (2002) 第 095110 号

中英文对照法律类编

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Copyright Law

经销/新华书店

印刷/河北省涿州市新华印刷厂

开本/880×1230 毫米 32

印张/4.625 字数/97 千

版次/2003 年 1 月第 1 版

2003 年 1 月第 1 次印刷

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中国法制出版社出版

书号 ISBN 7-80182-049-5/D·1015

北京西单横二条 2 号 邮政编码 100031

传真: 66062741

总定价: 800.00 元

本册定价: 14.00 元

发行部电话: 66062752

编辑部电话: 66062738

邮购部电话: 66033288

读者俱乐部电话: 66026596

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# 中华人民共和国著作权法

(1990年9月7日第七届全国人民代表大会常务委员会第十五次会议通过 根据2001年10月27日第九届全国人民代表大会常务委员会第二十四次会议《关于修改〈中华人民共和国著作权法〉的决定》修正)

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# **Copyright Law of the People's Republic of China**

(Adopted at the 15<sup>th</sup> Meeting of the Standing Committee of the Seventh National People's Congress on September 7, 1990, and Amended According to the Decision on Revising the Copyright Law of the People's Republic of China made at the 24<sup>th</sup> Meeting of the Standing Committee of the Ninth National People's Congress on October 27, 2001)

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## **Chapter I General Provisions**

**Article 1** This law is enacted, in accordance with the Constitution, for the purpose of protecting the copyright of authors in their literary, artistic and scientific works and the rights and interests related to copyright, encouraging the creation and dissemination of works conducive to the building of a socialist society that is

的创作和传播，促进社会主义文化和科学事业的发展与繁荣，根据宪法制定本法。

**第二条** 中国公民、法人或者其他组织的作品，不论是否发表，依照本法享有著作权。

外国人、无国籍人的作品根据其作者所属国或者经常居住地国同中国签订的协议或者共同参加的国际条约享有的著作权，受本法保护。

外国人、无国籍人的作品首先在中国境内出版的，依照本法享有著作权。

未与中国签订协议或者共同参加国际条约的国家的作者以及无国籍人的作品首次在中国参加的国际条约的成员国出版的，或者在成员国和非成员国同时出版的，受本法保护。

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

- (一) 文字作品；
- (二) 口述作品；
- (三) 音乐、戏剧、曲艺、舞蹈、杂技艺术作品；
- (四) 美术、建筑作品；
- (五) 摄影作品；
- (六) 电影作品和以类似摄制电影的方法创作的作品；
- (七) 工程设计图、产品设计图、地图、示意图等图形作品和模型作品；
- (八) 计算机软件；
- (九) 法律、行政法规规定的其他作品。

**第四条** 依法禁止出版、传播的作品，不受本法保护。

著作权人行使著作权，不得违反宪法和法律，不得损害公共利益。

**第五条** 本法不适用于：

- (一) 法律、法规，国家机关的决议、决定、命令和其他具有立法、行政、司法性质的文件，及其官方正式译文；

advanced ethically and materially, and promoting the progress and flourishing of socialist culture and sciences.

**Article 2** Chinese citizens, legal entities or other organizations shall, in accordance with this Law, enjoy the copyright in their works, whether published or not.

The copyright enjoyed by foreigners or stateless persons in any of their works under an agreement concluded between China and the country to which they belong or in which they have their habitual residences, or under an international treaty to which both countries are parties, shall be protected by this Law.

Foreigners and stateless persons whose works are first published in the territory of China shall enjoy the copyright in accordance with this Law.

Any work of an author of a country that has not concluded any agreement with China or that is not a party to any international treaty to which China is a party and any work of a stateless person, which is first published in a member country of an international treaty to which China is a party, or simultaneously published in a member country of the treaty and in a non-member country, shall be protected by this Law.

**Article 3** For purposes of this law, the term “works” includes, among other things, works of literature, art, natural sciences, social sciences, engineering and technology, which are created in any of the following forms:

- (1) written works;
- (2) oral works;
- (3) musical, dramatic, quyi, choreographic and acrobatic works;
- (4) works of the fine arts and architecture;
- (5) photographic works;
- (6) cinematographic works and works created by a process analogous to cinematography;
- (7) graphic works such as drawings of engineering designs and product designs, maps and sketches, and model works;
- (8) computer software; and
- (9) other works as provided for in laws and administrative regulations.

**Article 4** Works the publication and dissemination of which are prohibited by law shall not be protected by this Law.

In exercising their copyright, no copyright owners may violate the Constitution or laws, nor may they impair public interests.

