

Cabinet Decision No. 47/2022
On the Implementing Regulation of Federal Decree-Law No. 38/2021 on
Copyrights and Neighbouring Rights

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The Council of Ministers,

Pursuant to the perusal of the Constitution;

Federal Law No. 1/1972 on Competencies of the Ministries and Powers of the Ministers and its amendments;

Federal Decree-Law No. 38/2021 on Copyrights and Neighbouring Rights; and

Acting upon the proposal of the Minister of Economy and the approval of the Council of Ministers,

Hereby decides as follows:

Article 1 - Definitions

The definitions set out in the aforementioned Federal Decree-Law No. 38/2021 shall apply to this Decision. However, the following terms and expressions shall have the meanings assigned against each of them, unless the context requires otherwise:

- Law: Federal Decree-Law No. 38/2021 on Copyright and Neighbouring Rights.
- Copyrights Register: The register in which the data and ownership of the work and the particulars of the author, rights holders, or holders of neighbouring rights, as well as all rights or dispositions related thereto shall be entered.
- Collective Management Organisations: Specialised professional associations or any other bodies to which the holders of copyrights and neighbouring rights assign the economic rights or entrust them to exercise those rights and collect and distribute the financial remuneration thereto.
- Collective Management Permit: The permit issued by the Ministry for Collective Management.
- Competent Authority: The federal or local government entity concerned with issuing licences, permits, or approvals for works or carrying out activities in accordance with the legislation in force therein.

Article 2 - The Copyrights Register and applications for registration

1- The Copyrights Register shall contain all dispositions with respect to rights and related data about the work itself and the author, including exclusive rights, their scope, period of use, assigned purpose, and other such dispositions that are related to the aforementioned rights.

2- Works shall be classified for the purposes of the Register in accordance with their nature.

3- The application for registration may not contain more than one work, and the type of works shall be taken into consideration.

4- The author, or any of the rights holders, or the holders of neighbouring rights, or any of their successors may apply for the registration of the work in accordance with the provisions of this Decision.

5- An application for registration of works shall be filed in accordance with the following procedures and provisions:

- a- Applications for registering the work shall be filed on the Ministry's website, with payment of the due fees prescribed therefor.
- b- Subject to Paragraph (a) of this clause, the Ministry shall specify any additional requirements as to the preservation of electronic registers and any other procedures.
- c- The applicant shall be given a serial number according to the filing date of the application.

6- The aforementioned application for registration shall contain the following data and documents:

- a- The title, type, description, and language of the work.
- b- The name, nationality, capacity, and address of the applicant and a copy of the power of attorney duly certified and authenticated.
- c- The author's name, pseudonym (if any), nationality, address, and date of death (if applicable).
- d- The name of the entity that directed the work (if any), its address, and the document supporting the relationship between it and the author.
- e- The name and address of the publisher, the date and place of the first publication, and the international number (if any).
- f- The name of the transferee, his nationality, address, type of transfer, its duration and geographical scope, and the document that proves the transfer by the author or the right holder.
- g- Data and details of the work.
- h- A copy of the passport or identity card of each of the applicant, author, and transferee.
- i- A copy of the work according to the nature of the work.
- j- Any other documents or data that the Ministry requests and instructs the applicant to submit as it deems necessary to verify the fulfilment of the necessary conditions for accepting his application, pursuant to a written notice served thereto to this effect.

7- The Ministry shall study the application and verify that:

- a- The work is not among those that do not enjoy protection in accordance with the provisions of Article (3) of the Law.
- b- The work is not among those that require a permit from the Competent Authority in the State.
- c- The application is accompanied by the data and documents mentioned in this Decision.
- d- The work is in its final form and is not just a draft, initiative, project, or idea.

8- Where the applicant fails to produce the documents or data as required within a period of (60) sixty days from the date of his notification thereof, the application shall be deemed rejected.

9- The Ministry shall study the application fulfilling the aforementioned requirements and issue a certificate of registration of the work after approval of the application.

10- The Ministry shall issue a grounded decision rejecting the application if it is found that the work does not meet the conditions stipulated in the Law or that the application is in violation of the provisions of this Decision, with notification of the applicant thereof. A person whose application has been rejected or whose application is deemed to be rejected may file a new application with the Ministry after producing the documents and data that constituted the reason for issuing the rejection decision.

