

COPYRIGHT LAW OF JAPAN

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(CRIC)**

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Outline of the Copyright Law

1. Works

“Work” means a production in which thoughts or sentiments are expressed in a creative way and which falls within the literary, scientific, artistic or musical domain (Art.2, para.1, item (i)).

○ Classification of works (Art.10, para.1):

Literary, musical, artistic, figurative, cinematographic, photographic, program and database works, etc.

2. Authors

“Author” means a person who creates a work (Art.2, para.1, item (ii)).

○ Authorship of a work made by an employee in the course of his duties (Art.15).

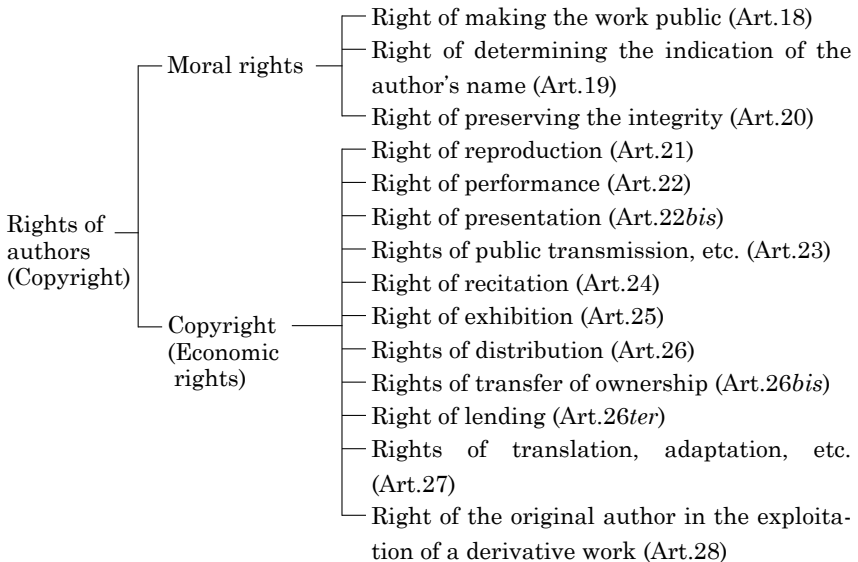
○ Authorship of a cinematographic work (Art.16).

3. Rights of Authors (Copyright)

○ Moral rights and copyright (Art.17, para.1).

○ Non-formality (Art.17, para.2):

The enjoyment of moral rights and copyright shall not be subject to any formality.



4 . Limitations on Copyright

- Reproduction for private use (Art.30); reproduction in libraries, etc. (Art.31); quotations (Art.32); reproduction in school textbooks, etc. (Art.33); reproduction in school textbooks for preparing a textbook in large print (Art.33*bis*); broadcasting, etc.in school education programs (Art.34); reproduction etc. in schools and other educational institutions, etc. (Art.35); reproduction etc. in examination questions (Art.36); reproduction etc. in for visually handicapped, etc. (Art.37); reproduction etc. for aurally handicapped, etc. (Art.37*bis*); performance, etc. not for profit-making (Art.38); reproduction, etc. of articles on current topics (Art.39); exploitation of political speeches, etc. (Art.40); reporting of current events (Art.41); reproduction for submitting documents in legal proceedings, patent examination procedure and pharmaceutical approval procedure (Art.42); exploitation for Disclosure by the Government Organizations Information Disclosure Law, etc. (Art.42*bis*); exploitation for preservation etc. by the Public Records Management Law, etc. (Art.42*ter.*); reproduction for collecting internet materials under the National Diet Library Law (Art.42*quater*); ephemeral recordings by broadcasting organizations, etc. (Art.44); reproduction, etc. required for an offer of a transfer of ownership, etc. of an artistic work, etc. (Art.47*bis*); reproduction etc. by the owner of a copy of a program work (Art.47*ter*); temporary reproduction for maintain or repair of machine (Art.47*quater*) reproduction for the prevention, etc. of a difficulty in transmission (Art.47*quinquies*); reproduction, etc. for retrieval, etc. of a transmitter identification code of information which has been made transmittable (Art.47*sexies*); reproduction etc. for analyzing information (Art.47*septies*); reproduction for exploitation of works where is used on a computer (Art.47*octies*); etc.

5 . Term of Protection

- The term of copyright shall begin with the creation of the work; copyright shall continue to subsist, in principle, until the end of a period of fifty years following the death of the author (Art.51).
- Copyright in anonymous and pseudonymous works and works bearing the name of a corporate body shall continue to subsist until the end of a period of fifty years following the making public of the work (Art.52,

Art.53).

- Copyright in cinematographic works shall continue to subsist until the end of a period of seventy years following the making public of the work (Art.54).

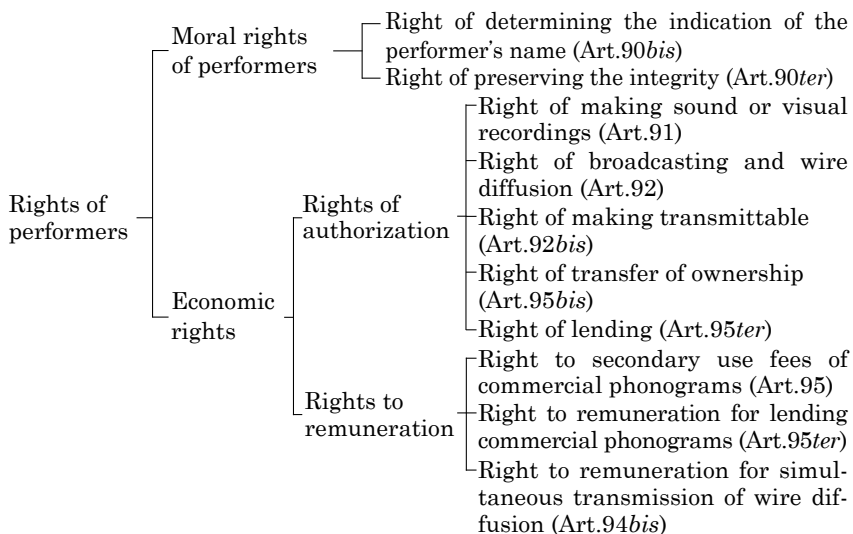
6. Registration

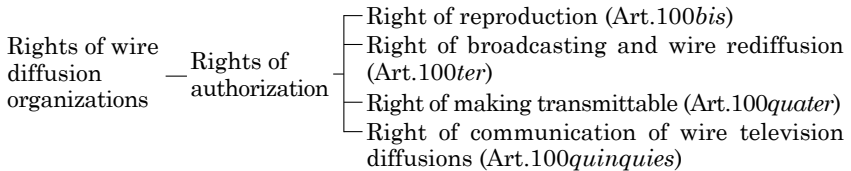
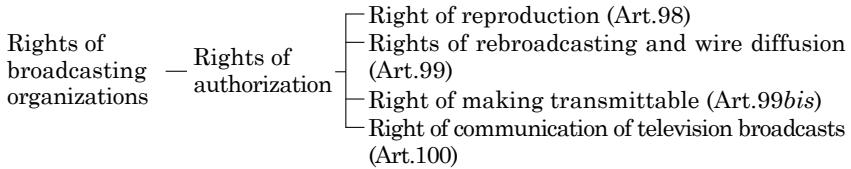
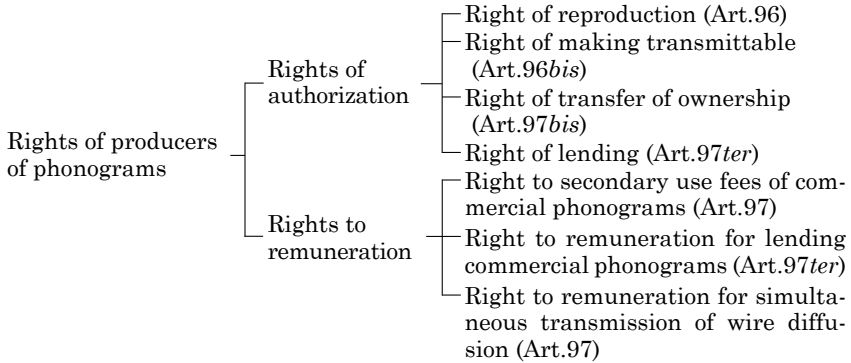
- Registration of the true name (Art.75); registration of the date of the first publication, etc. (Art.76); registration of the date of creation (Art.76*bis*); registration of copyright (Art.77).
- Procedures for registration (Art.78); exceptional provision for the registration of program works (Art.78*bis*).

7. Right of Publication

8. Neighboring Rights

- Rights of performers, producers of phonograms, broadcasting organizations and wire diffusion organizations (Art.89-Art.100*quater*).
- Term of protection: fifty years from the time of performance, fixations of sounds on phonograms, broadcasting (Art.101).





9. Measures against Infringement on Copyright, etc.

○ Civil measures:

Right of demanding cessation (Art.112); measures for recovery of honor, etc. (Art.115); compensation for damages; recovery of the undue profit; etc.

○ Criminal measures:

Any person who infringes copyrights, right of publication or neighboring rights shall be punishable by imprisonment for a term not exceeding ten years or a fine not exceeding ten million Yen, or both (Art.119, (1)). Any person who infringes moral rights of authors or moral rights of performers or who does an act considered to constitute an infringement under Art.113(1), etc. shall be punishable by imprisonment for a term not

exceeding five years or a fine not exceeding five million Yen (Art.119(2)).

Any person who, for the purpose of private use, infringes copyright or neighboring rights by making a digital sound or visual recording with knowing that such recording is made upon reception of an interactive transmission which infringes copyright or neighboring rights of works for value etc. shall be punishable by imprisonment for a term not exceeding two years or a fine not exceeding two million Yen, or both (Art.119(3)).+

Any person who does acts of manufacture, distribution, etc. of a device, etc. for the circumvention of technological protection measures shall be punishable by imprisonment for a term not exceeding three years or a fine not exceeding three million Yen, or both (Art.120*bis*).

A legal person who infringes rights shall be punishable by a fine not exceeding three hundred million Yen (Art.124).

○ Acts considered to be infringements (Art.113):

The importation into this country, for distribution, of objects made by an act which would constitute an infringement on moral rights, copyright, right of publication or neighboring rights if they were made in this country at the time of such importation.

The distribution, the possession for distribution or the making of an offer of distribution, or the exportation by trade or the possession for exportation by trade, of objects made by an act infringing moral rights, copyright, right of publication or neighboring rights, by a person who is aware of such infringement (Art.113,(1)).

The intentional alteration, etc. of rights management information (Art.113, (3)).

The underlined part has amended in 2009. It will be enforced from 1st January 2010.

[Ref.] International Conventions (Status as of August 2012)

○ Berne Convention for the Protection of Literary and Artistic Works (1886, Berne) …… WIPO:

167 countries (Japan, U.S.A., U.K., France, Germany, China, etc.)

○ Universal Copyright Convention (1952, Geneva) …… UNESCO:

100 countries (Japan, U.S.A., Russia, U.K., France, Germany, etc.)

○ Convention for the Protection of Producers of Phonograms Against

- Unauthorized Duplication of Their Phonograms (1971, Geneva)
WIPO, UNESCO:
78 countries (Japan, U.S.A., U.K., France, Germany, etc.)
- International Convention for the Protection of Performers, Producers
of Phonograms and Broadcasting Organizations (1961, Rome)
WIPO, UNESCO, ILO:
92 countries (Japan, U.K., France, Germany, etc.)
- Agreement on Trade - Related Aspects of Intellectual Property Rights
(1994, Marrakesh) Marrakesh Agreement Establishing the World
Trade Organization (WTO):
160 countries (Japan, U.S.A., U.K., France, Germany, etc.)
- WIPO Copyright Treaty (WCT) (1996, Geneva) WIPO:
92 countries (Japan, U.S.A., etc.)
- WIPO Performances and Phonograms Treaty (WPPT) (1996, Geneva)
..... WIPO:
93 countries (Japan, U.S.A., etc.)

1. COPYRIGHT LAW

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(Law No.48, promulgated on May 6, 1970)

(As amended by : Law No.49, of May 18, 1978,

Law No.45, of May 19, 1981,

Law No.78, of December 2, 1983,

Law No.23, of May 1, 1984,

Law No.46, of May 25, 1984,

Law No.62, of June 14, 1985,

Law No.64, of May 23, 1986,

Law No.65, of May 23, 1986,

Law No.87, of November 1, 1988,

Law No.43, of June 28, 1989,

Law No.63, of May 2, 1991,

Law No.106, of December 16, 1992,

Law No.89, of November 12, 1993,

Law No.112, of December 14, 1994,

Law No.91, of May 12, 1995,

Law No.117, of December 26, 1996,

Law No.86, of June 18, 1997,

Law No.101, of June 12, 1998,

Law No.43, of May 14, 1999,

Law No.77, of June 15, 1999,

Law No.160, of December 22, 1999,

Law No.220, of December 22, 1999,

Law No.56, of May 8, 2000,

Law No.131, of November 29, 2000,

Law No.140, of December 5, 2001,

Law No.72, of June 29, 2002,

Law No.61, of May 30, 2003,

Law No.85, of June 18, 2003,

Law No.119, of July 2, 2003,

Law No.84, of June 9, 2004,

Law No.92, of June 9, 2004,

Law No.120, of June 18, 2004,

Law No.147, of December 1, 2004,

Law No.75, of June 29, 2005,
 Law No.50, of June 29, 2006,
 Law No.121, of December 22, 2006,
 Law No.81, of June 18, 2008,
 Law No.53, of June 19, 2009,
 Law No.73, of July 10, 2009,
 Law No.65, of December 3, 2010,
 Law No.32, of June 22, 2012,
 Law No.43, of June 27, 2012,
 Law No.84, of November 27, 2013, and
 Law No.35, of May 14, 2014)

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Chapter I General Provisions

Section 1 General Rules

(Purpose)

Article 1. The purpose of this Law is, by providing for the rights of authors and the rights neighboring thereon with respect to works as well as performances, phonograms, broadcasts and wire diffusions, to secure the protection of the rights of authors, etc., having regard to a just and fair exploitation of these cultural products, and thereby to contribute to the development of culture.

(Definitions)

Article 2. (1) In this Law, the following terms shall have the meaning hereby assigned to them respectively:

(i) “work” means a production in which thoughts or sentiments are expressed in a creative way and which falls within the literary, scientific, artistic or musical domain;

(ii) “author” means a person who creates a work;

(iii) “performance” means the acting on stage, dancing, musical playing, singing, delivering, declaiming or performing in other ways of a work, and includes similar acts not involving the performance of a work which have the nature of public entertainment;

(iv) “performers” means actors, dancers, musicians, singers and other persons who give a performance as well as those who conduct or direct a performance;

(v) “phonograms” means fixations of sounds on phonographic discs, recording-tapes and other material forms, excluding those intended for use exclusively with images;

(vi) “producers of phonograms” means those who first fix the sounds contained in phonograms;

(vii) “commercial phonograms” means copies of phonograms made for commercial purposes;

(*viii*) “public transmission” means the transmission of radio communication or wire-telecommunication intended for direct reception by the public, excluding the transmission (other than that of program works) by telecommunication installations one part of which is located on the same

premises where the other part is located or, if the premises are occupied by two or more persons, both parts of which are located within the area therein occupied by one person;

(viii) “broadcasting” means the public transmission of radio communication intended for simultaneous reception by the public of the transmission having the same contents;

(ix) “broadcasting organizations” means those who engage in the broadcasting business;

(ixbis) “wire diffusion” means the public transmission of wire-telecommunication intended for simultaneous reception by the public of the transmission having the same contents;

(ixter) “wire diffusion organizations” means those who engage in the wire diffusion business;

(ixquater) “interactive transmission” means the public transmission made automatically in response to a request from the public, excluding the public transmission falling within the term “broadcasting” or “wire-diffusion”;

(ixquinquies) “making transmittable” means the putting in such a state that the interactive transmission can be made by either of the following acts:

(a) to record information on public transmission memory of an interactive transmission server already connected with telecommunication networks for public use (“interactive transmission server” means a device which, when connected with telecommunication networks for public use, has a function of making the interactive transmission of information which is either recorded on such a part of its memory as used for the interactive transmission (hereinafter in this item referred to as “public transmission memory”) or inputted to such device; the same shall apply hereinafter), to add a memory recording information as a public transmission memory of such an interactive transmission server, to convert such a memory recording information into a public transmission memory of such an interactive transmission server, or to input information to such an interactive transmission server;

(b) to connect with telecommunication networks for public use an interactive transmission server which records information on its public transmission memory or which inputs information to itself. In this case, where

a connection is made through a series of acts such as wiring, starting of an interactive transmission server or putting into operation of programs for transmission or reception, the last occurring one of these acts shall be considered to constitute the connection;

(x) “makers of cinematographic works” means those who take the initiative in, and the responsibility for, the making of a cinematographic work;

(*xbis*) “program” means an expression of combined instructions given to a computer so as to make it function and obtain a certain result;

(*xter*) “databases” means an aggregate of information such as articles, numericals or diagrams, which is systematically constructed so that such information can be retrieved with the aid of a computer;

(xi) “derivative work” means a work created by translating, arranging musically, transforming, or dramatizing, cinematizing or otherwise adapting a pre-existing work;

(xii) “joint work” means a work created by two or more persons in which the contribution of each person cannot be separately exploited;

(xiii) “sound recording” means the fixation of sounds on some material forms and the multiplication of such fixation;

(xiv) “visual recording” means the fixation of a sequence of images on some material forms and the multiplication of such fixation;

(xv) “reproduction” means the reproduction in a tangible form by means of printing, photography, reprography, sound or visual recording or otherwise; and

(a) in the case of dramas and other similar dramatic works, it includes sound and visual recording of the actings, broadcasts or wire diffusions of these works; and

(b) in the case of architectural works, it includes the construction of an architectural work according to its plan;

(xvi) “acting” means the performance of works by means other than musical playing (“musical playing” includes singing; the same shall apply hereinafter);

(xvii) “presentation” means the projection of a work (other than that transmitted publicly) on the screen or other material forms, and includes such an intangible reproduction of sounds fixed in a cinematographic work as made in company with its projection;

(xviii) “recitation” means the oral communication by means of reading or otherwise, not falling within the term “performance”;

(xix) “distribution” means the transfer of ownership and lending of copies of a work to the public, whether with or without payment, and in the case of a cinematographic work or a work reproduced therein, it includes the transfer of ownership and lending of copies of such work for the purpose of making a cinematographic work available to the public;

(xx) “technological protection measures” means measures to prevent or deter such acts as constitute infringements on moral rights of authors or copyright mentioned in Article 17, paragraph (1) or moral rights of performers mentioned in Articles 89, paragraph (1) or neighboring rights mentioned in Article 89, paragraph (6) (hereinafter in this item ..., Article 30, paragraph (1), item (ii) and Article 120bis, item (i)... referred to as “copyright, etc.”) (“deter” means to deter such acts as constitute infringements on copyright, etc. by causing considerable obstruction to the results of such acts; the same shall apply in Article 30, paragraph (1), item (ii) by electronic or magnetic means or by other means not perceivable by human perception (in next item referred to as “electro-magnetic means”), excluding such measures as used not at the will of the owner of copyright, etc., which adopt means of recording on a memory or transmitting such signals as having specific effects on machines used for the exploitation of works, performances, phonograms, broadcasts or wire diffusions (in next item referred to as “works, etc.”) (“exploitation” includes acts which would constitute infringements on moral rights of authors of performers if done without the consent of the author or the performer), together with works, performances, phonograms, or sounds or images of broadcasts or wire diffusions, ..., or which adopt means of recording on a memory or transmitting such works, performances, phonograms, or sounds or images of broadcasts or wire diffusions as converted in accordance with a specific conversion required by those machines;

(xxi) “rights management information” means information concerning moral rights or copyright mentioned in Article 17, paragraph (1) or rights mentioned in Article 89, paragraphs (1) to (4) (hereinafter in this item referred to as “copyright, etc.”) which falls within any of the following (a), (b) and (c) and which is recorded on a memory or transmitted by electromagnetic means together with works, performances, phonograms, or sounds or

images of broadcasts or wire diffusions, excluding such information as not used for knowing how works, etc. are exploited, for conducting business relating to the authorization to exploit works, etc. and for other management of copyright, etc. by computer:

(a) information which specifies works, etc., owners of copyright, etc. and other matters specified by Cabinet Order;

(b) information relating to manners and conditions of the exploitation in case where the exploitation of works, etc. is authorized;

(c) information which enables to specify matters mentioned in (a) or (b) above in comparison with other information;

(xxii) “this country” means the jurisdiction within which this Law is effective;

(xxiii) “outside this country” means outside the jurisdiction within which this Law is effective.

(2) As used in this Law, “artistic work” includes a work of artistic craftsmanship.

(3) As used in this Law, “cinematographic work” includes a work expressed by a process producing visual or audio-visual effects analogous to those of cinematography and fixed in some material form.

(4) As used in this Law, “photographic work” includes a work expressed by a process analogous to photography.

(5) As used in this Law, “the public” includes a large number of specific persons.

(6) As used in this Law, “legal person” includes non-juridical associations or foundations having representatives or administrators.

(7) In this Law, “performance” and “recitation” include the performance or recitation of a work by means of sound or visual recordings, not falling within the term “public transmission” or “presentation” and the communication by means of telecommunication installations of performances or recitations of works, not falling within the term “public transmission”.

(8) In this Law, “lending” includes any kind of similar acts of making acquire an authority to use, whatever may be their purpose or means.

(9) In this Law, the meanings assigned to the terms defined in paragraph (1), items (*vii bis*), (*viii*), (*ix bis*), (*ix quater*), (*ix quinquies*) and (*xiii*) to (*xix*) and the preceding two paragraphs shall also apply to their variant forms, as the case may be.

(Publishing of works)

Article 3. (1) A work has been “published” when copies of the work have been reproduced and distributed by a person who has the right mentioned in Article 21 or with the authorization of such person (“authorization” means the authorization to exploit a work under the provisions of Article 63, paragraph (1); the same shall apply hereinafter in this and next Chapters, except this paragraph, next Article, paragraph (1), Article *4bis* and Article 63) or by a person in favour of whom the right of publication mentioned in Article 79 has been established or with the authorization of such person to reproduce a work (“authorization to reproduce a work” means the authorization to reproduce a work under the provisions of Article 80, paragraph (3); the same shall apply in the proviso to Article 37, paragraph (3) and in proviso to Article *37bis*), in such sufficient quantities as satisfy the reasonable requirements of the public, having regard to the nature of the work (without prejudice to the right of a person who has the right mentioned in Article 26 or Article *26bis*, paragraph (1) or Article *26ter*).

(2) A work shall be considered as having been “published” when copies of its translation have been reproduced and distributed, in such quantities as provided for in the preceding paragraph, by a person who has the same right as that mentioned in Article 21 in accordance with the provisions of Article 28 or with the authorization of such person (without prejudice to the right of a person who has the same right as that mentioned in Article 26, Article *26bis*, paragraph (1) or Article *26ter* in accordance with the provision of Article 28).

(3) A person who would have the right mentioned in any of the preceding two paragraphs if his work were protected under this Law or a person who obtained the authorization to exploit the work from such person shall be considered to be a person who has such right or a person who obtained the authorization from such person, and the provisions of these paragraphs shall apply with respect to those persons.

(Making public of works)

Article 4. (1) A work has been “made public” when it has been published, or when it has been made available to the public, by a person who has the rights mentioned in Articles 22 to 25 or with the authorization of such person (“authorization” means the authorization to exploit a work under the provisions of Article 63, paragraph (1)) or by a person in favour of whom the right

of publication mentioned in Article 79 has been established or with the authorization of such person to transmit a work publicly (“authorization to transmit a work publicly” means the authorization to transmit a work publicly under the provisions of Article 80, paragraph (3); the same shall apply in next paragraph, in the proviso to Article 37, paragraph (3) and in the proviso to Article 37*bis*), by means of performance, presentation, public transmission, recitation or exhibition. In the case of architectural works, a work also has been “made public” when it has been constructed by a person who has the right mentioned in Article 21 or with the authorization of such person (“authorization” means the authorization to exploit a work under the provisions of Article 63, paragraph (1)).

(2) A work shall be considered as having been “made public” when it has been put, by a person having the rights mentioned in Article 23, paragraph (1) or with the authorization of such person or by a person in favour of whom the right of publication mentioned in Article 79 has been established or with the authorization of such person to transmit a work publicly, in such a state that it can be made transmittable.

(3) A work shall be considered as having been “made public” when its translation has been made available to the public, by a person who has the same rights as those mentioned in Articles 22 to 24 in accordance with the provision of Article 28 or with the authorization of such person, by means of performance, public transmission or recitation, or when such translation has been made transmittable by a person who has the same rights as those mentioned in Article 23, paragraph (1) in accordance with the provision of Article 28 or with the authorization of such person.

(4) An artistic work or a photographic work shall be considered as having been “made public” when it has been exhibited, by such a person as mentioned in Article 45, paragraph (1), in such a manner as provided for in that paragraph.

(5) A person who would have the rights mentioned in paragraphs (1) to (3) of this Article if his work were protected under this Law or a person who obtained the authorization to exploit the work from such person shall be considered to be a person who has such rights or a person who obtained the authorization from such person, and the provisions of these paragraphs shall apply with respect to those persons.

(Publishing of phonograms)

Article 4bis. A phonogram has been “published” when copies of the phonogram have been reproduced and distributed by a person who has the right mentioned in Article 96 or with the authorization of such person (“authorization” means the authorization to exploit a phonogram under the provision of Article 63, paragraph (1) which shall apply *mutatis mutandis* in Article 103; the same shall apply in Chapter IV, Sections 2 and 3), in such sufficient quantities as satisfy the reasonable requirements of the public, having regard to the nature of the phonogram (without prejudice to the right of a person who has the right mentioned in Article 97bis, paragraph (1) or Article 97ter, paragraph (1)).

(Priority of international treaty)

Article 5. If an international treaty provides otherwise with respect to the rights of authors and the rights neighboring thereon, the provisions thereof shall prevail.

Section 2 Scope of Application

(Protected works)

Article 6. The following shall be granted protection under this Law:

(i) works of Japanese nationals (“Japanese nationals” includes legal persons established under the Japanese law and those who have their principal offices in this country; the same shall apply hereinafter);

(ii) works first published in this country, including those first published outside this country and published in this country within thirty days of that first publication;

(iii) works not falling within those mentioned in the preceding two items, to which Japan has the obligation to grant protection under an international treaty.

(Protected performances)

Article 7. The following shall be granted protection under this Law:

(i) performances which take place in this country;

(ii) performances fixed in the phonograms mentioned in item (i) or (ii) of the next Article;

(iii) performances transmitted through the broadcasts mentioned in Article 9, item (i) or (ii), excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned;

(iv) performances transmitted through the wire diffusions mentioned in each item of Article 9*bis*, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned;

(v) any of the following performances not falling within those mentioned in the preceding four items:

(a) performances which take place in a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter referred to as “the Convention for the Protection of Performers, etc.”);

(b) performances fixed in the phonograms mentioned in item (iii) of the next Article;

(c) performances transmitted through the broadcasts mentioned in Article 9, item (iii), excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned;

(vi) any of the following performances not falling within those mentioned in the preceding five items:

(a) performances which take place in a Contracting Party to the WIPO Performances and Phonograms Treaty (hereinafter referred to as “the WPPT”);

(b) performances fixed in the phonograms mentioned in item (iv) of the next Article;

(vii) any of the following performances not falling within those mentioned in the preceding six items:

(a) performances which take place in a member of the World Trade Organization;

(b) performances fixed in the phonograms mentioned in item (v) of the next Article;

(c) performances transmitted through the broadcasts mentioned in

Article 9, item (iv), excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned.

(viii) performances, not falling within those mentioned in the preceding seven items, given by performers who are nationals of any of the Contracting Parties to the Beijing Treaty on Audiovisual Performances or who have their habitual residence in any of such Contracting Parties.

(Protected phonograms)

Article 8. The following shall be granted protection under this Law:

(i) phonograms the producers of which are Japanese nationals;
(ii) phonograms composed of the sounds which were first fixed in this country;

(iii) any of the following phonograms not falling within those mentioned in the preceding two items:

(a) phonograms the producers of which are nationals of any of the Contracting States of the Convention for the Protection of Performers, etc. (“nationals” includes legal persons established under the law of such State and those who have their principal offices in such State; the same shall apply hereinafter.);

(b) phonograms composed of the sounds which were first fixed in any of the Contracting States of the Convention for the Protection of Performers, etc.;

(iv) any of the following phonograms not falling within those mentioned in the preceding three items:

(a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT (“nationals” includes legal persons established under the law of such Contracting Party and those who have their principal offices in such Contracting Party; the same shall apply hereinafter);

(b) phonograms composed of the sounds which were first fixed in any of the Contracting Parties to the WPPT;

(v) any of the following phonograms not falling within those mentioned in the preceding four items:

(a) phonograms the producers of which are nationals of any of the

members of the World Trade Organization (“nationals” includes legal persons established under the law of such member and those who have their principal offices in such member; the same shall apply hereinafter.);

(b) phonograms composed of the sounds which were first fixed in any of the members of the World Trade Organization;

(vi) phonograms not falling within those mentioned in the preceding five items, to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (in Article 121*bis*, item (ii), referred to as “the Phonograms Convention”).

(Protected broadcasts)

Article 9. The following shall be granted protection under this Law:

(i) broadcasts transmitted by broadcasting organizations of Japanese nationality;

(ii) broadcasts transmitted from transmitters situated in this country;

(iii) any of the following broadcasts not falling within those mentioned in the preceding two items:

(a) broadcasts transmitted by broadcasting organizations who are nationals of any of the Contracting States of the Convention for the Protection of Performers, etc.;

(b) broadcasts transmitted from transmitters situated in any of the Contracting States of the Convention for the Protection of Performers, etc.;

(iv) any of the following broadcasts not falling within those mentioned in the preceding three items:

(a) broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the World Trade Organization;

(b) broadcasts transmitted from transmitters situated in any of the members of the World Trade Organization.

(Protected wire diffusions)

Article 9*bis*. The following shall be granted protection under this Law:

(i) wire diffusions transmitted by wire diffusion organizations of Japa-

nese nationality (excluding those made upon receiving broadcasts; the same shall apply in the next item);

(ii) wire diffusions transmitted from wire transmitters situated in this country.

Chapter II Rights of Authors

Section 1 Works

(Classification of works)

Article 10. (1) As used in this Law, “works” shall include, in particular, the following:

- (i) novels, dramas, articles, lectures and other literary works;
- (ii) musical works;
- (iii) choreographic works and pantomimes;
- (iv) paintings, engravings, sculptures and other artistic works;
- (v) architectural works;
- (vi) maps as well as figurative works of a scientific nature such as plans, charts, and models;
- (vii) cinematographic works;
- (viii) photographic works;
- (ix) program works.

(2) News of the day and miscellaneous facts having the character of mere items of information shall not fall within a term “works” mentioned in item (i) of the preceding paragraph.

(3) The protection granted by this Law to works mentioned in paragraph (1), item (ix) shall not extend to any programming language, rule or algorithm used for making such works. In this case, the following terms shall have the meaning hereby assigned to them respectively:

- (i) “programming language” means letters and other symbols as well as their systems for use as means of expressing a program;
- (ii) “rule” means a special rule on how to use in a particular program a programming language mentioned in the preceding item;
- (iii) “algorithm” means methods of combining, in a program, instructions given to a computer.

(Derivative works)

Article 11. The protection granted by this Law to derivative works shall not prejudice the rights of authors of pre-existing works.

(Compilations)

Article 12. (1) Compilations (not falling within the term “databases”; the same shall apply hereinafter) which, by reason of the selection or arrangement of their contents, constitute intellectual creations shall be protected as independent works.

(2) The provisions of the preceding paragraph shall not prejudice the rights of authors of works which form part of compilations defined in that paragraph.

(Database works)

Article 12bis. (1) Databases which, by reason of the selection or systematic construction of information contained therein, constitute intellectual creations shall be protected as independent works.

(2) The provisions of the preceding paragraph shall not prejudice the rights of authors of works which form part of databases defined in that paragraph.

(Works not protected)

Article 13. The following shall not form the subject matter of the rights provided for in this Chapter:

- (i) the Constitution and other laws and regulations;
- (ii) notifications, instructions, circular notices and the like issued by organs of the State or local public entities, independent administrative organs (“independent administrative organs” means those mentioned in Article 2, paragraph (1) of the Law for General Rules for Independent Administrative Organs (Law No.103, of 1999); the same shall apply hereinafter) or local independent administrative organs (“local independent administrative organs” means those mentioned in Article 2, paragraph (1) of the Law for Local Independent Administrative Organs (Law No.118, of 2003); the same shall apply hereinafter);
- (iii) judgments, decisions, orders and decrees of law courts, as well as rulings and decisions made by administrative organs in proceedings similar to judicial ones;
- (iv) translations and compilations, of those materials mentioned in the

preceding three items, made by organs of the State or local public entities, independent administrative organs or local independent administrative organs.

Section 2 Authors

(Presumption of authorship)

Article 14. A person, whose name or appellation (hereinafter referred to as “true name”), or whose generally known pen name, abbreviation or other substitute for his true name (hereinafter referred to as “pseudonym”) is indicated as the name of the author in the customary manner on the original of his work or when his work is offered to or made available to the public, shall be presumed to be the author of that work.

(Authorship of a work made by an employee in the course of his duties)

Article 15. (1) The authorship of a work (except a program work) which, on the initiative of a legal person or other employer (hereinafter in this Article referred to as “legal person, etc.”), is made by his employee in the course of his duties and is made public under the name of such legal person, etc. as the author shall be attributed to that legal person, etc., unless otherwise stipulated in a contract, work regulation or the like in force at the time of the making of the work.

(2) The authorship of a program work which, on the initiative of a legal person, etc. is made by his employee in the course of his duties, shall be attributed to that legal person, etc., unless otherwise stipulated in a contract, work regulation or the like in force at the time of the making of the work.

(Authorship of a cinematographic work)

Article 16. The authorship of a cinematographic work shall be attributed to those who, by taking charge of producing, directing, filming, art direction, etc., have contributed to the creation of that work as a whole, excluding authors of novels, scenarios, music or other works adapted or reproduced in that work; provided, however, that the provisions of the preceding Article is not applicable.

Section 3 Contents of the Rights

Subsection 1 General Rules

(Rights of authors)

Article 17. (1) The author shall enjoy the rights mentioned in paragraph (1) of the next Article, Article 19, paragraph (1) and Article 20, paragraph (1) (hereinafter referred to as “moral rights of authors”) as well as the rights mentioned in Articles 21 to 28 (hereinafter referred to as “copyright”).

(2) The enjoyment of moral rights of authors and copyright shall not be subject to any formality.

Subsection 2 Moral Rights of Authors

(Right of making the work public)

Article 18. (1) The author shall have the rights to offer to and to make available to the public his work which has not yet been made public (including a work which has been made public without his consent; the same shall apply in this Article). The author shall have the same right with respect to works derived from his work which has not yet been made public.