**Article 5** This Law shall not be applicable to:

- (1) laws and regulations, resolutions, decisions and orders of State organs, other documents of a legislative, administrative or judicial nature and their official translations;

(二) 时事新闻；

(三) 历法、通用数表、通用表格和公式。

**第六条** 民间文学艺术作品的著作权保护办法由国务院另行规定。

**第七条** 国务院著作权行政管理部门主管全国的著作权管理工作；各省、自治区、直辖市人民政府的著作权行政管理部门主管本行政区域的著作权管理工作。

**第八条** 著作权人和与著作权有关的权利人可以授权著作权集体管理组织行使著作权或者与著作权有关的权利。著作权集体管理组织被授权后，可以以自己的名义为著作权人和与著作权有关的权利人主张权利，并可以作为当事人进行涉及著作权或者与著作权有关的权利的诉讼、仲裁活动。

著作权集体管理组织是非营利性组织，其设立方式、权利义务、著作权许可使用费的收取和分配，以及对其监督和管理等由国务院另行规定。

## 第二章 著 作 权

### 第一节 著作权人及其权利

**第九条** 著作权人包括：

(一) 作者；

(二) 其他依照本法享有著作权的公民、法人或者其他组织。

**第十条** 著作权包括下列人身权和财产权：

(一) 发表权，即决定作品是否公之于众的权利；

(二) 署名权，即表明作者身份，在作品上署名的权利；

(三) 修改权，即修改或者授权他人修改作品的权利；

- (2) news on current affairs; and
- (3) calendars, numerical tables and forms of general use, and formulas.

**Article 6** Measures for the protection of copyright in works of folk literature and art shall be formulated separately by the State Council.

**Article 7** The administrative department for copyright under the State Council shall be responsible for the administration of copyright nationwide. The administrative departments for copyright under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administration of copyright in their respective administrative regions.

**Article 8** Copyright owners or owners of the rights related to the copyright may authorize collective copyright administration organizations to exercise their copyright or rights related to the copyright. Upon authorization, a collective copyright administration organization may exercise the copyright or the rights related to the copyright in its own name for the copyright owner or the owner of the rights related to the copyright and participate as a party in legal or arbitration proceedings concerning the copyright or the rights related to the copyright.

Collective copyright administration organizations are non-profit organizations, and regulations concerning the way of their establishment, their rights and obligations, their collection and distribution of copyright licensing fees, and their supervision and administration shall be formulated separately by the State Council.

## **Chapter II Copyright**

### **Section 1 Copyright Owners and Their Rights**

**Article 9** Copyright owners include:

- (1) authors; and
- (2) other citizens, legal entities and other organizations enjoying the copyright in accordance with this Law.

**Article 10** Copyright includes the following personal rights and property rights:

- (1) the right of publication, that is, the right to decide whether to make a work available to the public;
- (2) the right of authorship, that is, the right to claim authorship in respect of, and to have the author's name mentioned in connection with, a work;
- (3) the right of revision, that is, the right to revise or authorize others to revise a work;

(四) 保护作品完整权，即保护作品不受歪曲、篡改的权利；

(五) 复制权，即以印刷、复印、拓印、录音、录像、翻录、翻拍等方式将作品制作一份或者多份的权利；

(六) 发行权，即以出售或者赠与方式向公众提供作品的原件或者复制件的权利；

(七) 出租权，即有偿许可他人临时使用电影作品和以类似摄制电影的方法创作的作品、计算机软件的权利，计算机软件不是出租的主要标的的除外；

(八) 展览权，即公开陈列美术作品、摄影作品的原件或者复制件的权利；

(九) 表演权，即公开表演作品，以及用各种手段公开播送作品的表演的权利；

(十) 放映权，即通过放映机、幻灯机等技术设备公开再现美术、摄影、电影和以类似摄制电影的方法创作的作品等的权利；

(十一) 广播权，即以无线方式公开广播或者传播作品，以有线传播或者转播的方式向公众传播广播的作品，以及通过扩音器或者其他传送符号、声音、图像的类似工具向公众传播广播的作品的权利；