11- Subject to Clause (10) of this Article, a grievance may be filed with the Grievance Committee against the rejection decision, within a period of (30) thirty days from the date of the applicant's notification thereof.

12- Notwithstanding the foregoing, the Ministry may, for the purposes of consideration of applications for registration, seek the assistance of specialists it deems appropriate inside or outside the State. The opinion expressed by the specialist shall be considered as advisory to the Ministry.

13- The issuance of a work registration certificate shall not be considered a permit for use or circulation thereof, and the person concerned shall complete the requirements prescribed by the Competent Authority in the State as the work registration licence whenever its nature so requires.

Article 3 - Correction of a material error

Any interested party may request the Ministry to correct any material error in the Register's data.

Article 4 - Dispositions contained in the copyrights register

Dispositions effected in the Copyrights Register shall be documented, as well as the deletion of data entered or registration thereof for a new person based on the consent of the parties or on a final and enforceable court ruling.

Article 5 - Importers and distributors of works

1- Subject to the provisions of Article (2) of this Decision, the Copyrights Register shall contain all data regarding the names of importers and distributors and the rights related therein, including the document proving their rights to import or distribute works in the country, and data relating to their activities and the authorities that authorised them to import or distribute works as set out in the Register.

2- The entry in the Register may include the name of more than one importer or distributor for the same work if the applicant has justifications for this entry.

3- Any physical or juristic person may engage in an activity related to works, including importing, distributing, selling, leasing, or lending the same, even if he/it is not registered in the Copyrights Register.

4- Registration in the Copyrights Register does not preclude the approval of the Competent Authority or the licensing with the licensing authorities in each emirate to conduct activities in accordance with the rules.

5- The application for registration in the Copyrights Register shall contain the following data and documents regarding importers and distributors of works:

- a- The name of the applicant, his nationality, capacity, place of residence, and address, and the name of the person authorised to sign on his behalf.
- b- The name, nationality, address, and activity of the physical or juristic to be registered.
- c- A licence to practice the activity issued by the Competent Authority in the State.
- d- A licence by the Competent Authority, including the licensing authority in the emirate in which the juristic person's head office is located.
- e- The title, type, and language of the work.
- f- The name and address of the contracting party.
- g- The name and address of the producer and the place of production.
- h- The document that proves the legal relationship authorising the work's import or distribution, indicating the following:
 - 1- The geographical area agreed upon for the distribution of the work.

- 2- The duration of the work's financial use.
 - 3- Place and date of signing the aforementioned document.
 - 4- Official authentication of the document in accordance with the applicable legal principles.
 - 5- Legal translation of the document into Arabic if it is written in a foreign language.
- i- Any other data, documents, or explanations that the Ministry requests and instructs the applicant to produce as it deems appropriate in support of the application and the attached documents.
- 6- The Ministry may address any party to verify the integrity of the submitted documents or data.
- 7- The Ministry shall study the application and verify that:
- a- The work is not among those that require a permit from the Competent Authority in the State.
 - b- The application is accompanied by the data and documents mentioned in this Decision.
- 8- Where the applicant fails to produce the documents or data as required within a period of (60) sixty days from the date of his notification thereof, the application shall be deemed rejected.
- 9- In the event that the Ministry accepts an application that is not accompanied by data or documents, the person concerned shall be notified thereof with a statement of the data, papers, or documents required to be clarified or attached, and said person shall produce the same within (60) sixty days from the date of his notification thereof, otherwise the application shall be considered null and void.
- 10- The Ministry may not accept the registration of any applications after a period of (60) sixty days.
- 11- The Ministry shall reject the application if it is in violation of the provisions of the Law or this Decision, and the person concerned shall be notified thereof.
- 12- The person concerned may file a grievance against the rejection decision with the Grievance Committee within a period of (30) thirty days from the date of his notification thereof.
- 13- If the application is accepted, the types of rights granted, their duration, the number of works, their names, their language, and the geographical scope of their use shall be registered, and the Ministry issues the certificate.
- 14- The Ministry may, by a grounded decision, request the Competent Authority in the State to cancel of the certificate for offering the work for circulation.