(2) In the following cases, the author shall be presumed to have consented to the following acts:

(i) where copyright in his work which has not yet been made public has been transferred: the offering to and the making available to the public of the work by exercising the copyright therein;

(ii) where the original of his artistic or photographic work which has not yet been made public has been transferred: the making available to the public of the work by exhibiting its original;

(iii) where the ownership of copyright in his cinematographic work belongs to the maker in accordance with the provision of Article 29: the offering to and the making available to the public of the work by exercising the copyright therein.

(3) In the following cases, the author shall be considered to have consented to the following acts:

(i) where his work, which has not yet been made public, has been offered to government organizations (“government organizations” means those pro-

vided in Article 2, paragraph (1) of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.42, of 1999; hereinafter referred to as “the Government Organizations Information Disclosure Law”)), (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the disclosure is decided in accordance with the provisions of Article 9, paragraph (1) of the Government Organizations Information Disclosure Law): the offering to and the making available to the public of the work by the head of a government organization in accordance with the provisions of the Government Organizations Information Disclosure Law...(including the offering to and the making available to the public of that work by the Head of the National Archives, etc. in accordance with the provisions of Article 16, paragraph (1) of the Law for the Preservation of Official Documents, etc. (Law No.66, of 2009; hereinafter referred to as “the Official Documents Preservation Law”) (“the Head of the National Archives, etc.” means the Head of the National Archives, etc. mentioned in Article 15, paragraph (1) of the Official Documents Preservation Law; the same shall apply hereinafter) in the case where historical official documents, etc. contained in that work (“historical official documents, etc.” means such documents, etc. as mentioned in Article 2, paragraph (6) of the Official Documents Preservation Law) have been transferred by the head of a government organization to the National Archives, etc. (“the National Archives, etc.” means the National Archives, etc. mentioned in Article 2, paragraph (3) of the Official Documents Preservation Law; the same shall apply hereinafter) in accordance with the provisions of Article 8, paragraph (1) of the Official Documents Preservation Law (except in the case where any declaration of the intention of the author of that work to the contrary has been made by the time when the offer to use is decided in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law));

(ii) where his work, which has not yet been made public, has been offered to independent administrative organs, etc. (“independent administrative organs, etc.” means those provided in Article 2, paragraph (1) of the Law for the Disclosure of Information Processed by Independent Administrative Organs, etc. (Law No.140, of 2001; hereinafter referred to as “the Independent Administrative Organs, etc. Information Disclosure Law”); the same shall apply hereinafter), (except in the case where any declaration of the

intention of the author to the contrary has been made by the time when the disclosure is decided in accordance with the provisions of Article 9, paragraph (1) of the Independent Administrative Organs, etc. Information Disclosure Law): the offering to and the making available to the public of the work by an independent administrative, etc. in accordance with the provisions of the Independent Administrative Organs, etc. Information Disclosure Law...(including the offering to and the making available to the public of that work by the Head of the National Archives, etc. in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law in the case where historical official documents, etc. contained in that work have been transferred by that independent administrative organ, etc. to the National Archives, etc. in accordance with the provisions of Article 11, paragraph (4) of the Official Documents Preservation Law(except in the case where any declaration of the intention of the author of that work to the contrary has been made by the time when the offer to use is decided in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law);

(iii) where his work, which has not yet been made public, has been offered to local public entities or local independent administrative organs (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the disclosure is decided) : the offering to and the making available to the public of the work by an organ of a local public entity or a local independent administrative organ concerned in accordance with the provisions of the Information Disclosure Regulations (“the Information Disclosure Regulations” means the regulations of a local public entity or a local independent administrative organ concerned which provide for the right of residents, etc. to request the disclosure of information possessed by such entity or organ; the same shall apply hereinafter)...(including the offering to and the making available to the public of that work by the head of the local archives, etc. (in the case where the local archives, etc. are the establishments of the local public entities, “the head of the local archives, etc.” means the head of the local public entity to which those establishments belong, and in the case where the local archives, etc. are the establishments of the local independent administrative organs, “the head of the local archives, etc.” means the local independent administrative organ which has established those establishments) in accordance with the provi-

sions of the Official Documents Preservation Regulations (“the Official Documents Preservation Regulations” means those regulations of the local public entities which provide for the proper preservation and offer to use of historical official documents possessed by those local public entities or local independent administrative organs; the same shall apply hereinafter) in the case where historical official documents, etc. contained in that work have been transferred by those local public entities or local independent administrative organs to the local archives, etc. (“the local archives, etc.” means the establishments designated by the Official Documents Preservation Regulations as those aiming at the proper preservation and offer to use of historical official documents, etc.”; the same shall apply hereinafter) (except in the case where any declaration of the intention of the author of that work to the contrary has been made by the time when the offer to use is decided in accordance with the provisions of the Official Documents Preservation Regulations (which have the provisions equivalent to those of Article 16, paragraph (1) of the Official Documents Preservation Law; the same shall apply hereinafter in this Article));

(iv) where his work, which has not yet been made public, has been offered to the National Archives, etc. (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the offer to use is decided in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law; the offering to and the making available to the public of the work by the Head of the National Archives, etc. in accordance with the provisions of that paragraph.

(v) where his work, which has not yet been made public, has been offered to the local archives, etc. (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the offer to use is decided in accordance with the provisions of the official Documents Preservation Regulations): the offering to and the making available to the public of the work by the head of the local archives, etc. in accordance with the provisions of the Official Documents Preservation Regulations.

(4) The provisions of paragraph (1) shall not apply in any of the following cases:

(i) where a work, which has not yet been made public and in which information mentioned in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Government Organizations Information Disclosure Law is

recorded, is offered to or made available to the public by the head of a government organization in accordance with the provisions of that Article, or where a work, which has not yet been made public, is offered to or made available to the public by the head of a government organization in accordance with the provisions of Article 7 of the Government Organizations Information Disclosure Law;

(ii) where a work, which has not yet been made public and in which information mentioned in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Independent Administrative Organs, etc. Information Disclosure Law is recorded, is offered to or made available to the public by an independent administrative organ, etc. in accordance with the provisions of that Article, or where a work which has not yet been made public, is offered to or made available to the public by an independent administrative organ, etc. in accordance with the provisions of Article 7 of the independent Administrative Organs, etc. Information Disclosure Law;

(iii) where a work which has not yet been made public (and in which information equivalent to that mentioned in Article 5, item (i) (b) or the proviso to Article 5, item (ii) of the Government Organizations Information Disclosure Law is recorded) is offered to or made available to the public by an organ of a local public entity or a local independent administrative organ in accordance with the provisions of the Information Disclosure Regulations (which have the provisions equivalent to the provisions of Article 13, paragraphs (2) and (3) of the Government Organizations Information Disclosure Law; the same shall apply in item (v));

(iv) where a work which has not yet been made public (and in which information equivalent to that mentioned in Article 5, item (i) (c) of the Government Organizations Information Disclosure Law is recorded) is offered to or made available to the public by an organ of a local public entity or a local independent administrative organ in accordance with provisions of the Information Disclosure Regulations;

(v) where a work which has not yet been made public is offered to or made available to the public by an organ of a local public entity or a local independent administrative organ in accordance with such provisions of the Information Disclosure Regulations as equivalent to those of Article 7 of the Government Organizations Information Disclosure Law.

(vi) where a work, which has not yet been made public and in which infor-

mation mentioned in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Government Organizations Information Disclosure Law or information mentioned in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Independent Administrative Organs, etc. Information Disclosure Law is recorded, is offered to or made available to the public by the Head of the National Archives, etc. in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law;

(vii) where a work, which has not yet been made public and in which information equivalent to that mentioned in Article 5, item (i) (b) or the proviso to Article 5, item (ii) of the Government Organizations Information Disclosure Law is recorded, is offered to or made available to the public by the head of the local archives, etc. in accordance with the provisions of the Official Documents Preservation Regulations (which have the provisions equivalent to those of Article 18, paragraphs (2) and (4) of the Official Documents Preservation Law);

(viii) where a work, which has not yet been made public and in which information equivalent to that mentioned in Article 5, item (i) (c) of the Government Organizations Information Disclosure Law is recorded, is offered to or made available to the public by the head of the local archives, etc. in accordance with the provisions of the Official Documents Preservation Regulations.

(Right of determining the indication of the author's name)

Article 19. (1) The author shall have the right to determine whether his true name or pseudonym should be indicated or not, as the name of the author, on the original of his work or when his work is offered to or made available to the public. The author shall have the same right with respect to the indication of his name when works derived from his work are offered to or made available to the public.

(2) In the absence of any declaration of the intention of the author to the contrary, a person exploiting his work may indicate the name of the author in the same manner as that already adopted by the author.

(3) It shall be permissible to omit the name of the author where it is found that there is no risk of damage to the interests of the author in his claim to authorship in the light of the purpose and the manner of exploiting his work and in so far as such omission is compatible with fair practice.

(4) The provisions of paragraph (1) shall not apply in any of the following cases:

(i) where the name of the author is indicated in the same manner as that already adopted by the author when his work is offered to or made available to the public by the head of a government organization, by an independent administrative organ, etc. or by an organ of a local public entity or a local independent administrative organ in accordance with the provisions of the Government Organizations Information Disclosure Law, the Independent Administrative Organs, etc. Information Disclosure Law or the Information Disclosure Regulations;

(ii) where the name of the author is to be omitted when his work is offered to or made available to the public by the head of a government organization, by an independent administrative organ, etc. or by an organ of a local public entity or a local independent administrative organ in accordance with the provisions of Article 6, paragraph (2) of the Government Organizations Information Disclosure Law, the provisions of Article 6, paragraph (2) of the Independent Administrative Organs, etc. Information Disclosure Law or such provisions of the Information Disclosure Regulations as are equivalent to those of the former paragraph;

(iii) where the name of the author is indicated in the same manner as that already adopted by the author when his work is offered to or made available to the public by the Head of the National Archives, etc. or by the head of the local archives, etc. in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law or such provisions of the Official Documents Preservation Regulations as are equivalent to those of that paragraph.

(Right of preserving the integrity)

Article 20. (1) The author shall have the right to preserve the integrity of his work and its title against any distortion, mutilation or other modification against his will.

(2) The provisions of the preceding paragraph shall not apply to the following modifications:

(i) change of ideographs or words or other modifications deemed unavoidable for the purpose of school education in the case of the exploitation of works under the provisions of Article 33, paragraph (1) (including the case

where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33*bis*, paragraph (1) and Article 34, paragraph (1);

(ii) modification of an architectural work by means of extension, rebuilding, repairing, or remodeling;

(iii) modification which is necessary for enabling to use on a particular computer a program work which is otherwise unusable on that computer, or to make more effective the use of a program work on a computer;

(iv) other modifications not falling within those mentioned in the preceding three items, which are deemed unavoidable in the light of the nature of a work as well as the purpose and the manner of exploiting it.

Subsection 3 Rights Comprised in Copyright

(Right of reproduction)

Article 21. The author shall have the exclusive right to reproduce his work.

(Right of performance)

Article 22. The author shall have the exclusive right to perform his work publicly (“publicly” means for the purpose of making a work seen or heard directly by the public; the same shall apply hereinafter).

(Right of presentation)

Article 22*bis*. The author shall have the exclusive right to present his work publicly.

(Rights of public transmission, etc.)

Article 23. (1) The author shall have the exclusive right to make the public transmission of his work (including the making transmittable of his work in the case of the interactive transmission).

(2) The author shall have the exclusive right to communicate publicly, by means of a receiving apparatus, his work of which the public transmission has been made.

(Right of recitation)

Article 24. The author of a literary work shall have the exclusive right to

recite publicly his work.

(Right of exhibition)

Article 25. The author of an artistic work or of an unpublished photographic work shall have the exclusive right to exhibit publicly the original of his work.

(Rights of distribution)

Article 26. (1) The author of a cinematographic work shall have the exclusive rights to distribute copies of his work.

(2) The author of a work reproduced in a cinematographic work shall have the exclusive right to distribute copies of his work.

(Right of transfer of ownership)

Article 26bis. (1) The author shall have the exclusive right to offer his work (except a cinematographic work; the same shall apply hereinafter in this Article) to the public by transfer of ownership of the original or copies of the work (excluding copies of a cinematographic work in the case of a work reproduced in the cinematographic work; the same shall apply hereinafter in this Article).

(2) The provisions of the preceding paragraph shall not apply in the case of the transfer of ownership of such original or copies of a work as falling within any of the following items.

(i) the original or copies of a work the ownership of which has been transferred to the public by a person who has the right mentioned in the preceding paragraph or with the authorization of such person;

(ii) copies of a work the ownership of which has been transferred to the public under the authority of a compulsory license under the provisions of Article 67, paragraph (1) or Article 69s or with a license under the provisions of Article 5, paragraph (1) of the Law concerning the Exceptional Provisions to the Copyright Law required in consequence of the Enforcement of the Universal Copyright Convention (Law No.86, of 1956);

(iii) copies of a work the ownership of which has been transferred to the public in accordance with the provisions of Article 67bis, paragraph (1);

(iv) the original or copies of a work the ownership of which has been transferred to a small number of specific persons by a person who has the right mentioned in the preceding paragraph or with the consent of such

person;

(v) the original or copies of a work the ownership of which has been transferred, outside this country, without prejudice to the right equivalent to that mentioned in the preceding paragraph or by a person who has the right equivalent to that mentioned in that paragraph or with the consent of such person.

(Right of lending)

Article 26ter. The author shall have the exclusive right to offer his work (except a cinematographic work) to the public by lending copies of the work (excluding copies of a cinematographic work in the case of a work reproduced in the cinematographic work).

(Rights of translation, adaptation, etc.)

Article 27. The author shall have the exclusive rights to translate, arrange musically or transform, or dramatize, cinematize, or otherwise adapt his work.

(Right of the original author in the exploitation of a derivative work)

Article 28. In the exploitation of a derivative work, the author of the pre-existing work shall have the same rights as those the author of the derivative work has under the provisions of this Subsection.

Subsection 4 Ownership of Copyright in Cinematographic Works

Article 29. (1) Copyright in a cinematographic work, to which the provisions of Article 15, paragraph (1), the next paragraph and paragraph (3) of this Article are not applicable, shall belong to the maker of that work, provided that the authors of the work have undertaken to participate in the making thereof.

(2) In the case of a cinematographic work, which is made by a broadcasting organization alone for use exclusively for broadcasting purposes and to which the provision of Article 15, paragraph (1) is not applicable, the following rights comprised in the copyright therein shall belong to that organization as the maker of cinematographic works:

(i) rights to broadcast that work, and to diffuse by wire the work thus broadcast, to make the interactive transmission (including the making

transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) of such work, and to communicate such work publicly by means of a receiving apparatus;

(ii) rights to reproduce that work, and to distribute its copies thus reproduced among other broadcasting organizations.

(3) In the case of a cinematographic work, which is made by a wire diffusion organization alone for use exclusively for wire diffusion purposes and to which the provision of Article 15, paragraph (1) is not applicable, the following rights comprised in the copyright therein shall belong to that organization as the maker of cinematographic works:

(i) rights to diffuse by wire that work, and to communicate publicly by means of a receiving apparatus the work thus diffused by wire;

(ii) rights to reproduce that work, and to distribute its copies thus reproduced among other wire diffusion organizations.

Subsection 5 Limitations on Copyright

(Reproduction for private use)

Article 30. (1) It shall be permissible for a user to reproduce by himself a work forming the subject matter of copyright (hereinafter in this Subsection referred to as a “work”) for the purpose of his personal use, family use or other similar uses within a limited circle (hereinafter referred to as “private use”), except in the case:

(i) where such reproduction is made by means of automatic reproducing machines (“automatic reproducing machine” means a machine having reproducing functions and in which all or main parts of reproducing devices are automatic) placed for the use by the public;

(ii) where such reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures or it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures (“circumvention” means to enable to do acts prevented by technological protection measures or to stop causing obstruction to the results of acts deterred by such measures, by removal or alteration of signals ...mentioned in Article 2, paragraph (1), item (xx)...; (“removal” or “alteration” does not include such removal or

alteration as is conditional upon technology involved in the conversion of recording or transmission systems)...or by reversion of such works, performances, phonograms, or sounds or images of broadcasts or wire diffusions as converted in accordance with a specific conversion required mentioned in that item (“reversion” does not include that made based upon the will of a person who has copyright, etc.);...the same shall apply in Article 120*bis*, items (i) and (ii))

(iii) where a digital sound or visual recording is made by a person who knows that such recording is made upon reception of an interactive transmission which infringes copyright (including an interactive transmission which is made outside this country and which would constitute an infringement on copyright if it was made in this country);

(2) Any person who, for the purpose of private use, makes sound or visual recording on such a digital recording medium as specified by Cabinet Order by means of such a digital recording machine as specified by Cabinet Order (excluding a machines having special efficiency generally not for private use but for business use, such as that for broadcasting, and b machines having sound or visual recording functions incidental to the primary functions, such as telephones with sound recording function) shall pay a reasonable amount of compensation to the copyright owners concerned.

(Exploitation of incidental objective works)

Article 30*bis*. (1) In the creation of a work by means of photography or sound or visual recording (hereinafter in this paragraph referred to as “photography, etc.”) and incidentally to that creation, it shall be permissible to reproduce or adapt another work included in such things or sounds as are incidental objectives of photography, etc. (another work is limited to a work which is to form a slight component part of the former work; hereinafter in this Article referred to as “an incidental objective work”) because of the difficulty in being separated from objective things or sounds of photography, etc. of the former work (hereinafter in this Article referred to as “a photographic or other work”); provided, however, that such reproduction or adaptation does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of that incidental objective work as well as the form of that reproduction or adaptation.

(2) It shall also be permissible to exploit an incidental objective work repro-

duced or adapted in accordance with the provisions of paragraph (1), incidentally to the exploitation of a photographic or other work mentioned in paragraph (1); provided, however, that such exploitation does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of that incidental objective work as well as the form of that exploitation.

(Exploitation in the course of an examination)

Article 30ter. It shall be permissible, for a person who intends to exploit a work with the authorization of the copyright owner or under the authority of a compulsory license mentioned in Article 67, paragraph (1), Article 68, paragraph (1) or Article 69, to exploit that work to the extent deemed necessary, for the purpose of an offer to use in the course of an examination of such exploitation (such course includes the course waiting for that authorization or that compulsory license); provided, however, that such exploitation does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of that work as well as the form of that exploitation.

(Exploitation for the use in a test for the development or the practical use of technology)

Article 30quater. It shall be permissible to exploit a work already made public, to the extent deemed necessary, in the case of an offer to use in a test for the development or the practical use of technology required for sound or visual recording or other exploitation of that work.

(Reproduction, etc. in libraries, etc.)

Article 31. (1) It shall be permissible to reproduce a work included in library materials (“library materials” in this Article means books, documents and other materials held in the collection of libraries, etc.) within the scope of the non-profit-making activities of libraries, etc. (“libraries, etc.” in this paragraph and paragraph (3) means the National Diet Library as well as libraries and other establishments, designated by Cabinet Order, having the purpose, among others, to offer library materials for the use by the public) in the following cases:

- (i) where, at the request of a user and for the purpose of his own research study, he is furnished with a single copy of a part of a work already made

public (or of all of an individual work reproduced in a periodical already published for a considerable period of time; the same shall apply in paragraph (3));

(ii) where the reproduction is necessary for the purpose of preserving library materials;

(iii) where other libraries, etc. are furnished with a copy of library materials which are rarely available through normal trade channel because the materials are out of print or for other similar reasons (hereinafter in this Article, referred to as “out-of-print or similar materials”).

(2) In addition to the cases mentioned in each item of the preceding paragraph, it shall also be permissible for the National Diet Library to record on a memory a work included in its library materials, to the extent deemed necessary, in the case where an electro-magnetic record (“electro-magnetic record” means a record which is made by electronic or magnetic means or by other means not perceivable by human perception and which is used for information processing by computer; the same shall apply hereinafter) is made for the public use as a substitute for an original included in its library materials, for the purpose of avoiding the destruction, the damage or the stain of such original by the public use ...or for the exploitation of a work included in out-of-print or similar materials by means of an interactive transmission (including the making transmittable; the same shall apply in paragraph (3)) in accordance with the provisions of paragraph (3).

(3) It shall be permissible for the National Diet Library to make an interactive transmission of a work included in out-of-print or similar materials by using a copy of that work recorded on a memory in accordance with the provisions of paragraph (2), for the purpose of the making available to the public of that work in libraries, etc. In this case, it shall also be permissible for libraries, etc. to make a single copy of a part of that work which is made of an interactive transmission, within the scope of their non-profit-making activities, at the request of a user of libraries, etc. and for the purpose of his own research study, and to furnish him with such a single copy.

(Quotations)

Article 32. (1) It shall be permissible to make quotations from a work already made public, provided that their making is compatible with fair practice and their extent does not exceed that justified by purposes such as news

reporting, criticism or research.

(2) It shall also be permissible for the press or other periodicals to reproduce informatory, investigatory or statistical data, reports and other works of similar character which have been prepared by organs of the State or local public entities, independent administrative organs or local independent administrative organs for the purpose of public information and which have been made public under their authorship, provided that the reproduction thereof is not expressly prohibited.

(Reproduction in school textbooks, etc.)

Article 33. (1) It shall be permissible to reproduce in school textbooks (“school textbooks” means textbooks authorized by the Minister of Education and Science or those compiled under the authorship of the Ministry of Education and Science to be used for the education of children or pupils in primary schools, junior or senior high schools or other similar schools; the same shall apply hereinafter) works already made public, to the extent deemed necessary for the purpose of school education.

(2) A person who makes such reproduction shall inform the author thereof and pay to the copyright owner compensation, the amount of which is fixed each year by the Commissioner of the Agency for Cultural Affairs, by taking into account the purpose of the provision of the preceding paragraph, the nature and the purpose of the work, the ordinary rate of royalty, and other conditions.

(3) The Commissioner of the Agency for Cultural Affairs shall announce in the Official Gazette the amount of compensation fixed in accordance with the provision of the preceding paragraph.

(4) The provisions of the preceding three paragraphs shall apply *mutatis mutandis* with respect to the reproduction of works in textbooks intended for correspondence courses of senior high school education (including the latter stage of high school education) and in guidance books of school textbooks intended for teachers (these guidance books shall be limited to those published by the same publisher of the textbooks).

(Reproduction for preparing a textbook in large print)

Article 33bis. (1) It shall be permissible to reproduce works already reproduced in a school textbook, by means of the enlargement of print letters, illus-

trations, etc. used in that textbook or by means of other systems required for the use of such works by children or pupils who have difficulty in using such works because of their visual, developmental or other handicaps, for the purpose of study use by such handicapped children or pupils.

(2) A person who intends to prepare a textbook or other copies reproducing such works (only such textbook as reproducing all of or a considerable part of such works excluding such textbook or copies reproduced in Braille; hereinafter in this paragraph referred to as “textbook in large print, etc.”) shall inform in advance the publisher of the former textbook thereof and, in the case of distributing copies of such textbook in large print for profit-making purposes, pay to the copyright owners concerned compensation, the amount of which is fixed each year by the Commissioner of the Agency for Cultural Affairs in proportion to the amount of compensation mentioned in paragraph (2) of the preceding Article.

(3) The Commissioner of the Agency for Cultural Affairs shall announce in the Official Gazette the amount of compensation fixed in accordance with the provisions of the preceding paragraph.

(4) A person who makes an offer of electro-magnetic records of works reproduced in a textbook, under with the provisions of Article 5, paragraph (1) or (2) of the Law for the Promotion, etc. of the spread of Specific Textbooks, etc. for the Use by Handicapped Children and Pupils (Law No. 81, of 2008), may exploit such works, to the extent deemed necessary for the purpose of such offer.

(Broadcasting, etc. in school education programs)

Article 34. (1) It shall be permissible to broadcast or diffuse by wire a work already made public, in broadcasting programs or wire diffusion programs which conform to the curriculum standards provided for in regulations on school education, or to make the interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) of such work simultaneously upon receiving such broadcasts, exclusively for the purpose of reception within service areas (“service areas” means those mentioned in Article 91, paragraph (2), item (ii) of the Broadcast Act (Law No.132, of 1950) or, in the case of broadcasting for which such areas are not specified, those mentioned in Article 14, paragraph (2), item (iii) of the Wire-

less Telegraphy Act (Law No.131, of 1950); the same shall apply hereinafter) intended for by such broadcasting, and to reproduce it in teaching materials for these programs, to the extent deemed necessary for the purpose of school education.

(2) A person who makes such exploitation of a work shall inform the author thereof and pay to the copyright owner a reasonable amount of compensation.

(Reproduction, etc. in schools and other educational institutions)

Article 35. (1) A person who is in charge of teaching and those who are taught in a school or other educational institutions (except those institutions established for profit-making) may reproduce a work already made public if and to the extent deemed necessary for the purpose of use in the course of lessons, provided that such reproduction does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of the work as well as the number of copies and the form of reproduction.

(2) In the case of the exploitation of a work already made public, by offering or making public the original or copies of such work to those who take lessons directly in the course of lessons in educational institutions mentioned in the preceding paragraph, or in the case of the exploitation of such work by publicly performing, presenting or reciting it in accordance with the provision of Article 38, paragraph (1) in the course of such lessons, it shall be permissible to make the public transmission (including the making transmittable in the case of the interactive transmission) of such work intended for reception by those who take lessons at the same time at a place other than that where such lessons are given; provided, however, that such transmission does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of the work as well as the form of the transmission.

(Reproduction, etc. in examination questions)

Article 36. (1) It shall be permissible to reproduce or make the public transmission (excluding the broadcasting or wire diffusion, and including the making transmittable in the case of the interactive transmission; the same shall apply in next paragraph) of, a work already made public as questions for an entrance examination or other examinations of knowledge or skill, or such examination for a license, to the extent deemed necessary for such purpose; provided, however, that such transmission does not unreasonably prejudice

the interests of the copyright owner in the light of the nature and the purpose of the work as well as the form of the transmission.

(2) A person who makes such reproduction or public transmission for profit-making purposes shall pay to the copyright owner compensation the amount of which corresponds to an ordinary rate of royalty.

(Reproduction, etc. for the visually handicapped, etc.)

Article 37. (1) It shall be permissible to reproduce in braille a work already made public.

(2) It shall be permissible to record on a memory, or to make the public transmission (excluding the broadcasting or wire diffusion, and including the making transmittable in the case of the interactive transmission) of, a work already made public, by means of a braille processing system using a computer.

(3) For a person, designated by Cabinet Order, who does activities for the welfare of the visually handicapped and others having a handicap in perceiving visual expressions (hereinafter in this paragraph and in Article 102, paragraph (4) referred to as “the visually handicapped, etc.”), it shall be permissible to reproduce, or make the interactive transmission (including the making transmittable) of, a work, already made public, which has been offered or made available to the public by means for perceiving visually (including means for perceiving visually and by other perception) its expression (including another work which has been reproduced in the former work or which has been offered or made available to the public in a body united with the former work; hereinafter in this paragraph and in Article 102, paragraph (4) referred to as “visual work”), by means of converting written words of such visual work into oral words or by other means necessary for the use by such visually handicapped, etc., and to the extent deemed necessary for the use exclusively by the visually handicapped, etc. having a difficulty in using such visual work by the former means. However, an exception is made in the case where such visual work has been offered or made available to the public by such means, by the copyright owner or with his authorization or by a person in favour of whom the right of publication mentioned in Article 79 has been established or with the authorization of such person to reproduce a work or to transmit a work publicly.

(Reproduction, etc. for the aurally handicapped)

Article 37bis. For a person, designated by Cabinet Order according to the types of exploitations mentioned in the following items, who does activities for the welfare of the aurally handicapped and others having a handicap in perceiving aural expressions (hereinafter in this Article and in paragraph (5) of next Article referred to as “aurally handicapped, etc.”), it shall be permissible to make the exploitations, mentioned in the following items, of a work, already made public, which has been offered or made available to the public by means for perceiving aurally (including means for perceiving aurally and by other perception) its expression (including another work which has been reproduced in the former work or which has been offered or made available to the public in a body united with the former work; hereinafter in this Article referred to as “aural work”), to the extent deemed necessary for the use exclusively by the aurally handicapped, etc. having a difficulty in using such aural work by the former means. However, an exception is made in the case where such aural work has been offered or made available to the public, by means necessary for the use by such aurally handicapped, etc., by the copyright owner or with his authorization, or by a person in favor of whom the right of publication mentioned in Article 79 has been established or with the authorization of such person to reproduce a work or to transmit a work publicly.

(i) reproduction or making of the interactive transmission (including the making transmittable) of aural words of such aural work, by means of converting such aural words into written words or by other means necessary for the use by such aurally handicapped, etc. ;

(ii) reproduction of such aural work exclusively for the purpose of lending it for the use by the aurally handicapped, etc. (only such reproduction as made together with that of aural words of such aural work by means of converting such aural words into written words or by other means necessary for the use by such aurally handicapped, etc.).

(Performance, etc. not for profit-making)

Article 38. (1) It shall be permissible to publicly perform, present and recite a work already made public, for non-profit-making purposes and without charging any fees (“fees” includes any kind of charge to be imposed on the offering and the making available of a work to the public; the same shall apply hereinafter in this Article) to audience or spectators; provided, however, that

the performers or reciters concerned are not paid any remuneration for such performance, presentation or recitation.

(2) It shall be permissible, for non-profit-making purposes and without charging any fees to audience or spectators, to diffuse by wire a work already broadcast or to make the interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) of such work, exclusively for the purpose of reception within the service areas intended for by such broadcasting.

(3) It shall be permissible to communicate publicly, by means of a receiving apparatus, a work already broadcast or diffused by wire (including such work broadcast in the case where the interactive transmission of that work is made), for non-profit-making purposes and without charging any fees to audience or spectators. The same shall apply to such public communication made by means of a receiving apparatus of a kind commonly used in private homes.

(4) It shall be permissible to offer to the public a work (except a cinematographic work) already made public, by lending copies of the work (excluding copies of a cinematographic work in the case of a work reproduced in the cinematographic work) for non-profit-making purposes and without charging any fees to borrowers of such copies.

(5) For audiovisual education establishments and other establishments not for profit-making, designated by Cabinet Order, having the purposes, among others, to offer cinematographic films and other audiovisual materials for the use by the public as well as a person, designated by Cabinet Order mentioned in the preceding Article, who does activities for the welfare of the aurally handicapped, etc. (only such person as concerned with item (ii) of that Article, and excluding a person who does such activities for profit-making purposes), it shall be permissible to distribute a cinematographic work already made public, by lending copies of the work, without charging any fees to borrowers of such copies. In this case, a person who makes such distribution shall pay a reasonable amount of compensation to the owner of the right mentioned in Article 26 (including the owner of the same right as that mentioned in Article 26 in accordance with the provisions of Article 28) with respect to such a cinematographic work or a work reproduced in that cinematographic work.

(Reproduction, etc. of articles on current topics)

Article 39. (1) It shall be permissible to reproduce in the press, to broadcast and diffuse by wire articles published in newspapers or periodicals on current political, economic or social topics, not having a scientific character, or to make the interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) of such articles simultaneously upon receiving such broadcasts, exclusively for the purpose of reception within service areas intended for by such broadcasting; provided that such reproduction, broadcasting, wire diffusion or making the interactive transmission thereof is not expressly prohibited.

(2) It shall also be permissible to communicate publicly, by means of a receiving apparatus, articles thus broadcast, diffused by wire or of which the interactive transmission has been made.

(Exploitation of political speeches, etc.)

Article 40. (1) It shall be permissible to exploit, by any means, political speeches delivered in public and speeches delivered in the course of judicial proceedings (including those corresponding to judicial proceedings such as determinations by administrative agencies; the same shall apply in Article 42, paragraph (1)), except such exploitation as involves a collection of the works of the same author.

(2) To the extent justified by the informatory purpose, it shall be permissible to reproduce in the press, to broadcast or to diffuse by wire speeches not falling within the preceding paragraph, which are delivered in public by organs of the State or local public entities, independent administrative organs or local independent administrative organs, or to make the interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) of such speeches simultaneously upon receiving such broadcasts, exclusively for the purpose of reception within service areas intended for by such broadcasting.

(3) It shall also be permissible to communicate publicly, by means of a receiving apparatus, speeches thus broadcast, diffused by wire or of which the interactive transmission has been made.

(Reporting of current events)

Article 41. For the purpose of reporting current events by means of photography, cinematography, broadcasting or otherwise, it shall be permissible to reproduce and exploit a work involved in the event or a work seen or heard in the course of the event, to the extent justified by the informatory purpose.

(Reproduction for judicial proceedings, etc.)

Article 42. (1) It shall be permissible to reproduce a work if and to the extent deemed necessary for the purpose of judicial proceedings and of internal use by legislative or administrative organs, provided that such reproduction does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of the work as well as the number of copies and the form of reproduction.

(2) The provisions of the preceding paragraph shall also apply if and to the extent deemed necessary for the purpose of the following proceedings:

(i) proceedings relating to examinations for patents, industrial designs or trademarks, or relating to technical valuations of utility models, or relating to international examinations or preliminary examinations for international applications (“international applications” means those mentioned in Article 2 of the Act on International Applications, etc. under the Patent Cooperation Treaty (Law No.30, of 1978), made by government offices;

(ii) proceedings relating to examinations, made by government offices or independent administrative organs, on medicinal matters (including matters relating to medical appliances (“medical appliances” means those mentioned in Article 2, paragraph (4) of the Act on the Assurance, etc. of Quality, Efficacy and Safety of Medicaments, Medical Appliances, etc. (Law No.145, of 1960)) and goods for regeneration medical service, etc. (such “goods” means those mentioned in that Article, paragraph (9)); the same shall apply hereinafter in this item), or relating to reports on medicinal matters made to government offices or independent administrative organs.

(Exploitation for disclosure by the Government Organizations Information Disclosure Law, etc.)

Article 42bis. For the purpose of offering to or making available to the public of a work in accordance with the provisions of the Government Organizations Information Disclosure Law, the Independent Administrative Organs,

etc. Information Disclosure Law or the Information Disclosure Regulations, the head of a government organization, an independent administrative organ, etc., an organ of a local public entity or a local independent administrative organ may exploit the work if and to the extent deemed necessary for the purpose of the disclosure by means mentioned in Article 14, paragraph (1) of the Government Organizations Information Disclosure Law (including the provisions of Cabinet Order under that paragraph) by means mentioned in Article 15, paragraph (1) of the Independent Administrative Organs, etc. Information Disclosure Law (including means decided by the independent administrative organ, etc. concerned under that paragraph and excluding means other than those provided for by Cabinet Order under the provisions of Article 14, paragraph (1) of the Government Organizations Information Disclosure Law) or by means provided for in the Information Disclosure Regulations (excluding means other than those mentioned in Article 14, paragraph (1) of the Government Organizations Information Disclosure Law).

(Exploitation for the preservation, etc., under the Official Documents Preservation Law, etc.)

Article 42ter. (1) It shall be permissible for the Head of the National Archives, etc. or the head of the local archives, etc. to reproduce a work included in a historical official document, to the extent deemed necessary, for the purpose of preserve that historical official document in accordance with the provisions of Article 15, paragraph (1) of the Official Documents Preservation Law or such provisions of the Official Documents Preservation Regulations as are equivalent to those of that paragraph.

