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FREE SOFTWARE ACT

Version 4

International, Interdisciplinary Advisory Committee Members

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Abstract

This is the latest draft of the Free Software Act.

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Recitals:

- (i) “Free software” for the purposes of this Act is not a technical definition. Instead, it is software, copyrighted and licensed so as to assure users, copiers, modifiers, distributors and any other beneficiaries of free software of certain freedoms. It also includes software developed by public bodies using public funds.
- (ii) Any user, copier, modifier, distributor or beneficiary of free software has standing to sue for any violation of this Act.
- (iii) This Act affords legislative protection to the terms and conditions of any free software licence. It does not abrogate the conditions of any licence. This paragraph will supersede any other recital or section of this Act. It does not “copyleft” any non-copylefted free software or alter the conditions under which such software is released to the public.
- (iv) Where non-proprietary software has not been released under a licence, the provisions of this Act shall apply, unless expressly excluded.
- (v) If a non-proprietary software developer’s or developers’ copyright is not recognised in court, the relevant terms and conditions of this Act shall apply.
- (vi) If the contractual terms of a non-proprietary software licence are not upheld, the rights to use, copy, modify and distribute are automatically governed by this Act, unless the terms of same are expressly excluded.

Sections:

1. Free software guarantees the following freedoms to its authors, users, copiers, modifiers, distributors and any other beneficiaries:
 - (a) The right to access the source code of any free software program.
 - (b) The right to run the program.
 - (c) The right to copy the program.
 - (d) The right to modify the program.
 - (e) The right to distribute the program.
2. Authors’ rights shall be protected in the following way, subject to any contradictory requirements of any licences used to cover the program or in cases where relevant provisions of such licences are not upheld in court:
 - (a) The author of any free software program retains the right of attribution to his/her work.
 - (b) Any modifier must acknowledge the authorship of the original program and the authorship of the modification.
 - (c) All authorship must always be correctly attributed.
3. All users, copiers, modifiers, distributors and beneficiaries of free software have the right to know about and be informed about the rights listed in section 1 and section 2 of this Act.

4. Distributors of free software, whether in its original, copied or modified form, when distributing the program, may not restrict any of the rights in sections 1, 2 and 3, subject to contrary terms of any licences or in cases where such licences are not upheld or where provisions of this Act are not expressly excluded.

5. Copies of the program may be distributed in exchange for money, providing that the rights in sections 1, 2, 3 and 4 are preserved.

6. Exemptions from liability:

(a) When any free software user, programmer, modifier, distributor or beneficiary inadvertently violates a proprietary software licence, s/he will be exempt from the payment of damages and shall be granted a reasonable time in which to rectify any such situation.

(b) When any free software programmer, while engaged in free software development, inadvertently violates a software copyright, s/he will be exempt from the payment of damages and shall be granted a reasonable time in which to rewrite any infringing code. If the infringed, copyrighted program is no longer being maintained, no liability of any type shall accrue.

(c) Software patents have no application whatsoever to free software and no liability shall accrue for their inadvertent or deliberate infringement.

(d) The burden of proof to identify any infringing code or activity enumerated in 6(a), 6(b) and 6(c) will fall on the plaintiff.

(e) There should be no warranties for free software, unless such a warranty has been requested by the purchaser, agreed to by the vendor and paid for appropriately.

7. Where a program has been developed in more than one jurisdiction, each with different copyright and contractual laws, the provisions of this Act will apply, unless expressly excluded by the software licence.

8. Sanctions:

Any violation of this Act will result in an obligation on the part of those responsible to give access to the source code of any modified program based on free software.

Further sanctions may be imposed by the courts or any tribunals set up, especially for the hearing of free software cases.

Definitions:

The Program: The “program” in this Act means the program, copies of the program, modified versions of the program and copies of modified versions of the program and source code of the same.

Beneficiary of free software: A beneficiary of free software is anyone who benefits in any way from free software use, copying and modification, whether directly or indirectly.

Free software programmer: Any programmer who works alone, in a free software community or for any government body.