

## A.L. 197 ta' l-2004

**ATT DWAR ID-DRITTJIET TA' L-AWTUR  
(KAP. 415)****Regolamenti ta' l-2004 dwar Tigdid tad-Drittijiet ta' l-Awtur  
u Drittijiet Relatati (Protezzjoni) u Tmiem tad-Drittijiet ta'  
Distribuzzjoni (Estensjoni)**

BIS-SAHHA tas-setghat moghtija bl-artikolu 59 (ċ) u (d) ta' l-Att dwar id-Drittijiet ta' l-Awtur, il-Ministru għall-Kompetittività u Komunikazzjonijiet għamel dawn ir-regolamenti li ġejjin:-

**1.** (1) It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2004 dwar Tigdid tad-Drittijiet ta' l-Awtur u Drittijiet Relatati (Protezzjoni) u Tmiem tad-Drittijiet ta' Distribuzzjoni (Estensjoni). Titolu u bidu fis-sehh.

(2) Dawn ir-regolamenti għandhom jidhlu fis-sehh fl-1 ta' Mejju, 2004.

**2.** F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra - Tifsir.

“arrangamenti” tfisser arrangamenti għall-esplojtazzjoni tax-xogħol involut;

“bidu” tfisser id-data meta jidhlu fis-sehh dawn ir-regolamenti;

“drittijiet imġedda” tfisser drittijiet ta' l-awtur jew drittijiet relatati li jergħu jiddahhlu fis-sehh bis-sahha tad-disposizzjonijiet ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 415 wara li dawn ikunu temmu taht id-disposizzjonijiet ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 196 precedenti jew ta' xi ligi ohra li saret qabel dwar id-Drittijiet ta' l-Awtur jew drittijiet relatati u li jergħu jiddahhlu fis-sehh bis-sahha tar-regolament 3 ta' dawn ir-regolamenti;

“Ftehim ŻEE” tfisser il-Ftehim dwar iż-Żona Ekonomika Ewropea ffirmat għewwa Oporto fit-2 ta' Mejju 1992, kif agġustat bil-Protokol iffirmit għewwa Brussel fis-17 ta' Marzu 1993 u kif sussegwentement emendat;

“produzzjoni relatata mal-medja” tfisser rappreżentazzjonijiet, xogħlijiet awdjovizivi, registrazzjonijiet

u xandiriet li skond id-disposizzjonijiet ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 415 huma protetti bi drittijiet relatati;

“Stat ŻEE” tfisser stat li jkun parti kontraenti fil-Ftehim ŻEE.

Tiġdid ta' drittijiet ta' l-awtur u drittijiet relatati.

**3.** Id-Drittijiet ta' l-Awtur u drittijiet relatati skond id-disposizzjonijiet ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 415 għandhom jergħu jiddahhlu fis-sehh f'xoghlijiet u produzzjonijiet relatati mal-medja li l-protezzjoni tagħhom taht id-disposizzjonijiet ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 196 preċedenti jew ta' xi liġi oħra li saret qabel dwar id-Drittijiet ta' l-Awtur jew drittijiet relatati tkun temmet qabel id-dhul fis-sehh ta' l-Att dwar id-Drittijiet ta' l-Awtur, Kap. 415 imma li fl-1 ta' Mejju, 2004 kienu għadhom protetti fi Stat ŻEE taht leġislazzjoni dwar id-Drittijiet ta' l-Awtur jew drittijiet relatati.

Proprjetà ta' drittijiet imġedda.

**4.** (1) Min kien is-sid tad-Drittijiet ta' l-Awtur jew drittijiet relatati f'xi xogħol jew produzzjoni relatata mal-medja minnufih qabel ma jkunu temmu (hawn iżjed 'il quddiem imsejjah “is-sid tad-drittijiet preċedenti”) hu sa mill-bidu is-sid tad-drittijiet kollha mġedda fix-xogħol jew fil-produzzjoni relatata mal-medja.

(2) Meta s-sid tad-drittijiet preċedenti ikun miet qabel il-bidu, jew, fil-każ ta' persuna ġuridika, tkun temmet milli tibqa' teżisti qabel il-bidu, id-drittijiet mġedda għandhom investu fis-suċċessuri bi dritt tiegħu jew tagħha.

Eżerċizzju ta' jeddijiet morali dwar drittijiet mġedda ta' l-awtur u ta' l-artist.

**5.** (1) Kull twarrib jew affermazzjoni ta' jeddijiet morali li kienu jeżistu minnufih qabel l-iskadenza tad-drittijiet ta' l-awtur jew tad-drittijiet ta' l-artist għandhom ikomplu jkollhom sehh matul il-perjodu li d-drittijiet ta' l-awtur jew id-drittijiet ta' l-artist jkunu mġedda, skond il-każ.