(2) It shall also be permissible for the Head of the National Archives, etc. or the head of the local archives, etc. to exploit a work, to the extent deemed necessary for offering to use by means mentioned in Article 19 of the Official Documents preservation Law (including the provisions of a Cabinet Order under the provisions of that Article; the same shall apply hereinafter in this paragraph) or by means mentioned in the Official Documents Preservation Regulations (excluding other means than those mentioned in that Article), for the purpose of offering to or making available to the public that work in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law or such provisions of the Official Documents Preservation Regulations as are equivalent to those of that paragraph.

(Reproduction for collecting internet materials or on-line materials under the National Diet Library Law)

Article 42^{quater}. (1) It shall be permissible for the Chief librarian of the National Diet Library to record on memories used by the National Diet Library such works as included in internet materials mentioned in Article 25^{ter}, paragraph (1) of the National Diet Library Law (Law No.5, of 1948) (hereinafter in this Article referred to as “internet materials”), to the extent deemed necessary for collecting such internet materials under the provisions of that paragraph (1) or such on-line materials under the provisions of that paragraph (3).

(2) It shall be permissible for the following persons to reproduce such works as included in the following materials, to the extent deemed necessary for furnishing such materials:

(i) persons mentioned in Article 24 and 24^{bis} of the National Diet Library Law: internet materials to be furnished upon request under the provisions of Article 25^{ter}, paragraph (3) of that Law;

(ii) persons other than those mentioned in Article 24 and 24^{bis} of the National Diet Library Law: on-line materials, mentioned in Article 25^{ter}, paragraph (1) of that Law, to be furnished upon request under the provisions of that paragraph (1).

(Exploitation by means of translation, adaptation, etc.)

Article 43. The exploitation of works permitted under the provisions mentioned below shall include that made by the following means:

(i) Article 30, paragraph (1) or Article 33, paragraph (1) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 34, paragraph (1) or Article 35: translation, musical arrangement, transformation, and adaptation;

(ii) Article 31, paragraph (1), item (i) on the second sentence of paragraph (3), Article 32 or 36, Article 37, paragraph (1) or (2), Article 39, paragraph (1), Article 40, paragraph (2), or Article 41 or 42: translation;

(iii) Article 33^{bis}, paragraph (1): transformation, and adaptation;

(iv) Article 37, paragraph (3): translation, transformation, and adaptation;

(v) Article 37^{bis}: translation, and adaptation.

(Ephemeral recordings by broadcasting organizations, etc.)

Article 44. (1) Broadcasting organizations may make ephemeral sound or visual recordings of a work which they are in a position to broadcast, without prejudice to the right of the author mentioned in Article 23, paragraph (1), for the purpose of their own broadcasts and by the means of their own facilities or facilities of other broadcasting organizations which are in a position to broadcast the same work.

(2) Wire diffusion organizations may make ephemeral sound or visual recordings of a work which they are in a position to diffuse by wire, without prejudice to the right of the author mentioned in Article 23, paragraph (1), for the purpose of their own wire diffusions (except those made upon receiving broadcasts) and by the means of their own facilities.

(3) It shall not be permissible to preserve such ephemeral recordings made in accordance with the provisions of the preceding two paragraphs for a period exceeding six months after their making or, if the recordings are broadcast or diffused by wire within this period, for a period exceeding six months after that broadcasting or wire diffusion; provided, however, that such preservation is permitted if the preservation in official archives is authorized by Cabinet Order.

(Exhibition of an artistic work, etc. by the owner of the original thereof)

Article 45. (1) The original of an artistic work or a photographic work may be publicly exhibited by its owner or with his authorization.

(2) The provision of the preceding paragraph shall not apply with respect to the permanent location of the original of an artistic work in open places accessible to the public, such as streets and parks, or at places easily seen by the public, such as the outer walls of buildings.

(Exploitation of an artistic work, etc. located in open places)

Article 46. It shall be permissible to exploit artistic works permanently located in such open places as mentioned in paragraph (2) of the preceding Article and architectural works by any means not falling within any of the following items:

(i) multiplication of a sculpture and offering it to the public by transfer of ownership of its copies;

(ii) imitative reproduction of an architectural work and offering it to the public by transfer of ownership of its copies;

(iii) reproduction of a work for the purpose of locating it permanently in such open places as mentioned in paragraph (2) of the preceding Article;

(iv) reproduction of an artistic work exclusively for the purpose of selling its copies and sale of such copies.

(Reproduction required for an exhibition of artistic works, etc.)

Article 47. A person who, without prejudice to the right of the author mentioned in Article 25, exhibits publicly the originals of artistic works or photographic works may reproduce such works in pamphlets for the purpose of explaining or introducing them to spectators.

(Reproduction, etc. required for an offer of a transfer of ownership, etc. of an artistic work, etc.)

Article 47bis. In the case where the owner of an original or a copy of an artistic work or a photographic work, or other person having an authority for a transfer of ownership or a lending of such original or copy intends to transfer or lend such original or copy without prejudice to the right mentioned in Article 26bis, paragraph (1) or Article 26ter, such person having such authority or his trustee may, for the use for such offer, make the reproduction or the public transmission (including the making transmittable in the case of an interactive transmission) of such work (only such reproduction or public transmission as is made by taking measures, designated by Cabinet Order, to prevent or deter the reproduction which is made of such work by using a copy made by such reproduction or which is made of such work upon reception of such public transmission, or other measures, designated by Cabinet Order, not to unduly prejudice to the interests of the copyright owner).

(Reproduction, etc. by the owner of a copy of a program work)

Article 47ter. (1) The owner of a copy of a program work may make copies or adaptations (including the making copies of a derivative work created by means of adaptation) of that work if and to the extent deemed necessary for the purpose of exploiting that work on a computer by himself, provided that the provisions of Article 113, paragraph (2) does not apply to the use made of such copies in connection with such exploitation.

(2) If the owner of copies mentioned in the preceding paragraph has ceased to have the ownership of any of copies mentioned in that paragraph (including copies made in accordance with the provisions of that paragraph) for reasons other than those of destruction, he may not thereafter preserve other copies in the absence of any declaration of the intention of the copyright owner to the contrary.

(Temporary reproduction for the purpose of maintenance, repair, etc.)

Article 47quater. (1) In the case of the maintenance or repair of a reproducing machine with a built-in memory (“reproducing machine with a built-in memory” means a machine having reproducing functions and which makes reproduction by means of recording on a memory built in the machine (hereinafter in this Article referred to as “built-in memory”; the same shall apply in the next paragraph)), works recorded on such built-in memory may be recorded temporarily on a memory other than that built-in memory to the extent deemed necessary and may be recorded on that built-in memory after such maintenance or repair.

(2) In the case of the change of a reproducing machine with a built-in memory for another machine of the same kind due to a manufacturing defect of the former machine or a breakdown made in the course up to the sale of that machine, works recorded on that built-in memory may be recorded temporarily on a memory other than that built-in memory to the extent deemed necessary and may be recorded on a built-in memory of that another machine of the same kind.

(3) A person who has recorded works on a memory other than a built-in memory under the provisions of the preceding two paragraphs may not reserve such copies of works recorded on that built-in memory after the maintenance or repair or the change made under these provisions.

(Reproduction for the prevention, etc. of a difficulty in transmission)

Article 47quinquies. (1) For a person, who engages in the business of providing an interactive transmission server, etc. (“interactive transmission server, etc.” means an interactive transmission server and a specified transmission server (“specified transmission server” means a server which, when connected with telecommunication networks, has a function of making a specified transmission of information which is either recorded on such a part of its

memory as used for the specified transmission (in item (i) referred to as “specified transmission memory”) (“specified transmission” means the public transmission, designated by Cabinet Order, of radio communication or wire-telecommunication, other than the interactive transmission; the same shall apply hereinafter in this paragraph) or inputted to such device; the same shall apply hereinafter in this Article) for the use for the interactive transmission, etc. made by others, it shall be permissible to record on memories, mentioned in the following items, works of which the making transmittable, etc. (“making transmittable, etc.” means the making transmittable and the act for enabling a specified transmission, designated by Cabinet Order; the same shall apply hereinafter in this Article) is made by means of such interactive transmission server, to the extent deemed necessary for the purposes mentioned in the following items, respectively:

(i) for the purpose of preventing a delay in transmission caused by the concentration of demands for interactive transmission, etc. upon such interactive transmission server, etc. or a difficulty in transmission caused by a trouble with such interactive transmission server, etc. : memories, other than public transmission memories, etc. (“public transmission memories, etc.” means public transmission memories and specified transmission memories; the same shall apply in next item) concerned with the making transmittable etc., which are intended for the use for interactive transmission, etc. concerned with the making transmittable, etc.;

(ii) for the purpose of restoring a copy, destroyed or damaged, of a work which has been recorded on s public transmission memory, etc. concerned with the making available, etc.: memories (excluding public transmission memories, etc.) other than the public transmission memories, etc.

(2) In the case where a person, who engages in the business of providing an interactive transmission server, etc. for the use for the interactive transmission, etc. made by others, makes a transmission for relaying an interactive transmission, etc. of a work of which the transmittable, etc. has been made (excluding a work of which the making transmittable, etc. has been made by means of an interactive transmission server, etc., he may record such work on a part, to be used for such transmission, of a memory of such interactive transmission server, etc., to the extent deemed necessary for efficiently making a transmission for relaying an interactive transmission, etc., of such work, made after such transmission.

(3) The following persons may not reserve copies of works, made in accordance with the provisions of the following items, after the time mentioned in the following items, respectively:

(i) a person who has recorded a work on a memory in accordance with the provisions of paragraph (1) (only the part concerned with item (i)) or the preceding paragraph): when it is considered that it is no more necessary to reserve such copies for the purposes mentioned in these provisions, or when he has noticed that the making transmittable, etc., of the work concerned infringes copyright (in the case of a making transmittable, etc. made outside this country, a making transmittable which would constitute infringement on copyright if it was made in this country);

(ii) a person who has recorded a work on a memory in accordance with the provisions of paragraph (1) (only the part concerned with item (i): when it is considered that it is no more necessary to reserve such copies for the purpose mentioned in that item.

(Reproduction, etc. for a retrieval, etc. of a transmitter identification code of information which has been made transmittable)

Article 47sexies. For a person who engages in the business of retrieving a transmitter identification code of information which has been made transmittable (“a transmitter identification code” means a letter, a number, a symbol or another code for identifying a transmitter of an interactive transmission; the same shall apply hereinafter in this Article) and of offering the result thereof, in response to a request from the public (including a person who engages in a part of such business, and limited to a person who does the collection, the arrangement and the offer of information which has been made transmittable, in accordance with the standard designated by Cabinet Order), it shall be permissible, to the extent deemed necessary for such retrieval and such offer of the result thereof, to make recording on a memory or make adaptation (including recording of a derivative work created by such adaptation) of a work which has been made transmittable (in the case where measures are taken for demanding an input of information for identifying a receiver of an interactive transmission of such work, or where other measures are taken for limiting a reception of such transmission, only a work in respect of which the consent has been granted by a person who has taken such measures for reception of such interactive transmission), and to make, in response to a

request from the public, an interactive transmission (including the making transmittable) by using a copy concerned with a transmitter identification code out of copies of such work recorded on a memory (including copies of a derivative work of such work; hereinafter in this Article referred to as “retrieval result offering record” together with an offering of a transmitter identification code of information, which has been transmittable, concerned with such demand. However, he may not make an interactive transmission (including the making transmittable) by using such retrieval result offering record after he has noticed that the making transmittable of a work concerned with such retrieval result offering record infringes copyright (in the case of a making transmittable made outside this country, a making transmittable which would constitute an infringement on copyright if it was made in this country).

(Reproduction, etc. for information analysis)

Article 47septies. For the purpose of information analysis (“information analysis” means to extract information, concerned with languages, sounds, images or other elements constituting such information, from many works or other much information, and to make a comparison, a classification or other statistical analysis of such information; the same shall apply hereinafter in this Article) by using a computer, it shall be permissible to make recording on a memory, or to make adaptation (including a recording of a derivative work created by such adaptation), of a work, to the extent deemed necessary. However, an exception is made of database works which are made for the use by a person who makes an information analysis.

(Exploitation for information processing required for the preparation of offering information by using information transmission technology)

Article 47novies. It shall be permissible to record on memory or adapt a work (including a recording of a derivative work created by such adaptation), to the extent deemed necessary, for the purpose of offering information by means of using information transmission technology and of making such information processing by computer as required for the preparation of making that offering smooth and efficient.

(Reproduction required for the exploitation of works on computer)

Article 47octies. In the case where a work is exploited on a computer by using copies of such work, or where a work is exploited upon reception of transmission of such work transmitted by means of radio communication or wire-telecommunication, it shall be permissible to record such work on a memory of computer in the course of information processing by such computer for such exploitation, to the extent deemed necessary for making such information processing smoothly and efficiently.

(Transfer of ownership of copies made in accordance with the provisions of limitations on reproduction right)

Article 47decies. Works permitted to be reproduced in accordance with the provisions of Article 31, paragraph (1) (only a part concerned with item (i) ; the same shall apply hereinafter in this Article) or the second sentence of paragraph (3), Article 32, Article 33, paragraph (1) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33bis, paragraph (1) or (4), Article 34, paragraph (1), Article 35, paragraph (1), Article 36, paragraph (1), Article 37, Article 37bis (except item (ii) ; the same shall apply hereinafter in this Article), Article 39, paragraph (1), Article 40, paragraph (1) or (2), Articles 41, to 42bis, Article 42 ter, paragraph (2) or Articles 46 to 47bis shall also be permitted to be offered to the public by transfer of ownership of copies made in accordance with these provisions, excluding copies of cinematographic works in cases of the provisions of Article 31, or the second sentence of paragraph (3), Article 35, paragraph (1), Article 36, paragraph (1) or Article 42 (including copies of cinematographic works in cases of works reproduced in cinematographic works; the same shall apply hereinafter in this Article). However, an exception is made in the case where the ownership of copies of works made in accordance with the provisions of Article 31, paragraph (1) or the second sentence of paragraph (3), Article 33bis, paragraph (1) or (4), Article 35, paragraph (1), Article 37, paragraph (3), Article 37bis, Articles 41 to 42bis, Article 42 ter, paragraph (2) or Article 47bis is transferred to the public for purposes other than those mentioned in Article 31, paragraph (1) or the second sentence of paragraph (3), Article 33bis, paragraph (1) or (4), Article 35, paragraph (1), Article 37, paragraph (3), Article 37bis, Articles 41 to 42bis, Article 42 ter, paragraph (2) or Article 47bis (excluding copies of cinematographic works in cases of the

provisions of Article 31, paragraph (1) or the second sentence of paragraph (3), Article 35, paragraph (1) or Article 42).

(Indication of sources)

Article 48. (1) In any of the following cases, the source must be clearly indicated in the manner and to the extent deemed reasonable by the form of the reproduction or exploitation:

(i) where reproduction is made of works in accordance with the provisions of Article 32, Article 33, paragraph (1) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33*bis*, paragraph (1), Article 37, paragraph (1), or Article 42 or 47;

(ii) where exploitation is made of works in accordance with the provisions of Article 34, paragraph (1), Article 37, paragraph (3), Article 37*bis*, Article 39, paragraph (1), or Article 40, paragraph (1) or (2), or Article 47*bis*;

(iii) where exploitation, other than reproduction, is made of works in accordance with the provision of Article 32, or where exploitation is made of works in accordance with the provisions of Article 35, Article 36, paragraph (1), Article 38, paragraph (1), or Article 41 or 46, provided that standard practice so requires.

(2) When indicating the source under the preceding paragraph, mention must be made of the name of the author if it appears on a work, except in the case where such indication identifies the author or the work is anonymous.

(3) Where exploitation is made of works by translating, arranging musically, transforming or adapting them in accordance with the provision of Article 43, mention must also be made of the source as provided for in the provisions of the preceding two paragraphs.

(Uses, etc. of copies for other purposes)

Article 49. (1) The following acts shall be considered to constitute the reproduction as mentioned in Article 21:

(i) the distribution of copies of works made in accordance with the provisions of Article 30, paragraph (1), Article 30*ter*, Article 31, paragraph (1), item (i) or the second sentence of paragraph (3), Article 33*bis*, paragraph (1) or (4), Article 35, paragraph (1), Article 37, paragraph (3), the first sentence of Article 37*bis* (in the case concerned with item (ii) of that Article, that

item; the same shall apply in item (i) of next paragraph), or Articles 41 to 42*ter*, Article 42*quater*, paragraph (2), or Article 44, paragraph (1) or (2), Article 47*bis* or Article 47*sexies* or the making available to the public of works by the use of these copies (excluding copies falling within those mentioned in item (iv) of next paragraph), for purposes other than those mentioned in these provisions;

(ii) the preservation by broadcasting organizations or wire diffusion organizations, of ephemeral recordings in violation of the provisions of Article 44, paragraph (3);

(iii) the distribution of copies of works (excluding copies falling within those mentioned in item (ii) of the next paragraph) made in accordance with the provisions of Article 47*ter*, paragraph (1) or copies of works recorded temporarily on a memory other than a built-in memory mentioned in Article 47*quater*, paragraph (1) or (2) in accordance with the provisions of that paragraph, or the making available to the public of works by the use of these copies;

(iv) the preservation of copies mentioned in Article 47*bis*, paragraph (2), Article 47*quater*, paragraph (3) or Article 47*quinquies*, paragraph (3) (excluding copies falling within those mentioned in item (ii) of the next paragraph) in violation of the provisions of that paragraph;

(v) the exploitation of works by using their copies made in accordance with the provisions of Article 30*quater*, Article 47*quinquies*, paragraph (1) or (2), Article 47*septies* or Article 47*novies* (excluding copies falling within those mentioned in item (vi) of next paragraph), for purposes other than those mentioned in these provisions;

(vi) the interactive transmission (including the making transmittable) or works by using their copies made in accordance with the provisions of the first sentence of Article 47*sexies* (excluding copies falling within those mentioned in item (v) of next paragraph), in violation of the provisions of the proviso to that Article;

(vii) the exploitation of works by using their copies made in accordance with the provisions of Article 47*octies*, instead of using copies, mentioned in that Article, of such works, or without a reception of transmission, mentioned in that Article (in the case of an interactive transmission in response to a demand from a receiver, a reception of such transmission or a similar act designated by Cabinet Order), concerned with such works.

(2) The following acts shall be considered to constitute the translation, musical arrangement, transformation or adaptation as mentioned in Article 27 with respect to pre-existing works of derivative works concerned:

(i) the distribution of copies of derivative works made in accordance with the provisions of each item of Article 43, or the making available to the public of derivative works by the use of these copies, for purposes other than those mentioned in Article 30, paragraph (1), Article 31, paragraph (1), item (i) or the second sentence of paragraph (3), Article 33*bis*, paragraph (1), Article 35, paragraph (1), Article 37, paragraph (3), the first sentence of Article 37*bis*, or Article 41 or 42;

(ii) the distribution of copies of derivative works made in accordance with the provision of Article 47*ter*, paragraph (1) or the making available to the public of derivative works by the use of these copies;

(iii) the preservation of copies mentioned in the preceding item in violation of the provisions of Article 47*ter*, paragraph (2).

(iv) the distribution of copies of derivative works made in accordance with the provision of Article 30*ter* or Article 47*sexies* or the making available to the public of derivative works by using their copies, for purposes other than those mentioned in these provisions;

(v) the interactive transmission (including the making transmittable) of derivative works by using their copies made in accordance with the provisions of the first sentence of Article 47*sexies*, in violation of the provisions of the proviso to that Article;

(vi) the exploitation of derivative works by using their copies made in accordance with the provisions of Article 30*quater*, Article 47*septies* or Article 47*novies*, for purposes other than those mentioned in these provisions.

(Relationship with moral rights of authors)

Article 50. No provisions of this Subsection may be interpreted as affecting the protection of the moral rights of authors.

Section 4 Term of Protection

(In general)

Article 51. (1) The duration of copyright shall begin with the creation of the work.

(2) Copyright shall continue to subsist until the end of a period of fifty years following the death of the author (or following the death of the last surviving co-author in the case of a joint work; the same shall apply in paragraph (1) of next Article), unless otherwise provided in this Section.

(Anonymous or pseudonymous works)

Article 52. (1) Copyright in an anonymous or pseudonymous work shall continue to subsist until the end of a period of fifty years following the making public of the work, provided that copyright subsisting in such work, the author of which is presumed to have been dead for fifty years, shall be considered expired as of the time when the author is so presumed to have been dead.

(2) The provisions of the preceding paragraph shall not apply in any of the following cases:

(i) where the pseudonym adopted by the author is generally known as that of his own;

(ii) where, within the period mentioned in the preceding paragraph, the author causes his true name to be registered in accordance with the provision of Article 75, paragraph (1);

(iii) where, within the period mentioned in the preceding paragraph, the author has made public his work on which he indicates his true name or generally known pseudonym as the name of the author.

(Works bearing the name of a corporate body)

Article 53. (1) Copyright in a work bearing as the name of the author that of a legal person or other corporate body shall continue to subsist until the end of a period of fifty years following the making public of the work or the creation of the work if it has not been made public within a period of fifty years following its creation.

(2) The provisions of the preceding paragraph shall not apply in the case where, within the period mentioned in the preceding paragraph, a person who is the author of a work bearing as the name of the author that of a legal person or other corporate body, has afterwards made public the work on which he indicates his true name or generally known pseudonym as the name of the author.

(3) With respect to the duration of copyright in a work the authorship of which is attributed to a legal person or other corporate body in accordance

with the provisions of Article 15, paragraph (2), the provision of paragraph (1) shall apply to such work not falling within that mentioned in paragraph (1) as if such work bore the name of such corporate body as the author.

(Cinematographic works)

Article 54. (1) Copyright in a cinematographic work shall continue to subsist until the end of a period of seventy years following the making public of the work or the creation of the work if it has not been made public within a period of seventy years following its creation.

(2) When copyright in a cinematographic work has expired at the end of its duration, copyright subsisting in the original work adapted cinematographically shall also expire but only with respect to the exploitation of the cinematographic work.

(3) The provisions of the preceding two Articles shall not apply to copyright in cinematographic works.

(Photographic works)

Article 55. Deleted.

(The time when serial publications, etc. have been made public)

Article 56. (1) In Article 52, paragraph (1), Article 53, paragraph (1), and Article 54, paragraph (1), the time when works have been made public shall be determined by the making public of each volume, issue or installment in the case of works which are made public in regularly succeeding volumes, issues of installments, or by the making public of the last part in the case of works which are made public in parts.

(2) In the case of works which are made public in parts, the last part already made public shall be considered to be the last one mentioned in the preceding paragraph if the next part is not made public before the expiration of a period of three years following the making public of the preceding part.

(Calculation of the term of protection)

Article 57. In Article 51, paragraph (2), Article 52, paragraph (1), Article 53, paragraph (1), and Article 54, paragraph (1), the term of protection after the author's death, the making public of a work or the creation of a work shall be calculated from the beginning of the year following the date when such

event occurred.

(Exceptional provisions for the term of protection)

Article 58. In the case of works not falling within Article 6, item (i), if the country of origin thereof is considered to be a foreign country which is a member of the International Union established by the Berne Convention for the Protection of Literary and Artistic Works, a contracting party to the WIPO Copyright Treaty or a member of the World Trade Organization in accordance with the provisions of the Berne Convention, the WIPO Treaty or the Marrakesh Agreement Establishing the World Trade Organization and if the duration of copyright therein granted by that country of origin is shorter than that provided in Articles 51 to 54, the duration of copyright shall be that granted by that country of origin.

Section 5 Inalienability of Moral Rights, etc. of Authors

(Inalienability of moral rights of authors)

Article 59. Moral rights of the author shall be exclusively personal to him and inalienable.

(Protection of the moral interests after the author's death)

Article 60. Even after the death of the author, no person who offers or makes available a work to the public may commit an act which would be prejudicial to the moral rights of the author if he were alive; provided, however, that such act is permitted if it is deemed not to be against the will of the author in the light of the nature and extent of the act as well as a change in social situation and other conditions.

Section 6 Transfer and Expiry of Copyright

(Transfer of copyright)

Article 61. (1) Copyright may be transferred in whole or in part.

(2) Where a contract for the transfer of copyright makes no particular reference to the rights mentioned in Articles 27 and 28, these rights shall be presumed to be reserved to the transferor.

(Expiry of copyright in the case where no heirs exist, etc.)

Article 62. (1) Copyright shall expire in the following cases:

(i) where, after the author's death, the copyright is to revert to the National Treasury in accordance with the provisions of Article 959 (Reversion of the residue to the National Treasury) of the Civil Code (Law No. 89, of 1896);

(ii) where, after the dissolution of a legal person who is the owner of copyright, the copyright is to revert to the National Treasury in accordance with the provisions of Article 239, paragraph (3) of the Law in General corporations and General Foundation (Law No.48, of 2006) or the provisions of other similar laws.

(2) The provisions of Article 54, paragraph (2) shall apply *mutatis mutandis* in the case where copyright in cinematographic works has expired through the operation of the preceding paragraph.

Section 7 Exercise of Rights

(Authorization to exploit works)

Article 63. (1) The copyright owner may grant another person authorization to exploit the work.

(2) Any person who obtained such authorization shall be entitled to exploit the work in the manner and to the extent so authorized.

(3) The right of exploitation thus authorized may not be transferred without the consent of the copyright owner.

(4) Unless otherwise stipulated in a contract, such authorization to broadcast or diffuse by wire a work shall not imply the authorization to make sound or visual recordings of the work.

(5) The provisions of Article 23, paragraph (1) shall not apply to such making transmittable of a work, by a person who has obtained such authorization with respect to the making transmittable of the work, as being made repeatedly or by means of another interactive transmission server in the manner and to the extent so authorized, provided that such manner and extent are not concerned with the frequency of the making transmittable of a work or an interactive transmission server to be used for the making transmittable of a work.

(Exercise of moral rights of co-authors)

Article 64. (1) Moral rights of co-authors of a joint work may not be exercised without unanimous agreement of all the co-authors.

(2) Each of the co-authors may not, in bad faith, prevent the agreement mentioned in the preceding paragraph from being reached.

(3) Co-authors may be represented by a person chosen from among them in the exercise of their moral rights.

(4) Limitations on the representation mentioned in the preceding paragraph shall not be effective against a *bona fide* third person.

(Exercise of joint copyright)

Article 65. (1) Each co-owner of copyright in a joint work or of copyright in co-ownership (hereinafter in this Article referred to as “joint copyright”) shall not be entitled to transfer or pledge his share without the consent of the other co-owners.

(2) Joint copyright may not be exercised without unanimous agreement of all the co-owners.

(3) In the preceding two paragraphs, each co-owner may not, without reasonable justification, refuse the consent mentioned in paragraph (1) or prevent the agreement mentioned in the preceding paragraph from being reached.

(4) The provisions of paragraphs (3) and (4) of the preceding Article shall apply *mutatis mutandis* to the exercise of joint copyright.

(Copyright on which the right of pledge is established)

Article 66. (1) Unless otherwise stipulated in the contract establishing the right of pledge, the copyright owner shall be entitled to exercise copyright on which the right of pledge has been established.

(2) The right of pledge may be exercised with respect to money or the like accruing from the transfer of copyright or the exploitation of the work (including counter-value for the establishment of the right of publication), provided that payment or delivery is preceded by the seizure of the right to receive money or the like mentioned above.

Section 8 Exploitation of Works under Compulsory License

(Exploitation of works in the case where the copyright owner thereof is unknown)

Article 67. (1) Where a work has been made public, or where it is clear that it has been offered to or made available to the public for a considerable period of time, the work may be exploited under the authority of a compulsory license issued by the Commissioner of the Agency for Cultural Affairs and upon depositing on behalf of the copyright owner compensation the amount of which is fixed by the Commissioner as corresponding to an ordinary rate of royalty, in the case, designated by Cabinet Order, where, after the due diligence, the copyright owner cannot be found for the reason that he is unknown or for other reasons.

(2) A person, who intends to apply for a compulsory license mentioned in the preceding paragraph, shall submit to the Commissioner of the Agency for Cultural Affairs an application stating means of exploiting a work and other matters designated by Cabinet Order, together with data for explanation to the effect that the copyright owner can not be found or other data designated by Cabinet Order.

(3) Copies of the work reproduced under the provisions of the preceding paragraph (1) shall bear an indication to the effect that the reproduction of these copies has been licensed in accordance with the provisions of that paragraph and give the date when the license was issued.

(Exploitation of a work while applying for a compulsory license)

Article 67bis. (1) A person, who has applied for a compulsory license mentioned in paragraph (1) of the preceding Article (hereinafter in this Article referred to merely as “license”), may exploit a work concerned with such application by the same means of exploitation as those stated in such application, for a period when such application is pending (in the case where the copyright owner can be found, for a period until such finding), upon depositing a security money the amount of which shall be fixed by the Commissioner of the Agency for Cultural Affairs by taking account the means of exploitation of the work stated in such application; provided, however, that he may not exploit such work in the case where it is clear that the author of such work intends to discontinue the publication or other exploitation of his work.

(2) Copies of the work reproduced under the provisions of the preceding paragraph shall bear an indication to the effect that such copies have been reproduced in accordance with the provisions of the paragraph and give the date of the application for a license.

(3) In the case where a person exploiting a work under the provisions of paragraph (1) (hereinafter referred to as “applying user”) has been issued a license, he shall not be required, notwithstanding the provisions of paragraph (1) of the preceding paragraph, to deposit the amount of the compensation, mentioned in that paragraph, corresponding to that of a security money already deposited under the provisions of paragraph (1) (in the case where the amount of such security money exceeds that of such compensation, that amount), under the provisions of paragraph (1) of that Article.

(4) An applying user shall, in the case where he has received a refusal to issue a license (excluding the case where the copyright owner can be found before such refusal), deposit on behalf of the copyright owner compensation the amount of which shall be fixed by the Commissioner of the Agency for Cultural Affairs as corresponding to the amount of royalty fees for the exploitation of a work under the provisions of paragraph (1) for a period until such refusal. In this case, the amount of a security money, already deposited under the provisions of that paragraph, corresponding to that of such compensation (in the case where the amount of such compensation exceeds that of such security money, that amount) shall be considered as deposited as the amount of such compensation.

(5) An applying user shall, in the case where the copyright owner can be found before an issuance of a license or a refusal to issue it, pay to the copyright owner compensation the amount of which is corresponding to that of royalty fees for the exploitation of a work under the provisions of paragraph (1), for a period until the time when the copyright owner can be bound.

(6) In the cases mentioned in the preceding three paragraphs, the copyright owner can, based upon his right to receive compensation mentioned in paragraph (1) or (2) of the preceding Article, receive a repayment from a security money deposited under the provisions of paragraph (1).

(7) A person, who has deposited a security money under the provisions of paragraph (1), can recover all or a part of such security money, as provided by Cabinet Order, in the case where the amount of such security money exceeds that which the copyright owner can receive as a repayment under the provi-

sions of the preceding a paragraph.

(Broadcasting of works)

Article 68. (1) A work already made public may be broadcast by a broadcasting organization under the authority of a compulsory license issued by the Commissioner of the Agency for Cultural Affairs and upon payment to the copyright owner of compensation the amount of which is fixed by the Commissioner as corresponding to an ordinary rate of royalty, provided that such organization requested the authorization to broadcast the work from the copyright owner and failed to reach an agreement or that the organization was unable to enter into negotiations with him.

(2) Works thus broadcast may also be diffused by wire, made of the interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use), exclusively for the purpose of reception within service areas intended for by such broadcasting, or communicated publicly by means of a receiving apparatus, upon payment to the copyright owner of compensation the amount of which corresponds to an ordinary rate of royalty, except in the case where the provisions of Article 38, paragraphs (2) and (3) shall be applicable.

(Recording on commercial phonograms)

Article 69. When commercial phonograms have been sold for the first time in this country and after the expiration of a period of three years from the date of such first sale, a person who intends to make a sound recording of a musical work already recorded on such phonograms with the authorization of the copyright owner and thereby to manufacture other commercial phonograms may make such recording or offer such recording to the public by transfer of ownership under the authority of a compulsory license issued by the Commissioner of the Agency for Cultural Affairs and upon payment to the copyright owner of compensation the amount of which is fixed by the Commissioner as corresponding to an ordinary rate of royalty, provided that such person requested the authorization from the copyright owner to make a sound recording of the work or to offer such recordings to the public by transfer of ownership and failed to reach an agreement or that he was unable to enter into negotiations with the copyright owner.

(Procedures and standards of compulsory licensing)

Article 70. (1) Applicants for a license mentioned in Article 67, paragraph (1), Article 68, paragraph (1) or the preceding Article shall pay application fee, the amount of which shall be fixed by Cabinet Order, taking into account actual cost.

(2) The provision of the preceding paragraph shall not apply in the case where a person who shall pay an application fee in accordance with the provision of that paragraph is the State or such an independent administrative organ as is designated by Cabinet Order, taking into account contents of its business or other circumstances (referred to as “the State, etc.” in Article 78, paragraph (6) and Article 107, paragraph (2)).

(3) Upon receipt of an application for a license mentioned in Article 68, paragraph (1) or the preceding Article, the Commissioner of the Agency for Cultural Affairs shall notify the copyright owner concerned thereof in order to afford him an opportunity to express his opinion within an adequately specified period of time.

(4) Even upon receipt of an application for a license mentioned in Article 67, paragraph (1), Article 68, paragraph (1) or the preceding Article, the Commissioner of the Agency for Cultural Affairs shall not issue such license if he recognizes:

(i) that it is evident that the author has the intention to discontinue publication or other exploitation of his work; or

(ii) that unavoidable circumstances obliged the copyright owner to refuse to give the authorization to the broadcasting organization applying for a license mentioned in Article 68, paragraph (1).

(5) The Commissioner of the Agency for Cultural Affairs shall, when intending to refuse to issue the license (excluding the case where a license is not issued under the provisions of paragraph (7)), give previous notice to the applicant of the reason for such refusal and afford him an opportunity to explain his position and furnishing evidence favorable to him. The Commissioner shall, when refusing to issue such license, notify the applicant of such refusal in writing accompanied by the reason therefore.

(6) The Commissioner of the Agency for Cultural Affairs shall, upon issuing the license mentioned in Article 67, paragraph (1), give public notice thereof in the Official Gazette and notify the applicant thereof. The Commissioner shall, upon issuing the license mentioned in Article 68, paragraph (1) or the preced-

ing Article, notify the parties concerned thereof.

(7) The Commissioner of the Agency for Cultural Affairs shall abstain from issuing a license, upon request from an applying user to be effect that he will withdraw his application for a license mentioned in Article 67, paragraph (1).

(8) Other than those provided for in the preceding paragraphs, necessary matters in connection with the licenses mentioned in this Section shall be provided by Cabinet Order.

Section 9 Compensation, etc.

(Consultation with the Culture Council)

Article 71. The Commissioner of the Agency for Cultural Affairs shall, when fixing the amount of compensation mentioned in Article 33, paragraph (2) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33*bis*, paragraph (2), Article 67, paragraph (1), Article 67*bis*, paragraph (4), Article 68, paragraph (1), and Article 69, consult with the Culture Council.

