

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

SWEDEN

Addendum

The present document reproduces the text¹ of the following laws, notified by Sweden under Article 63.2 of the Agreement, in communications dated 10 December 1997, 21 January 1999 and 21 March 2000:

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- Act (2000:92), Amending the Act (1960:729) on Copyright in Literary and Artistic Works	11

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

SUÈDE

Addendum

Le présent document contient le texte¹ des lois ci-après, notifiées par la Suède au titre de l'article 63:2 de l'Accord, dans des communications datées du 10 décembre 1997, du 21 janvier 1999 et du 21 mars 2000:

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**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD
INTELLECTUAL NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2 DEL
ARTÍCULO 63 DEL ACUERDO**

SUECIA

Addendum

En el presente documento se reproduce el texto¹ de las siguientes leyes que Suecia notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo, en comunicaciones de fecha 10 de diciembre de 1997, 21 de enero de 1999 y 21 de marzo de 2000:

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¹ In English only./En anglais seulement./En inglés solamente.

THE GOVERNMENT OFFICES
Ministry of Justice

ACT (1997:309) of May 29, 1997
AMENDING THE ACT (1960:729) ON COPYRIGHT IN
LITERARY AND ARTISTIC WORKS

As decided by the Parliament it is hereby prescribed, as concerns the Act (1960:729) on Copyright in Literary and Artistic Works
that Article 45 shall read as follows, and
that a new Article, numbered Article 29, shall be inserted, reading as follows.

Chapter 3

Article 29. Where an author transfers to a producer of sound recordings or recordings of moving images his right to make available to the public a work through rental of such recordings, the author shall have a right to an equitable remuneration.

Contractual stipulations limiting this right are null and void.

Chapter 5

Article 45. A performing artist's performance of a literary or artistic work may not without his authorization

1. be recorded on a phonographic record, a film or another material support from which it can be reproduced, or
2. be broadcast over sound radio or television or be made available to the public by direct communication.

A performance which has been recorded on a material support as mentioned in the first paragraph, item 1. may not without the authorization of the artist be transferred from one such support to another one, or be made available to the public, until fifty years have elapsed from the year in which the performance took place or, where the recording was published or made public within fifty years from the performance, after the year when the recording was first published or made public.

The provisions of Articles 3, 6 - 9, 11 - 13, 15, 16, 21, 22, 25 - 26 b, 26 e, 26 f, 27 - 29, 39, first sentence, 41 and 42 shall apply to performances mentioned in this Article.

When a copy of an recording under this Article has, with the authorization of the performing artist, been transferred within the European Economic Area, the copy may be distributed further

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

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

1. This Act enters into force on July 1, 1997.
2. The new provisions apply also to works and performances which have come into being before the entry into force.
3. The new provisions apply also to contracts on transfers which have been concluded before the entry into force; this does not, however, apply to contracts concluded before November 19, 1992. As regards contracts concluded thereafter but before July 1, 1994, a right to remuneration under the new provisions exists only where a claim for remuneration has been made before September 1, 1997.

THE GOVERNMENT OFFICES
Ministry of Justice

**ACT (1997:790) of November 6, 1997,
AMENDING THE ACT (1960:729) ON COPYRIGHT IN
LITERARY AND ARTISTIC WORKS**

As decided by the Parliament it is hereby prescribed, as concerns the Act (1960:729) on Copyright in Literary and Artistic Works,
that the heading immediately before Article 29 g shall read as follows,
and
that Articles 12, 19, 21, 26 b, 26 g, 49, 53 and 61 shall read as follows.

Article 12. Anyone is entitled to make, for private purposes, single copies of works which have been made public. Such copies may not be used for other purposes.

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

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

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

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

Article 19. When a copy of a literary or musical work or a work of fine arts has been transferred with the consent of the author, that copy may be further distributed.

The provisions in the first paragraph do not confer a right to make available to the public

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

Article 21. Anyone may publicly perform published works

1. on occasions when the performance of such works is not the main feature of the event, provided that no admission fee is charged and the event is not for profit, and
2. in the course of educational activities and for divine services.

The provisions of the first paragraph do not apply to dramatic works or cinematographic works and do not confer a right to use works in sound radio or television.

The provisions of the first paragraph, item 1. do not confer a right to perform, for commercial purposes, compilations in the course of educational activities.

Article 26 b. Notwithstanding copyright therein, official documents shall be made available to the public as prescribed in Chapter 2 of the Freedom of the Press Act.