(2) Il-jeddijiet morali huma eżerċitabbli wara l-bidu minn awtur ta' xogħol jew minn artist dwar ir-rappreżentazzjonijiet tiegħu, skond ma jiġri f'xi xogħol iehor jew wirja oħra li jkollhom drittijiet ta' l-awtur.

(3) Meta awtur ikun miet qabel il-bidu -

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(a) id-drittijiet mogħtijin bl-artikolu 12 ta' l-Att dwar id-Drittijiet ta' l-Awtur, jistgħu jiġu eżerċitati wara l-bidu mill-persuni indikati fis-subartikolu (3) tiegħu, u

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(b) azzjoni dwar kull ksur relattiv wara l-bidu ta' dawn id-drittijiet tista' tinbeda mill-persuni indikati fl-artikolu 44 ta' l-Att dwar id-Drittijiet ta' l-Awtur,

(4) Meta l-artist ikun miet qabel il-bidu -

(a) id-drittijiet moghtijin bl-artikolu 23 ta' l-Att dwar id-Drittijiet ta' l-Awtur, jistgħu jiġu eżerċitati wara l-bidu mill-persuni indikati fis-subartikolu (2) tiegħu, u Kap. 415.

(b) azzjoni dwar kull ksur relattiv wara l-bidu ta' dawn id-drittijiet tista' tinbeda mill-persuni indikati fl-artikolu 44 ta' l-Att dwar id-Drittijiet ta' l-Awtur. Kap. 415.

**6.** (1) Ebda haġa magħmula qabel il-bidu ma għandha titqies bhala li tikser id-drittijiet imġedda f'xogħol jew produzzjoni relatata mal-medja. Atti ta' esplojtazzjoni meta xogħol kien fid-dominju pubbliku.

(2) Ma jkun hemm ebda ksur ta' drittijiet imġedda f'xi xogħol jew produzzjoni relatata mal-medja meta -

(a) issir xi haġa wara l-bidu f'konformità ma' arrangamenti magħmulin qabel l-1 ta' Mejju, 2004 fi żmien meta ma kienx hemm drittijiet ta' l-awtur jew xi dritt relatat fix-xogħol jew produzzjoni relatata mal-medja, jew

(b) jinharġu għall-pubbliku wara l-bidu kopji jew registrazzjonijiet tax-xogħol jew produzzjoni relatata mal-medja magħmula qabel l-1 ta' Mejju, 2004 fi żmien meta ma kienx hemm drittijiet ta' l-awtur jew xi dritt relatat fix-xogħol jew produzzjoni relatata mal-medja.

(3) Ma jkun hemm ebda ksur ta' drittijiet imġedda f'xi xogħol jew produzzjoni relatata mal-medja meta ssir xi haġa wara l-bidu dwar xi xogħol jew produzzjoni relatata mal-medja magħmula qabel il-bidu, jew magħmula f'konformità ma' arrangamenti magħmulin qabel il-bidu, li jkun fihom kopja ta' dak ix-xogħol jew li jkunu adattament ta' dak ix-xogħol jew registrazzjoni ta' dik il-produzzjoni relatata mal-medja jekk -

(a) il-kopja, registrazzjoni jew adattament ikunu magħmulin qabel l-1 ta' Mejju, 2004 fi żmien meta ma kienx hemm drittijiet ta' l-awtur jew drittijiet relatati fix-xogħol jew produzzjoni relatata mal-medja fejn ikun hemm drittijiet imġedda, jew

(b) il-kopja, registrazzjoni jew adattament ikunu saru f'konformità ma' arrangamenti magħmulin qabel l-1 ta' Mejju, 2004 fi żmien meta ma kienx hemm drittijiet ta' l-awtur jew drittijiet relatati fix-xogħol jew produzzjoni relatata mal-medja fejn ikun hemm drittijiet imġedda.

(4) Ma jkun hemm ebda ksur ta' drittijiet imġedda f'xi xogħol jew produzzjoni relatata mal-medja meta ssir xi haġa wara l-bidu li tkun att ristrett dwar ix-xogħol jew produzzjoni relatata mal-medja jekk l-att ikun magħmul fi żmien meta, jew ikun magħmul f'konformità ma' arrangamenti magħmulin fi żmien meta, l-isem u l-indirizz ta' persuna li jkollha jedd tawtorizza l-att ma jkunx jista' jinstab minkejja li ssir investigazzjoni kif imiss.