(Dissatisfaction with the amount of compensation fixed)

Article 72. (1) The parties concerned who are dissatisfied with the amount of compensation fixed in accordance with the provision of Article 67, paragraph (1), Article 67*bis*, paragraph (4), Article 68, paragraph (1) or Article 69 may bring an action for an increase or decrease therein, within a period of six months from the date when they learned that a license had been issued or refused to issue under any of these provisions.

(2) In an action mentioned in the preceding paragraph, the copyright owner shall be a defendant in the case where a person who brings the action is the user of the work, and the user of the work shall be a defendant in the case where a person who brings the action is the copyright owner.

(Limitations on objections to the amount of compensation fixed)

Article 73. In an objection raised under the Administrative Dissatisfaction Inspection Law (Law No. 160, of 1962) to a license issued or refused under the provisions of Article 67, paragraph (1), Article 68, paragraph (1) or Article 69, the dissatisfaction with the amount of the compensation fixed shall not constitute a reason for this dissatisfaction with the issuance or refusal of the

license, except in the case where a person who obtained or was refused a license mentioned in Article 67, paragraph (1) cannot bring an action mentioned in paragraph (1) of the preceding Article because the copyright owner is unknown or for other similar reasons.

(Deposit of compensation, etc.)

Article 74. (1) A person who is liable to pay compensation mentioned in Article 33, paragraph (2) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33*bis*, paragraph (2), Article 68, paragraph (1) or Article 69 shall deposit the compensation instead of paying that compensation, in any of the following cases:

(i) where the copyright owner refuses to receive or cannot receive the compensation;

(ii) where the copyright owner cannot be identified with no fault on the part of the above-mentioned person;

(iii) where that person brings an action mentioned in Article 72, paragraph (1) with respect to the amount of the compensation;

(iv) where the right of pledge has been established on the copyright (except in the case where the authorization is obtained from the pledgee).

(2) In item (iii) of the preceding paragraph, a person who is liable to pay the compensation shall, at the request of the copyright owner, pay the sum according to his estimate and deposit the balance between his estimate and the amount of the compensation fixed.

(3) The deposit of a compensation under the provisions of Article 67, paragraph (1), Article 67*bis*, paragraph (4) or the preceding two paragraphs or that of a security money under the provisions of Article 67*bis*, paragraph (1) shall be made at a deposit office conveniently near to the known domicile or residence of the copyright owner if he has such in this country or otherwise near to the domicile or the residence of the depositor.

(4) The depositor mentioned in the preceding paragraph shall notify the copyright owner of that deposit, except in the case where he cannot notify him thereof because he is unknown or for other reasons.

Section 10 Registration

(Registration of the true name)

Article 75. (1) The author of an anonymous or pseudonymous work may have his true name registered with respect to that work, regardless of whether he actually owns the copyright therein.

(2) The author may designate by his will a person who may have such name registered after the author's death as provided in the preceding paragraph.

(3) A person whose true name has been registered shall be presumed to be the author of the work concerned.

(Registration of the date of the first publication, etc.)

Article 76. (1) The copyright owner as well as the publisher of an anonymous or pseudonymous work may have the date of the first publication or of the first making public of his work registered.

(2) Works as to which the date of the first publication or of the first making public is registered shall be presumed to have been first published or first made public on the date registered.

(Registration of the date of creation)

Article 76bis. (1) The author of a program work may have the date of creation of his program work registered, provided that a period of six months has not passed after the creation of that work.

(2) Program works as to which the date of creation is registered in accordance with the preceding paragraph shall be presumed to have been created on the date registered.

(Registration of copyright)

Article 77. The following matters shall not be effective against any third party without registration thereof:

(i) the transfer (except that by inheritance or other successions in general; the same shall apply in next item) or the alteration by trust of copyright or the restriction on the disposal of copyright;

(ii) the establishment, transfer, alteration or expiry (except because of the merger of the right of pledge, or because of the expiry of copyright or the obligatory right secured), or the restriction on the disposal, of the right of

pledge established on copyright.

(Procedures, etc. for registration)

Article 78. (1) The registrations mentioned in Article 75, paragraph (1), Article 76, paragraph (1), Article 76*bis*, paragraph (1) and the preceding Article shall be made by the Commissioner of the Agency for Cultural Affairs by entering or recording them in the copyright register.

(2) The copyright register may, as provided by Cabinet Order, be prepared in whole or in part by means of magnetic discs (including any similar material object capable of assuring records of given items; the same shall apply in paragraph (4)).

(3) The Commissioner of the Agency for Cultural Affairs shall, when having made a registration mentioned in Article 75, paragraph (1), give public notice thereof in the Official Gazette.

(4) Any person may demand of the Commissioner of the Agency for Cultural Affairs the delivery of a certified copy or a certified abstract of entries in the copyright register or a copy of its annexed documents, or the opportunity to inspect the register or its annexed documents, or the delivery of copies of entries in the part of the copyright register, prepared by means of magnetic discs.

(5) A person making such demand shall pay a fee, the amount of which is fixed by Cabinet Order, taking into account actual cost.

(6) The provision of the preceding paragraph shall not apply in the case where a person who shall pay a fee in accordance with the provision of that paragraph is the State, etc.

(7) The provisions of Chapters II and III of the Administrative Procedures Law (Law No.88, of 1993) shall not apply to measures taken in connection with registrations mentioned in paragraph (1).

(8) The provisions of the Government Organizations Information Disclosure Law shall not apply to entities in the copyright register and its annexed documents.

(9) The provisions of Chapter IV of the Law for the Protection of Personal Information Possessed by Government Organizations (Law No.58, of 2003) shall not apply to government-possessed personal information (“government-possessed personal information” means such information as mentioned in

Article 2, paragraph (3) of that Law recorded in the copyright register and its annexed documents.

(10) Other than those provided for in this Section, necessary matters in connection with registrations mentioned in paragraph (1) shall be provided by Cabinet Order.

(Exceptional provision for the registration of program works)

Article 78bis. Other than those provided for in this Section, matters relating to the registration of program works shall be provided by another law.

Chapter III Right of Publication

(Establishment of the right of publication)

Article 79. (1) The owner of the right mentioned in Article 21 or Article 23, paragraph (1) (hereinafter in this Chapter referred to as “the holder of reproduction right, etc.”) may establish the right of publication in favour of a person who undertakes to publish the work in a writing or a printing (“to publish the work in a writing or a printing” includes to record the work on a memory by means with the aid of a computer for indicating on its display a writing or a printing and to distribute copies of such work recorded on such memory; in next Article, paragraph (2) and Article 81, item (i), referred to as an “act of publication”) or to transmit publicly copies of such work recorded on a memory by such means (“to transmit publicly” excludes broadcasting or wire diffusion, and includes the making transmittable in the case of the interactive transmission; the same shall apply hereinafter in this Chapter) (in next Article, paragraph (2) and Article 81, item (ii), referred to as an “act of publication”).

(2) The holder of reproduction right, etc. may establish the right of publication only with the authorization of the pledgee if the right of pledge is established on the reproduction right or the public transmission right.

(Contents of the right of publication)

Article 80. (1) The owner of the right of publication shall, as stipulated in the contract of establishment, have all or any of the following exclusive rights in relation to the work on which the right of publication is established:

(i) the exclusive right to reproduce the original text of such work in a writing or printing by means of typography or other mechanical or chemical processes for the purpose of distribution (including the exclusive right to reproduce the original text of such work on electro-magnetic records stored on a memory by means mentioned in the preceding Article, paragraph (1));

(ii) the exclusive right to transmit publicly copies of the original text of such work stored on a memory by means mentioned in the preceding Article, paragraph (1).

(2) If the author of the work dies within the duration of the right of publication or, after three years have passed from the first act of publication or of public transmission (in Article 83, paragraph (2) and Article 84, paragraph (3), referred to as an “act of publication, etc.”) following the establishment of the right of publication, unless otherwise stipulated in the contract of establishment, the holder of reproduction right, etc. may, notwithstanding the provisions of the preceding paragraph, reproduce the work in a complete collection of works or other compilations comprising only the works of the same author or transmit the work publicly.

(3) The owner of the right of publication may, only with the authorization of the holder of reproduction right, etc., authorize any third party to reproduce or to transmit publicly the work on which the right of publication is established.

(4) The provisions of Article 63, paragraphs (2), (3) and (5) shall apply *mutatis mutandis* in the preceding paragraph. In this case, “the copyright owner” in that Article, paragraph (3) shall read “the holder of reproduction right, etc. and the owner of the right of publication mentioned in Article 79, paragraph (1)”, and “Article 23, paragraph (1)” in that Article, paragraph (5) shall read “Article 80, paragraph (1) (only the part concerned with item (ii)).

(Obligation of publication)

Article 81. Unless otherwise stipulated in the contract of establishment, the owner of the right of publication shall, with respect to the work on which the right of publication is established, have the obligations mentioned in any of the following items concerned, as follows:

(i) the owner of the right of publication concerned with the right mentioned in the preceding Article, paragraph (1), item (i) (in next Article, referred to as “the owner of the right of publication in item (i)”): any of the

following obligations:

(a) to do the act of publication, with respect to such work, within a period of six months after the date when such owner received, from the holder of reproduction right, etc., manuscripts or other originals or those corresponding thereto or electro-magnetic records of such work which are necessary for the reproduction of such work; and

(b) to do the act of publication, with respect to such work, continuously in conformity with business practice.

(ii) the owner of the right of publication concerned with the right mentioned in the preceding Article, paragraph (1), item (ii) (in next Article, paragraph (1), item (ii), referred to as “the owner of the right of publication in item (ii)): any of the following obligations:

(a) to do the act of public transmission, with respect to such work, within a period of six months after the date when such owner received, from the holder of reproduction right, etc., manuscripts or other originals or those corresponding thereto or electro-magnetic records of such work which are necessary for the public transmission of such work;

(b) to do the act of public transmission, with respect to such work, continuously in conformity with business practice.

(Alterations, additions or deletions in works)

Article 82. (1) The author may make alterations, additions or deletions in his work to the extent justified, in any of the following cases:

(i) where the owner of the right of publication in item (i) reproduces that work again;

(ii) where the owner of the right of publication in item (ii) transmits that work publicly.

(2) Whenever intending to make a new reproduction of the work on which the right of publication is established, the owner of the right of publication in item (i) shall notify the author thereof in advance.

(Duration of the right of publication)

Article 83. (1) The duration of the right of publication shall be stipulated by the contract of establishment.

(2) The right of publication shall expire at the end of a period of three years from the first act of publication, etc. after the establishment of the right,

unless otherwise stipulated in the contract of establishment.

(Request to terminate the right of publication)

Article 84. (1) When the owner of the right of publication has not discharged his obligation mentioned in Article 81, item (i) (only the part concerned with (a)) or item (ii)(only the part concerned with (a)), the holder of reproduction right, etc. may terminate the right of publication concerned with the right mentioned in Article 80, paragraph (1), item (i) or (ii) by notifying the owner thereof.

(2) When the owner of the right of publication has not discharged his obligation mentioned in Article 81, item (i)(only the part concerned with (b)) or item (ii)(only the part concerned with (b)), the holder of reproduction right, etc. may terminate the right of publication concerned with the right mentioned in Article 80, paragraph (1), item(i) or (ii) by notifying the owner thereof, provided that the holder of reproduction right, etc. has called upon the owner of the right of publication to discharge his obligation within a period exceeding three months, and that the owner of the right of publication has not discharged his obligation within that period.

(3) When the belief of the author who holds the reproduction right, etc. in his work differs from the content of the work, he may terminate the right of publication by notifying the owner of the right of publication in order to halt forever the act of publication of the work, provided that he makes compensation in advance for damages usually caused to the owner of the right of publication by such termination.

(Distribution of copies of a work after the termination of the right of publication)

Article 85. Deleted.

(Limitation on the right of publication)

Article 86. (1) The provisions of Article 30, paragraph (1) (except item (iii); the same shall apply in next paragraph), Article 30*bis*, paragraph (2), Article 30*ter*, Article 31, paragraph (1) and the second sentence of paragraph (3), Article 32, Article 33, paragraph (1) (including the case where its application *mutatis mutandis* is provided for under the provision of paragraph (4) of the same Article), Article 33*bis*, paragraphs (1) and (4), Article 34, paragraph (1),

Article 35, paragraph (1), Article 36, paragraph (1), Article 37, Article 37*bis*, Article 39, paragraph (1), Article 40, paragraphs (1) and (2), and Articles 41 to 42*bis*, Article 42*ter*, paragraph (2) and Articles 46 to 47*bis* shall apply *mutatis mutandis* to the reproduction of works on which the right of publication is established. In these cases, “the copyright owner” in Article 30*bis*, paragraph (2), Article 30*ter*, Article 35, paragraph (1), Article 42, paragraph (1) and Article 47*bis* shall read “the owner of the right of publication”.

(2) The distribution and the making available to the public of copies of works reproduced in accordance with the provisions of Article 30, paragraph (1), Article 30*ter*, Article 31, paragraph (1), item (i) and the second sentence of paragraph (3), Article 33*bis*, paragraph (1) or (4), Article 35, paragraph (1), Article 37, paragraph (3), the first sentence of Article 37*bis* (in the case concerned with item (ii) of this Article, that item), Articles 41, to 42*bis*, Article 42*ter*, paragraph (2) or Article 47*bis* which shall apply *mutatis mutandis* in the preceding paragraph, for purposes other than those mentioned in these provisions, shall be considered to constitute the reproduction as mentioned in Article 80, paragraph (1), item (i).

(3) The provisions of Article 30*bis*, paragraph (2), Article 30*ter*, the first sentence of Article 31, paragraph (3), Article 32, paragraph (1), Article 33*bis*, paragraph (4), Article 35, paragraph (2), Article 36, paragraph (1), Article 37, paragraphs (2) and (3), Article 37*bis* (except item (ii)), Article 40, paragraph (1), Article 41, Article 42*bis*, Article 42*ter*, paragraph (2), Article 46, Article 47*bis* and Article 47*sexies* shall apply *mutatis mutandis* to the public transmission of the works on which the right of publication is established. In this case, “the copyright owner” in Article 30*bis*, paragraph (2), Article 30*ter*, Article 35, paragraph (2), Article 36, paragraph (1) and Article 47*bis* shall read “the owner of the publication right”, and “copyright” in the proviso to Article 47*sexies* shall read “the right of publication”.

(Transfer, etc. of the right of publication)

Article 87. The right of publication may be transferred or pledged in whole or in part only with the authorization of the holder of reproduction right, etc.

(Registration of the right of publication)

Article 88. (1) The following matters shall not be effective against any third party without the registration thereof:

(i) the establishment, transfer (except that by inheritance or other successions in general; the same shall apply in the next item), alteration or expiry (except because of the merger, or because of the expiry of the reproduction right or of the public transmission right), or the restriction on the disposal of the right of publication;

(ii) the establishment, transfer, alteration or expiry (except because of the merger of the right of pledge, or because of the expiry of the right of publication or the obligatory rights secured), or the restriction on the disposal of the right of pledge established on the right of publication.

(2) The provision of Article 78 (except paragraph (3)) shall apply *mutatis mutandis* to the registration mentioned in the preceding paragraph. In this case, “the copyright register” in Article 78, paragraphs (1), (2), (4), (8) and (9) shall read “the register of the right of publication”.

Chapter IV Neighboring Rights

Section 1 General Rules

(Neighboring rights)

Article 89. (1) Performers shall enjoy the rights mentioned in Article 90*bis*, paragraph (1) and Article 90*ter*, paragraph (1) (hereinafter referred to as “moral rights of performers”) and the rights mentioned in Article 91, paragraph (1), Article 92, paragraph (1), Article 92*bis*, paragraph (1) and Article 95*bis*, paragraph (1) and Article 95*ter*, paragraph (1) as well as the right to remuneration mentioned in Article 94*bis* and Article 95*ter*, paragraph (3) and the right to secondary use fees mentioned in Article 95, paragraph (1).

(2) Producers of phonograms shall enjoy the rights mentioned in Articles 96 and 96*bis* and Article 97*bis*, paragraph (1) and Article 97*ter*, paragraph (1) as well as the right to secondary use fees mentioned in Article 97, paragraph (1) and the right to remuneration mentioned in Article 97*ter*, paragraph (3).

(3) Broadcasting organizations shall enjoy the rights mentioned in Articles 98 to 100.

(4) Wire diffusion organizations shall enjoy the rights mentioned in Articles 100*bis* to 100*quinquies*.

(5) The enjoyment of the rights referred to in any of the preceding paragraphs shall not be subject to any formality.

(6) The rights referred to in paragraphs (1) to (4) (except moral rights of performers as well as the right to remuneration and the right to secondary use fees referred to in paragraphs (1) and (2)) shall be called “neighboring rights”.

(Relationship with the rights of authors)

Article 90. No provisions in this Chapter may be interpreted as affecting the protection of the rights of authors.

Section 2 Rights of Performers

(Right of determining the indication of the performer’s name)

Article 90bis. (1) The performer shall have the right to determine whether his name, his stage name or any other alternative to his name should be indicated or not, as the name of the performer, when his performances are offered to or made available to the public.

(2) In the absence of any declaration of the intention of the performer to the contrary, a person using his performances may indicate the name of the performer in the same manner as that already adopted by the performer.

(3) It shall be permissible to omit the name of the performer where it is found that there is no risk of damage to the interests of the performer in his claim to be identified as the performer of his performances in the light of the purpose and the manner of exploiting his performances or where it is found that such omission is compatible with fair practice.

(4) The provisions of paragraph (1) shall not apply in any of the following cases:

(i) where the name of the performer is indicated in the same manner as that already adopted by the performer when his performances are offered to or made available to the public by the head of a government organization, by an independent administrative organ, etc. or by an organ of a local public entity or a local independent administrative organ in accordance with the provisions of the Government Organizations Information Disclosure Law, the Independent Administrative Organs, etc. Information Disclosure Law or the Information Disclosure Regulations;

(ii) where the name of the performer is to be omitted when his performances are offered to or made available to the public by the head of a government organization, by an independent administrative organ, etc. or by

an organ of a local public entity or a local independent administrative organ in accordance with the provisions of Article 6, paragraph (2) of the Government Organizations Information Disclosure Law, the provisions of Article 6, paragraph (2) of the Independent Administrative Organs, etc. Information Disclosure Law or the provisions of the Information Disclosure Regulations equivalent to those of Article 6, paragraph (2) of the former Law;

(iii) where the name of the performer is indicated in the same manner as that already adopted by the performer when his performances are offered to or made available to the public by the Head of the National Archives, etc. or by the head of the local archives, etc. in accordance with the provisions of Article 16, paragraph (1) of the Official Documents Preservation Law or such provisions of the Official Documents Preservation Regulations as are equivalent to those of that paragraph.

(Right of preserving the integrity)

Article 90ter. (1) The performer shall have the right to preserve the integrity of his performances against any distortion, mutilation or other modification of them that would be prejudicial to his honor or reputation.

(2) The provisions of the preceding paragraph shall not apply to modifications deemed unavoidable in the light of the nature of performances as well as the purpose and manner of exploiting them or those deemed compatible with fair practice.

(Right of making sound or visual recordings)

Article 91. (1) Performers shall have the exclusive right to make sound or visual recordings of their performances.

(2) The provisions of the preceding paragraph shall not apply to performances which have been incorporated in cinematographic works with the authorization of the owner of the right mentioned in the same paragraph , except in the case where such performances are to be incorporated in sound recordings (other than those intended for use exclusively with images).

(Rights of broadcasting and wire diffusion)

Article 92. (1) Performers shall have the exclusive rights to broadcast and to diffuse by wire their performances.

(2) The provision of the preceding paragraph shall not apply in the follow-

ing cases:

- (i) where the wire diffusion is made of performances already broadcast;
- (ii) where the broadcasting takes place of, or the wire diffusion is made of the following:
 - (a) performances incorporated in sound or visual recordings with the authorization of the owner of the right mentioned in paragraph (1) of the preceding Article;
 - (b) performances mentioned in paragraph (2) of the preceding Article and incorporated in recordings other than those mentioned in that paragraph.

(Right of making transmittable)

Article 92bis. (1) Performers shall have the exclusive right to make their performances transmittable.

(2) The provision of the preceding paragraph shall not apply to the following:

- (i) performances incorporated in visual recordings with the authorization of the owner of the right mentioned in Article 91, paragraph (1);
- (ii) performances mentioned in Article 91, paragraph (2) and incorporated in recordings other than those mentioned in that paragraph.

(Fixation for broadcasting purposes)

Article 93. (1) Broadcasting organizations which have obtained the authorization to broadcast performances from the owner of the right of broadcasting mentioned in Article 92, paragraph (1), may make sound or visual recordings of such performances for broadcasting purposes, provided that the contract has no stipulation to the contrary or that the sound or visual recordings are not intended for the purpose of use in broadcasting programs different from those authorized.

(2) The following shall be considered to constitute the making of sound or visual recordings mentioned in Article 91, paragraph (1):

- (i) the use and the offering of sound or visual recordings made in accordance with the provision of the preceding paragraph for a purpose other than that of broadcasting or for the purpose mentioned in the proviso to the same paragraph;
- (ii) the further offering, by broadcasting organizations which have been

offered such recordings, of sound or visual recordings made in accordance with the provision of the preceding paragraph, to other broadcasting organizations for their broadcasting.

(Broadcasting of fixations, etc. made for broadcasting purposes)

Article 94. (1) Unless otherwise stipulated in the contract, the authorization to broadcast a performance from the owner of the right mentioned in Article 92, paragraph (1) shall also imply the following:

(i) broadcasting by the authorized broadcasting organization of the performances incorporated in sound or visual recordings in accordance with the provision of paragraph (1) of the preceding Article;

(ii) broadcasting, of the performances incorporated by the authorized broadcasting organization in sound or visual recordings in accordance with the provision of paragraph (1) of the preceding Article, by another broadcasting organization which has been offered such recordings;

(iii) broadcasting (not falling within the preceding item), by another broadcasting organization which has been offered by the authorized broadcasting organization programs incorporating authorized performances, of such performances.

(2) When a broadcasting mentioned in any of the items of the preceding paragraph has been made, the authorized broadcasting organization mentioned therein shall pay a reasonable amount of remuneration to the owner of the right mentioned in Article 92, paragraph (1).

(Wire diffusion of performances broadcast)

Article 94bis. When wire diffusion organizations have diffused by wire performances broadcast (except wire diffusions made for non-profit-making purposes and without charging any fees (“fees” includes any kind of charge to be imposed on the making available of performances to the public; the same shall apply in paragraph (1) of the next Article) to audience or spectators), they shall pay a reasonable amount of remuneration to the performers whose performances (in which neighboring rights subsist and excluding those mentioned in Article 92, paragraph (2), item (ii)) have been so diffused by wire.

(Secondary use of commercial phonograms)

Article 95. (1) When broadcasting organizations and wire diffusion orga-

nizations (hereinafter in this Article and Article 97, paragraph (1) referred to as “broadcasting organizations, etc.”) have broadcast or diffused by wire commercial phonograms incorporating performances with the authorization of the owner of the right mentioned in Article 91, paragraph (1) (except wire diffusion made simultaneously upon receiving such broadcasts for non-profit-making purposes and without charging any fees to audience or spectators), they shall pay secondary use fees to the performers whose performances (which are mentioned in Article 7, items (i) to (vi) and in which neighboring rights subsist; the same shall apply in the next paragraph to paragraph (4)) have been so broadcast or diffused by wire.

(2) As far as the Contracting States of the Convention for the Protection of Performers, etc. are concerned, the provisions of the preceding paragraph shall apply to performers whose performances are fixed in phonograms the producers of which are nationals of a country other than that which is a Contracting State of that Convention and which has made a declaration under the provisions of Article 16 (1) (a) (i) of that Convention stating that it will not apply the provisions of Article 12 of that Convention.

(3) If the term of the protection provided for in the provisions of Article 12 of the Convention for the Protection of Performers, etc. which is granted by a Contracting State of that Convention with respect to phonograms mentioned in Article 8, item (i) is shorter than that for which performers are granted the protection under the provisions of paragraph (1), the term for which performers, whose performances are fixed in phonograms the producers of which are nationals of that State, are granted the protection under the provisions of that paragraph shall be that of the protection provided for in the provisions of Article 12 of that Convention which is granted by that State with respect to phonograms mentioned in Article 8, item (i).

(4) The provisions of paragraph (1) shall apply, within the limits of reservations made, to performers whose performances are fixed in phonograms the producers of which are nationals of a country which is a Contracting Party to the WPPT (but not a Contracting State of the Convention for the Protection of Performers, etc.) and which has made reservations under the provisions of Article 15 (3) of the WPPT.

(5) Where there is an association (including a federation of associations) which is composed of a considerable number of professional performers practising in this country and which is so designated, with its consent, by the Com-

missioner of the Agency for Cultural Affairs, the right to secondary use fees mentioned in the paragraph (1) shall be exercised exclusively through the intermediary of such association.

(6) The Commissioner of the Agency for Cultural Affairs may designate only such an association as satisfies the following conditions:

- (i) that it is not established for profit-making;
- (ii) that its members may freely join and withdraw;
- (iii) that its members are granted an equal right to vote and to be elected;
- (iv) that it has sufficient ability to practise properly by itself the business of exercising the right on behalf of the owners of the right to secondary use fees mentioned in paragraph (1) (hereinafter in this Article referred to as “the owners of the right”).

(7) Such association may not refuse the request of the owners of the right for the exercise of the right on their behalf.

(8) Upon receipt of the request mentioned in the preceding paragraph, such association shall have authority to deal, on behalf of the owners of the right and in its own name, with juridical and non-juridical matters in regard to the right.

(9) As provided by Cabinet Order, the Commissioner of the Agency for Cultural Affairs may ask such association to report on their business concerning secondary use fees mentioned in paragraph (1) or to submit account books, documents and other data, or make necessary recommendations for improving in a manner of practising business.

(10) The amount of secondary use fees which such association may demand on behalf of the owners of the right in accordance with the provision of paragraph (4) shall be fixed each year by mutual agreement between such association and broadcasting organizations, etc. or their federation.

(11) If the agreement mentioned in the preceding paragraph is not reached, the parties concerned may, as provided by Cabinet Order, request the Commissioner of the Agency for Cultural Affairs to issue a ruling fixing an amount of secondary use fees.

(12) The provisions of Article 70, paragraphs (3), (6) and (8) as well as Articles 71 to 74 shall apply *mutatis mutandis* to the ruling and secondary use fees mentioned in the preceding paragraph. In this case, “the copyright owner” in Article 70, paragraph (3) shall read “the parties concerned”, “the user of the work” in Article 72, paragraph (2) shall read “broadcasting organizations, etc.

mentioned in Article 95, paragraph (1)”, “the copyright owner” in the same paragraph shall read “the association mentioned in paragraph (4) of the same Article and “the copyright owner” in Article 74 shall read “the association mentioned in Article 95, paragraph (5)”.

(13) The provisions of the Law Relating to Prohibition of Private Monopoly and Methods of Preserving Fair Trade (Law No.54, of 1947) shall not apply to mutual agreement mentioned in paragraph (10) and to acts made under it, provided that the trading method is fair and without unreasonable prejudice to the interests of concerned entrepreneurs.

(14) Other than those provided for in paragraphs (5) to (13), necessary matters in connection with the payment of secondary use fees mentioned in paragraph (1) and the association mentioned in paragraph (5) shall be provided by Cabinet Order.

(Right of transfer of ownership)

Article 95bis. (1) Performers shall have the exclusive right to offer their performances to the public by transfer of ownership of sound or visual recordings of their performances.

(2) The provisions of the preceding paragraph shall not apply to the following:

(i) performances incorporated in visual recordings with the authorization of a person who has the right mentioned in Article 91, paragraph (1);

(ii) performances mentioned in Article 91, paragraph (2) and incorporated in recordings other than those mentioned in that paragraph.

(3) The provision of paragraph (1) shall not apply in the case of transfer of ownership of sound or visual recordings of performances (except those mentioned in items (i) and (ii) of the preceding paragraph; the same shall apply hereinafter in this Article) which falls within any of the following items:

(i) sound or visual recordings of performances the ownership of which has been transferred to the public by a person who has the right mentioned in paragraph (1) or with the authorization of such person;

(ii) sound or visual recordings of performances the ownership of which has been transferred to the public under a license mentioned in Article 67, paragraph (1), which shall apply *mutatis mutandis* in Article 103;

(iii) sound or visual recordings of performances the ownership of which has been transferred to the public in accordance with the provisions of Arti-

cle 67bis, paragraph (1), which shall apply *mutatis mutandis* in Article 103;

(iv) sound or visual recordings of performances the ownership of which has been transferred to a small number of specific persons by a person who has the right mentioned in paragraph (1) or with the authorization of such person;

(v) sound or visual recordings of performances the ownership of which has been transferred, outside this country, without prejudice to the right equivalent to that mentioned in paragraph (1), or by a person who has the right equivalent to that mentioned in that paragraph or with the authorization of such person.

(Right of lending, etc.)

Article 95ter. (1) Performers shall have the exclusive right to offer their performances to the public by lending commercial phonograms incorporating their performances.

(2) The provisions of the preceding paragraph shall not apply to the lending of commercial phonograms going beyond a period as provided by Cabinet Order within the limits of one to twelve months from the first sale of such phonograms (including commercial phonograms containing the same phonograms as those incorporated in such commercial phonograms; hereinafter referred to as “commercial phonograms going beyond the period”).

(3) When those who engage in the business of lending commercial phonograms to the public (hereinafter referred to as “commercial phonograms lenders”) have offered performances to the public by lending commercial phonograms going beyond the period, they shall pay a reasonable amount of remuneration to the performers whose performances (in which neighboring rights subsist) are incorporated in such phonograms.

(4) The provisions of Article 95, paragraphs (5) to (14) shall apply *mutatis mutandis* to the right to remuneration mentioned in the preceding paragraph. In this case, “broadcasting organizations, etc.” in paragraph (10) of the same Article and “broadcasting organizations, etc. mentioned in Article 95, paragraph (1)” in paragraph (12) of the same Article shall read “commercial phonograms lenders mentioned in Article 95ter, paragraph (3).”

(5) The right to royalty with respect to the authorization given by owners of the right mentioned in paragraph (1) may be exercised through the intermediary of the association, mentioned in Article 95, paragraph (5) which shall

apply *mutatis mutandis* in the preceding paragraph.

(6) The provisions of Article 95, paragraphs (7) to (14) shall apply *mutatis mutandis* in the preceding paragraph. In this case, the provision of the second sentence of paragraph (4) of this Article shall apply *mutatis mutandis*.

Section 3 Rights of Producers of Phonograms

(Right of reproduction)

Article 96. Producers of phonograms shall have the exclusive right to reproduce their phonograms.

(Right of making transmittable)

Article 96bis. Producers of phonograms shall have the exclusive right to make their phonograms transmittable.

(Secondary use of commercial phonograms)

Article 97. (1) When broadcasting organizations, etc. have broadcast or diffused by wire commercial phonograms (except wire diffusion made simultaneously upon receiving such broadcasts for non-profit-making purposes and without charging any fees (“fees” includes any kind of charge to be imposed on the making available of sounds of phonograms to the public) to audience or spectators), they shall pay secondary use fees to the producers whose phonograms (which are mentioned in Article 8, items (i) to (iv) and in which neighboring rights subsist) have been so broadcast or diffused by wire.

(2) The provisions of Article 95, paragraphs (2) and (4) shall apply *mutatis mutandis* to the producers of phonograms mentioned in the preceding paragraph, and the provisions of paragraph (3) of the same Article shall apply *mutatis mutandis* to the term of the protection provided for in the preceding paragraph. In this case, “performers whose performances are fixed in phonograms the producers of which are nationals” in paragraphs (2) to (4) of the same Article shall read “producers of phonograms who are nationals”, and “that for which performers are granted the protection” in paragraph (3) of the same Article shall read “that for which producers of phonograms are granted the protection”.

(3) Where there is an association (including a federation of associations) which is composed of a considerable number of producers of phonograms prac-

tising in this country and which is so designated, with its consent, by the Commissioner of the Agency for Cultural Affairs, the right to secondary use fees mentioned in paragraph (1) shall be exercised exclusively through the intermediary of such association.

(4) The provisions of Article 95, paragraphs (6) to (14) shall apply *mutatis mutandis* to secondary use fees mentioned in paragraph (1) and to the association mentioned in the preceding paragraph.

(Right of transfer of ownership)

Article 97bis. (1) Producers of phonograms shall have the exclusive right to offer their phonograms to the public by transfer of ownership of copies of their phonograms.

(2) The provision of the preceding paragraph shall not apply in the case of transfer of ownership of copies of phonograms which falls within any of the following items:

(i) copies of phonograms the ownership of which has been transferred to the public by a person who has the right mentioned in the preceding paragraph or with the authorization of such person;

(ii) copies of phonograms the ownership of which has been transferred to the public under a license mentioned in Article 67, paragraph (1), which shall apply *mutatis mutandis* in Article 103;

(iii) copies of phonograms the ownership of which has been transferred to the public in accordance with the provisions of Article 67bis, paragraph (1), which shall apply *mutatis mutandis* in Article 103;

(iv) copies of phonograms the ownership of which has been transferred to a small number of specific persons by a person who has the right mentioned in the preceding paragraph or with the authorization of such person;

(v) copies of phonograms the ownership of which has been transferred, outside this country, without prejudice to the right equivalent to that mentioned in the preceding paragraph, or by a person who has the right equivalent to that mentioned in that paragraph or with the authorization of such person.

(Right of lending, etc.)

Article 97ter. (1) Producers of phonograms shall have the exclusive right to offer their phonograms to the public by lending commercial phonograms in

which their phonograms are reproduced.

(2) The provisions of the preceding paragraph shall not apply to the lending of commercial phonograms going beyond the period.

(3) When commercial phonograms lenders have offered phonograms to the public by lending commercial phonograms going beyond the period, they shall pay a reasonable amount of remuneration to the producers whose phonograms (in which neighboring rights subsist) have been so offered to the public.

(4) The provisions of Article 97, paragraph (3) shall apply *mutatis mutandis* to the exercise of the right to remuneration mentioned in the preceding paragraph.

(5) The provisions of Article 95, paragraphs (6) to (14) shall apply *mutatis mutandis* to the remuneration mentioned in paragraph (3) of this Article and to associations mentioned in Article 97, paragraph (3) which shall apply *mutatis mutandis* in the preceding paragraph. In this case, the provision of the first sentence of Article 95^{ter}, paragraph (4) shall apply *mutatis mutandis*.

(6) The right to royalty with respect to the authorization given by owners of the right mentioned in paragraph (1) of this Article may be exercised through the intermediary of the association mentioned in Article 97, paragraph (3) which shall apply *mutatis mutandis* in paragraph (4) of this Article.

(7) The provision of paragraph (5) of this Article shall apply *mutatis mutandis* in the preceding paragraph. In this case, “Article 95, paragraph (6)” in paragraph (5) shall read “Article 95, paragraph (7).”