Article 6 - Notification of updates and modifications

Persons whose names are registered in the Copyrights Register shall notify the Ministry of every modification or change that occurs to the Register's data or the attached documents within (20) twenty days from the date of the modification or change. The notification shall be served by means of a letter to be submitted by the person concerned, and the Ministry shall make a notation in the Register to the effect of any modification or change required.

Article 7 - Reproduction or translation compulsory licence

Any person may apply to the Ministry to obtain a licence to reproduce or/and translate a work protected by law, in order to meet the needs of education of all kinds and levels, or the needs of public libraries or archives, and in accordance with the conditions set forth in this Decision.

Article 8 - Licence application

1- The applicant for a licence to reproduce or translate a work shall produce evidence that the author or the right holder has refused to grant him permission to reproduce or translate the work and publish the reproduced or translated edition, or that he was unable to access or communicate with the author or the holder of the right to use the work.

2- If the licence applicant is unable to access or communicate with the author or the holder of the right to use the work, he shall address the publisher whose name appears on the work and produce evidence that he has taken the procedures stipulated in the preceding paragraph.

Article 9 - Conditions for the reproduction compulsory licence

1- Without prejudice to the provisions of this Decision, the following shall be required to issue a compulsory licence to reproduce the work:

- a- A period of (5) five years has lapsed as of the date of the first publication of the work.
- b- A copy of the work licensed by the author or the holder of the right to use the work is not available in the State's markets.
- c- The needs of education, public libraries, or archiving houses are met at a price close to the usual price in the State for similar works.

2- The following cases are excluded from the provisions of Clause (1) of this Article:

- a- If the work contains topics related to mathematical, natural, or technical sciences, it shall be permissible to apply for a compulsory licence after the lapse of a period of (3) three years from the date of the first publication of the work.
- b- If the work contains topics related to the world of imagination, such as novels, poetry, theatrical and musical compositions, and art books, it shall be permissible to apply for a compulsory licence after the expiry of a period of (7) seven years from the date of the first publication of the work.
- c- A period of (3) three months has lapsed as of the date of the first contact with the author or the holder of the right to use the work, provided that the period starts to run after the expiry of the period of (5) five years referred to in Paragraph (a) of Clause (1) of this Article, and the period of (7) seven years referred to in Paragraph (b) of Clause (2) of this Article.
- d- A period of (6) six months has lapsed as of the date of the date of the first contact with the author or the holder of the right to use the work, provided that the period starts to run after the expiry of the period of (3) three years referred to in Paragraph (a) of Clause (1) of this Article.

Article 10 - Conditions for a compulsory translation licence

Without prejudice to the provisions of this Decision, the following is required to issue a compulsory translation licence:

- 1- The expiry of a period of (3) three years from the date of the first publication of the work without a translated copy of it into Arabic or into a common language circulating in the country that meets the needs of education, public libraries or preservation houses, or if the translated copy has run out in the country after that period.
- 2- The expiry of a period of (6) six months from the date of the first contact with the author or the owner of the right to exploit the work, provided that it starts to run after the expiry of the period of (3) three years referred to in Clause (1) of this Article.
- 3- Subject to the provisions of this Article, the provisions stipulated regarding the reproduction and not the translation shall apply to the work referred to in connection with translation, whenever it contains illustrative images, with the terms, periods, and conditions set forth in Article (9) of this Decision.

Article 11 - Prohibitions of compulsory licensing

A licence may not be granted in any of the following instances:

- 1- If the work has been withdrawn from circulation at the request of the author or the holder of the right to use the economic rights.
- 2- If the author or the holder of the right to use the economic rights offers the work for circulation during the additional period referred to in Articles (9) and (10) of this Decision in response to the needs of education, public libraries, or archiving houses at a price close to the usual price in the State for similar works.

Article 12 - Obligations of the licence holder

The licence holder shall abide by the following:

- 1- The name of the author shall be mentioned on the translated or reproduced edition, with the title of the work as stated in its original language.
- 2- The edition concerned shall be faithful to the original work by the correct reproduction or translation thereof.
- 3- A notation shall be made on each copied or translated edition to the effect that it is valid for circulation within the State only, with a mention indicating that the edition was issued based on a compulsory licence.
- 4- The licence shall be used with the aim of meeting the needs of education, public libraries, or archiving houses.
- 5- A fair financial remuneration shall be paid to the author or the holder of the right to use the work, as determined in the decision issued to grant the licence and guided by the international standards in force in this field.
- 6- Evidence shall be produced to the Ministry, before receiving the licence, to the effect that the financial remuneration referred to in Clause (5) of this Article is transferable in the currency of the country in which the original work was issued, and that it has been delivered to the author or the holder of the right to use the work.
- 7- The licensed work shall not be exported outside the State.