(5) Ma jkun hemm ebda ksur ta' xi dritt morali meta ssir xi haġa li bis-saħħa ta' dawn ir-regolamenti mhix ksur tad-drittijiet ta' l-awtur jew drittijiet relatati.

Użu li jsir bi dritt sakemm ikun hemm *royalty* ekwitabbli.

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**7.** (1) Fil-każ ta' xi xogħol jew produzzjoni relatata mal-medja fejn ikun hemm drittijiet imġedda kull att ristrett mid-drittijiet ta' l-awtur jew drittijiet relatati għandu jkun ittrattat bħala mhल्ली jew li jkollu l-kunsens li jsir mis-sid tad-drittijiet ta' l-awtur jew ta' drittijiet relatati, jew mill-*collecting society* hekk kif inhu awtorizzat taħt l-artikolu 52 ta' l-Att dwar id-Drittijiet ta' l-Awtur, sakemm biss isir il-hlas ta' dik ir-*royalty* ekwitabbli jew rimunerazzjoni ohra skond ma jista' jkun miftiehem individwalment jew permezz ta' *collecting society* jew stabbiliti fin-nuqqas ta' ftehim mill-Bord dwar id-Drittijiet ta' l-Awtur fuq talba tas-sid tad-drittijiet ta' l-awtur jew tas-sid tad-drittijiet relatati jew ta' *collecting society*, jew ta' min ikun qed jitlob jew ta' *society* li jiġi ttrattat bħala mhल्ली jew li jkollu l-kunsens tiegħu.

(2) Min ikollu hsib li jagħmel użu mid-dritt mogħti b'dan ir-regolament għandu jagħti avviż raġonevoli bil-miktub dwar il-hsieb tiegħu lis-sid tad-drittijiet ta' l-awtur jew lis-sid tad-drittijiet relatati jew *collecting society*, fejn jgħid meta jkun bi hsiebu jagħmel l-atti. Jekk jonqos milli jagħti dak l-avviż, l-atti tiegħu ma jitqiesux bħala mhल्ली jew li jkollhom il-kunsens li jsiru mis-sid.

Estensjoni ta' l-iskop territorjali ta' tmiem id-drittijiet ta' distribuzzjoni.

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**8.** (1) Għall-finijiet ta' l-artikoli 8 u 20 ta' l-Att dwar id-Drittijiet ta' l-Awtur, "suq" għandha tfisser mill-1 ta' Mejju, 2004 s-suq li jaqa' taħt il-Ftehim ŻEE.

(2) B'żieda ma' l-artikolu 31 ta' l-Att dwar id-Drittijiet ta' l-Awtur, l-ewwel bejgħ fi Stat ŻEE ta' kopja ta' *database* minn detentur ta' dritt jew bil-kunsens tiegħu għandu jtemm id-dritt li jiġi kkontrollat il-bejgħ mill-ġdid ta' dik il-kopja.

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(3) B'żieda ma' l-artikolu 34 ta' l-Att dwar id-Drittijiet ta' l-Awtur, meta prodott topografiku jew semikonduttur ikun tqiegħed fis-suq ta' Stat ŻEE minn detentur ta' dritt jew bil-kunsens tiegħu, id-dritt esklużiv li tiġi awtorizzata jew prevjenuta l-esplojtazzjoni kummerċjali jew l-importazzjoni ta' dak il-prodott topografiku jew semikonduttur għandu jtemm.

**L.N. 197 of 2004**

**COPYRIGHT ACT  
(CAP. 415)**

**Revival of Copyright and Neighbouring Rights (Protection)  
and Exhaustion of Distribution Rights (Extension)  
Regulations, 2004**

IN exercise of the powers conferred by article 59 (c) and (d) of the Copyright Act, the Minister for Competitiveness and Communications has made the following regulations:-

1. (1) The title of these regulations is the Revival of Copyright and Neighbouring Rights (Protection) and Exhaustion of Distribution Rights (Extension) Regulations, 2004. Citation and commencement.

(2) These regulations come into force on the 1st May, 2004.

2. In these regulations, unless the context otherwise requires – Interpretation.

“arrangements” means arrangements for the exploitation of the work in question;

“commencement” means the date on which these regulations come into force;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993 and as subsequently amended;

“EEA state” means a state which is a contracting party to the EEA Agreement;

“media-related production” means performances, audiovisual works, recordings and broadcasts that according to the provisions of the Copyright Act, are protected by neighbouring rights; Cap. 415.

“revived rights” means any copyright or neighbouring rights which subsist by virtue of the provisions of the Copyright

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Act, after having expired under the provisions of the preceding Copyright Act, Cap. 196 or any other earlier enactment relating to copyright or related rights and revived in terms of regulation 3 hereof.