Section 4 Rights of Broadcasting Organizations

(Right of reproduction)

Article 98. Broadcasting organizations shall have the exclusive rights to make sound or visual recordings of their broadcasts or those diffused by wire from such broadcasts, and to reproduce by means of photography or other similar processes the sounds or images incorporated in these broadcasts.

(Rights of rebroadcasting and wire diffusion)

Article 99. (1) Broadcasting organizations shall have the exclusive rights to rebroadcast and to diffuse by wire their broadcasts.

(2) The provisions of the preceding paragraph shall not apply to such wire diffusion from the broadcasts as is made by a person who is required to do so

under the provisions of laws and regulations.

(Right of making transmittable)

Article 99bis. (1) Broadcasting organizations shall have the exclusive right to make transmittable their broadcasts or those diffused by wire from such broadcasts.

(2) The provisions of the preceding paragraph shall not apply to the making transmittable of such interactive transmission from the broadcasts as is made by a person who is required to do so under the provisions of laws and regulations.

(Right of communication of television broadcasts)

Article 100. Broadcasting organizations shall have the exclusive right to communicate to the public their television broadcasts or those diffused by wire from such broadcasts, by means of a special instrument for enlarging images.

Section 5 Rights of Wire Diffusion Organizations

(Right of reproduction)

Article 100bis. Wire diffusion organizations shall have the exclusive rights to make sound or visual recordings of their wire diffusions, and to reproduce by means of photography or other similar processes the sounds or images incorporated in their wire diffusions.

(Rights of broadcasting and wire rediffusion)

Article 100ter. Wire diffusion organizations shall have the exclusive rights to broadcast and to rediffuse by wire their wire diffusions.

(Right of making transmittable)

Article 100quater. Wire diffusion organizations shall have the exclusive right to make their wire diffusions transmittable.

(Right of communication of wire television diffusions)

Article 100quinquies. Wire diffusion organizations shall have the exclusive right to communicate their wire television diffusions to the public, by means of a special instrument for enlarging images.

Section 6 Term of Protection

(Term of protection for performances, phonograms, broadcasts and wire diffusions)

Article 101. (1) The duration of neighboring rights shall begin with the following date:

- (i) when the performance took place, for performances;
- (ii) when the first fixation of sounds was made, for phonograms;
- (iii) when the broadcast took place, for broadcasts;
- (iv) when the wire diffusion took place, for wire diffusions.

(2) The duration of neighboring rights shall expire at the end of a period of fifty years from the year following the date:

- (i) when the performance took place, for performances;

- (ii) when the publishing was made or when the first fixation of sounds was made if the publishing has not been made within a period of fifty years following the first fixation of sounds;

- (iii) when the broadcast took place, for broadcasts;

- (iv) when the wire diffusion took place, for wire diffusions.

Section 7 Inalienability of Moral Rights, etc. of Performers

(Inalienability of moral rights of performers)

Article 101bis. Moral rights of the performer shall be exclusively personal to him and inalienable.

(Protection of the moral interests after the performer's death)

Article 101ter. Even after the death of the performer, no person who offers or makes available performances to the public may commit an act which would be prejudicial to the moral rights of the performer if he were alive; provided, however, that such act is permitted if it is deemed not to be against the will of the performer in the light of the nature and extent of the act as well as a change in social situation and other conditions.

Section 8 Limitations, Transfer, Exercise and Registration of the Rights

(Limitations on neighboring rights)

Article 102. (1) The provisions of Article 30, paragraph (1), Articles 30*bis* to 32, Articles 35 and 36, Article 37, paragraph (3), Article 37*bis* (except item (i) ; the same shall apply in next paragraph), Article 38, paragraphs (2) and (4), and Articles 41 to 42*quater*, Articles 44 (except paragraph (2)) and Articles 47*quater* to 47*novies* shall apply *mutatis mutandis* to the exploitation of performances, phonograms, broadcasts or wire diffusions which are the subject matter of neighboring rights, the provision of Article 30, paragraph (2) and Article 47*decies* shall apply *mutatis mutandis* to the exploitation of performances or phonograms which are the subject matter of neighboring rights, and the provision of Article 44, paragraph (2) shall apply *mutatis mutandis* to the exploitation of performances, phonograms or wire diffusions which are the subject matter of neighboring rights. In this case, “Article 23, paragraph (1)” in Article 44, paragraph (1) shall read “Article 92, paragraph (1), Article 99, paragraph (1) or Article 100*ter*”, and “Article 23, paragraph (1)” in Article 44, paragraph (2) shall read “Article 92, paragraph (1) or Article 100*ter*”.

(2) Where reproduction is made of performances, phonograms, sounds or images of broadcasts or wire diffusions (hereinafter referred to as “performances, etc.”) in accordance with the provisions of Article 32, Article 37, paragraph (3), Article 37*bis*, Article 42, or next paragraph or paragraph (4) which apply *mutatis mutandis* in the preceding paragraph, the source must be clearly indicated in the manner and to the extent deemed reasonable by the character of the reproduction, provided that standard practice so requires.

(3) In the case where it is permissible to reproduce works, already reproduced in a school textbook, under the provisions of Article 33*bis*, paragraph (1), it shall also be permissible to reproduce performances recorded in a sound recording made in accordance with the provisions of that paragraph or phonograms concerned with such recording, or make available to the public such performances or phonograms by means of the transfer of ownership of their copies, for purposes mentioned in that paragraph.

(4) In the case where, for a person, designated by Cabinet Order mentioned in Article 37, paragraph (3), who does activities for the welfare of the visually handicapped, etc., it is permissible to reproduce visual works under the provi-

sions of that paragraph, it shall also be permissible to reproduce performance recorded in a sound recording made in accordance with the provisions of that paragraph or phonograms concerned with such recording, or make transmittable such performances or phonograms, or make available to the public such performances or phonograms by means of the transfer of ownership of their copies, for purposes mentioned in that paragraph.

(5) Performances, which are the subject matter of neighboring rights and which have been broadcast, may be made transmittable (only by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use), exclusively for the purpose of reception within service areas intended for by such broadcasting, except in the case where such making transmittable is to prejudice the right of the owner of the right mentioned in Article 99*bis*, paragraph (1) with respect to such broadcasts.

(6) Those who make performances transmittable under the provisions of the preceding paragraph shall pay a reasonable amount of remuneration to the owner of the right mentioned in Article 92*bis*, paragraph (1) with respect to such performances, except in the case where the provisions of Article 38, paragraph (2) which apply *mutatis mutandis* in paragraph (1) of this Article shall be applicable.

(7) The provisions of the preceding two paragraphs shall apply *mutatis mutandis* to the exploitation of phonograms which are the subject matter of neighboring rights. In this case, "Article 92*bis*, paragraph (1)" in the preceding paragraph shall read "Article 96*bis*."

(8) Where it is permissible to broadcast or diffuse by wire works under the provision of Article 39, paragraph (1) or Article 40, paragraph (1) or (2), it shall also be permissible to diffuse by wire the broadcasts or wire diffusions of such works upon receiving them, to communicate them to the public by means of a special instrument for enlarging images, and to make transmittable (only by means of inputting information to an interactive transmission server already connected with telecommunication networks for public use) the broadcasts of such works simultaneously upon receiving them, exclusively for the purpose of reception within service areas intended for by such broadcasting.

(9) The following acts shall be considered to constitute the making of sound or visual recordings or the reproduction as mentioned in Article 91, paragraph

(1), Article 96, Article 98 or Article 100*bis*:

(i) the distribution of copies of performances, etc. made in accordance with the provisions of Article 30, paragraph (1), Article 30*ter*, Article 31, paragraph (1), item (i) or the second sentence of paragraph (3), Article 35, paragraph (1), Article 37, paragraph (3), Article 37*bis*, item (ii), Article 41 to 42*ter*, Article 42*quater*, paragraph (2), Article 44, paragraph (1) or (2) or Article 47*sexies* which apply *mutatis mutandis* in paragraph (1) of this Article, and the making available to the public of performances, of sounds of phonograms, or of sounds or images of broadcasts or wire diffusions by the use of these copies, for purposes other than those mentioned in these provisions;

(ii) the preservation by broadcasting organizations or wire diffusion organizations of sound or visual recordings in violation of the provisions of Article 44, paragraph (3) which apply *mutatis mutandis* in paragraph (1) of this Article.

(iii) the distribution of copies of performances, etc. recorded temporarily on a memory other than a built-in memory mentioned in Article 47*quater*, paragraph (1) or (2) in accordance with the provisions of that paragraph, which apply *mutatis mutandis* in paragraph (1) of this Article, and the making available to the public, of such performances, of sounds of such phonograms, or of sounds or images of such broadcasts or wire diffusions, by the use of these copies;

(iv) the preservation of copies mentioned in Article 47*quater*, paragraph (3) or Article 47*quinquies*, paragraph (3) in violation of these provisions, which apply *mutatis mutandis* in paragraph (1) of this Article.

(v) the exploitation of performances, etc. by using their copies made in accordance with the provisions of Article 30*quater*, Article 47*quinquies*, paragraph (1) or (2), Article 47*septies* or Article 47*novies*, which shall apply *mutatis mutandis* in paragraph (1), for purposes other than those mentioned in these provisions;

(vi) the making transmittable of performance, etc. by using their copies made in accordance with the provisions of the proviso to Article 47*sexies*, which shall apply *mutatis mutandis* in paragraph (1), in violation of such provisions;

(vii) the exploitation of performances, etc. by using their copies made in accordance with the provisions of Article 47*octies*, which shall apply *mutatis*

mutandis in paragraph (1), instead of using copies, mentioned in that Article, of such performance, etc., or by using such copies without reception of a transmission, mentioned in that Article, of such performances, etc. (in the case of an automatic transmission made in response to a demand from a receiver, reception of such transmission or a similar act designated by Cabinet Order);

(viii) the distribution of copies, of a performance or a phonogram, made in accordance with the provisions of paragraph (3) or (4), or the making available to the public of sound of such performance or phonogram by using such copies, for purposes other than those mentioned in Article 33*bis*, paragraph (1) or Article 37, paragraph (3).

(Relationship with moral rights of performers)

Article 102*bis*. No provisions of the preceding Article relating to limitations on neighboring rights (except the provisions of paragraphs (7) and (8) of that Article) may be interpreted as affecting the protection of the moral rights of performers.

(Transfer, exercise, etc. of neighboring rights)

Article 103. The provisions of Article 61, paragraph (1) shall apply *mutatis mutandis* to the transfer of neighboring rights, the provisions of Article 62, paragraph (1) to the expiry of these rights, and the provision of Article 63 to the authorization to exploit performances, phonograms, broadcasts or wire diffusions, and the provisions of Article 65 shall apply *mutatis mutandis* with respect to the joint authorship of these rights, and the provision of Article 66 with respect to the establishment of a pledge on these rights and the provisions of Article 67, Article 67*bis* (except the proviso to paragraph (1)), Article 70 (except paragraphs (3) and (4)), Articles 71 to 73, and Article 74, paragraphs (3) and (4) shall apply *mutatis mutandis* to the exploitation of performances, phonograms, broadcasts or wire diffusions in the case where the owners of neighboring rights can not be found. In this case, “Article 23, paragraph (1)” in Article 63, paragraph (5) shall read “Article 92*bis*, paragraph (1) , Article 96*bis*, Article 99*bis*, paragraph (1) or Article 100*quater*, and “the preceding paragraph” in Article 70, paragraph (5) shall read “Article 67, paragraph (1), which shall apply *mutatis mutandis* in Article 103”.

(Registration of neighboring rights)

Article 104. The provisions of Articles 77 and 78 (except paragraph (3)) shall apply *mutatis mutandis* to the registration of neighboring rights. In this case, “the copyright register” in paragraphs (1), (2), (4), (8) and (9) of the latter Article shall read “the register of neighboring rights”.

Chapter V Compensation for Private Recording

(Exercise of the right to claim compensation for private recording)

Article 104bis. (1) Where there is an association, which is established for the purpose of exercising the right to claim compensation as mentioned in Article 30, paragraph (2) (including the case where its application *mutatis mutandis* is provided for under the provision of Article 102, paragraph (1); the same shall apply hereinafter in this Chapter.) (hereinafter in this Chapter referred to as “compensation for private recording”) on behalf of the owners of such right (hereinafter in this Chapter referred to as “the owners of the right”) and which is designated, with its consent, by the Commissioner of the Agency for Cultural Affairs as the only one association throughout the country for each of the following two categories of compensation for private recording (hereinafter in this Chapter referred to as “the designated association”), the right to claim compensation for private recording shall be exercised exclusively through the intermediary of the designated association:

(i) compensation for sound recording made for the purpose of private use (excluding such sound recording as made exclusively with visual recording; hereinafter in this Chapter referred to as “private sound recording”);

(ii) compensation for visual recording made for the purpose of private use (including such visual recording as made exclusively with sound recording; hereinafter in this Chapter referred to as “private visual recording”).

(2) The designated association shall have the authority to deal, on behalf of the owners of the right and in its own name, with juridical and non-juridical matters in regard to the right to claim compensation for private recording.

(Conditions for designation)

Article 104ter. The Commissioner of the Agency for Cultural Affairs shall designate only such an association as satisfies the following conditions:

(i) that it is a general corporation of the Civil Law;
(ii) that it is composed of, in the case of compensation for private sound recording, the associations mentioned in the following (a), (c) and (d), and, in the case of compensation for private visual recording, the associations mentioned in the following (b), (c) and (d), respectively:

(a) an association (including a federation of associations) which is composed of the persons holding the right of reproduction with respect to works of which private sound recording is made, and which is deemed to represent the interests of such right holders in this country;

(b) an association (including a federation of associations) which is composed of the persons holding the right of reproduction with respect to works of which private visual recording is made, and which is deemed to represent the interests of such right holders in this country;

(c) an association (including a federation of associations) which is composed of a considerable number of professional performers practising in this country;

(d) an association (including a federation of associations) which is composed of a considerable number of producers of phonograms practising in this country;

(iii) that each of the associations mentioned in (a), (b), (c) and (d) in the preceding item satisfies the following conditions:

(a) that it is not established for profit-making;

(b) that its members may freely join and withdraw;

(c) that its members are granted an equal right to vote and to be elected;

(iv) that it has sufficient ability to conduct properly the business of exercising the right to claim compensation for private recording (including the business relating to the activities mentioned in Article 104*octies*, paragraph (1); hereinafter in this Chapter referred to as “the business related to compensation”) on behalf of the owners of the right.

(Exceptional provisions for the payment of compensation for private recording)

Article 104*quater*. (1) Any purchaser of a recording machine or a recording medium which is specified by Cabinet Order in accordance with the provi-

sion of Article 30, paragraph (2) (hereinafter in this Chapter referred to as “a specified recording machine” and “a specified recording medium” respectively) (limited to the initial purchasers of such retailed recording machines or media) shall pay, at the time of the purchase and on the claim by the designated association, a lump-sum compensation for private recording the amount of which is fixed, for such recording machine and medium respectively, in accordance with the provision of Article 104*sexies*, paragraph (1).

(2) Any person who has paid such compensation may claim its repayment from the designated association, by certifying that he or she uses such a specified recording machine or medium exclusively for the purpose other than that of private recording.

(3) Notwithstanding the provision of Article 30, paragraph (2), any person who makes private recording on a specified recording medium, for which compensation has been paid, by means of a specified recording machine, for which compensation has been paid, shall not be required to pay compensation for private recording, provided that compensation has not been repaid for such a specified recording machine or medium concerned in accordance with the provision of the preceding paragraph.

(Cooperation by manufacturers and importers)

Article 104*quinquies*. When the designated association claims compensation for private recording in accordance with the provision of paragraph (1) of the preceding Article, any manufacturer or importer of specified recording machines or media shall cooperate with the designated association in claiming and receiving such compensation.

(Amount of compensation for private recording)

Article 104*sexies*. (1) Before exercising the right to claim compensation for private recording in accordance with the provision of Article 104*bis*, paragraph (1), the designated association shall fix the amount of such compensation and obtain the approval thereof from the Commissioner of the Agency for Cultural Affairs. The same shall apply when the designated association intends to change such amount.

(2) When the approval mentioned in the preceding paragraph is given, the amount of compensation for private recording shall, notwithstanding the provision of Article 30, paragraph (2), be that as approved.

(3) Before applying for such approval, the designated association shall consult with associations which are composed of manufacturers and importers of specified recording machines or media and which are deemed to represent their opinions.

(4) The Commissioner of the Agency for Cultural Affairs shall approve the amount of compensation applied for only when it is deemed appropriate by taking into account the spirit of the provisions of Article 30, paragraph (1) (including the case where its application *mutatis mutandis* is provided for under the provision of Article 102, paragraph (1)) and Article 104*quater*, paragraph (1), the ordinary rate of sound or visual recording royalty and other circumstances.

(5) Before approving the amount of compensation, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

(Rules on the conduct of the business related to compensation)

Article 104*septies*. (1) When initiating the business related to compensation, the designated association shall establish rules on the conduct of such business and report those rules to the Commissioner of the Agency for Cultural Affairs. The same shall apply when the designated association intends to amend such rules.

(2) The rules mentioned in the preceding paragraph shall include the matters relating to the distribution of compensation for private recording (limited to such compensation as paid in accordance with the provision of Article 104*quater*, paragraph (1)), and the designated association shall take into account the spirit of the provision of Article 30, paragraph (2) when establishing the rules on such matters.

(Allocation for such activities as contributing to the protection of copyright, etc.)

Article 104*octies*. (1) The designated association shall allocate an amount corresponding to the rate fixed by Cabinet Order within 20% of the compensation received (limited to such compensation as paid in accordance with the provision of Article 104*quater*, paragraph (1)) for such activities as contributing to the protection of copyright and neighboring rights as well as to the promotion of the creation and dissemination of works.

(2) When intending to draft the Cabinet Order mentioned in the preceding

paragraph or to draft its amendment, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

(3) The Commissioner of the Agency for Cultural Affairs may issue to the designated association an order necessary for supervising the business relating to the activities mentioned in paragraph (1) when it is deemed necessary for assuring an proper execution of such business.

(Request for report, etc.)

Article 104novies. The Commissioner of the Agency for Cultural Affairs may request the designated association to make a report on its business related to compensation or to submit account books, documents and other information, and may make recommendations necessary for improving the manner of conduct of the business related to compensation when it is deemed necessary for assuring the proper conduct of such business.

(Mandate to Cabinet Order)

Article 104decies. Other than those provided for in this Chapter, necessary matters with respect to the designated association and the business related to compensation shall be provided by Cabinet Order.

Chapter VI Settlement of Disputes

(Mediators for the settlement of disputes concerning copyright)

Article 105. (1) In order to settle, through mediation, disputes concerning the rights provided for in this Law, the Agency for Cultural Affairs shall provide mediators for the settlement of disputes concerning copyright (hereinafter in this Chapter referred to as “mediators”).

(2) Whenever an affair may arise, mediators not exceeding three in number shall be appointed by the Commissioner of the Agency for Cultural Affairs from among persons of learning and experience in the field of copyright or neighboring rights.

(Application for mediation)

Article 106. When a dispute may arise in connection with the rights provided for in this Law, the parties concerned may apply for mediation to the Commissioner of the Agency for Cultural Affairs.

(Application fee)

Article 107. (1) Applicants shall pay application fee, the amount of which shall be fixed by Cabinet Order, taking into account actual cost.

(2) The provision of the preceding paragraph shall not apply in the case where a person who shall pay an application fee in accordance with the provision of that paragraph is the State, etc.

(Submission to mediation)

Article 108. (1) Upon receipt of an application under the provision of Article 106 of both parties concerned or that of one party to which the other party consented, the Commissioner of the Agency for Cultural Affairs shall submit the matter to the mediators.

(2) The Commissioner of the Agency for Cultural Affairs may desist from submitting a matter to the mediators, when he deems it inappropriate in nature for submission to mediation or when he deems that the parties concerned applied for mediation for improper purposes.

(Mediation)

Article 109. (1) The mediators shall mediate between the parties concerned in order to settle the dispute in conformity with actual circumstances and in consideration of the points in dispute.

(2) The mediators may stop the mediation when they deem that the likelihood of settlement of the dispute no longer exists.

(Report, etc.)

Article 110. (1) Upon completion of the mediation, the mediators shall report thereon to the Commissioner of the Agency for Cultural Affairs.

(2) When stopping mediation, they shall inform the parties concerned thereof and indicate the reasons therefor, which shall also be reported to the Commissioner of the Agency for Cultural Affairs.

(Mandate to Cabinet Order)

Article 111. Other than those provided for in this Chapter, necessary matters in connection with procedures of mediation and mediators shall be provided by Cabinet Order.

Chapter VII Infringements

(Right of demanding cessation)

Article 112. (1) Against those who infringe or are likely to infringe moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights, the author, the performer or the owner of copyright, right of publication or neighboring rights may make a demand for cessation or prevention of such infringements.

(2) In making such demand, the author, the performer or the owner of copyright, right of publication or neighboring rights may demand to take measures necessary to effect such cessation or prevention of infringement, such as the abandonment of objects the making of which constituted an infringement, objects made by an act of infringement or implements and tools used solely for an infringement.

(Acts considered to be infringements)

Article 113. (1) The following acts shall be considered to constitute infringements on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights:

(i) the importation into this country, for distribution, of objects made by an act which would constitute an infringement on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights if they were made in this country at the time of such importation;

(ii) the distribution or the possession for distribution, or the making of an offer of distribution, or the exportation by trade or the possession for exportation by trade, of objects made by an act infringing moral rights, copyright, right of publication or neighboring rights (including those imported as mentioned in the preceding item), by a person who is aware of such infringement.

(2) An act of using on a computer, in the conduct of business, copies made by an act infringing copyright in a program work (including copies made by the owner of such copies in accordance with the provisions of Article 47ter, paragraph (1) as well as copies of a program work imported as mentioned in item (i) of the preceding paragraph and copies made by the owner of such imported copies in accordance with the provisions of Article 47ter, paragraph (1)) shall be considered to constitute an infringement on that copyright, so far

as a person using such copies is aware of such infringement at the time when he has acquired an authority to use these copies.

(3) The following acts shall be considered to constitute infringements on moral rights of authors, copyright, moral rights of performers or neighboring rights relating to rights management information concerned:

(i) the intentional addition of false information as rights management information;

(ii) the intentional removal or alteration of rights management information excluding the case where such act is conditional upon technology involved in the conversion of recording or transmission systems or other cases where it is deemed unavoidable in the light of the purpose and the manner of exploiting works or performances, etc.;

(iii) the distribution, importation for distribution or possession for distribution of copies of works or performances, etc. by a person who knows that any act mentioned in the preceding two items has been done concerning such works or performances, etc. or the public transmission or making transmittable of such works or performances, etc. by such person.

(4) For the application of the provisions of the preceding paragraph, the right to remuneration mentioned in Article 94*bis*, Article 95*ter*, paragraph (3) and Article 97*ter*, paragraph (3) and the right to secondary use fees mentioned in Article 95, paragraph (1) and Article 97, paragraph (1) shall be considered as neighboring rights. In this case, “the owners of neighboring rights” in the preceding Article shall read “the owners of neighboring rights (including the owners of the rights considered as neighboring rights in accordance with the provisions of paragraph (4) of the next Article)”, and “neighboring rights” in paragraph (1) of the preceding Article shall read “neighboring rights (including the rights considered as neighboring rights in accordance with the provisions of paragraph (4) of the next Article)”.

(5) In the case where the owner of copyright or neighboring rights, who publishes in person or makes others publish such commercial phonograms as intended to be distributed within this country (hereinafter in this paragraph referred to as “phonograms for domestic distribution”), publishes in person or makes others publish outside this country commercial phonograms which have the same contents as those of phonograms for domestic distribution and are intended to be distributed exclusively outside this country (hereinafter in this paragraph referred to as “phonograms for foreign distribution”), the

importation into this country for distribution within this country, the distribution within this country or the possession for distribution within this country of such phonograms for foreign distribution by a person who knows that such phonograms are those for foreign distribution shall be considered to constitute infringements on copyright or neighboring rights in such phonograms, so far as such distribution within this country of such phonograms for foreign distribution prejudices unreasonably the interests as expected to be gained by the owner of copyright or neighboring rights by means of the publication of such phonograms for domestic distribution; provided, however, that an exception shall be made of the importation, distribution or possession of phonograms for foreign distribution having the same contents as those of phonograms for domestic distribution which go beyond a period, by provided by Cabinet Order, within seven years from the first publication of such phonograms in this country.

(6) An act of exploitation of a work prejudicial to the honour or reputation of the author shall be considered to constitute an infringement on his moral rights.

(Exceptional provisions to the right of transfer of ownership in relation to a *bona fide* third party)

Article 113bis. When the ownership of the original or copies of works (excluding copies of cinematographic works (including copies of cinematographic works in the case of works reproduced in cinematographic works); the same shall apply hereinafter in this Article), sound or visual recordings of performances or copies of phonograms has been transferred to a person who does not know or has no negligence in not knowing that such original or copies of works, sound or visual recordings of performances or copies of phonograms do not fall within any of the items of Article 26bis, paragraph (2), Article 95bis, paragraph (3) or Article 97bis, paragraph (2), respectively, an act by such person to transfer to the public the ownership of such original or copies of works, sound or visual recordings of performances or copies of phonograms shall be considered not to constitute an infringement on the rights mentioned in Article 26bis, paragraph (1), Article 95bis, paragraph (1) or Article 97bis, paragraph (1).

(Presumption of the amount of damages)

Article 114. (1) In the case where the owner of copyright, right of publication or neighboring rights (hereinafter in this paragraph referred to as “the owner of copyright, etc.”) claims compensation for damages from a person who infringed intentionally or negligently any of these rights, if such infringer has transferred the ownership of objects made by such act of infringement or has made the public transmission (including the making transmittable in the case of the interactive transmission) constituting such infringement, the amount obtained by multiplying the number of objects so transferred or the number of copies made of works or performances, etc. as a result of reception by the public of such transmission (hereinafter in this paragraph the number of such objects or of such copies is referred to as “the number of objects, etc.” and such copies are as “reception copies”), by the amount of profits per unit from such sale of objects (including reception copies) as the owner of copyright, etc. could make if there was no such infringement, can be considered as equivalent to the amount of damages suffered by such owner, within the limits of the amount corresponding to the ability of such owner to sell such objects or do other acts relating to them.

However, if there are some circumstances under which the owner of copyright, etc. cannot sell as many number of objects as corresponding to the whole or a part of the number of objects, etc., the amount proportionate to the number corresponding to such circumstances shall be deducted.

(2) In the case where the owner of copyright, right of publication or neighboring rights claims compensation for damages from a person who has infringed intentionally or negligently any of these rights, the profits, if any, obtained by the infringer from that infringement shall be presumed to be the amount of damages suffered by such owner.

(3) The owner of copyright, the right of publication or neighboring rights may claim compensation for damages from a person who has infringed intentionally or negligently his copyright, right of publication or neighboring rights, the amount of damages suffered being that corresponding to the amount of money which would be received by them through the exercise of these rights.

(4) The provisions of the preceding paragraph shall not prejudice any claim to compensation for damages in excess of the amount mentioned therein. In this case, the court may consider the absence of any bad faith or gross negligence on the part of the infringer in fixing the amount of damages.

(Duty to clarify the actuality)

Article 114bis. In a lawsuit relating to an infringement on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights, if the other party denies the actuality of objects which the authors, the performer or the owner of copyright, right of publication or neighboring rights claims as those constituting such infringement or those made by an act of infringement, such party shall clarify the actuality of his acts, unless there are reasonable reasons for which the party cannot make such clarification.

(Submission of documents, etc.)

Article 114ter. (1) In a lawsuit relating to infringements on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights, the court may, at the request of the parties concerned, order them to submit documents necessary for the proof of acts of infringements concerned for the account of damages caused by acts of infringements concerned, provided that a possessor of such documents may refuse, with reasonable justification, to submit them.

(2) The court may make a possessor of the documents present such documents when it deems necessary for judging whether there is such reasonable justification as mentioned in the proviso to the preceding paragraph. In this case, any person may not ask for the disclosure of such documents so made available.

(3) In the case of the preceding paragraph, the court may disclose such documents to the parties concerned, etc. (“the parties concerned, etc.” means the parties concerned (in the case of a legal person, the representative), or an agent (excluding an attorney and his or her assistant), an employee or any other worker of the parties concerned; the same shall apply in Article 114sexies, paragraph (1)), an attorney or his or her assistant when it deems it necessary to consult their opinion, disclosing such documents, as to whether there is such reasonable justification as mentioned in the proviso to paragraph (1).

(4) The provisions of the preceding three paragraphs shall apply *mutatis mutandis* to the making available of such objects of inspection as necessary for the proof of acts of infringement concerned in a lawsuit relating to infringements on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights.

(Duty of the parties concerned to explain to an appraiser)

Article 114quater. When the court, in a lawsuit relating to an infringement on copyright, right of publication or neighboring rights, has ordered, at the request of the parties concerned, an appraisal as to matters necessary for the account of damages caused by acts of infringement concerned, the parties concerned shall explain to an appraiser as to matters necessary for such appraisal.

(Award of a reasonable amount of damages)

Article 114quinquies. In the case where it is found that there has been damages caused in a lawsuit relating to an infringement on copyright, right of publication or neighboring rights, if it is extremely difficult from the nature of facts concerned, to prove facts necessary for the proof of the amount of damages, the court may award a reasonable amount of damages based upon all the gist of oral proceedings and the results of the taking of evidence.

(Order to keep secrets)

Article 114sexies. (1) In a lawsuit relating to an infringement on moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights, the court may, at the request of the parties concerned and by decision, order the parties concerned, an attorney or his or her assistant that trade secrets (“trade secrets” means those provided in Article 2, paragraph (6) of the Unfair Competition Prevention Law (Law No.47, of 1993); the same shall apply hereinafter) retained by the parties concerned should not be used for purpose other than those of following that lawsuit or should not be disclosed to persons other than those to whom an order relating to such trade secrets has been issued under the provisions of this paragraph, where a *prima facie* proof has been made that such trade secrets fall within all of the following two items, except in the case where, before such request, the parties concerned, an attorney or his or her assistant had acquired or retained such trade secrets by means other than those of the perusal of preparatory documents mentioned in item (i) or the examination of evidences or the disclosure mentioned in that item:

(i) trade secrets retained by the parties concerned appear in preparatory documents already submitted or to be submitted, or such trade secrets are contained in the contents of evidences already examined or to be examined

(including such documents as disclosed under the provisions of Article 114 *ter*, paragraph (3));

(ii) the use of such trade secrets for purpose other than those of following that lawsuit or the disclosure of such trade secrets is likely to hinder business activities of the parties concerned on the basis of such trade secrets, and it is necessary to restrict such use or disclosure in order to prevent such hindrance.

(2) The request for such order under the provisions of the preceding paragraph (hereinafter referred to as “an order to keep secrets”) should be in writing stating the following matters:

(i) a person to whom an order to keep secrets is to be issued;

(ii) facts sufficient enough to specify such trade secrets as to be object of an order to keep secrets;

(iii) fact to fall within all of the two items of the preceding paragraph.

(3) In the case where an order to keep secrets has been issued, a written decision for such order must be served to a person to whom such order has been issued.

(4) An order to keep secrets shall come into effect from the time when a written decision has been served to a person to whom such order had been issued.

(5) An immediate complaint may be lodged against a court decision rejecting the request to issue an order to keep secrets.

(Annulment of an order to keep secrets)

Article 114septies. (1) Those who have requested to issue an order to keep secrets to whom such order has been issued may request the court having the records of a lawsuit (if there is no such court, the court having issued such order) to annul such order for the reason that any of the conditions mentioned in paragraph (1) of the preceding Article is lacking or has come to be lacking.

(2) In the case where there has been a court decision relating to a request for annulment of an order to keep secrets, the written decision must be served to a person who has made such request or his or her opponent party.

(3) An immediate complaint may be lodged against a court decision relating to the request for annulment of an order to keep secrets.

(4) A court decision annulling an order to keep secrets shall, if not finalized,

not take effect.

(5) When having made a decision to annul an order to keep secrets, the court must notify immediately to a person, if any, other than a person who has requested to annul such order or his or her opponent party, to whom such order has been issued in relation to such trade secrets in a lawsuit issuing such order, that a court decision has been made to annul such order.

(Notice, etc. of a demand for a perusal, etc. of the records of a lawsuit)

Article 114octies. (1) In the case where a decision mentioned in Article 92, paragraph (1) of the Civil Proceedings Law (Law No.109, of 1996) has been made with regard to the records of a lawsuit as to which an order to keep secrets has been issued (excluding a lawsuit as to which all the orders to keep secrets have been annulled), a clerk of the court must, if the parties concerned have made a demand for a perusal, etc. of the parts in which appear the secrets provided in that paragraph and if a person who has made such demand is not a person to whom an order to keep secrets has been issued in a lawsuit concerned, give a notice of such demand immediately after that demand to the parties concerned who have made a request mentioned in that paragraph (excluding a person who has made such demand; the same shall apply in paragraph (3)).

(2) In the case of the preceding paragraph, a clerk of the court may not allow a person having made such demand to make a perusal, etc. of parts in which appear the secrets provided in that paragraph, for a period in which two weeks have passed after the day of that demand (in the case where a request for an order to keep secrets to be issued to a person having made such demand has been made before that day, for a period until a court decision has been finalized as to that request.

(3) The provisions of the preceding two paragraphs shall not apply in the case where there is a consent of all the parties concerned who have made a request mentioned in Article 92, paragraph (1) of the Civil Proceedings Law for a perusal, etc., to a person having made a demand mentioned in paragraph (1), of the parts in which appear the secrets provided in that paragraph.

(Measures for recovery of honour, etc.)

Article 115. The author or the performer may demand the person who has infringed his moral rights intentionally or negligently to take measures neces-

sary to identify him as the author or the performer, to correct distortions, mutilations, or modifications or to recover his honour or reputation either in place of or together with indemnification of damages.

(Measures to protect the moral interests after the author's or the performer's death)

Article 116. (1) After the death of the author or the performer, his bereaved family ("bereaved family" means surviving spouse, children, parents, grandchildren, grandparents, brothers or sisters of the dead author or performer; the same shall apply hereinafter in this Article) may make a demand mentioned in Article 112 of a person who violates or is likely to violate the provision of Article 60 or Article 101*ter* with respect to the author or the performer concerned, or a demand mentioned in the preceding Article of a person who has infringed moral rights of authors or performers intentionally or negligently or who has violated the provision of Article 60 or Article 101*ter*.

(2) Unless otherwise determined by the will of the author or the performer, a demand by the bereaved family mentioned in the preceding paragraph may be made in the order of the enumeration of the bereaved family in that paragraph.

(3) The author or the performer may appoint by will a person who acts for the bereaved family. In this case, the appointed person may not make a demand after the expiration of a period of fifty years from the year following the date of the author's or performer's death or, if any bereaved family still survive at the time of such expiration, after the death of all the bereaved family.

(Infringement with respect to a joint work, etc.)

Article 117. (1) Each co-author of, or each co-owner of the copyright in, a joint work shall be entitled to make, without the consent of the other co-authors or co-owners of the copyright, a demand mentioned in Article 112 or a demand for compensation for damages to his share or a demand for the surrender of unjust enrichment corresponding to his share.