Article 13 - Personal character of the reproduction or translation licence and prohibition of its assignment

The licence to copy or translate a work shall be issued in the name of the licence applicant and may not be assigned to third parties.

Article 14 - Expiry of the reproduction or translation licence

1- The licence for reproduction or translation shall expire if the author or the holder of the right to use the work makes it available as reproduced or translated at a price close to the price of similar works in the State.

2- The edition for which a reproduction or translation licence was issued shall be circulated until it runs out.

Article 15 - Collective Management Organisation

1- The Collective Management Organisation shall obtain a permit from the Ministry before practicing this activity.

2- The Collective Management Organisation shall procure, before submitting the Permit application referred to in Clause (1) of this Article, the necessary approval from the Competent Authority in the State in accordance with the conditions established in this regard.

3- In order to obtain a Collective Management Permit, the following documents and data shall be produced:

- a- A copy of the permit applicant's memorandum of association and statute.
- b- The form of the contract concluded between the applicant and the rights holders' members of the entity requesting the Permit, and the mechanism for distributing the return among the members.
- c- Form of agreements related to financial collection between the applicant for the Permit and any other beneficiary persons, provided that they include the details of the financial agreement and the collection mechanism.
- d- A report that includes relevant data and details, including economic rights such as schedules, lists, etc., with the beneficiary persons and the collection and distribution mechanism.
- e- A copy of the identity of the responsible manager of the entity requesting the Permit.

4- The Ministry shall study, approve, and issue the Permit application, after fulfilling the requirements and approving the data and documents referred to in Clause (3) of this Article. In the event that the completion of the Permit application requires any necessary data or modification to any of the data and documents previously submitted, the Permit applicant shall undertake the same and provide the Ministry with the aforementioned requirements for issuing the Permit.

5- The Collective Management Organisation shall abide by the following:

- a- Submitting an annual report to the Ministry at least thirty (30) days before the Permit expires, containing the following information:
 - 1- A list of members (rights holders), their capacities, and addresses.
 - 2- Data on the collected funds, indicating the user classification from whom the collection was made.
 - 3- A list of the employees and their work and the quota of national employment.
 - 4- A list of the names and job titles of the Board of Directors.
 - 5- A summary of the main activities in which the Collective Management Organisation participates, such as board meetings, conferences it has organised or attended, and award ceremonies.
 - 6- A summary and description of the purpose and status of any current litigation or other proceedings.
 - 7- A list of the foreign bodies with whom the Collective Management Organisation has entered into contracts.
 - 8- Data of the total amounts distributed in the past year.
 - 9- The main objectives for the coming year.
 - 10- A report on its accession to international memberships.
- b- Keeping a copy of the agreement concluded between it and the users of economic rights, in which the agreed upon expenses of the financial collection are specified.
- c- Taking all administrative and legal measures to protect the rights of the contracting parties.
- d- Preparing the final accounts and distributing profits to the contracting parties at least once during the year.
- e- Allowing the contracting parties to view the final accounts and the method of distributing profits.
- f- Preparing general periodic reports for rights holders indicating the parties that used their works and the amounts collected.
- g- Submitting the information and documents provided for in this Decision to the Ministry whenever requested to do so, and the Competent Authority shall have the right to inspect the Collective Management Organisation to obtain such information and documents.
- h- Non-discrimination between members.

6- The Collective Management Organisation shall pay the annual fees for the Permit, which shall be renewed annually after paying the prescribed fees.

7- The Ministry may cancel the Permit after its issuance in the event that the Collective Management Organisation does not comply with the provisions of the Law or the decisions issued in implementation thereof, and its obligations towards the contractors shall remain effective without the Ministry bearing any responsibility.

8- The Collective Management Organisation may not refuse to manage the economic rights of authors or holders of neighbouring rights without a justifying reason.