(十二) 信息网络传播权，即以有线或者无线方式向公众提供作品，使公众可以在其个人选定的时间和地点获得作品的权利；

(十三) 摄制权，即以摄制电影或者以类似摄制电影的方法将作品固定在载体上的权利；

(十四) 改编权，即改变作品，创作出具有独创性的新作品的权利；

(十五) 翻译权，即将作品从一种语言文字转换成另一种语言文字的权利；

(十六) 汇编权，即将作品或者作品的片段通过选择或者编排，汇集成新作品的权利；

(4) the right of integrity, that is, the right to protect a work against distortion and mutilation;

(5) the right of reproduction, that is, the right to produce one or more copies of a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means;

(6) the right of distribution, that is, the right to provide the original copy or reproductions of a work to the public by selling or donating;

(7) the right of rental, that is, the right to authorize others to use temporarily a cinematographic work or a work created by a process analogous to cinematography, or computer software, except where the software itself is not the essential object of the rental;

(8) the right of exhibition, that is, the right to publicly display the original copy or reproductions of a work of the fine arts or of a photographic work;

(9) the right of performance, that is, the right to publicly perform a work, and to publicly communicate the performance of a work by any means or process;

(10) the right of presentation, that is, the right to publicly present a work of the fine arts, a photographic work, a cinematographic work, a work created by a process analogous to cinematography, or other works, by projector, slide projector or any other technology or instrument;

(11) the right of broadcasting, that is, the right to broadcast a work or disseminate it to the public by any wireless means, to communicate the broadcast of a work to the public by wire or by rebroadcasting, and to publicly communicate the broadcast of a work by loudspeaker or any other analogous instrument transmitting signs, sounds or images;

(12) the right of communication through information network, that is, the right to make a work available to the public by wire or by wireless means, so that people may have access to the work from a place and at a time individually chosen by them;

(13) the right of cinematography, that is, the right to fix an adaptation of a work in a medium by cinematography or a process analogous to cinematography;

(14) the right of adaptation, that is, the right to change a work into a new one with originality;

(15) the right of translation, that is, the right to change the language in which the work is written into another language;

(16) the right of compilation, that is, the right to compile by selection or arrangement preexisting works or passages therefrom into a new work; and

(十七)应当由著作权人享有的其他权利。

著作权人可以许可他人行使前款第(五)项至第(十七)项规定的权利,并依照约定或者本法有关规定获得报酬。

著作权人可以全部或者部分转让本条第一款第(五)项至第(十七)项规定的权利,并依照约定或者本法有关规定获得报酬。

## **第二节 著作权归属**

**第十一条** 著作权属于作者,本法另有规定的除外。

创作作品的公民是作者。

由法人或者其他组织主持,代表法人或者其他组织意志创作,并由法人或者其他组织承担责任的作品,法人或者其他组织视为作者。

如无相反证明,在作品上署名的公民、法人或者其他组织为作者。

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

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

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

**第十四条** 汇编若干作品、作品的片段或者不构成作品的数据或者其他材料,对其内容的选择或者编排体现独创性的作品,为汇编作品,其著作权由汇编人享有,但行使著作权时,不得侵犯原作品的著作权。



(17) other rights to be enjoyed by copyright owners.

Copyright owners may authorize others' exercising of the rights provided for in Subparagraph (5) through Subparagraph (17) of the preceding paragraph and receive remuneration in accordance with the terms of contracts or the relevant provisions in this Law.

Copyright owners may transfer, wholly or in part, the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in this Article and receive fees in accordance with the terms of contracts or the relevant provisions in this Law.

## **Section 2 Ownership of Copyright**

**Article 11** Except where otherwise provided for in this Law, the copyright in a work shall belong to its author.

The author of a work is the citizen who creates the work.

Where a work is created under the auspices and according to the intention of a legal entity or other organization, which bears responsibility for the work, the said legal entity or organization shall be deemed to be the author of the work.

The citizen, legal entity or other organization whose name is mentioned in connection with a work shall, in the absence of proof to the contrary, be deemed to be the author of the work.

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

**Article 13** Where a work is created jointly by two or more authors, the copyright in the work shall be enjoyed jointly by the co-authors. No co-authorship may be claimed by anyone who has not participated in the creation of the work.

Where a work of joint authorship can be separated into parts and exploited separately, each co-author may be entitled to independent copyright in the part that he creates, provided that the exercise of such copyright does not prejudice the copyright in the joint work as a whole.

**Article 14** A collection of preexisting works or passages therefrom, or of data or other material which does not constitute a work, if manifesting the originality of a work by reason of the selection or arrangement of its contents, is a compilation. The copyright in such compilation shall be enjoyed by the compiler, provided that the exercise of such copyright does not prejudice the copyright in the preexisting works.