(2) The provision of the preceding paragraph shall apply *mutatis mutandis* to an infringement on copyright or neighboring rights in co-ownership.

(Safeguard of rights in anonymous or pseudonymous works)

Article 118. (1) The publisher of an anonymous or pseudonymous work shall be entitled to make, in his own name and in favour of the author or the copyright owner of the work, a demand mentioned in Article 112, or Article 115 or Article 116, paragraph (1) or a demand for compensation or the surrender of unjust enrichment, provided that the pseudonym is not generally known as that of the author and that the true name of the author is not registered under the provision of Article 75, paragraph (1).

(2) A person whose true name or generally known pseudonym is indicated as the name of the publisher in the customary manner on copies of an anonymous or pseudonymous work shall be presumed to be the publisher of that work.

Chapter VIII Penal Provisions

Article 119. (1) Any person who infringes copyright, right of publication or neighboring rights (excluding those who reproduce by themselves works or performances, etc. for the purpose of private use mentioned in Article 30, paragraph (1) (including the case where its application *mutatis mutandis* is provided for in Article 102, paragraph (1); the same shall apply in paragraph (3)), those who do an act considered to constitute an infringement on copyright or neighboring rights (including the rights considered as neighboring rights under the provisions of Article 113, paragraph (4); the same shall apply in Article 120*bis*, item (iii)) under the provisions of Article 113, paragraph (3), those who do an act considered to constitute an infringement on copyright or neighboring rights under the provisions of Article 113, paragraph (5) and those who are mentioned in item (iii) or (iv) of the next paragraph) shall be punishable by imprisonment for a term not exceeding ten years or a fine not exceeding ten million Yen, or both.

(2) The following shall be punishable by imprisonment for a term not exceeding five years or a fine not exceeding five million Yen, or both:

(i) any person who infringes moral rights of authors or moral rights of performers (excluding those who do an act considered to constitute an infringement on moral rights of authors or moral rights of performers under the provisions of Article 113, paragraph (3));

(ii) any person who, for profit-making purposes, causes others to use

automatic reproducing machines mentioned in Article 30, paragraph (1), item (i) for such reproduction of works or performances, etc. as constitutes an infringement on copyright, right of publication or neighboring rights;

(iii) any person who does an act considered to constitute an infringement on copyright, right of publication or neighboring rights under the provisions of Article 113, paragraph (1);

(iv) any person who does an act considered to constitute an infringement on copyright under the provisions of Article 113, paragraph (2).

(3) Any person who infringes copyright or neighboring rights by knowingly making a digital sound or visual recording by himself, for the purpose of a private use mentioned in Article 30, paragraph (1), upon reception of an interactive transmission which infringes copyright or neighboring rights (including such transmission which is made outside this country and which would constitute an infringement on copyright or neighboring rights if it was made in this country) of an onerous work, etc. (“an onerous work, etc.” means a recorded work or performance, etc. (which is the subject matter of copyright or neighboring rights) which is onerously offered to or made available to the public (only in the case where such offering to or making available to the public does not infringe copyright or neighboring rights) shall be punishable by imprisonment for a term not exceeding two years or a fine not exceeding two million Yen, or both.

Article 120. Any person who violates the provision of Article 60 or Article 101*ter* shall be punishable by a fine not exceeding five million yen.

Article 120*bis*. The following shall be punishable by imprisonment for a term not exceeding three year or a fine not exceeding three million Yen, or both:

(i) any person who transfers to the public the ownership of, or lends to the public, manufactures, imports or possesses for transfer of ownership or lending to the public, or offers for the use by the public, a device having a function for the circumvention of technological protection measures (such a device includes such a set of parts of a device as can be easily assembled) or copies of a program having a function for circumvention of technological protection measures, or transmits publicly or makes transmittable such program (such making transmittable is limited to that made for offering to

use for the purpose of enabling an act of infringing copyright, etc. by means of a circumvention of technological protection measures, in the case where such device or program has also another function);

(ii) any person who, as a business, circumvents technological protection measures in response to a request from the public;

(iii) any person who, for profit-making purposes, does an act considered to constitute an infringement on moral rights of authors, copyright, moral rights of performers or neighboring rights under the provisions of Article 113, paragraph (3);

(iv) any person who, for profit-making purposes, does an act considered to constitute an infringement on copyright or neighboring rights under the provisions of Article 113, paragraph (5).

Article 121. Any person who distributes copies of works on which the true name or generally known pseudonym of a non-author is indicated as the name of the author (including copies of derivative works on which the true name or generally known pseudonym of a non-author of the original work is indicated as the name of the original author) shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding one million Yen, or both:

Article 121bis. Any person who makes, distributes, possesses for distribution or makes an offer to distribute copies of commercial phonograms reproduced from any of the following commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding one million Yen, or both: provided that such making, distribution, possession or making an offer of distribution of copies is made within a period of fifty years from the year following the date of the first fixation of sounds on matrices of phonograms:

(i) commercial phonograms which have been manufactured, by those engaging in the business of manufacturing commercial phonograms in this country, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms;

(ii) commercial phonograms which have been manufactured, by those engaging in the business of manufacturing commercial phonograms outside

this country, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms who are nationals of any of the Contracting States of the Convention for the Protection of Performers, etc., the members of the World Trade Organization or the Contracting States of the Phonograms Convention (“nationals” includes legal persons established under the law of such State or member and those who have their principal offices in such State or member).

Article 122. Any person who violates the provisions of Article 48 or Article 102, paragraph (2) shall be punishable by a fine not exceeding five hundred thousand Yen.

Article 122bis. (1) Any person who violates an order to keep secrets shall be punishable by imprisonment for a term not exceeding five years or a fine not exceeding five million Yen, or both.

(2) The offences under the preceding paragraph shall also apply to any person who has committed offences under that paragraph outside this country.

Article 123. (1) In the case of offences under Article 119, Article 120*bis*, items (iii) and (iv), Article 121*bis* and paragraph (1) of the preceding Article, the prosecution shall take place only upon the complaint of the injured person.

(2) A publisher of an anonymous or a pseudonymous work may lodge a complaint with respect to such work published by him, except in the cases where the proviso to Article 118, paragraph (1) is applicable and where the complaint is contrary to the express will of the author.

Article 124. (1) Where a representative of a legal person (including an administrator of a non-juridical association or foundation) or an agent, an employee or any other worker of a legal person or a person violates the provisions mentioned in any of the following items in connection with the business of such legal person or such person, a fine under any of these items shall be imposed upon such legal person, and a fine under any of the Articles mentioned in item (ii) shall be imposed upon such person, in addition to the punishment of the offender:

(i) Article 119, paragraph (1) or paragraph (2), item (iii) or (iv) or Article 122*bis*, paragraph (1) : a fine not exceeding three hundred million Yen;

(ii) Article 119, item paragraph (2), item (i) or (ii) or Article 120 to 122: a fine under any of these Articles.

(2) In the case where the provision of the preceding paragraph applies to a non-juridical association or foundation, its representative or administrator shall represent such association or foundation with regard to proceedings, and the provisions of the Code of Criminal Procedure which are applicable when a legal person is the accused or the suspect shall apply *mutatis mutandis*.

(3) In the case of paragraph (1), a complaint lodged against an offender or the withdrawal of such complaint shall be effective also with respect to the legal person or the person concerned, and a complaint lodged against a legal person or a person or the withdrawal of such complaint shall be effective also with respect to the offender concerned.

(4) The period of prescription in the case where a fine is to be imposed on a legal person or a person who, under the provisions of paragraph (1) of this Article, has violated the provisions of Article 119, paragraph (1) or (2) or Article 122*bis*, paragraph (1), shall be that for offenses under these provisions.

Supplementary Provisions (Extract)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 1971.

(Transitory measures: the scope of application)

Article 2. (1) The provisions relating to copyright of the revised Copyright Law (hereinafter referred to as “the new Law”) shall not apply to works in which copyright under the Copyright Law before amendment (hereinafter referred to as “the old Law”) have all expired at the time of coming into force of this Law.

(2) With respect to works in which copyright under the old Law have partly expired at the time of coming into force of this Law, the provisions in the new Law concerned with the expired parts shall not apply.

(3) Notwithstanding the provisions of Articles 7 and 8 of the new Law, the provisions relating to neighboring rights of the Copyright Law (including the provisions of Articles 94*bis* and 95, Article 95*ter*, paragraphs (3) and (4), Article 97 and Article 97*ter*, paragraphs (3) to (5)) shall apply to performances which took place before the enforcement of this Law (excluding those falling

within any of the items of Article 7 of the new Law) or to phonograms composed of the sounds which were first fixed before the enforcement of this Law (excluding those falling within any of the items of Article 8 of the new Law), being performances or phonograms in which copyright under the old Law subsists at the time of coming into force of this Law.

(Transitory measures: translations, etc. made by the State, etc.)

Article 3. With respect to works which fall within Article 13, item (iv) of the new Law and on which the right of publication under the old Law is established at the time of the enforcement of this Law, the provision of that item shall not apply only within the duration of that right.

(Transitory measures: the author of a work made under the name of a legal person, etc.)

Article 4. The provisions of Articles 15 and 16 of the new Law shall not apply to works created before the enforcement of this Law.

(Transitory measures: lending of books, etc.)

Article 4bis. Deleted.

(Transitory measures: the ownership of copyright in cinematographic works, etc.)

Article 5. (1) The provisions of the old Law shall still apply to the ownership of copyright in cinematographic works, mentioned in Article 29 of the new Law, which were created before the enforcement of this Law.

(2) The provisions of the new Law shall not prejudice the effect of the provisions of Article 24 or 25 of the old Law on the ownership of copyright in photographic works included in other works before the enforcement of this Law and on the ownership of copyright in portrait photographs created on commission before the enforcement of this Law.

(Transitory measures: automatic reproducing machines)

Article 5bis. For the application of the provisions of Article 30, paragraph (1), item (i) and Article 119, paragraph (2), item (ii) of the Copyright Law, the words “automatic reproducing machines” mentioned in these provisions shall not include for the time being those exclusively for use in copying writings or

printings.

(Transitory measures: artistic works placed in an open place)

Article 6. The owner of copyright in an artistic work permanently placed in such an open place as mentioned in Article 45, paragraph (2) of the new Law at the time of the enforcement of this Law, shall be considered to have authorized the exhibition of that work by placing its original in an open place.

(Transitory measures: term of protection)

Article 7. The provisions of the old Law shall still apply to the duration of copyright in works made public before the enforcement of this Law, provided that the duration under the old Law is longer than that provided in the provisions of Section 4 of Chapter II of the new Law.

(Transitory measures: duration of the right of translation)

Article 8. The provisions of Articles 7 and 9 of the old Law shall still be effective with respect to works published before the enforcement of this Law.

(Transitory measures: disposal of copyright)

Article 9. The transfer and other disposal, made before the enforcement of this Law, of copyright under the old Law shall be considered made under the new Law, except those falling within the provision of Article 15, paragraph (1) of the Supplementary Provisions.

(Transitory measures: joint works)

Article 10. (1) The provisions of Article 13, paragraphs (1) and (3) of the old Law shall still be effective with respect to works created before the enforcement of this Law by two or more persons in which the contribution of each person can be separately exploited.

(2) For the application of the provisions of Article 51, paragraph (2) and Article 52, paragraph (1) of the new Law, works mentioned in the preceding paragraph shall be considered to constitute joint works.

(Transitory measures: exploitation of works under compulsory license)

Article 11. (1) The provision of Article 69 of the new Law shall not apply to the making of sound recordings of musical works incorporated in commer-

cial phonograms which were put on sale in this country before the enforcement of this Law.

(2) The person who would be entitled to exploit works in accordance with the provision of Article 22*quinquies*, paragraph (2) or Article 27, paragraph (1) or (2) of the old Law shall be entitled to continue to exploit these works in accordance with such provision.

(3) The amount of compensation fixed by the Commissioner of the Agency for Cultural Affairs in accordance with the provision of Article 22*quinquies*, paragraph (2) or Article 27, paragraph (2) of the old Law shall be considered as that fixed in accordance with the provision of Article 68, paragraph (1) or Article 67, paragraph (1) of the new Law, and the provisions of Articles 72 and 73 of the new Law shall apply.

(4) In the preceding paragraph, where the parties concerned who are dissatisfied with the amount of compensation learn of the issuance of a license before the enforcement of this Law, a period mentioned in Article 72, paragraph (1) of the new Law shall be calculated from the date of enforcement of this Law.

(Transitory measures: registrations)

Article 12. (1) The disposal of and procedures for registrations of copyright, of the true name or of the date of first publication mentioned in Article 15 of the old Law, made before the enforcement of this Law, shall be considered as those mentioned in Articles 75 to 77 of the new Law, except those falling within the provision of Article 15, paragraph (3) of the Supplementary Provisions.

(2) The provisions of Article 35, paragraph (5) of the old Law shall still be effective with respect to works, the date of first publication of which, at the time of the enforcement of this Law, is registered in accordance with the provision of Article 15, paragraph (3) of the old Law.

(Transitory measures: right of publication)

Article 13. (1) The right of publication under the old Law which was established before the enforcement of this Law and which subsists at the time of enforcement of this Law shall be considered to be established under the new Law.

(2) The disposal of and procedures for registrations of the right of publica-

tion mentioned in Article 28*decies* of the old Law, made before the enforcement of this Law, shall be considered as those mentioned in Article 88 of the new Law.

(3) Notwithstanding the provisions of Articles 80 to 85 of the new Law, the provisions of Articles 28*ter* to 28*octies* of the old Law shall still be effective with respect to the right of publication mentioned in paragraph (1) of this Article.

(Transitory measures: public performances by the use of sound recordings)

Article 14. Deleted.

(Transitory measures: neighboring rights)

Article 15. (1) The transfer and other disposal, made before the enforcement of this Law, of copyright under the old Law in performances which took place before the enforcement of this Law or in phonograms composed of the sounds which were first fixed before the enforcement of this Law, being performances or phonograms to which the provisions relating to neighboring rights of the new Law shall apply as from the date of enforcement of this Law, shall be considered as the transfer and other disposal of neighboring rights in such performances or phonograms under the new Law.

(2) Where the duration of neighboring rights in performances or phonograms, mentioned in the preceding paragraph, in which copyright under the old Law subsists at the time of coming into force of this Law is to expire after the end of a period provided in Article 101 of the new Law, the duration of neighboring rights in such performances or phonograms shall, notwithstanding the provisions of that Article, expire at the end of the duration of copyright in such performances or phonograms or under the old Law or at the end of a period of fifty years following the date of enforcement of this Law if the duration of copyright in such performances or phonograms under the old Law is to expire after the end of that period.

(3) The disposal of and procedures for registrations of copyright in performances or phonograms, mentioned in paragraph (1) of this Article, made before the enforcement of this Law in accordance with the provision of Article 15, paragraph (1) of the old Law, shall be considered made in accordance with the provision of Article 104 of the new Law.

(4) The provisions of Article 10, paragraph (1) and Article 12, paragraph (2) of the Supplementary Provisions shall apply *mutatis mutandis* to performances and phonograms mentioned in paragraph (1) of this Article.

(Transitory measures: distribution, etc. of copies)

Article 16. Copies of works, performances or phonograms which were made before the enforcement of this Law and which would be lawful under the provisions of Subsection 5 of Section 3 of Chapter II of this Law (including the case where their application *mutatis mutandis* is provided for under Article 102, paragraph (1) of the new Law) may be used or distributed to the extent of the purpose of the reproduction as mentioned in these provisions. In this case, the provision of Article 113, paragraph (1), item (ii) of the new Law shall not apply.

(Transitory measures: infringements)

Article 17. Notwithstanding the provisions of Article 14 and Chapter VII of the new Law, the provisions of Articles 12, 28*undecies*, 29, 33 and 34, Article 35, paragraphs (1) to (4), and Articles 36 and 36*bis* of the old Law shall still apply to acts, made before the enforcement of this Law, which violate the provision of Article 18, paragraph (1) or (2) of the old Law or which fall within the infringements provided for in Chapter III of the old Law (including acts infringing the right of publication).

(Transitory measures: penal provisions)

Article 18. The penal provisions of the old Law shall still apply to acts made before the enforcement of this Law.

Supplementary Provisions

(Law No.49, of 1978)

(Date of enforcement)

1. This Law shall come into force as from the day on which the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms becomes effective with respect to Japan. [This Law came into force on October 14, 1978.]

(Transitory measures)

2. The provisions relating to neighboring rights of the amended Copyright Law shall not apply to the phonograms, mentioned in Article 8, item (vi) of the Copyright Law, which are composed of the sounds first fixed before the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.45, of 1981)

(Date of enforcement)

1. This Law shall come into force on the date of its promulgation. [This Law came into force on May 19, 1981.]

Supplementary Provisions (Extract)

(Law No.78, of 1983)

1. This Law (except Article 1) shall come into force on July 1, 1984.

Supplementary Provisions (Extract)

(Law No.23, of 1984)

(Date of enforcement)

1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on May 21, 1984.]

Supplementary Provisions

(Law No.46, of 1984)

(Date of enforcement)

1. This Law shall come into force on January 1, 1985.

(Repeal of the Interim Measure Law)

2. The Law to Take an Interim Measure for the Protection of the Rights of Authors, etc. with Respect to the Lending of Commercial Phonograms to the Public (Law No.76, of 1983; hereinafter referred to as “the Interim Measure Law”) shall be hereby repealed.

(Transitory measures required by the repeal of the Interim Measure Law)

3. Notwithstanding the provisions of Articles 26*ter*, 95*ter* and 97*ter* of the amended Copyright Law, those who have obtained authorization with respect to the lending to the public of commercial phonograms in accordance with the provisions of the Interim Measure Law before the enforcement of this Law may offer to the public such works, performances and phonograms as reproduced in such commercial phonograms by lending such commercial phonograms, within the scope of conditions of that authorization.

4. The provisions of the Interim Measure Law (including a Cabinet Order under it) shall still be effective with respect to acts made before the enforcement of this Law in violation of the provision of Article 4, paragraph (1) of the Interim Measure Law.

Supplementary Provisions (Extract)

(Law No.62, of 1985)

(Date of enforcement)

1. This Law shall come into force on January 1, 1986. However, the provision for amendment to insert Article 76*bis* next to Article 76 and the amended provision of Article 78, paragraph (1) as well as the provision of paragraph 6 of the Supplementary Provisions shall come into force on the date of enforcement of the law mentioned in Article 78*bis* of the amended Copyright Law [on April 1, 1987].

(Transitory measures: works made by an employee in the course of his duties)

2. The provisions of Article 15 of the amended Copyright Law shall still apply to works created after the enforcement of this Law, and the provision of Article 15 of the Copyright Law before amendment shall still apply to works created before the enforcement of this Law.

(Transitory measures: registration of the date of creation)

3. The provisions of the proviso to Article 76*bis*, paragraph (1) shall not apply to the registration, made under the provision of the same paragraph, of program works created within six months before the date of enforcement of the law referred to in Article 78*bis* of the amended Copyright Law, until the

lapse of three months from that date of enforcement.

(Transitory measures: use of copies of program works)

4. The provisions of Article 113, paragraph (2) of the amended Copyright Law shall not apply to copies of a program work which were made before the enforcement of this Law and which would be lawful and could be preserved under the provisions of Article 47*bis* of the amended Copyright Law.

(Transitory measures: penal provisions)

5. The penal provisions of the Copyright Law before amendment shall still apply to acts made before the enforcement of this Law.

Supplementary Provisions

(Law No.64, of 1986)

(Date of enforcement)

1. This Law shall come into force on January 1, 1987.

(Transitory measures: ownership of copyright in cinematographic works made for wire diffusion purposes)

2. The provisions of Article 29 of the Copyright Law before amendment shall still apply to the ownership of copyright in cinematographic works, mentioned in Article 29, paragraph (3) of the amended Copyright Law, which were created before the enforcement of this Law.

(Transitory measures: neighboring rights of wire diffusion organizations and performers)

3. The provisions of the Copyright Law relating to neighboring rights of wire diffusion organizations and performers (including the provisions of Article 95 and Article 95*ter*, paragraphs (3) and (4)) shall not apply to wire diffusions which took place before the enforcement of this Law nor to performances transmitted through such wire diffusions (excluding such performances as fall within items (i) to (iii) of Article 7 of the Copyright Law).

(Transitory measures: penal provisions)

4. The penal provisions of the Copyright Law before amendment shall still

apply to acts made before the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.65, of 1986)

(Date of enforcement)

1. This Law shall come into force on April 1, 1987.

Supplementary Provisions

(Law No.87, of 1988)

(Date of enforcement)

1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on November 21, 1988.]

(Transitory measures)

2. The provisions of Article 121, item (ii) of the amended Copyright Law shall not apply to the following acts made after the enforcement of this Law:

(i) the making or the distribution of copies of commercial phonograms reproduced from commercial phonograms which have been manufactured, by those engaging in the business of manufacturing commercial phonograms in this country, from matrices of phonograms (except those phonograms falling within any of the three items of Article 8) offered by producers of phonograms (in the next item, referred to as "commercial phonograms which have been manufactured from matrices coming from certain foreign countries") and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices (in the next item, referred to as "a prohibition period before amendment") have passed before the enforcement of this Law;

(ii) the distribution of copies, made before a prohibition period before amendment has passed, of commercial phonograms which have been manufactured from matrices coming from certain foreign countries and in relation to which a prohibition period before amendment has passed before the enforcement of this Law.

Supplementary Provisions

(Law No.43, of 1989)

(Date of enforcement)

1. This Law shall come into force as from the day on which the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations becomes effective with respect to Japan. [This Law came into force on October 26, 1989.]

(Transitory measures: performances, etc. to which Japan has the obligation to grant protection under a treaty)

2. The provisions relating to neighboring rights (including the provisions of Articles 95 and 97) of the amended Copyright Law (hereinafter referred to as “the new Law”) shall not apply to the following:

(i) performances, mentioned in Article 7, item (v) of the new Law, which took place before the enforcement of this Law;

(ii) phonograms, mentioned in Article 8, item (iii) of the new Law, which are composed of the sounds first fixed before the enforcement of this Law (excluding those phonograms as referred to in the next paragraph);

(iii) broadcasts, mentioned in Article 9, item (iii) of the new Law, which took place before the enforcement of this Law.

3. The Copyright Law before amendment shall still apply to phonograms, mentioned in Article 8, item (iii) of the new Law, which are composed of the sounds first fixed before the enforcement of this Law and to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

(Transitory measures: foreign performers who did not have habitual residence in this country)

4. The provisions relating to neighboring rights (including the provisions of Article 95 and Article 95*ter*, paragraphs (3) and (4)) of the Copyright Law shall not apply to foreign performers whose performances took place before the enforcement of this Law and who did not have habitual residence in this country at the time when their performances took place, provided that their performances do not fall within those which took place before the enforcement of the

Copyright Law and in which copyright under the old Copyright Law (Law No.39, of 1899) subsists at the time of coming into force of the Copyright Law.

Supplementary Provisions

(Law No.63, of 1991)

(Date of enforcement)

1. This Law shall come into force on January 1, 1992.

(Transitory measures)

2. The provisions of Article 95*ter* of the Copyright Law shall not apply to performances, mentioned in Article 7, item (v) of the Copyright Law, which took place before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 43, of 1989; in the next paragraph, item (ii) referred to as “the Amendments Law of 1989”).

3. The provisions of Article 97*ter* of the Copyright Law shall not apply to the following phonograms:

(i) phonograms (excluding those mentioned in Article 8, item (i) or (ii) of the Copyright Law) to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (in the next item and paragraph 5, item (iii) of the Supplementary Provisions, referred to as “the Phonograms Convention”) and which are composed of the sounds first fixed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 49, of 1978);

(ii) phonograms, mentioned in Article 8, item (iii) of the Copyright Law (excluding those to which Japan has the obligation to grant protection under the Phonograms Convention), which are composed of the sounds first fixed before the enforcement of the Amendments Law of 1989.

4. The provisions before amendment of Article 95*ter*, paragraph (2) shall still apply to the starting date of calculating a period for commercial phonograms going beyond the period, mentioned in Article 95*ter*, paragraph (2), with respect to the right of performers and producers of phonograms to offer to the public, by means of lending, their commercial phonograms first sold before the enforcement of this Law, provided that such commercial phonograms are those in which performances mentioned in Article 7, items (i) to (iv)

or phonograms mentioned in Article 8, item (i) or (ii) are incorporated.

5. The amended provisions of Article 121*bis* shall not apply to any of the following acts made after the enforcement of this Law:

(i) the making, the distribution or the possession for distribution, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms in this country, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms (in the next item, referred to as “commercial phonograms manufactured from matrices coming from certain foreign countries”) and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices (in the next item, referred to as “a prohibition period of twenty years”) have passed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 87, of 1988; in the next item and item (iii), referred to as “the Amendments Law of 1988”);

(ii) the distribution or the possession for distribution of commercial phonograms which are reproduced, within a prohibition period of twenty years, from commercial phonograms manufactured from matrices coming from certain foreign countries and in relation to which a prohibition period of twenty years have passed before the enforcement of the Amendments Law of 1988;

(iii) the making, the distribution or the possession for distribution, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms outside the jurisdiction of the Copyright Law, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms who are nationals of any of the Contracting States of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Phonograms Convention (“nationals” includes legal persons established under the law of such State and those who have their principal offices in such State) and in relation to which twenty years from the year following the date of the

first fixation of sounds on the matrices have passed before the enforcement of the Amendments Law of 1988.

6. The penal provisions before amendment shall apply to acts made before the enforcement of this Law.

Supplementary Provisions

(Law No.106, of 1992)

(Date of enforcement)

1. This Law shall come into force on the date fixed by Cabinet Order within six months from the date of its promulgation. However, the provision amending the Table of Contents, the provision renumbering Chapter VII as Chapter VIII, Chapter VI as Chapter VII, and Chapter V as Chapter VI and inserting the new Chapter V next to Chapter VI (except the parts relating to Article 104*quater*, Article 104*quinquies* and Article 104*octies*, paragraphs (1) and (3)) and the provision amending Article 17 of the Supplementary Provisions shall come into force on the date of promulgation of this Law [on June 1, 1993].

(Transitory measures)

2. The provisions of the amended Copyright Law shall not apply to such private sound or visual recording as made on a specified recording medium purchased (the word “purchased” means “initially purchased after retail”; the same shall apply hereinafter) before the date of enforcement of this Law (hereinafter referred to as “the date of enforcement”) by means of a specified recording machine purchased before the date of enforcement.

3. When private recording is made on a specified recording medium purchased after the date of enforcement by means of a specified recording machine purchased before the date of enforcement, compensation for private recording shall be considered to have been paid with respect to such recording machine in accordance with the provision of Article 104*quater*, paragraph (1) of the amended Copyright Law. The same shall apply to a specified recording medium, purchased before the date of enforcement, on which private recording is made by means of a specified recording machine purchased after the date of enforcement.

Supplementary Provisions (Extract)

(Law No.89, of 1993)

(Date of enforcement)

Article 1. This Law shall come into force as from the date of enforcement of the Administrative Procedures Law (Law No.88, of 1993). [This Law came into force on October 1, 1994.]

Supplementary Provisions

(Law No.112, of 1994)

(Date of enforcement)

1. This Law shall come into force on the date fixed by Cabinet Order within one year from the day following the day on which the Marrakesh Agreement Establishing the World Trade Organization becomes effective with respect to Japan. [This Law came into force on January 1, 1996.]

(Application of the provisions relating to neighboring rights)

2. The provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986), paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; hereinafter referred to as “the Amendments Law of 1989”) and paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.63, of 1991; in paragraph 4 of the Supplementary Provisions of this Law referred to as “the Amendments Law of 1991”) shall not apply, in case of the application of the provisions relating to neighboring rights of the Copyright Law (including the provisions of Article 95^{ter}, paragraphs (3) and (4)) to the performances mentioned in Article 7, item (iv) of the Copyright Law amended by the provisions of Article 1 of this Law (hereinafter referred to as “the new Law”) (excluding those falling within the performances mentioned in Article 7, items (i) to (iii)) which fall within the following performances, or to the performances mentioned in Article 7, item (v) of the new Law which fall within the following performances:

(i) performances which took place in a member of the World Trade Organization;

(ii) performances fixed in the following phonograms:

(a) phonograms the producers of which are nationals of any of the members of the World Trade Organization (“nationals” includes legal persons established under the law of such member and those who have their principal offices in such member; the same shall apply hereinafter);

(b) phonograms composed of the sounds which were first fixed in any of the members of the World Trade Organization;

(iii) performances transmitted through the following broadcasts, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned:

(a) broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the World Trade Organization;

(b) broadcasts transmitted from transmitters situated in any of the members of the World Trade Organization.

3. The provisions of paragraph 4 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the Copyright Law (including the provisions of Article 95*ter*, paragraphs (3) and (4)) to foreign performers whose performances are mentioned in the preceding paragraph, items (i) to (iii) and who did not have habitual residence in this country at the time when their performances took place. The Provisions of paragraph

4. The Provisions of paragraphs 2 and 3 of the Supplementary Provisions of the Amendments Law of 1989, and paragraph 3 of the Supplementary Provisions of the Amendments Law of 1991 shall not apply, in case of the application of the provisions relating to neighboring rights of the Copyright Law (including the provisions of Article 97*ter*, paragraphs (3) to (5)) to the following phonograms:

(i) phonograms, mentioned in Article 8, item (iii) of the new Law, which fall within the following phonograms:

(a) phonograms the producers of which are nationals of any of the members of the World Trade Organization;

(b) phonograms composed of the sound which were first fixed in any of the members of the World Trade Organization;

(ii) phonograms, mentioned in Article 8, item (v) of the Copyright Law, to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplica-

tion of Their Phonograms (in paragraph 6 of the Supplementary Provisions of this Law, referred to as “the Phonograms Convention”).

5. The Provisions of paragraph 2 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law to the broadcasts, mentioned in the Article 9, item (iii) of the new Law, which fall within the following broadcasts:

(i) broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the World Trade Organization;

(ii) broadcasts transmitted from transmitters situated in any of the members of the World Trade Organization.

(Transitory measures: the making, etc. of copies of commercial phonograms manufactured from matrices coming from foreign countries)

6. The provisions of the Article 121*bis* of the new Law shall not apply to the making, the distribution or the possession for distribution, act made after the enforcement of this Law, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms outside the jurisdiction of the Copyright Law, from matrices of phonograms (except those phonograms falling within any of the five items of Article 8 of the new Law) offered by producers of phonograms who are nationals of any of the members of the World Trade Organization (except nationals of any of the Contraction States of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Phonograms Convention (“nationals” includes legal persons established under the law of such State and those who have their principal offices in such State)) and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices have passed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No.87, of 1988).

Supplementary Provisions (Extract)

(Law No.91, of 1995)

(Date of enforcement)

Article 1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on June 1, 1995.]

Supplementary Provisions

(Law No.117, of 1996)

(Date of enforcement)

1. This Law shall come into force on the date fixed by Cabinet Order within three months from the date of its promulgation. [This Law came into force on March 25, 1997.]

(Transitory measures: term of protection for photographic works)

2. The provisions relating to the term of protection for works of the amended Copyright Law (in next paragraph, referred to as “the new Law”) shall apply to photographic works in which copyright under the Copyright Law before amendment subsists at the time of coming into force of this Law, and the provisions relating to the term of protection for works of the copyright Law before amendment shall still apply to photographic works in which copyright under the Copyright Law before amendment has expired at the time of coming into force of this Law.

3. Where the duration of copyright, in photographic works created before the enforcement of this Law, under the provisions relating to the term of protection for works of the Copyright Law before amendment (hereinafter referred to as “the old Law”) is to expire after the end of the duration of copyright under the new Law, the duration of copyright in such photographic words shall, notwithstanding the provisions of the new Law, expire at the end of the duration of copyright under the old Law.

Supplementary Provisions

(Law No.86, of 1997)

(Date of enforcement)

1. This Law shall come into force on January 1, 1998.

(Transitory measures: works, etc. in a state that the interactive transmission thereof can be made)

2. The provisions of Article 23, paragraph (1), Article 92*bis*, paragraph (1) or Article 96*bis* of the revised Copyright Law (hereinafter referred to as “the new Law”) shall not apply to the making transmittable, by means of an interactive transmission server mentioned in Article 2, paragraph (1), item (*ixqui-nquies*) of the new Law, of such works, performances (only those mentioned in Article 92, paragraph (2), item (ii) of the Copyright Law before amendment (hereinafter referred to as “the old Law”); the same shall apply hereinafter in this paragraph) or phonograms as have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by a person who has made transmittable such works, performances or phonograms through such interactive transmission or, if such a person is different from a person who, by means of such interactive transmission server for such making transmittable of such works, performances or phonograms, has put such works, performances or phonograms in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by the latter.

3. The provisions of Article 92, paragraph (1) of the old Law shall still be effective, even after the enforcement of this Law, with respect to performances (other than those mentioned in Article 92, paragraph (2), item (ii)) which have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law.

(Transitory measures: penal provisions)

4. The penal provisions of the old Law shall still apply to acts made before the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.101, of 1998)

(Date of enforcement)

Article 1. This Law shall come into force on April 1, 1999.

Supplementary Provisions (Extract)

(Law No.43, of 1999)

(Date of enforcement)

Article 1. This Law shall come into force as from the date of enforcement of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.42, of 1999; hereinafter referred to as “the Information Disclosure Law”).[This Law came into force on April 1, 2001.]

(Transitory measures required by partial amendments to the Copyright Law)

Article 2. The Provisions of Article 18, paragraph (3) of the Copyright Law amended by the provisions of Article 11 shall not apply to works which have not yet been made public (including works which have been made public without consent of the authors) and which the authors have offered, before the enforcement of this Law, to government organizations or local public entities mentioned in the provisions of Article 2, paragraph (1) of the Information Disclosure Law.

Supplementary Provisions (Extract)

(Law No.77, of 1999)

(Date of enforcement)

1. This Law shall come into force on January 1, 2000. However, the amended provisions inserting the new items (xx) and (xxi) next to item (xix) of Article 2, paragraph (1), the amended provisions of Article 30, paragraph (1), the amended provisions of Article 113, the amended provisions of Article 119, the amended provisions inserting the new Article 120*bis* next to Article 120, the amended provisions of Article 123, paragraph (1), the amended provisions of Article 5*bis* of the Supplementary Provisions [Law No.49, of 1970] and the

provisions of paragraph 5 of the Supplementary Provisions [Law No.77, of 1999] shall come into force on October 1, 1999.

(Transitory measures)

2. The provisions of Article 26*bis*, paragraph (1), Article 95*bis*, paragraph (1) and Article 97*bis*, paragraph (1) of the amended Copyright Law shall not apply in the case of the transfer of ownership of such originals or copies of works, of such sound or visual recordings of performances or of such copies of phonograms as subsisting at the time of enforcement of this Law (only those made without prejudice to the right of persons who have the right mentioned in Article 21, Article 91, paragraph (1) or Article 96 of the Copyright Law and excluding copies of works made by the owners of the right of publication).