9- The Collective Management Organisation shall ensure that the material return is delivered to the authors or the holders of neighbouring rights in accordance with the internal distribution mechanism, present the supporting documents thereof, and submit the same to the Ministry in the event it is so requested.

10- The Collective Management Organisation may deduct a percentage of the total funds collected in return for managing the collection and distribution of the financial remuneration for use, provided that the deduction percentage does not exceed 25% of the total amounts collected. This percentage is only for administrative expenses, and the Ministry may reduce this percentage whenever it deems so.

11- No amounts other than administrative expenses shall be deducted except with the approval of the members.

12- The Ministry may request the applicant to produce evidence of his affiliation with the International Federation concerned with collective management activity, whenever it deems necessary.

13- The Collective Management Organisation may not amend the data or documents submitted for obtaining the Permit, including the imposition or modification of economic rights, prior to their approval by the Ministry.

14- The work mechanism of the Collective Management Organisation shall include a mechanism for settling internal disputes and complaints by independent persons experienced in this field.

15- The administrative penalties imposed on the authorised person's violation of the provisions of this Law and this Decision shall be determined by a Cabinet decision based on the Minister's proposal.

Article 16 - Accessible Format Copy

1- The Approved Body may apply to the Ministry to obtain a licence to prepare copies of any accessible format copy.

2- In order to obtain the approval of the Ministry, the following is required:

- a- The approved body shall provide braille education, training, reading, or access to information services for the beneficiary persons within its basic activities or institutional obligations.
- b- The approved body shall have a legal access to the works or copies thereof.
- c- Distribution of accessible format copies shall be restricted to beneficiary persons or approved bodies inside or outside the State, to the exclusion of others.
- d- The approved body shall not to introduce changes other than those necessary to make the work accessible.
- e- The approved body shall perform the activity on a non-profit basis.
- f- The approved body shall create a database of all soft copies, including all of the following:
 - 1- The name of the author.
 - 2- The title of the book.
 - 3- The name of the publisher.
 - 4- The number of copies.
 - 5- The method of making the accessible format copy.
 - 6- The name of the printing press that made the accessible format copy, its location, and the scope of its distribution.

3- Each beneficiary person or his representative may make copies of any accessible format copy for his personal use without the need for a licence.

Article 17 - Customs clearance

1- The author, the right holder, or their successors may file an application for non-temporary customs clearance with the customs authorities before the intellectual works leave the customs domain. The customs authorities shall decide on the application and notify the applicant of their decision immediately upon its issuance.

2- The customs authorities may, on their own, refuse the temporary customs clearance in case of doubt about the authenticity of any of the documents submitted thereto.

3- In all cases, the decision of the customs authorities refusing the temporary clearance shall be grounded and valid for a maximum period of (20) twenty days.

4- The applicant shall attach to his application the documents that prove his right to the content of the application as duly certified, and the customs authorities shall verify the validity of the documents referred to in cooperation with the Ministry.

5- The customs authorities may instruct the applicant to provide an appropriate guarantee or an equivalent security sufficient to protect the person against whom the decision refusing the customs clearance is issued from preventing the misuse of the right to request a stay of customs clearance.

6- The guarantee shall not be refunded to the applicant if the competent court rules to cancel the decision refusing the customs clearance, or if the importer or exporter produces official documents indicating the invalidity of the application.

7- The customs authorities shall enable the applicant to attend - if he wishes - when inspecting the materials mentioned in the application, provided that the permission to attend be issued specifying the name and capacity of the person authorised to attend and is valid for one time only.

8- Customs clearance and inspection shall be subject to the conditions, controls, and procedures applied by the customs authorities.

Article 18 - Future works

1- Any disposal of the author in the sum of his future intellectual production shall be null and void.

2- As an exception to Clause (1) of this Article, the author may contract for a number of his future works, provided that they do not exceed (10) ten future works.

Article 19 - Abrogation

Every provision that contradicts or contravenes the provisions of this Decision shall be abrogated.

Article 20 - Publication and entry into force of the Decision

The present Decision shall be published in the Official Gazette and shall come into force on the day following the date of its publication.

Issued by us:

On 10 Shawwal 1443 H.

Corresponding to 11 May 2022

Mohammed Bin Rashid Al Maktoum

Prime Minister

The present Decision was published in the Official Gazette of the United Arab Emirates, Issue no. 727, p. 25.