Copyright does not prevent the use of a work in the interest of justice or public security.

Special Provisions on Computer Programs, etc.

Article 26 g. Anyone who has acquired the right to use a computer program is entitled to make such copies of the program and to make such adaptations which are necessary in order for him to use the program for its intended purpose. This also applies to corrections of errors.

Anyone who has the right to use a computer program is entitled to make back-up copies of the program, if this is necessary for the intended use of the program.

Copies which have been made on the basis of the provisions of the first and second paragraphs may not be used for other purposes and may, furthermore, not be used when the right to use the program has expired.

Anyone who has the right to use a computer program is entitled to observe, study or test the function of the program in order to ascertain the ideas and principles which lie behind the various details of the program. This applies provided that the act is performed in connection with such loading, display on a screen, processing, transmission or storing of the program that he is entitled to make.

Anyone who has a right to use a compilation is entitled to dispose of it in such a way that is necessary for him to use the compilation for its intended purpose.

Contractual clauses which limit the right of the user under the second, fourth and fifth paragraphs are null and void.

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

The right under the first paragraph lasts until fifteen years have elapsed from the year in which the production was prepared. Where the production has been made available to the public within fifteen years from the preparation, the right shall, however, last until fifteen years have elapsed from the year in which the production was first made available to the public.

The provisions of Articles 2, second and third paragraphs, 6 - 9, 11, second paragraph, 12, first and second paragraphs, 13 - 22, 25, 26 - 26 b, 26 d - 26 f, 26 g, fifth and sixth paragraphs, and 26 i shall apply also to productions referred to in this Article. If a production of this kind, or a part thereof, is subject to copyright, also copyright protection may be

claimed.

Contractual stipulations extending the producer's rights under the first paragraph in respect of a production which has been made public are null and void.

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

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

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

Anyone who has violated an injunction issued under penalty of a fine under Article 53 a, may not be adjudicated to criminal liability for the infringement covered by the injunction.

Attempts to commit acts mentioned in the first or third paragraphs as well as the planning of such acts shall be punishable according to the provisions of Chapter 23 of the Criminal Code.

Article 61. The provisions of Articles 45, 47 and 48 apply to performances, sound recordings and sound radio and television broadcasts which take place in Sweden. In addition, the provisions of Article 45 apply to performances of persons who are Swedish citizens or who have their habitual residence in Sweden, the provisions of Article 47 to sound recordings the producer of which is a Swedish citizen or a Swedish legal entity or a person who has his habitual residence here, and the provisions in Article 48 to broadcasts by sound radio and television organizations which have their headquarters in this country. The provisions of Article 46 apply to sound recordings and to recordings of moving images the producer of which is a Swedish citizen or a Swedish legal entity or has his habitual residence in Sweden as well as to such recordings of moving images which take place in Sweden. However, the provision of Article 46 applies, as regards reproduction, to all sound recordings.

The provisions of Article 49 apply to productions of which the producer is a Swedish citizen or has his habitual residence in Sweden. The

provisions apply also to productions of which the producer is a Swedish legal entity and has its registered office, its main headquarters or its principal place of business in Sweden. Where the legal entity has its registered office in Sweden but does not have its main headquarters or its principal place of business here, the provisions apply, however, only where the production forms part of an economic activity established in Sweden.

Of the provisions in Article 49 a, the reference to Articles 50 and 51 apply to all photographic pictures and the other provisions to photographic pictures,

1. of which the producer is a Swedish citizen or has his habitual residence in Sweden,
2. which have been first published in Sweden or simultaneously in Sweden and abroad,
3. which have been incorporated in a building or another construction which is permanently fixed to the ground, if the building or the construction is located in Sweden.

For the purposes of the application of the third paragraph, item 2, the publication shall be considered to have taken place simultaneously if the work has been published in Sweden within thirty days from its publication abroad.