3. The provisions of Article 26*bis*, paragraph (1) of the amended Copyright Law shall not apply to such distribution of copies of works, on which the right of publication is established, as made within the duration of such right by persons who have such right which was established before the enforcement of this Law and which subsists at the time of enforcement of this Law.

4. The Provisions of the Copyright Law before amendment shall still apply to such distribution of copies of works, made within the duration of the right of publication, as made by persons who had such right after the termination of such right (only such right established before the enforcement of this Law).

5. For a period from October 1, 1999 to the day before the date of enforcement of this Law, “Article 95*ter*, paragraph (3)” and “Article 97*ter*, paragraph (3)” in Article 113, paragraph (4) of the amended Copyright Law shall read “Article 95*bis*, paragraph (3)” and “Article 97*bis*, paragraph (3)”, respectively.

6. In the case where the date of enforcement of the Law for the Readjustment, etc. of Related Laws Required in Consequence of the Enforcement of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.43, of 1999; hereinafter referred to as “the Readjustment Law” is preceded by the date of enforcement of this Law, “Article 42, Article 42*bis*” and “Article 42 or 42*bis*” in Article 47*ter* of the amended Copyright Law shall read “Article 42” and “or Article 42”, respectively, for a period until the day before the date of enforcement of the Readjustment Law.

7. The penal provisions of the Copyright Law before amendment shall still apply to acts done before the enforcement of this Law and to acts done after the enforcement of this Law in the case where the provisions of the Copyright

Law before amendment shall still apply in accordance with the provisions of paragraph 4 of the Supplementary Provisions [Law No.77, of 1999]

Supplementary Provisions (Extract)

(Law No.160, of 1999)

(Date of enforcement)

Article 1. This Law (Except Articles 2 and 3) shall come into force on January 6, 2001. However, the following provisions shall come into force as from the day mentioned in each item concerned:

(i), (ii): [omitted]

Supplementary Provisions (Extract)

(Law No.220, of 1999)

(Date of enforcement)

Article 1. This Law (except Article 1) shall come into force on January 6, 2001. However the following provisions shall come into force as from the day mentioned in any of the following items:

(i) to (iii) [omitted]

Supplementary Provisions (Extract)

(Law No.56, of 2000)

(Date of enforcement)

1. This Law shall come into force on January 1, 2001. However, the amended provisions of Article 58 of the Copyright Law in Article 1 and the provisions of Article 2 shall come into force as from the day on which the WIPO Copyright Treaty becomes effective with respect to Japan. [on March 6, 2002]

(Transitory measures: award of an amount of damages)

2. The provisions of Article 114^{quater} of the Copyright Law amended by the provisions of Article 1 shall not apply to such cases as those in which, prior to the enforcement of this Law, oral proceedings have been terminated in higher courts or in district courts in the second instance, or there has been an agreement as not to make an appeal with the reservation of the right to appeal to a

decision by a summary court or a decision by a district court in the first instance.

(Transitory measures: penal provisions)

3. The penal provisions of the copyright Law before amendment shall still apply to acts done before the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.131, of 2000)

(Date of enforcement)

Article 1. This Law shall come into force on October 1, 2001. However, the provisions of Article 9 of the Supplementary Provisions shall come into force on the date of its promulgation.

Supplementary Provisions (Extract)

(Law No.140, of 2001)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within one year from the date of its promulgation. [This Law came into force on October 1, 2002.]

Supplementary Provisions (Extract)

(Law No.72, of 2002)

(Date of enforcement)

1. The provisions of this Law shall come into force as from the day mentioned in any of the following items, as follows:

(i) the amended provisions of Articles 7, 8, 95, 95^{ter}, 97 and 97^{ter} as well as the provisions of paragraphs 2 to 4, 6, 7 and 9 of the Supplementary Provisions: the day on which the WIPO Performances and Phonograms Treaty (hereinafter referred to as “the WPPT”) becomes effective with respect to Japan; [on October 9, 2002]

(ii) the amended provisions of the Table of Contents (only parts of the provision renumbering Article 100^{quater} as Article 100^{quinquies}) and of

Article 89, paragraph (4), the provision inserting the new Article 99*bis* next to Article 99, the provisions renumbering Article 100*quater* as Article 100*quinquies* and inserting the new Article 100*quater* next to Article 100*ter* and the amended provisions of Article 103: January 1, 2003;

(iii) the provisions other than those mentioned in the preceding two paragraphs: the day on which the WPPT becomes effective with respect to Japan or January 1, 2003 whichever earlier. [on October 9, 2002]

(Application of the provisions relating to neighboring rights)

2. The provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986), paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; hereinafter referred to as “the Amendments Law of 1989”) and paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.63, of 1991; hereinafter referred to as “the Amendments Law of 1991”) shall not apply, in case of the application of the provisions relating to neighboring rights (including the provisions of Article 95 and Article 95*ter*, paragraphs (3) and (4) of the amended Copyright Law (hereinafter referred to as “the New Law”) to the performances mentioned in Article 7, item (iv) of the new Law (excluding those falling within the performances mentioned in Article 7, items (i) to (iii)) which fall within the following performances, or to the performances mentioned in Article 7, item (v) of the new Law which fall within the following performances:

(i) performances which took place in a Contracting Party to the WPPT;

(ii) performances fixed in the following phonograms:

(a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT (“nationals” includes legal persons established under the law of such Contracting Party and those who have their principal offices in such Contracting Party; the same shall apply hereinafter);

(b) phonograms composed of the sounds which were first fixed in any of the Contracting Parties to the WPPT.

3. The provisions of paragraph 4 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provi-

sions of Article 95 and Article 95*ter*, paragraphs (3) and (4)) to foreign performers whose performances are mentioned in the preceding paragraph, items (i) and (ii) and who did not have habitual residence in this country at the time when their performances took place.

4. The provisions of paragraphs 2 and 3 of the Supplementary Provisions of the Amendments Law of 1989, and paragraph 3 of the Supplementary Provisions of the Amendments Law of 1991 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 97 and Article 97*ter*, paragraphs (3) to (5)) to the following phonograms:

(i) phonograms, mentioned in Article 8, item (ii) of the new Law, which fall within the following phonograms:

(a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT;

(b) phonograms composed of the sounds which were first fixed in any of the Contracting Parties to the WPPT;

(ii) phonograms, mentioned in Article 8, item (iv) of the new Law, to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

(Transitory measures: moral rights of performers)

5. The provisions of Article 90*bis*, paragraph (1) and Article 90*ter*, paragraph (1) of the new Law shall not apply to performances fixed in sound or visual recordings which have been made with the authorization of the performer concerned before the enforcement of this Law, except in the case where, after the enforcement of this Law, the name of the performer concerned indicated at his performances is deleted or altered, or the name of the performer concerned is newly indicated at his performances, or his performances are altered.

(Transitory measures: secondary use of commercial phonograms)

6. Notwithstanding the provisions of Article 95, paragraph (2) of the new Law, the provisions of paragraph (4) of that Article shall apply, in case of the application of the provisions of paragraph (1) of that Article to performers whose performances have been fixed in phonograms the producers of which

are nationals of a country which is a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter in this and next paragraphs referred to as “the Convention for the Protection of Performers, etc.”) and which is a Contracting Party to the WPPT and whose performances have been so fixed before the day on which the Convention for the Protection of Performers, etc. became effective with respect to Japan.

7. Notwithstanding the provisions of Article 95, paragraph (2) of the new Law which shall apply *mutatis mutandis* in the provisions of Article 97, paragraph (2) of the new Law, the provisions of Article 95, paragraph (4) of the new Law which shall apply *mutatis mutandis* in the provisions of Article 97, paragraph (2) of the new Law shall apply, in case of the application of the provisions of Article 97, paragraph (1) of the new Law to producers of phonograms who are nationals of a country which is a Contracting State of the Convention for the Protection of Performers, etc. and which is a Contracting Party to the WPPT and whose phonograms have been composed of the sounds first fixed before the day on which the Convention for the Protection of Performers, etc. became effective with respect to Japan.

(Transitory measures: term of protection for phonograms)

8. The provisions of Article 101, paragraph (2), item (ii) shall apply to phonograms in which neighboring rights under the Copyright Law before amendment subsist at the time of coming into force of this Law, and the provisions relating to the term of protection for phonograms of the Copyright Law before amendment shall still apply to phonograms in which neighboring rights under the Copyright Law before amendment have expired at the time of coming into force of this Law.

(Partial amendments to the Law on Management Business of Copyright and Neighboring Rights)

9. The Law on Management Business of Copyright and Neighboring Rights (Law No.131, of 2000) shall be partially amended as follows: In Article 25, item (i), the words “Article 95, paragraph (4)” shall be replaced by the words “Article 95, paragraph (5)”.

Supplementary Provisions (Extract)

(Law No.61, of 2003)

(Date of enforcement)

Article 1. This Law shall come into force as from the date of enforcement of the Law for the Protection of Personal Information Possessed by Government Organizations. [on April 1, 2005]

Supplementary Provisions

(Law No.85, of 2003)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 2004.

(Transitory measures: term of protection for cinematographic works)

Article 2. The provisions of Article 54, paragraph (1) of the amended Copyright Law (in next Article referred to as “the new Law”) shall apply to cinematographic works in which copyright under the Copyright Law before amendment subsists at the time of coming into force of this Law, and the provisions relating to the term of protection for cinematographic works of the Copyright Law before amendment shall still apply to cinematographic works in which copyright under the Copyright Law before amendment has expired at the time of coming into force of this Law.

Article 3. In the case of cinematographic works which were created before the enforcement of the Copyright Law and to which the provisions of the old Copyright Law (Law No.39, of 1899) shall still apply in accordance with the provision of Article 7 of the Supplementary Provisions of the Copyright Law, if the duration of copyright in such cinematographic works under the provisions of the old Copyright Law is to expire after the end of the duration of copyright under the provisions of Article 54, paragraph (1) of the new Law, the duration of copyright in such cinematographic works shall, notwithstanding the provision of the new Law, expire at the end of the duration of copyright under the old Copyright Law.

(Transitory measures: penal provisions)

Article 4. The penal provisions of the Copyright Law before amendment shall still apply to acts done before the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.119, of 2003)

(Date of enforcement)

Article 1. This Law shall come into force as from the date of enforcement of the Local Independent Administrative Organs Law (Law No.118, of 2003). [on April 1, 2004.]

Supplementary Provisions (Extract)

(Law No.84, of 2004)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within one year from the date of its promulgation. [This Law came into force on April 1, 2005.]

Supplementary Provisions (Extract)

(Law No.92, of 2004)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 2005.

(Transitory measures: importation, etc. of commercial phonograms)

Article 2. The provisions of Article 113, paragraph (5) of the amended Copyright Law shall not apply to such phonograms for foreign distribution mentioned in that paragraph, as having been imported before the enforcement of this Law and are possessed for distribution at the time of coming into force of this Law.

Article 3. In case of the application of the provisions of Article 113, paragraph (5) of the amended Copyright Law to such phonograms for domestic distribution, mentioned in that paragraph, as having been published at the time of enforcement of this Law, “the first publication of such phonograms in

this country” in the proviso to that paragraph shall read “the date of enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 92, of 2004) if such phonograms for domestic distribution have been published at the time of such enforcement”, and “which go beyond” in that proviso shall read “after they have gone beyond”.

(Transitory measures: lending of books, etc.)

Article 4. The provisions of Article *4bis* of the Supplementary Provisions of the Copyright Law before amendment shall be effective, after the enforcement of this Law, with respect to the lending of books or magazines (excluding those consisting mainly of music) which have been possessed for lending to the public at the first day of the month after next to the month of promulgation of this Law.

Supplementary Provisions (Extract)

(Law No.120, of 2004)

(Date of enforcement)

Article 1. This Law shall come into force on April 1, 2005.

(Transitory measures: in general)

Article 2. The provisions (except penal provisions) of the Courts Law, the Civil Proceedings Law, the Law on the Civil Proceedings Costs, etc., the Patent Law, the Utility Model Law, the Designs Law, the Trademarks Law, the Prevention of Unfair Competition Law and the Copyright Law, as amended by this Law, shall also apply to matters taken place before the enforcement of this Law, unless otherwise stipulated in these Supplementary Provisions. However, these amended provisions shall not prejudice the effect of the provisions of these Laws before amendment by this Law.

(Transitory measures required by partial amendments to the Patent Law, etc.)

Article 3. The following provisions shall not apply to such cases as those in which, prior to the enforcement of this Law, a suit has been completed, or oral proceedings have been terminated in higher courts or in district courts in the second instance, or there has been an agreement as not to make an appeal

with the reservation of the right to appeal to a decision by a summary court or a decision by a district court in the first instance:

(i) to (iv): [omitted]

(v) the provisions of Articles 114*sexies* to 114*octies* of the Copyright Law, as amended by the provisions of Article 9.

Supplementary Provisions (Extract)

(Law No.147, of 2004)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within six months from the date of its promulgation.

Supplementary Provisions (Extract)

(Law No.75, of 2005)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within one year from the date of its promulgation. However, the provisions of Article 3, 13 and 14 of the Supplementary Provisions shall come into force on the date of enforcement of the Law for Partial Amendments to the Criminal Law, etc. for Coping with the Internationalization and Systematization of Crimes and the High Advancement of Data Processing Technology (Law No.66, of 2005) or the date of enforcement of this Law, whichever later.

Supplementary Provisions (Extract)

(Law No.50, of 2006)

(Date of enforcement)

1. This Law shall come into force as from the date of enforcement of the General Corporations and Foundations Law (Law No.48, of 2006).

Supplementary Provisions (Extract)

(Law No.121, of 2006)

(Date of enforcement)

Article 1. This Law shall come into force on July 1, 2007. However, the provisions of Article 1 and Article 4 of the Supplementary Provisions shall come into force twenty days after the date of promulgation of this Law. [on January 11, 2007]

(Transitory measures: ownership of copyright in cinematographic works made for broadcasting purposes)

Article 2. The provisions of the Copyright Law before amendment shall still apply to the ownership of copyright in cinematographic works mentioned in Article 29, paragraph (2) of the Copyright Law amended by this Law (in the next Article referred to as “the new Law”), which were created before the enforcement of this Law.

(Transitory measures: wire diffusion of performances broadcast)

Article 3. The provisions of Article 94bis of the new Law shall not apply to performances to which the provisions relating to neighboring rights of the new Law do not apply in accordance with the provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986) or paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; hereinafter in this Article referred to as “the Amendments Law of 1989”), nor to performances of performers to whom the provisions relating to neighboring rights of the new Law do not apply in accordance with the provisions of paragraph 4 of the Supplementary Provisions of the Amendment Law of 1989.

(Transitory measures: penal provisions)

Article 4. The penal provisions of the Copyright Law before amendment shall still apply to acts done before the enforcement of this Law (or of the provisions mentioned in the proviso to Article 1 of the Supplementary Provisions [Law No.121, of 2006]).

Supplementary Provisions (Extract)

(Law No.81, of 2008)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within three months from the date of its promulgation, and shall apply as from the cases of authorized textbooks, etc. and specific textbooks, etc. to be used in 2009.

(Transitory measures: penal provisions)

Article 5. The penal provisions of the Copyright Laws before amendment shall still apply to acts done before the enforcement of the provisions of the preceding Article [Partial amendment to the Copyright Law.]

Supplementary Provisions (Extract)

(Law No.53, of 2009)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 2010. However, the amended provisions of Article 70, paragraph (2), Article 78, Article 88, paragraph (2) and Article 104 as well as the provisions of Article 6 of the Supplementary Provisions shall come into force on the date fixed by Cabinet Order within two years from the date of its promulgation.

(Transitory measures: the use of sound recording for the visually handicapped)

Article 2. For the use of sound recordings made in accordance with the provisions of Article 37, paragraph (3) (including the case where their application *mutatis mutandis* is provided for under Article 102, paragraph (1)) of the Copyright Law before amendment (hereinafter referred to as “the old Law”) by this Law, prior to the enforcement of this Law (excluding sound recording of works, performances, phonograms, broadcasts or wire diffusions which may be reproduced or made of an interactive transmission (including the making transmittable) under the provisions of Article 37, paragraph (3) (including the case where their application *mutatis mutandis* is provided for under Article 102, paragraph (1)) of the Copyright Law as amended (hereinafter referred to

as “the new Law”) by this Law), the provisions of the old Law shall still apply to such use, notwithstanding the provisions of Article 37, paragraph (3) and Article 47novies of the new Law (including the case where the application mutatis mutandis of these provisions is provided for under Article 102, paragraph (1) of the new Law).

(Transitory measures: exploitation, etc. of works under a compulsory license)

Article 3. The provisions of Articles 67 and 67bis of the new Law (including the case where the application mutatis mutandis of these provisions is provided for under Article 103 of the new Law) shall apply to persons who have applied for a compulsory license, mentioned in Article 67, paragraph (1) of the new Law (including the case where its application mutatis mutandis is provided for under Article 103 of the new Law), after the day of enforcement of this Law, and for persons who have applied for a compulsory license, mentioned in Article 67, paragraph (1) of the old Law, before the day of enforcement of this Law, the provisions of the old Law shall still apply to such persons.

(Transitory measures: an offer to distribute copies of commercial phonograms)

Article 4. The provisions of Article 121bis of the new Law shall not apply to acts, done after the enforcement of this Law, to offer to distribute commercial phonograms, to the distribution or the possession for distribution of which such provisions shall not apply under the provisions paragraph 5 of the Supplementary Provisions of the Law for Partial Amendments (Law No.63, of 1991) to the Copyright Law or paragraph 6 of the Supplementary Provisions of the Law for Partial Amendments (Law No.112, of 1994) to the Copyright Law and to the Law concerning the Exceptional Provisions to the Copyright Law Required in Consequence of the Enforcement of the Universal Copyright Convention.

(Transitory measure: penal provisions)

Article 5. The penal provisions of the old Law shall still apply to acts done before the enforcement of this Law.

(Partial amendments to the Law on Exceptional Provisions for the Registration of Program Works)

Article 6. The Law on Exceptional Provisions for the Registration of Program Works (Law No.65, of 1986) shall be partially amended as follows:

Article 2 shall be amended as follows:

Article 2. Deleted.

In Article 3, the words “program registration” shall be replaced by the words “the registration, mentioned in Article 75, paragraph (1), Article 76, paragraph (1), Article 76bis, paragraph (1) or Article 77 of the Copyright Law, with respect to program works hereinafter referred to as “program registration””.

In Article 5, paragraph (1), the words “in Article 2, paragraph (2) or” shall be deleted, and the words “Article 78, paragraph (3)” shall be replaced by the words “Article 78, paragraph (4)”; in Article 5, paragraph (4), the words “Article 2, paragraph (2)” shall be deleted, the words “Article 78, paragraphs (1) to (3)” shall be replaced by the words “Article 78, paragraphs (1), (3) and (4),” and the words “Article 78, paragraph (2) of that Law” by the words “Article 78, paragraph (3)”.

In Article 9, the words “Article 78, paragraph (2) shall be replaced by the words “Article 78, paragraph (3)”.

In Articles 26 and 27, the words “Article 2, paragraph (3) or” shall be deleted, and the words “Article 78, paragraph (4)” shall be replaced by the words “Article 78, paragraph (5)”.

Supplementary Provisions (Extract)

(Law No.73, of 2009)

(Date of enforcement)

Article 1. This Law shall come into force on April 1, 2010.

Supplementary Provisions (Extract)

(Law No.65, of 2010)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order (hereinafter referred to as “the date of enforcement”) within nine months from

the date of its promulgation. [This law came into force on June 30, 2011.]

Supplementary Provisions (Extract)

(Law No.32, of 2012)

(Date of enforcement)

Article 1. This Law shall come into force on July 1, 2013.

Supplementary Provisions

(Law No.43, of 2012)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 2013. However, the following provisions shall come into force as from the day mentioned in each item concerned, as follows:

(i) the provisions of Articles 7, 8 and 10 of the Supplementary Provisions: the date of promulgation of this Law;

(ii) the amended provisions of Article 2, paragraph (1), item (xx) and Article 18, paragraphs (3) and (4), the amended provisions for adding item (iii) in Article 19, paragraph (4), the amended provisions of Article 30, paragraph (1), item (ii), the amended provisions for renumbering Article 42*ter* as Article 42*quater* and for inserting new Article 47*decies* (only the part for replacing the words “or Article 46” by the words “, Article 42*ter*, paragraph (2) or Article 46”), the amended provisions of the proviso to Article 47*decies* (only the part for inserting the words “, Article 42*ter*, paragraph (2)” next to the words “to Article 42*bis*”), the amended provisions of Article 49, paragraph (1), item (i) (only the part for replacing the words “Article 42*bis*” by the words “Article 42*ter*” and the words “to Article 42*ter*, paragraph (2)” by the words “Article 42*quater*, paragraph (2)”), the amended provisions of Article 86, paragraphs (1) and (2) (only the part for inserting the words “Article 42*ter*, paragraph (2)” next to the words “to Article 42*bis*”), the amended provisions for inserting item (iii) in Article 90*bis*, paragraph (4), the amended provisions of Article 102, paragraph (1) (only the part for replacing the words “Article 42*ter*” by the words “Article 42*quater*), the amended provisions of Article 102, paragraph (9), item (i) (only the part for replacing the words “Article 42*bis*” by the words “Article 42*ter*”, the words

“Article 42*ter*, paragraph (2)” by the words “Article 42*quater*, paragraph (2)”), the amended provisions of Article 119, paragraph (2), the amended provisions for inserting paragraph (3) in Article 119, and the amended provisions of Article 120*bis*, item (i) as well as the provisions of Article 4 to 6 and 9 of the Supplementary Provisions: October 1, 2012.

(Transitory measures)

Article 2. (1) The provisions of Article 18, paragraph (3), items (i) to (iii) of the Copyright Law amended (hereinafter referred to as “the new Law”) by this Law shall not apply to works not yet made public (including works made public without the authorization of the authors), which have been offered by the authors, before the enforcement of the provisions enumerated in Article 1, item (ii), to government organizations (which means those organizations mentioned in Article 2, paragraph (1) of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.42, of 1999), to independent administrative organs, etc. (which means those organs mentioned in Article 2, paragraph (1) of the Law for the Disclosure of Information Possessed by Independent Administrative Organs, etc. (Law No.140, of 2001) or to local public entities or local independent administrative organs (which means those organs mentioned in Article 2, paragraph (1) of the Local Independent Administrative Organs Law (Law No.118, of 2003); the same shall apply in this paragraph), and which have been transferred to the National Archives, etc. (which means those mentioned in Article 2, paragraph (3) of the Law for the Preservation of Official Documents, etc. (Law No.66, of 2009; hereinafter in this paragraph referred to as “the Official Documents Preservation Law) ; the same apply in paragraph (2)) in accordance with the provisions of Article 8, paragraph (1) or Article 11, paragraph (4) of the Official Documents Preservation Law, or which have been transferred to the local archives, etc. (which means those mentioned in the Official Documents Preservation Regulations as establishments for the proper preservation and offer to use of historical official documents, etc.; the same shall apply in paragraph (2)) under the Official Documents Preservation Regulations (which means such Regulations of concerned local public entities for the proper preservation and offer to use of historical official documents, etc. (mentioned in Article 2, paragraph (6) of the Official Documents Preservation Law; the same shall apply in this paragraph) possessed by local public entities or local independent administrative organs;

the same shall apply in this paragraph).

(2) The provisions of Article 18, paragraph (3), item (4) and (5) of the new Law shall not apply to works not yet made public (including works made public without the authorization of their authors) which have been offered by the authors to the National Archives, etc. or the local archives, etc. before the enforcement of the provisions enumerated in Article 1, item (ii).

Article 3. With respect to works which have recorded on memories in accordance with the Provisions of Article 31, paragraph (2) of the Copyright Law before amendments by this Law at the time of the enforcement of this Law and which are included in out-of-print or similar materials (which means materials mentioned in Article 31, paragraph (1), item (iii)), it shall be permissible to make an interactive transmission (including the making transmittable) of these works by using their copies in accordance with the provisions Article 31, paragraph (3) of the new Law.

(Transitory measures: application of penal provisions)

Article 4. The penal provisions of the Copyright Law before amendments shall still apply to acts done before the enforcement of this Law (or of the provisions enumerated in Article 1, item (ii) of the Supplementary Provisions).

(Mandate to Cabinet Order)

Article 5. Other than those provided for in the preceding three Articles, necessary transitory measures for the enforcement of this Law shall be prescribed by Cabinet Order.

(Partial amendments to the Law for the Punishment of Organized Crimes and the Control of Profits from Crimes, etc.)

Article 6. The Law for the Punishments of Organized Crimes and the Control of Profits from Crimes, etc. shall be partially amended as follows: In Attached Table No. 48, the words “Article 119” shall be replaced by the words “Article 119, paragraph (1) or (2)”.

(Enlightenment, etc. of the nationals)

Article 7. (1) The State and the local public entities shall take enlightening or other necessary measures for the prevention of acts infringing copyright or

neighboring rights (hereinafter referred to as “specific infringing acts”) in order that the nationals may promote a better understanding of the importance of preventing specific infringing acts done by knowingly making digital or visual recordings by oneself, for the purpose of a private use mentioned in Article 30, paragraph (1) of the new Law (including the case where its application *mutatis mutandis* is provided for under the provisions of Article 102, paragraph (1) of the new Law), upon reception of interactive transmissions which infringe copyright or neighboring rights (including such transmissions which are made outside this country and which would constitute an infringement on copyright or neighboring rights if they were made in this country) of onerous works, etc. (which means works mentioned in Article 119, paragraph (3) of the new Law; the same shall apply hereinafter).

(2) The State and the local public entities shall endeavor to enrich the education for preventing specific infringing acts in schools or other various places in order that, by seizing every occasions, the infants may gain a better understanding of the importance of preventing specific infringing acts.

(3) In the application of the provisions of paragraph (1) until the day before the date of enforcement of the provisions enumerated in Article 1, item (ii) of the Supplementary Provisions, “Article 30, paragraph (1) of the new Law (including the case where its application *mutatis mutandis* is provided for in Article 102, paragraph (1) of the new Law)” in paragraph (1) shall read “Article 30, paragraph (1) of the Copyright Law (including the case where its application *mutatis mutandis* is provided for in Article 102, paragraph (1) of the Copyright Law)”, and “onerous works, etc. mentioned in Article 119, paragraph (3) of the new Law” shall read “recorded works, performances, phonograms, or sounds or images of broadcasts or wire diffusions (which are the subject matters of copyright or neighboring rights), which are onerously offered to or made available to the public (only in the case where such offering to or making available to the public does not infringe copyright or neighboring rights)”.

(Measures to be taken by business operators concerned)

Article 8. Business operators offering or making available onerous works, etc. to the public shall make efforts to take measures to prevent specific infringing acts.

(Considerations to be taken in the application)

Article 9. In the application of the provisions of Article 119, paragraph (3) of the new Law, considerations shall be taken not to unreasonably limit the collection of information through internet and other acts done by using internet.

(Review)

Article 10. The provisions of Article 119, paragraph (3) of the new Law and Article 8 of the Supplementary Provisions shall be reviewed, aiming at one year after the enforcement of this Law, in consideration of the situation of enforcement of these provisions, and necessary measures shall be taken based upon such review.

Supplementary Provisions (Extract)

(Law No.32, of 2012)

(Date of enforcement)

Article 1. This Law shall come into force on July 1, 2013.

Supplementary Provisions (Extract)

(Law No.84, of 2013)

(Date of enforcement)

Article 1. This Law shall come into force on the date fixed by Cabinet Order within one year from the date of its promulgation. (This Law came into force on April 1, 2014)

Supplementary Provisions

(Law No.35, of 2014)

(Date of enforcement)

Article 1. This Law shall come into force on January 1, 2015. However, the amended provisions of Article 7 and the provisions of next Article 2 shall come into force from the day on which the Beijing Treaty on Audiovisual Performances (in next Article 2, referred to as “the Treaty on Audiovisual Performances”) becomes effective with respect to Japan.

(Application of the provisions relating to neighboring rights)

Article 2. (1) The provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986), paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; in next paragraph, referred to as “the Amendments Law of 1989) and paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.63, of 1991) shall not apply, in the case of the application of the provisions relating to neighboring rights (including the provisions of Article 95*ter*, paragraphs (3) and (4)) of the Copyright Law amended (hereinafter in this Article, referred to as “the new Law”) by this Law to such performances mentioned in Article7, item (iv) of the new Law (excluding those falling within the performances mentioned in Article 7, items (i) to (iii) or to such performances mentioned in Article7, item (v) of the new Law, as given by performers who are nationals of any of the Contracting Parties to the Treaty on Audiovisual Performances or who have their habitual residence in any of such Contracting Parties.

(2) The provisions of paragraph 4 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in the case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 95*ter*, paragraphs (3) and (4)) to performers who are nationals of any of the Contracting Parties to the Treaty on Audiovisual Performances or who have their habitual residence in any of such Contracting Parties (only foreign performers who did not have their habitual residence in this country at the time when their performances took place).

(Transitory measures: right of publication)

Article 3. The provisions of the Copyright Law before amendments by this Law shall still apply to the right of publication under the Copyright Law before amendments by this Law which was established before the enforcement of this Law and which subsists at the time of the enforcement of this Law.

(Mandate to Cabinet Order)

Article4. Other than those provided for in the preceding two Articles, necessary transitory measures for the enforcement of this Law shall be prescribed

by Cabinet Order.



1 – 2. OLD COPYRIGHT LAW (Extract)

(Law No.39, of March 4, 1899,
as amended up to December 8, 1969 by Law No.82)

Article 3. Copyright in a work published or publicly performed shall endure for the lifetime of its author and for thirty years after his death.

Copyright in a work jointly produced by two or more persons shall endure for thirty years after the death of the last surviving author.

Article 4. Copyright in a work [first] published or publicly performed after the death of its author shall endure for thirty years from the time of such publication or public performance.

Article 5. Copyright in an anonymous or pseudonymous work shall endure for thirty years from the time of publication or public performance; provided, however, that the provisions of Article 3 shall apply if the author has his true name registered within that period.

Article 6. Copyright in a work published or publicly performed under the name of a governmental or public agency, school, shrine or temple, association, company or any other organization as its author shall endure for thirty years from the time of such publication or public performance.

Article 7. If the copyright owner does not publish a translation of the original work within ten years after the publication of his work , his right of translation shall cease to exist.

If the copyright owner publishes, within the time limit stipulated in the preceding paragraph, a translation in the language for which he seeks protection, his right of translation into such language shall not cease to exist.

Article 22ter. The author of a work produced by means of cinematography or a process analogous thereto shall be deemed the author of a work of literature, science or art, and shall enjoy protection under this Law. In regard to the period of protection, the provisions of Articles 3 to 6 and Article 9 shall apply

to those with originality, and the provision of Article 23 shall apply to those without originality.

Article 23. Copyright in a photograph shall endure for ten years.

The period under the preceding paragraph shall be calculated from the beginning of the year following the year in which such work was first published. If no publication has been effected, the period shall be calculated from the beginning of the year following the year in which the negative was made.

A person who has lawfully reproduced an artistic work by means of photography shall enjoy protection under this Law for the same period as the copyright in the original work; provided, however, that any agreement otherwise signed between the parties concerned shall be followed.

Article 52. In Articles 3 to 5, “thirty years” shall read for the time being “thirty-eight years”, except in cases of copyright in performances and singing as well as copyright provided for in Article 22*septies*.

In Article 6, “thirty years” shall read for the time being “thirty-three years”, except in cases of copyright in performances and singing as well as copyright provided for in Article 22*septies*.

In the first paragraph of Article 23, “ten years” shall read for the time being “thirteen years”.

2. LAW CONCERNING
THE EXCEPTIONAL PROVISIONS
TO THE COPYRIGHT LAW
REQUIRED IN CONSEQUENCE
OF THE ENFORCEMENT
OF THE UNIVERSAL
COPYRIGHT CONVENTION

2. LAW CONCERNING THE EXCEPTIONAL PROVISIONS TO THE COPYRIGHT LAW REQUIRED IN CONSEQUENCE OF THE ENFORCEMENT OF THE UNIVERSAL COPYRIGHT CONVENTION

(Law No. 86, of April 28, 1956,
as amended up to December 14, 1994 by Law No. 112)

(Purpose)

Article 1. The purpose of this Law is to provide, in consequence of the enforcement of the Universal Copyright Convention, for the exceptional provisions to the Copyright Law (Law No. 48, of 1970).

(Definition)

Article 2. (1) In this Law, “the Universal Convention” means the Universal Copyright Convention.

(2) In this Law, “publication” means the publication as defined in Article ½Y of the Universal Convention.

(3) In this Law, “right of translation” means the right of translation as defined in Article V of the Universal Convention.

(Exceptional provisions for the term of protection of a work)

Article 3. (1) In cases where an unpublished work of a national of a Contracting State or a work first published in a Contracting State which is protected under the Copyright Law in accordance with the provisions of Article II of the Universal Convention has ceased to be granted the protection at the expiration of the term of protection under the legislation of the Contracting State concerned, the term of protection for the work shall, notwithstanding the provisions of the Copyright Law, only last until the date of expiration of the term of protection under the legislation of the Contracting State.

(2) An unpublished work of a national of a Contracting State or a work first published in a Contracting State not belonging to the class of works protected under the legislation of the Contracting State shall not enjoy the protection

otherwise granted under the Copyright Law in accordance with the provisions of Article II of the Universal Convention.

Article 4. (1) For the purpose of the provisions of the preceding Article, the work of a national of a Contracting State of the Universal Convention, first published in a non-Contracting State, shall be treated as if first published in the Contracting State.

(2) For the purpose of the provisions of the preceding Article, in case of simultaneous publication in two or more Contracting States of the Universal Convention, the work shall be treated as if first published in the State which affords the shortest term of protection; any work published in two or more Contracting States within thirty days of its first publication shall be considered as having been published simultaneously in the said Contracting States.

(Exceptional provisions for the right of translation)

Article 5. (1) If any of the following items is applicable in cases where, after the expiration of a period of seven years from the year following the year to which belongs the date of the first publication of a writing protected under the Copyright Law in accordance with the Universal Convention, a translation by the owner of the right of translation or with his authorization, of such writing has not been published in Japanese or has been so published but is out of print, a Japanese national may publish a translation of such writing in Japanese as prescribed by Cabinet Order, subject to a license of the Commissioner of the Agency for Cultural Affairs; provided that, prior to the publication thereof, a compensation which is just and conforms to international standards and which is approved by the Commissioner of the Agency for Cultural Affairs shall, in whole or in part, be paid to the owner of the right of translation or be deposited in behalf of him, as prescribed by Cabinet Order:

(i) in cases where the applicant has requested, and been denied, the authorization by the owner of the right of translation to translate and publish the translation;

(ii) in cases where due diligence exercised by the applicant has failed to find the owner of the right of translation.

(2) In the case falling under item (ii) of the preceding paragraph, the applicant for a license under said paragraph shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the

owner of the right of translation is known, to the diplomatic or consular representative of the State of which such owner is a national, or to the organization which may have been designated by the government of that State, and he shall also send 00to the Commissioner of the Agency for Cultural Affairs a report that the copies have been sent.

