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Copyright Law



THE UAE COPYRIGHT AND RELATED RIGHTS LAW

INTRODUCTION

The first ever UAE Copyright Law and its Implementing Regulations came into force on 12 April 1993 and 1 September 1994, respectively. This Law was repealed on 14 July 2002 by publication in the Official Gazette of UAE Federal Law No. 7 of 2002 regarding Copyright and Related Rights (hereinafter referred to as the “Law”).

As the UAE is a signatory to the World Trade Organisation (WTO) its provisions relating to intellectual property as stated in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), including reciprocity, are applicable to the UAE. Further information on the provisions of the WTO Agreement is available on request.

A simple approach has been adopted throughout this booklet to ensure its practicality. For the reader’s convenience, the salient features of this legislation have been summarised in a question and answer form. Separate checklists for details and documents required for registration are provided at the end of this booklet.

The term “Ministry” refers to the UAE Federal Ministry of Information and Culture. The term “Minister” refers to the Minister of Information & Culture.

THE COPYRIGHT AND RELATED RIGHTS LAW IN QUESTION AND ANSWER FORM

1. WHEN WAS THE LAW ENFORCED BY THE UAE GOVERNMENT?

The first Copyright Law of 1992 was enforced on 1st September 1994 and enforcement has continued ever since.

2. WHAT ARE THE PUBLISHING PREREQUISITES UNDER THE LAW?

As provided in the UAE Printing and Publishing Law (Law No. 15 of 1980), authorisation for the publication, exhibition or circulation of any work will only be granted if the following documents are submitted:

- (i) Certificate of origin showing the name of the author/assignee;
- (ii) Authorisation from the supplier/owner for exhibiting or circulating the material in the-specified territory;
- (iii) Certificate from the supplier confirming that all applicable royalties have been collected;
- (iv) Certificate of non-violation of restrictions on folklore from the Ministry's Department of Culture;

Only registered material can be printed, published or circulated on a commercial basis.

3. WHO ARE THE PERSONS ENTITLED FOR PROTECTION?

UAE Nationals and all other persons in the UAE are protected. In case of conflict of laws, nationals of countries affording reciprocal rights of protection to UAE nationals (irrespective of place of publication) will be protected and also depending on the terms of international conventions/treaties to which the UAE is a party. The protections afforded extends to Authors and Related Rights' holders.

4. WHAT ARE THE AUTHOR'S RIGHTS?

The author enjoys both moral and economic rights.

- a. The author's moral rights are perpetual and inalienable and include the right to publish for the first time, the right of paternity, the right of integrity and the right to withdraw a work from circulation in certain circumstances.
- b. The author's economic rights include the exclusive right to license the use of the work, through any means, particularly reproduction including electronic loading

and storage, any form of representation, broadcasting or rebroadcasting, public performance or broadcasting, translation, modification, alteration, leasing, rental, lending or any form of publication including access through computer or information network, communication network or other means. The author shall also have the right to assign all or part of his economic right.

5. WHICH WORKS ARE ENTITLED TO RECEIVE PROTECTION?

- (i) Books, booklets, articles and other literature;
- (ii) Computer software and applications, databases and similar works defined in a decision to be issued by the Minister;
- (iii) Lectures, speeches, sermons and other works of similar nature;
- (iv) Plays, musicals and pantomimes
- (v) Musicals accompanied by dialogue and musicals which are not accompanied by dialogue
- (vi) Audio and video work or audio visual work
- (vii) Architectural work and architectural plans and drawings
- (viii) Work involving drawing, painting, sculpturing, etching, lithography, screen printing, relief and intaglio prints and other similar works of fine art;
- (ix) Photographic work and the like
- (x) Works of applied art and plastic art
- (xi) Charts, maps, plans, 3-D modeling for geographical and topographical applications and architectural design etc.
- (xii) Derivative works, subject to the protection afforded to the work(s) upon which they are based. The protection shall extend to the title of the work if created as well as the creative concept devised for broadcast material
- (xiii) Translations, summaries, editorials, modifications and commentaries which have been carried out with the consent of the author.
- (xiv) Any other works whose means of expression are writing, sound, drawing, photography or movement.

6. WHAT IS THE TERM OF COPYRIGHT PROTECTION?

Terms of protection vary depending on the nature of the work. They are as follows:

- For the lifetime of the author and for 50 years thereafter.
- 50 years from the date of publication for:
 - (i) Works of performing artists;
 - (ii) Works created by juridical persons such as corporations;
 - (iii) Works published under Pseudonyms or anonymous works (until the author is identified).