Revival of copyright and neighbouring rights.

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**3.** Copyright and neighbouring rights in terms of the provisions of the Copyright Act, shall revive in works and media-related productions whose protection under the provisions of the preceding Copyright Act, Cap. 196 or any other earlier enactment relating to copyright or related rights had expired before the coming into force of the Copyright Act, but were on the 1st May, 2004 still protected in an EEA state under legislation relating to copyright or related rights.

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Ownership of revived rights.

**4.** (1) The person who was the owner of the copyright or related rights in a work or media-related production immediately before it expired (hereinafter called “the former rights owner”) is as from commencement the owner of any revived rights in the work or media-related production.

(2) Where if the former rights owner has died before commencement, or, in the case of a legal person, has ceased to exist before commencement, the revived rights shall vest in his or its rightful successors

Exercise of moral rights in respect of revived copyright and performer’s rights.

**5.** (1) Any waiver or assertion of moral rights which subsisted immediately before expiry of copyright or performer’s rights shall continue to have effect during the period of revived copyright or performer’s rights, as the case may be.

(2) Moral rights are exercisable after commencement by the author of a work or by the performer in respect of his performances, as with any other copyright work or performance.

(3) Where the author died before commencement -

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(a) the rights conferred by article 12 of the Copyright Act, are exercisable after commencement by the persons indicated in sub-article (3) thereof, and

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(b) the relative infringements after commencement of these rights are actionable by the persons indicated in article 44 of the Copyright Act.

(4) Where the performer died before commencement -

(a) the rights conferred by article 23 of the Copyright Act, are exercisable after commencement by the persons indicated in sub-article (2) thereof, and Cap. 415.

(b) the relative infringements after commencement of these rights are actionable by the persons indicated in article 44 of the Copyright Act. Cap. 415.

**6.** (1) No act done before commencement shall be regarded as infringing revived rights in a work or media-related production. Acts of exploitation when work was in public domain.

(2) It is not an infringement of revived rights in a work or media-related production -

(a) to do anything after commencement in pursuance of arrangements made before the 1st May, 2004 at a time when copyright or any related right did not subsist in the work or media-related production, or

(b) to issue to the public after commencement copies or recordings of the work or media-related production made before the 1st May, 2004 at a time when copyright or any related right did not subsist in the work or media-related production.

(3) It is not an infringement of revived rights in a work or media-related production to do anything after commencement in relation to a work or a media-related production made before commencement, or made in pursuance of arrangements made before commencement, which contains a copy of that work or is an adaptation of that work or a recording of that media-related production if -

(a) the copy, recording or adaptation was made before the 1st May, 2004 at a time when copyright or related rights did not subsist in the work or media-related production in which revived rights subsist, or

(b) the copy, recording or adaptation was made in pursuance of arrangements made before the 1st May, 2004 at a time when copyright or related rights did not subsist in the work or media-related production in which revived rights subsist.

(4) It is not an infringement of revived rights in a work or media-related production to do after commencement anything which is a restricted act in relation to the work or media-related production if the act is done at a time when, or is done in pursuance

of arrangements made at a time when, the name and address of a person entitled to authorise the act cannot by reasonable inquiry be ascertained.

(5) It is not an infringement of any moral right to do anything which by virtue of these regulations is not an infringement of copyright or neighbouring rights.

Use as of right subject to equitable royalty.

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**7.** (1) In the case of a work or media-related production in which revived rights subsist any act restricted by the copyright or neighbouring rights shall be treated as licensed or consented to by the copyright owner or neighbouring rights owner or by the collecting society as authorized under Article 52 of the Copyright Act, subject only to the payment of such equitable royalty or other remuneration as may be agreed individually or through the collecting society or determined in default of agreement by the Copyright Board at the request of the copyright owner or neighbouring rights owner or the collecting society or the person claiming to be treated as licensed by him or the society or as having his consent.

(2) A person intending to avail himself of the right conferred by this regulation must give reasonable notice in writing of his intention to the copyright owner or neighbouring rights owner or collecting society, stating when he intends to begin to do the acts. If he fails to give such notice, his acts shall not be deemed as licensed or as having the owner's consent.

Extension of territorial scope of exhaustion of distribution rights.

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**8.** (1) For the purposes of articles 8 and 20 of the Copyright Act, "market" shall as from the 1st May, 2004 mean the market covered by the EEA Agreement.

(2) Further to article 31 of the Copyright Act, the first sale in an EEA state of a copy of a database by the rightholder or with his consent shall exhaust the right to control the resale of that copy.

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(3) Further to article 34 of the Copyright Act, when a topography or a semiconductor product has been put on the market of an EEA state 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.