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1. This Act enters into force on January 1, 1998
 2. The new provisions apply also to works and productions which have come into being before the entry into force. As regards productions which have been prepared within a period of fifteen years before the entry into force, the rights under Article 49 apply until January 1, 2014.
 3. The new provisions do not apply in relation to measures undertaken or rights acquired before the entry into force. Such copies of productions under Article 49 which have been prepared on the basis of previous provisions may be freely distributed and displayed. The reference in Article 49, third paragraph, to Article 19, second paragraph, shall, however, apply.
 4. Anyone who has, on the basis of the provisions previously in force, commenced the exploitation of a production according to Article 49 by preparing copies or by making it available to the public, may, notwithstanding the new provisions, continue the planned activities in the manner necessary and customary, however not beyond January 1, 2000. The same right has anyone who, before the entry into force, has undertaken significant measures for the preparation of copies of a production or for making it available to the public. Copies prepared on the basis of these provisions may be freely distributed and displayed. The reference in Article 49, third paragraph, to Article 19, second paragraph, shall, however, apply.

THE GOVERNMENT OFFICES

Ministry of Justice

Henry Olsson

ACT (Swedish Statute Book 1998:1454)

Amending the Act (1960:729) on Copyright in Literary and Artistic Works.

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

that the heading immediately before Article 53 shall read: " Chapter 7. Penal and Civil Liability, etc. ",

that Article 57 shall read as follows, and

that eight new Articles, numbered 56 a - 56 h, shall be inserted, reading as follows.

Article 56 a. Where it can reasonably be assumed that someone has committed an infringement or a violation as referred to in Article 53, the Court may, for the purpose of preserving evidence relating to the infringement or the violation, order that an investigation may be undertaken with respect to that person in order to search for objects or documents which can be assumed to be of importance for the inquiry of the infringement or the violation (infringement investigation).

An order for an infringement investigation may be granted only where the reasons speaking in favour of the measure outweigh the disadvantages or other harm caused to the person against whom it is directed or for any other opposite interest.

The provisions in the first and second paragraphs apply also to attempts and to preparatory acts as referred to in Article 53, fifth paragraph.

Article 56 b. An order for an infringement investigation is issued by the Court where proceedings relating to the infringement are conducted. Where legal proceedings have not yet been initiated, the provisions relating to the competence of Courts in civil infringement cases apply. The provisions in the Code of Judicial Procedure concerning limitation of the competence of Courts in disputes which are to be initiated otherwise than in a Court shall, however, not apply.

Issues relating to infringement investigations may be taken up for consideration only upon a motion by the author or his successor in title or by anyone who has, on the basis of a license, a right to exploit the work. Where legal proceedings have not yet been initiated, the motion shall be submitted in writing.

The opposite party shall be given an opportunity to submit a statement before an order for an investigation is issued. Where a delay would entail a risk that objects or documents of importance for the inquiry of the infringement would be removed, destroyed or distorted, the Court may, however, immediately issue an order to be enforceable until otherwise

decided.

In other respects, any issue relating to an infringement investigation which arises before legal proceedings have been initiated shall be treated in the same way as if the issue had arisen in the course of legal proceedings.

Article 56 c. An order for an infringement investigation may be issued only where the applicant posts a bond at the Court for the injury which may caused to the opposite party. Where the applicant is not able to post a bond, the Court may liberate him from it. As regards the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court, unless the opposite party has accepted it.

As regards appeals against the decision by the Court relating to an infringement investigation and as regards the proceedings in higher Courts the provisions concerning appeal against decisions prescribed in Chapter 15 of the Code of Judicial Procedure apply.

Article 56 d. Any order for an infringement investigation shall contain information about

1. the purpose of the investigation,
2. the objects and document which may be searched for, and
3. which venues may be searched.

Where necessary, the Court shall set also other conditions for the execution of the order.

Article 56 e. An order for an infringement investigation is immediately enforceable. If an application for its execution has not been filed within one month from the order, the order becomes invalid.

Where the applicant does not, within a month from the conclusion of the execution, file an action or initiate in some other manner a proceeding relating to the issue, any measure which has been undertaken in the context of the execution of the infringement investigation shall be invalidated to the extent possible. The same applies where an order for an infringement investigation is invalidated after the execution has been concluded.

Article 56 f. An order for an infringement investigation is executed through the local Enforcement Authority in accordance with the conditions prescribed by the Court and in applying Chapters 1 to 3, Chapter 16, Article 10, Chapter 17, Articles 1 to 5, and Chapter 18 of the Enforcement Code. The applicant's opposite party shall be informed about the execution only if the order for an infringement investigation has been issued after hearing the opposite party. The Authority has the right to make photographs and video and sound recordings of such objects for which it is authorized to search. The Authority may also make copies of, and extracts from, such documents for which it is authorized to search.

An infringement investigation must not concern written documents

referred to in Chapter 27, Article 2, of the Code of Judicial Procedure.