- (iv) Works published posthumously.
- (v) Works of producers of phonograms.
- 25 years from the date of publication for works of applied art.
- 20 years from the date of broadcast for Broadcasting Authorities.

7. ARE THERE ANY EXCLUSIONS TO COPYRIGHT PROTECTION?

Copyright protection will not be granted for:

- Legislations, judgments and decisions of administrative authorities.
- International agreements.
- Official documents and their translations.
- News of current events and issues that are strictly media coverage.
- Works which have become public property.

However, abstracts or arrangements of these works that show innovation may receive protection.

8. DOES THE LAW ALLOW EXEMPTIONS FROM COPYRIGHT PROTECTED WORKS UNDER CERTAIN CIRCUMSTANCES?

Use for certain restricted purposes is permitted even without the consent of the author.

These exemptions are for:

- Making a single copy for non-commercial personal use;
- Legal possession of computer software, applications or databases, making a single copy of an extract for personal use subject to this being carried out within the license limitations or for the purpose of storage or replacing a lost, damaged or worn original copy. This extra copy must be destroyed upon disposal of the original copy;
- Reproduction of extract of copyrighted work for use in legal proceedings or the like. However, the author's name must be mentioned.
- Single copies of works made by non-profit archiving centers, libraries or attestation centers provided the copy is made to preserve the original or to replace a lost, damaged or worn copy or at the request of a natural person for use in connection with studies or research;
- Quoting short paragraphs, extracts or analysis for the context of critique, discussion or communication. The author's name should be mentioned.
- Performances of works at family gatherings or students performing works in educational institutions;

- Presenting works of fine, applied or plastic art or architecture through broadcasts if the works are permanently in the public domain;
- Copying short extracts of a work in written or recorded form for education and information purposes, religious purposes or occupational training, provided that the copying is within reasonable limits and is used solely for the intended purpose. The name of the author should be mentioned.

9. IS IT MANDATORY TO DEPOSIT WORKS WITH THE AUTHORITIES?

Unlike the requirements for Trade Marks & Patents, deposit of works is not necessary for the protection of copyright. According to the Law, failure to deposit such material or any assignment or License thereof, does not prejudice the author's rights. A registration of deposit would facilitate the burden of proof in legal proceedings. The registered works would be 'public documents' in terms of evidence and would therefore simplify matters. This is also in line with the UAE's obligations under the TRIPS agreement which encompasses the provisions of the Berne Convention. The Berne Convention provides that protection be granted without any need for formality (e.g. registration).

10. WHAT IS THE REGISTRATION PROCESS?

The application will be assigned a number upon its deposit with the Ministry. If necessary, further documentation must be supplied within a specified time. It would then be examined when complete. The application would be further verified for conflict, eligibility for protection, violation of restrictions on folklore, validity and the applicant's or the agent's right to file the same. The application may then be accepted or rejected on a reasoned decision. This decision should be made within 60 days of the completion of the application requirements. A certificate of registration will be then issued for all accepted applications.

11. WHAT IS THE PROCESS OF REGISTERING AMENDMENTS?

It is similar to the registration process.

12. WHAT ARE THE DETAILS REQUIRED FOR THE REGISTRATION OF THE DEPOSITED WORK?

The required details have been summarised in a ready-to-use checklist (see Annexe 1).

13. WHAT ARE THE DOCUMENTS REQUIRED FOR THE REGISTRATION OF A DEPOSITED WORK?

The required documents have also been listed in a ready to use checklist (see Annexe 2).

14. WHAT IS THE FEE PAYABLE FOR DEPOSIT OF A WORK FOR REGISTRATION?

The Ministry fee is Dhs 30/-

15. WHAT LICENCES ARE NECESSARY FOR A COMMERCIAL OUTLET?

All shops intending to sell, distribute or reproduce protected works must have written licences from the copyright owners whose works are in use, permitting the same. Imported works must be censored by the Ministry and show a statement of origin. Ministry officials have the right to inspect any premises and seize offending works. Further requirements are:

- (i) The Ministry's licence permitting the activities stated earlier.
- (ii) An Economic Department/Municipality licence.
- (iii) Approvals under the Printing and Publishing Law for all works available at the outlet (apart from such other documents prescribed under the law).
- (iv) A statement containing details of authorization for reproducing or selling imported material duly approved by the Ministry.