Article 56 g. The opposite party has the right to summon an attorney when an order for an infringement investigation is to be executed. The execution must not begin before the attorney has arrived. This does, however, not apply if

1. the investigation is thereby unnecessarily delayed, or
2. there is otherwise a risk that the purpose of the measure will not be achieved.

In the course of the execution the Enforcement Authority is authorized to engage, as necessary, the services of experts.

The Authority may permit the applicant or a representative of the applicant to attend the investigation in order to provide information. If such a permission is granted, the Authority shall see to it that the applicant or the representative is not being informed about the findings at the investigation more than can be justified by the execution.

Article 56 h. Photographs and video and sound recordings of objects as well as copies of, and extracts from, documents shall be listed and shall be held available for the applicant and the opposite party.

Article 57. The provisions of Articles 53 - 56 h shall apply also to rights protected by the provisions in Chapter 5.

This Act enters into force on January 1, 1999.

Note: Corresponding amendments have been made also in

- the Trademarks Act (1960:644) (Articles 41 a - 41 h)
- the Patents Act (1967:837) (Articles 59 a - 59 h)
- the Designs Act (1970:485) (Articles 37 a - 37 h)
- the Trade Names Act (1974:156) (Articles 20 a - 20 h)
- the Act on the Protection of Topographies for Semiconductor Products (1992:1685) (Articles 12 a - 12 h), and
- the Act on the Protection of Plant Breeders' Rights (1997:306) (Chapter 9, Articles 7 a - 7 h).

Act (2 000:92)**Amending the Act (1960:729) on Copyright in Literary and Artistic Works**

In accordance with the decision by the Parliament it is hereby prescribed that Articles 9, 26 and 26a in the Act (1960:729) shall read as follows.

Article 9. Copyright does not subsist in

1. laws and other regulations,
2. decisions by public authorities,
3. reports by Swedish public authorities,
4. official translations of texts mentioned under items 1.- 3.

However, copyright subsists in works of the following kinds when they form part of a document mentioned in the first paragraph:

1. maps,
2. works of drawing, painting or engraving,
3. musical works, or
4. works of poetry.

Copyright also subsists in a work which forms part of an annex to a decision by a public authority, if the decision concerns the right of access to the public document where the work forms part.

Article 26. Anyone is entitled to use oral or written statements

1. before public authorities,
2. in government or municipal representative bodies,
3. in public debates on public matters,
4. at public questionings on such matters.

The provisions of the first paragraph, items 1. and 2. do, however, not apply as regards information for which secrecy applies under the provisions of Chapter 8, Article 27, of the Secrecy Act.

In the application of the provisions in the first paragraph it shall, however, be observed,

1. that writings cited as evidence, reports and similar works may be used only in connection with a report concerning the legal proceedings or case in which they have appeared and only to the extent necessary for the purpose of such a report,
2. that the author has an exclusive right to publish compilations of his statements, and
3. that what is stated during questionings as mentioned in the first paragraph, item 4. must not be used, on the basis of that provision, in sound radio or television broadcasts.

Article 26 a. Anyone is entitled to use works which form part of the documents mentioned in Article 9, first paragraph, and which are of the kind mentioned in Article 9, second paragraph, items 2. - 4. This does not, however, apply to such works as mentioned in Article 9, third paragraph. The author is entitled to remuneration, except when the use occurs in connection with

1. the activities of a public authority,
2. a report of the legal proceeding or case in which the work appears and the work is used only to the extent necessary for the informatory purpose.

Anyone is entitled to use documents which are prepared by Swedish public authorities but which are not such as are mentioned in Article 9, first paragraph.

The second paragraph does not apply to

1. maps,
2. technical models,
3. computer programs,
4. works created for educational purposes,
5. works which are the result of scientific research,
6. works of drawing, painting or engraving,
7. musical works,
8. works of poetry, or
9. works copies of which are made available to the public through public authorities in connection with commercial activities.

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1. This Act enters into force on April 1, 2000
 2. The new provisions in Articles 9 and 26 a apply also to works which form part of an annex to a decision which has been given before the entry into force.
 3. The new provision in Article 26 applies also to information contained in works which have been cited orally or in writing before the entry into force
 4. An act which has been undertaken before the entry into force in respect of a work as mentioned in items 2. and 3. and which was permissible at that time can not be challenged on the basis of the new provisions.
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