16. WHAT STEPS MUST BE TAKEN BY OUTLETS TO ENSURE COMPLIANCE?

As part of the Law's Implementary Regulations outlets had to submit to the Ministry and retain a copy of, a list of all unlicensed works in their possession before 15 September 1994. This list showed the name, type, origin, number of copies (including the original) of such material. Details of approved material also had to be included. Since then, only outlets authorised by the Ministry to sell licensed works are allowed to reproduce, distribute or sell works and must keep written documentation confirming same on the premises.

17. ARE ASSIGNMENTS OF COPYRIGHT PERMITTED?

Copyrights may be assigned in favour of a third party. Assignments must be made in writing and show details of the applicable period, purpose and territory. Copyright assignees, the author's representatives and his successors are the persons who may also exercise rights under the Law.

18. IS COMPULSORY LICENSING POSSIBLE?

Compulsory licensing is possible upon application to the Ministry to reproduce or

translate or reproduce and translate any copyright work. An application for a translation license should be filed after three years from the date of which the work was published. This license may only be approved by a reasoned decision specifying the period and jurisdiction in which the license is to be used and the fair remuneration payable to the author. The purpose of granting the license however must meet the needs of education of any type or level or the requirements of public libraries and archiving centers in line with the guidelines laid out by the Implementing Regulations while ensuring that no unjustified damage is caused to the legal interests of the author or his successors and without affecting the normal use of the work.

19. IS JOINT-AUTHORSHIP PERMITTED?

Yes. Certain persons involved in the production of the work are deemed joint authors and have vested rights in the work.

20. WHAT ARE THE PENALTIES?

The law provides for provisional measures as well as penalties for infringement.

- a) The provisional measures include the possibility of a court order to provide a full report describing the work, a ban on the publication/display/production of the work, an attachment of the potentially offending work. The judge may appoint an expert to establish the infringement in the copyright and the judge may ask that an appropriate guarantee is placed with the court. A main action must be filed within 15 days from the issuance of the order.
- b) The penalties provide for jail terms and/or a high fine depending upon the crime. The acts of infringement have been defined broadly including any infringement of the moral and economic rights of the author or related right holders including reproduction, placing a work in the public domain, rental, importing, producing, failing to mention the author's name and loading of un-licensed software. Repeat offenders are subject to higher prison sentences and fines and possibly closure of business premises. Also, destruction of the confiscated goods as well as the equipment and tools used in the offence are provided for and publication of the judgement in one or more daily newspapers at the convict's expense at the judge's discretion.

ANNEXE - 1

CHECK LIST OF DETAILS REQUIRED FOR THE REGISTRATION OF DEPOSITED WORKS

THE REQUIRED DETAILS:

1. The title, type, language and description of the work.
2. The applicant's name, nationality, title, address, and a copy of proxy document.
3. The name's of the author, pseudonym and name of fame, if any, nationality, address, date of death , if any.
4. The name of the body who requested the work, address, if any, and the document proving relationship between it and the author.
5. The name of the publisher, address, date and place of first publication, and the international number, if any.
6. The name of assignee, nationality, address, type of assignment, duration, geographical area, details of economic rights which he gained as a result of assignment and the document that proves the author's or the owner of the right's action of the assignment.

ANNEXE - 2

CHECK LIST OF DOCUMENTS REQUIRED FOR THE REGISTRATION OF DEPOSITED WORKS

Required documents:

1. A copy of passport or identity card of the applicant for registration, the author and the assignee.
2. Two copies or two photos 20x20cm from the work, according to the nature of the work.

In the case of the acceptance of the application, a certificate for registration is issued and the applicant must pay a fee of (30) Dirhams.

For assigned works - A deed of assignment from the owner or his successors.

For derived works - Written permission from the author or his successors to amend or modify the original work.

For classified materials created on the instructions of a natural or legal person - the contract between the author and the natural or the legal person who instructed the author to create the work and took the responsibility to publish the work under his direction and under his name.

All the documents are to be legalised as follows:

- (i) Attestation by a notary public;
- (ii) Certification of the notary's seal and signature by the Foreign Office or an appropriate authority in the country of execution (if executed outside the UAE);
- (iii) Certification by a UAE Embassy in the country of execution of the document if executed outside the UAE.

The documents would be further attested by the Ministry of Foreign Affairs in the UAE and later legally translated into Arabic.

An application would not be complete without these documents. However a written undertaking to furnish the documents can be submitted with the application. Documents should then be filed within 60 days or before a final extension of time granted by the Ministry. Non-submission would result in the cancellation of the application.

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