(3) The Commissioner of the Agency for Cultural Affairs shall not grant a license under paragraph (1) before the expiration of a period of two months from the date of the dispatch under the provisions of the preceding paragraph of the copies of the application.

(4) The Commissioner of the Agency for Cultural Affairs shall, when intending to grant an approval under the proviso to paragraph (1), consult the Culture Council.

Article 6. A licensee under paragraph (1) of the preceding Article shall not transfer the right to publish a translation under the relevant license.

Article 7. The original title, the name of the author of the work and other matters shall be printed on the copies of the translation licensed under paragraph (1) of Article 5, as prescribed by Cabinet Order.

Article 8. A translation licensed under paragraph (1) of Article 5 shall not be exported to a State other than the States parties to the Universal Convention as designated by Cabinet Order.

(Stateless persons and refugees)

Article 9. Stateless persons and refugees who have their habitual residence in a State party to the Protocol 1 annexed to the Universal Convention concerning the application of that Convention to the works of stateless persons and refugees shall, for the purpose of the provisions of Articles 3 to 5, be assimilated to the nationals of that State.

(Works protected under the Berne Convention, etc.)

Article 10. This Law shall not be applicable to the works whose country of origin, within the meaning of the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty or the Marrakesh Agreement Establishing the World Trade Organization, respectively is a member of

the International Union established by the Berne Convention, a contracting State of the WIPO Treaty or a member of the World Trade Organization; provided that the provisions of Articles 5 to 8 shall be applicable to the licensee who has got the license under paragraph (1) of Article 5 or the translation which has been licensed under the said paragraph before the works become the work of which such member is the country of origin.

(Works protected under Article 12 of the Treaty of Peace with Japan)

Article 11. The Allied Powers which are States defined in Article 25 of the Treaty of Peace with Japan and which are Contracting States of the Universal Convention on the effective date of this Law, and their nationals shall, insofar as the works enjoying the protection under the old Copyright Law (Law No. 39, of 1899) in accordance with the provisions of Article 12 of the said Treaty on the effective date of this Law are concerned, continue to enjoy the same protection and, insofar as the works enjoying such protection on the effective date of the Copyright Law are concerned, to enjoy after the enforcement of this Law.

(Mandate to Cabinet Order)

Article 12. Other than those provided for in this Law, necessary matters for the enforcement of this Law shall be prescribed by Cabinet Order.

Supplementary Provisions (Extract)

(Effective Date)

1. This Law shall come into force as from the day on which the Universal Convention becomes effective with respect to Japan. [This Law came into force as from April 28, 1956.]

(Transitional Provision)

2. This Law (except Article 11) shall not apply to unpublished works produced prior to the enforcement of this Law and works published prior to the enforcement of this Law.

Supplementary Provisions (Extract)

(Law No.56, of 2000)

(Date of enforcement)

1. This Law shall come into force on January 1, 2001. However, the amended provisions of Article 58 of the Copyright Law in Article 1 and the provisions of Article 2 shall come into force as from the day on which the WIPO Copyright Treaty becomes effective with respect to Japan.

3. LAW CONCERNING
EXCEPTIONAL PROVISIONS FOR
COPYRIGHTS OWNED BY
THE ALLIED POWERS AND
THE ALLIED NATIONALS

3. LAW CONCERNING EXCEPTIONAL PROVISIONS FOR COPYRIGHTS OWNED BY THE ALLIED POWERS AND THE ALLIED NATIONALS

(Law No. 302, of August 8, 1952,
as amended up to May 6, 1970 by Law No. 48)

(Purpose)

Article 1. The purpose of this Law is to provide, in accordance with the provisions of Article 15 (c) of the Treaty of Peace with Japan, for the exceptional application of the Copyright Law (Law No. 48, of 1970) concerning the copyrights owned by the Allied Powers and the Allied nationals.

(Definition)

Article 2. (1) In this Law, “the Allied Powers” means the Allied Powers as defined in Article 25 of the Treaty of Peace with Japan.

(2) In this Law, “the Allied nationals” means the following:

- (i) individual persons who are nationals of the Allied Powers;
- (ii) corporations established under the laws and orders of any of the Allied Powers and persons of a similar nature;
- (iii) besides those mentioned in the preceding item, those corporations and other associations established for profit in which the individuals or corporations or associations mentioned in the preceding two items or in this item hold all of the stock or capital investments apart from qualifying shares;
- (iv) besides those mentioned in item (ii), religious juridical persons, non-profit juridical persons and other similar organizations controlled by the persons mentioned in the preceding three items or in this item.

(3) In this Law, “the copyright” means all or any part of the rights under the old Copyright Law (Law No. 39, of 1899) (except the right of publication as provided for in Article 28*ter* of that Law).

(Copyrights which have arisen during the war)

Article 3. Irrespective of whether or not any conventions or agreements to

which Japan was a party on December 7, 1941, were abrogated or suspended upon or since the outbreak of a war between Japan and the Allied Power concerned, by the domestic law of Japan or of the Allied Power concerned, the copyrights which the Allied Powers or the Allied nationals would have enjoyed in accordance with the provisions of such conventions or agreements during the period from that date until the day before the day on which the Treaty of Peace with Japan comes into force between Japan and the Allied Power concerned, shall be protected as having been validly obtained on the day on which the copyrights would have been so enjoyed.

(Exceptional provisions for the duration of copyright)

Article 4. (1) The copyrights which existed on December 7, 1941, and were owned by the Allied Powers and the Allied nationals shall last during the term of protection of the rights corresponding to copyright provided in the Copyright Law and for an additional period equivalent to that from December 8, 1941 until the day before the day on which the Treaty of Peace with Japan becomes effective. (The period, if any, during which anyone other than the Allied Powers and the Allied nationals owned the copyrights concerned shall be excluded from such additional period).

(2) The copyrights obtained by the Allied Powers and the Allied nationals during the period from December 8, 1941 until the day before the day on which the Treaty of Peace with Japan becomes effective (including the copyrights protected as having been validly obtained under the provision of the preceding Article) shall last during the term of protection of the rights corresponding to copyright provided in the Copyright Law and for an additional period equivalent to that from the day on which the Allied Power or the Allied national concerned obtained his copyright until the day before the day on which the Treaty of Peace with Japan becomes effective between Japan and the Allied Power concerned. (The period, if any, during which anyone other than the Allied Powers and the Allied nationals owned the copyright concerned shall be excluded from such additional period).

(Exceptional provisions for the duration of the right of translation)

Article 5. In cases where the provisions of paragraph (1) or (2) of the preceding Article are applied to the right to translate a work into Japanese, in extension of a period mentioned in Article 7, paragraph (1) (the right of trans-

lation) of the old Copyright Law which is to be still effective in accordance with the provisions of Article 8 of the Supplementary Provisions of the Copyright Law, a further period of six months shall be added.

(Copyrights owned by anyone other than the Allied Powers and the Allied nationals)

Article 6. The provisions of the preceding two Articles shall apply solely to the copyrights which were owned by the Allied Powers or the Allied nationals on the day on which the Treaty of Peace with Japan comes into force between Japan and the Allied Power concerned (including the cases where the term of protection of such copyrights continues, in consequence of its extension for the additional period provided for in the preceding two Articles, to remain in existence on and after that day).

(Exemption from formalities)

Article 7. For the application of the provisions of Articles 3 to 5, the submission of any application, the payment of any fee, or compliance with any other formality or condition shall not be required; provided, however, that the application of the provisions of Article 77 (registration of copyright) or Article 78 (procedures, etc. for registration) of the Copyright Law or the provisions of the Registration and License Tax Law (Law No. 35, of 1967) shall not be precluded.

Supplementary Provisions

This Law shall come into force on the date of its promulgation, and shall apply from the day on which the Treaty of Peace with Japan first comes into effect. [This Law came into force on April 28, 1952.]

4. LAW ON EXCEPTIONAL
PROVISIONS FOR THE
REGISTRATION OF PROGRAM
WORKS

4. LAW ON EXCEPTIONAL PROVISIONS FOR THE REGISTRATION OF PROGRAM WORKS

(Law No.65, promulgated on May 23, 1986
as amended up to June 19, 2009 by Law No.53)

Table of Contents:

- Chapter I General Provisions (Article 1)
- Chapter II Exceptional Provisions for Registration Procedures, etc.
(Articles 2 to 4)
- Chapter III Exceptional Provisions for Registration Organ (Articles 5 to 28)
- Chapter IV Penal Provisions (Articles 29 to 31)
- Supplementary Provisions

Chapter I General Provisions

(Purpose)

Article 1. The purpose of this Law is to provide for the exceptional provisions to the Copyright Law (Law No. 48, of 1970) with respect to the registration of program works.

Chapter II Exceptional Provisions for Registration Procedures, etc.

(Program register, etc.)

Article 2. Deleted.

(Application for program registration)

Article 3. A person who intends to apply for the registration, mentioned in Article 75, paragraph (1), Article 76, paragraph (1), Article 76bis, paragraph (1) or Article 77 of the Copyright Law, with respect to program works (hereinafter referred to as “program registration”), shall, as provided by Cabinet Order, submit to the Commissioner of the Agency for Cultural Affairs a copy of a program work intended for application as the material for indicating the

content of that program work, unless such program work has already been registered as one of the program registrations other than that applied for.

(Public notice of program registration)

Article 4. The Commissioner of the Agency for Cultural Affairs shall, when having made a registration, mentioned in Article 76, paragraph (1) or Article 76*bis*, paragraph (1) of the Copyright Law, of a program work, give public notice thereof as provided by Ministry of Education and Science Ordinance.

Chapter III Exceptional Provisions for Registration Organ

(Designation of registration organ, etc.)

Article 5. (1) The Commissioner of the Agency for Cultural Affairs may entrust a person designated by the Commissioner (hereinafter referred to as “designated registration organ”) with the whole or a part of program registration business as well as business carried out upon demand mentioned in Article 78, paragraph (4) of the Copyright Law and business of public notice mentioned in the preceding Article (hereinafter referred to as “registration business”).

(2) Designation mentioned in the preceding paragraph shall, as provided by Ministry of Education and Science Ordinance, be made upon application of a person who intends to conduct registration business.

(3) In case where the Commissioner of the Agency for Cultural Affairs entrusts the designated registration organ with registration business, he shall no longer conduct such registration business as conducted by that organ.

(4) For the application of the provisions of Article 3 and the preceding Article as well as the provisions of Article 78, paragraphs (1), (3) and (4) of the Copyright Law to the case where the designated registration organ conducts registration business, “the Commissioner of the Agency for Cultural Affairs” in these provisions (except Article 78, paragraph (3)) shall read “the designated registration organ”, and “when having made a registration mentioned in Article 75, paragraph (1)” in Article 78, paragraph (3) shall read “when the designated registration organ has made a registration mentioned in Article 75, paragraph (1)”.

(Disqualification clause)

Article 6. The following shall not be able to obtain the designation mentioned in paragraph (1) of the preceding Article:

(i) a person who has been sentenced to a fine or more severe punishment in accordance with the provisions of this Law or the Copyright Law and who has not yet passed two years since the date of fulfilling his sentence or the date when he was excused from fulfilling his sentence;

(ii) a person whose designation has been annulled in accordance with the provisions of Article 20 and who has not yet passed two years since the date of such annulment;

(iii) where any of the officers conducting business falls within either of the following:

(a) a person who falls within item (i) above;

(b) a person who was removed from office by an order issued in accordance with the provisions of Article 15 and who has not yet passed two years since the date of such removal.

(Standard for designation)

Article 7. The Commissioner of the Agency for Cultural Affairs shall not make designation mentioned in Article 5, paragraph (1) unless he recognizes that the application for such designation meets the following qualifications:

(i) that persons who have such knowledge and experience as meet the conditions provided by Ministry of Education and Science Ordinance are to conduct program registration business, and that the number of such persons is equal to or more than that provided by Ministry of Education and Science Ordinance;

(ii) that the applicant has a sufficient financial basis and technical capability to conduct properly and smoothly registration business;

(iii) that the applicant is a general corporation or a general foundation and that the composition of officers or staffs thereof is not likely to harm fair conducting of registration business;

(iv) that, in case where the applicant conducts business other than registration business, such business shall not lead to unfair conducting of registration business;

(v) that designation does not hinder a proper and smooth conducting of

registration business.

(Duty to make registration, etc.)

Article 8. (1) In case where program registration is applied for, the designated registration organ shall make program registration without delay unless there are reasonable reasons.

(2) The designated registration organ shall, when making program registration, entrust the persons mentioned in item (i) of the preceding Article (hereinafter referred to as “registrar”) with the making of registration.

(Duty to make a report on registrations of true names)

Article 9. The designated registration organ shall, when having made a registration mentioned in Article 75, paragraph (1) of the Copyright Law, make a report promptly to the Commissioner of the Agency for Cultural Affairs on matters necessary for giving public notice mentioned in Article 78, paragraph (3) of that Law.

(Change of office)

Article 10. In case where the designated registration organ intends to change the location of its office where registration business is conducted, it shall give notice thereof to the Commissioner of the Agency for Cultural Affairs at least two weeks prior to such change.

(Registration business rules)

Article 11. (1) The designated registration organ shall establish rules relating to registration business (hereinafter referred to as “registration business rules”) and obtain the approval thereof from the Commissioner of the Agency for Cultural Affairs. The same shall apply in case where the organ intends to amend registration business rules.

(2) Matters to be provided in registration business rules shall be provided by Ministry of Education and Science Ordinance.

(3) In case where the Commissioner of the Agency for Cultural Affairs recognizes that the approved registration business rules mentioned in paragraph (1) have become inadequate for fair conducting of registration business, the Commissioner may order the designated registration organ to amend such rules.

(Suspension and abolition of registration business)

Article 12. The designated registration organ may not suspend or abolish the whole or a part of registration business without the permission of the Commissioner of the Agency for Cultural Affairs.

(Business program, etc.)

Article 13. (1) The designated registration organ shall, without delay after the designation in case of a business year in which the designation mentioned in Article 5, paragraph (1) was made or before the commencement of each business year in case of other business years, prepare a business program and a revenue and expenditure budget for the business year and obtain the approval of the Commissioner of the Agency for Cultural Affairs. The same shall apply in case where the organ intends to amend such program and budget.

(2) The designated registration organ shall, within three months after the close of each business year, prepare a business report and a report on the settlement of accounts for the business year and submit them to the Commissioner of the Agency for Cultural Affairs.

(Appointment to and removal from office of officers, etc.)

Article 14. The appointment to and the removal from office of officers and registrars of the designated registration organ shall not be effective without the approval of the Commissioner of the Agency for Cultural Affairs.

(Order of removal from office)

Article 15. In case where an officer or a registrar of the designated registration organ violates this Law (including orders issued or measures taken in accordance with this Law) or the registration business rules, or performs an act which is considerably inadequate for the registration business, the Commissioner of the Agency for Cultural Affairs may order the designated registration organ to remove such officer or registrar from office.

(Duty to keep secrets, etc.)

Article 16. (1) Any person who is or was an officer or a staff of the designated registration organ shall not leak out any secret which he or she has come to know in connection with the registration business.

(2) For the application of the penal provisions of the Criminal Code (Law No. 45, of 1907) and the other laws, the officers and the staffs of the designated registration organ who are engaged in the registration business shall be considered to be an officer engaged in public service by law.

(Adjustment order, etc.)

Article 17. (1) In case where the Commissioner of the Agency for Cultural Affairs recognizes that the designated registration organ no longer meets the qualifications mentioned in items (i) to (iv) of Article 7, the Commissioner may order the designated registration organ to take measures necessary for meeting such qualifications.

(2) In addition to the order mentioned in the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may issue to the designated registration organ other orders necessary for the supervision of the registration business if the Commissioner considers it necessary for the enforcement of this Law.

(Entries in books, etc.)

Article 18. (1) The designated registration organ shall keep books and enter into books such matters relating to the registration business as provided by Ministry of Education and Science Ordinance.

(2) The books mentioned in the preceding paragraph shall be preserved as provided by Ministry of Education and Science Ordinance.

(Report and inspection)

Article 19. (1) To the extent necessary for the enforcement of this Law, the Commissioner of the Agency for Cultural Affairs may order the designated registration organ to make a report on its business or financial situations, or order the staffs of the Agency to enter the office of the designated registration organ and inspect its business situations or books, documents or other objects, or to question persons concerned.

(2) The staffs of the Agency who make an inspection in accordance with the preceding paragraph shall carry with them their identification cards and show them to persons concerned.

(3) The authority of inspection mentioned in paragraph (1) shall not be interpreted as being given for the purpose of criminal investigation.

(Annulment of designation, etc.)

Article 20. In case where the designated registration organ falls within any of the following items, the Commissioner of the Agency for Cultural Affairs may annul the designation, or order a suspension of the whole or a part of the registration business by fixing a specific term:

(i) where the designated registration organ violates the provisions of Articles 8 to 10, Article 11, paragraph (1), Articles 12 and 13, Article 16, paragraph (1) and Article 18;

(ii) where the designated registration organ falls within item (i) or (ii) of Article 6;

(iii) where the designated registration organ conducts the registration business not in accordance with registration business rules which obtained the approval mentioned in Article 11, paragraph (1);

(iv) where the designated registration organ violates an order issued in accordance with the provisions of Article 11, paragraph (3), Article 15 or Article 17;

(v) where the designated registration organ obtained the designation by dishonest means.

(Exceptional provisions for hearing procedures)

Article 21. (1) An inquiry to be made on the date for the hearing on the order of removal from office mentioned in Article 15 or the annulment of designation mentioned in the preceding Article shall be open to the public.

(2) A person who presides over the hearing mentioned in the preceding paragraph shall, if a person interested in measures taken requests to take part in such hearing procedures in accordance with the provisions of Article 17, paragraph (1) of the Administrative Procedures Law (Law No.88, of 1993), allow such request.

(Conduct of the registration business by the Commissioner of the Agency for Cultural Affairs, etc.).

Article 22. (1) In case where the designated registration organ has suspended the whole or a part of its registration business with the permission mentioned in Article 12, where the Commissioner of the Agency for Cultural Affairs has ordered the designated registration organ to suspend the whole or a part of its registration business in accordance with the provisions of Article

20, or where it has become difficult for the designated registration organ to conduct the whole or a part of its registration business by an act of God or for other reasons, the Commissioner of the Agency for Cultural Affairs shall conduct the whole or a part of such registration business by himself if he recognizes it necessary.

(2) In case where the Commissioner of the Agency for Cultural Affairs conducts the whole or a part of the registration business by himself in accordance with the provisions of the preceding paragraph, where the designated registration organ abolishes the whole or a part of its registration business with the permission mentioned in Article 12, or where the Commissioner of the Agency for Cultural Affairs annuls the designation of the designated registration organ in accordance with the provisions of Article 20, the succession of the registration business and other necessary matters shall be provided by Ministry of Education and Science Ordinance.

(Complaint against measures, etc. taken by the designated registration organ)

Article 23. Any person who has a complaint against a disposal or an omission thereof made in relation to the registration business conducted by the designated registration organ, may request the Commissioner of the Agency for Cultural Affairs an inquiry under the Complaints Against Administrative Acts Inquiries Law (Law No. 160, of 1962).

(Public notice)

Article 24. The Commissioner of the Agency for Cultural Affairs shall give a public notice in the Official Gazette as provided by Ministry of Education and Science Ordinance in the following cases:

- (i) where the Commissioner has made the designation mentioned in Article 5, paragraph (1);
- (ii) where a notice is given in accordance with the provisions of Article 10;
- (iii) where the Commissioner has given the permission mentioned in Article 12;
- (iv) where the Commissioner has annulled the designation or ordered a suspension of the whole or a part of the registration business in accordance with the provisions of Article 20;
- (v) where the Commissioner intends to conduct the whole or a part of the

registration business by himself in accordance with the provisions of Article 22, paragraph (1), or where he intends to stop the whole or a part of the registration business conducted by him.

(Fees)

Article 25. In case where the designated registration organ makes the program registration, a person who intends to apply for the registration shall be required to pay the designated registration organ a fee, the amount of which is fixed by Cabinet Order, taking into account actual cost.

Article 26. In case where the designated registration organ conducts the registration business (excluding a public notice mentioned in Article 4), the provisions of the preceding Article, or Article 78, paragraph (5) of the Copyright Law shall not apply if a person required to pay a fee in accordance with these provisions is the State or an independent administrative organ (designated by Cabinet Order in consideration of the contents of its business or other circumstances) mentioned in Article 2, paragraph (1) of the Law for General Rules for Independent Administrative Organs (Law No.103, of 1999).

Article 27. Fees paid to the designated registration organ in accordance with the provisions of Article 25, or Article 78, paragraph (5) of the Copyright Law shall be the income of that organ.

Article 28. Other than those provided for in this Chapter, matters necessary for the registration business conducted by the designated registration organ shall be provided by Cabinet Order.

Chapter IV Penal Provisions

Article 29. Any person who violates the provisions of Article 16, paragraph (1) shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding three hundred thousand Yen.

Article 30. In case where an order of suspension of the registration business under the provisions of Article 20 is violated, the officer or staff of the

designated registration organ who committed the act of violation shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding three hundred thousand Yen.

Article 31. The officer or staff of the designated registration organ who committed any of the following acts of violation shall be punishable by a fine not exceeding two hundred thousand Yen:

(i) where he abolished the whole of the registration business without obtaining the permission mentioned in Article 12;

(ii) where he does not keep books or does not enter necessary matters into books in violation of the provisions of Article 18, paragraph (1), or enters false matters into books, or he does not preserve books in violation of the provisions of paragraph (2) of the same Article;

(iii) where he does not make a report under the provisions of Article 19, paragraph (1), or makes a false report, or he refuses, hinders or avoids the inspection under the same provisions, or he does not answer the question under the same provisions or makes a false answer thereto.

Supplementary Provisions (Extract)

(Date of enforcement)

1. This Law shall come into force on April 1, 1987. However, the provisions of Articles 5 to 7, Articles 10 and 11, Article 13, paragraph (1), Articles 14 to 17, Articles 19 and 20 (except item (iii)), Articles 21, 24 and 29, Article 31, item (iii) and the next paragraph shall come into force on October 1, 1986.

(Transitory measures)

2. In case where the designated registration organ was designated before the date of enforcement of this Law, the organ cannot, notwithstanding the provisions of Article 5, paragraph (1), make registration business until that date of enforcement.

Supplementary Provisions (Extract)

(Law No.160, of 1999)

(Date of enforcement)

Article 1. This Law (Except Articles 2 and 3) shall come into force on January 6, 2001. However, the following provisions shall come into force on the day mentioned in each item concerned:

(i), (ii): [omitted]

Supplementary Provisions (Extract)

(Law No.220, of 1999)

(Date of enforcement)

Article 1. This Law (except Article 1) shall come into force as from the day mentioned in each item concerned:

(i) to (iii): [omitted]

Supplementary Provisions (Extract)

(Law No.50, of 2006)

(Date of enforcement)

1. This Law shall come into force from the date of enforcement of General Corporation and Foundations Law. (Law No.48, of 2006)

Supplementary Provisions (Extract)

(Law No.53, of 2009)

(Date of enforcement)

1. This Law shall come into force on January 1, 2010. However, the amended provisions of Article 70, paragraph (2), Article 78, Article 88, paragraph (2) and Article 104 as well as the provisions of Article 6 of the Supplementary Provisions shall come into force on the date fixed by Cabinet Order within two years from the date of its promulgation.

5. LAW FOR THE
PREVENTION OF
STEALTHY RECORDING
OF FILMS

5. LAW FOR THE PREVENTION OF STEALTHY RECORDING OF FILMS

(Law No.65, of May 30, 2007)

(Purpose)

Article 1. The purpose of this Law is, in view of the fact that copies of films are made by means of stealthy recording in cinemas, etc., that many of such copies are distributed widely, and that this leads to serious damages to the film industry, to provide for necessary matters for the prevention of such stealthy recording of films, and thereby to contribute to the promotion of culture in the field of films and a healthy development of the film industry.

(Definitions)

Article 2. In this Law, the following terms shall have the meaning hereby assigned to them, respectively:

(i) “presentation” means the presentation defined in Article 2, paragraph (1), item (xvii) of the Copyright Law (Law No.48, of 1970);

(ii) “cinemas, etc.” means cinemas and other places where films are shown for unspecified or many persons and where the admission thereto is under the control of a sponsor for such film showing;

(iii) “stealthy recording of films” means to made visual recording of images (“visual recording” means such recording as defined in Article 2, paragraph (1), item (xiv) of the Copyright Law) or sound recording of sounds (“sound recording” means such recording as defined in item (xiii) of that paragraph), of films, which are shown with charging fees to the audience in cinemas, etc. (including such films as are shown without charging fees to the audience in cinemas, etc., and limited to such films as are subject matters of copyright; hereinafter referred to merely as “films”), except in the case where such recording is made with the authorization of the copyright owners of such films.

(Prevention, by enterprisers within the films industry, of stealthy recording of films)

Article 3. Sponsors for showing films in cinemas, etc. and other enterprisers connected with the film industry shall make an effort to take measures for

the prevention of stealthy recording of films.

(Exceptional provisions to the Copyright Law with respect to stealthy recording of films)

Article 4. (1) The provisions of Article 30, paragraph (1) of the Copyright Law shall not apply to stealthy recording of films, and in case of the application of the provisions of Article 119, paragraph (1) to persons who make stealthy recording of films, the words “those who reproduce by themselves works or performances, etc. for the purpose of private use mentioned in Article 30, paragraph (1) (including the case where its application *mutantis mutandis* is provided for in Article 102, paragraph (1))” in that paragraph shall be excluded.

(2) The provisions of the preceding paragraph shall not apply to stealthy recordings of films made after a lapse of eight months from the day when the first showing of such films was made in cinemas, etc. within Japanese territory with charging fees to the audience.

Supplementary Provisions

This Law shall come into force three months after the date of its promulgation.

6. LAW ON MANAGEMENT
BUSINESS OF COPYRIGHT
AND NEIGHBORING RIGHTS

6. Law on Management Business of Copyright and Neighboring Rights

(Law No.131, of November 29, 2000,
as amended up to December 3, 2004 by Law No. 154)

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- Chapter I General Provisions (Articles 1 and 2)
- Chapter II Registration (Articles 3 to 10)
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(Articles 23 and 24)
- Chapter VI Miscellaneous Provisions (Articles 25 to 28)
- Chapter VII Penal Provisions (Articles 29 to 34)
- Supplementary Provisions

Chapter I General Provisions

(Purpose)

Article 1. The purpose of this Law is, by introducing a registration system for those who engage in management business of copyright and neighboring rights and taking measures for securing a fair operation of such business by making it a duty to make a report and a public notice of the stipulations of a management consignment contract and the royalty rules, to protect those who consign the management of copyright and neighboring rights, to facilitate the exploitation of works, performances, phonograms, broadcasts and wire diffusions, and thereby to contribute to the development of culture.

(Definitions)

Article 2. (1) In this Law, “management consignment contract” means any of the following contracts other than those in which, when a consignee authorizes the exploitation of works, performances, phonograms, broadcasts and wire diffusions (hereinafter referred to as “works, etc.”) a consignor (or a consignor of the contract if that consignor is a consignee of any of the following

contracts relating to works, etc.; the same shall apply in next paragraph) is to decide royalty rates:

(i) a trust contract by which a consignor transfers his or her copyright or neighboring rights (hereinafter referred to as “copyright, etc.”) to a consignee who is entrusted to authorize the exploitation of his or her works, etc. or otherwise manage copyright, etc. concerned;

(ii) a mandate contract by which a consignor entrusts a consignee to act as an agent or a proxy to authorize the exploitation of his or her works, etc. and manage copyright, etc. correspondingly.

(2) In this Law, “management business” means an act of business to authorize the exploitation of works, etc. or otherwise manage copyright, etc. under a management consignment contract (other than that in which a consignor is a person specified by Ministry of Education, Culture, Sports, Science and Technology (hereinafter referred to as “Ministry of Education and Science”) Ordinance as a person who has a close human or capital relation with a consignee).

(3) In this Law, “management business operator” means a person who operates a management business after being registered in accordance with the provision of next Article.

Chapter II Registration

(Registration)

Article 3. A person who intends to operate a management business shall be registered by the Commissioner of the Agency for Cultural Affairs.

(Application for registration)

Article 4. (1) A person who intends to be registered in accordance with the provision of the preceding Article shall submit to the Commissioner of the Agency for Cultural Affairs an application for registration containing the following matters:

(i) the appellation;

(ii) the names of the officers (or the name of the representative in the case of a non-juridical association mentioned in Article 6, paragraph (1), item (i); the same shall apply in Article 6, paragraph (1), item (v) and Article

9, item (iv));

(iii) the appellation and the address of the office;

(iv) categories of works, etc. to be dealt with and ways of exploitation of such works, etc.

(v) other matters specified by Ministry of Education and Science Ordinance.

(2) An application for registration mentioned in the preceding Article shall be accompanied by the following documents:

(i) a written oath to the effect that the applicant does not fall within any of items (iii) to (vi) of Article 6, paragraph (1);

(ii) a certificate of matters registered, a balance sheet and other documents specified by Ministry of Education and Science Ordinance.

(Entry in the register)

Article 5. (1) Upon receiving an application for registration mentioned in the preceding Article, the Commissioner of the Agency for Cultural Affairs shall register the following matters in the register of management business operators, except in the case where the Commissioner refuses to register in accordance with the provisions of next Article, paragraph (1):

(i) matters mentioned in each item of the preceding Article, paragraph (1);

(ii) the date of registration and the registration number.

(2) when having made the registration in accordance with the provisions of the preceding paragraph, the Commissioner shall notify the applicant thereof without delay.

(3) The Commissioner shall put to the public inspection the register of management business operators.

(Refusal to register)

Article 6. (1) The Commissioner of the Agency for Cultural Affairs shall refuse to register in the case where the applicant falls within any of the following items, or where there is a false statement in the application for registration or any of the accompanying documents, or where there is no statement about any of the important facts:

(i) a person who is not a legal person (including a non-juridical association established not for profit, of which a representative is specified and

which intends to operate a management business exclusively by a management consignment contract among its direct or indirect constituent members (hereinafter referred to as a “non-juridical association” ; the same shall apply in this paragraph));

(ii) a legal person who intends to adopt the same appellation as that actually adopted by another management business operator or an appellation likely to be mistaken for another management business operator;

(iii) a legal person whose registration has been cancelled in accordance with the provisions of Article 21, paragraph (1) or (2) and who has not yet passed five years since the date of such cancellation;

(iv) a legal person who violated the provisions of this Law or the Copyright Law (Law No.48, of 1970) and was punished by a fine, and has not yet passed five years since the day when the execution of such punishment had been finished or ceased to be done;

(v) a legal person any of whose officers falls within any of the following sub-items:

(a) an adult ward or an assisted person;

(b) a bankrupt who has not yet rehabilitated;

(c) a person who was an officer, of a management business operator whose registration was cancelled in accordance with the provisions of Article 21, paragraph (1) or (2), within thirty days from the date of such cancellation and who has not yet passed five years since the date of such cancellation;

(d) a person who was sentenced to imprisonment or more severe punishment and who has not yet passed five years since the date when the execution of such punishment had been finished or ceased to be done;

(e) a person who violated the provisions of this Law, the Copyright Law or the Law on Exceptional Provisions for the Registration of Program Works (Law No.65, of 1986) or the provisions (except those of Article 32ter, paragraph (7) and of Article 32undecies, paragraph (1)) of the Law for the Prevention, etc. of an Injustice done by Gangsters (Law No.77, of 1991), or committed the crimes mentioned in Article 204, 206, 208, 208bis, 222 or 247 of the Criminal Law (Law No.45, of 1907) or in the Law for the Punishment of the Use of Violence, etc. (Law No.60, of 1926) and was punished by a fine, and who has not yet passed five years since the date when the execution of such punishment had been finished or ceased to be

done;

(vi) a legal person who does not have financial basis compatible with the standard, specified by Ministry of Education and Science Ordinance, as deemed necessary for carrying out a management business.

(2) The Commissioner shall, when having refused to register in accordance with the provisions of the preceding paragraph, notify the applicant thereof in writing accompanied by the reasons therefor without delay.

(Report of changes)

Article 7. (1) A management business operator shall, when there is a change in any of the matters mentioned in Article 4, paragraph (1), submit a report thereof to the Commissioner of the Agency for Cultural Affairs within two weeks from the day when such change was made.

(2) The Commissioner shall, when having received a report mentioned in the preceding paragraph, register the reported matters in the register of management business operators.

(Succession)

Article 8. (1) In the case where a management business operator transfers his or her management business as a whole, or where there is a merger or a division of such business (only a merger or a division involving the succession of such business as a whole), a legal person (including a non-juridical association) who takes over such business as a whole, or a legal person continuing to exist after a merger (excluding a legal person continuing to exist after a merger of a legal person who is a management business operator and of a legal person who is not a management business operator; the same shall apply hereinafter in this paragraph), or a legal person established by a merger, or a legal person who has taken over such business as a whole by a division, shall succeed to the status of the management business operator concerned. However, this rule shall not apply in the case where such a legal person falls within any of items (ii) to (vi) of Article 6, paragraph (1).

(2) A person who has succeeded to the status of a management business operator in accordance with the provisions of the preceding paragraph shall make a report thereof to the Commissioner of the Agency for Cultural Affairs within thirty days from the day when such succession has been made.

(3) The provisions of the preceding Article, paragraph (2) shall apply *muta-*

tis mutandis to a report made in accordance with the provision of the preceding paragraph.

(Report of discontinuance of business)

Article 9. In the case where a management business operator has come to fall within any of the following items, a person mentioned in each item shall make a report thereof to the Commissioner of the Agency for Cultural Affairs within thirty days from the day when any of such occurrences has taken place:

- (i) cessation to exist by a merger : a person who was an officer representing a legal person who had ceased to exist;
- (ii) receipt of a decision for entering into bankruptcy procedure : a trustee in bankruptcy;
- (iii) dissolution for other reasons than a merger and a decision for entering into bankruptcy procedure (or an act equivalent to dissolution in the case of a non-juridical association) : a liquidator (or a person who was a representative of a non-juridical association dissolved) ;
- (iv) abolition of a management business : an officer representing a legal person (including a non-juridical association) who was a management business operator.

(Erasion of registration)

Article 10. The Commissioner of the Agency for Cultural Affairs shall, when having received a report in accordance with the provisions of the preceding Article or when having annulled the registration in accordance with the provisions of Article 21, paragraph (1) or (2), erase the registration of the management business operator concerned.

Chapter III Business Affairs

(Stipulations of a management consignment contract)

Article 11. (1) A management business operator shall make stipulations of a management trust contract containing following items and make a previous report thereof to the Commissioner of the Agency for Cultural Affairs. The same shall apply in the case where the operator intends to change the stipulations.

(i) category of a management trust contract (including the distinction between the agency and the proxy in the case of a mandate contract mentioned in Article 2, paragraph (1), item (ii))

(ii) a term of the contract;

(iii) how to distribute royalties received;

(iv) remunerations due to the management business operator;

(v) other matters specified by Ministry of Education and Science Ordinance.

(2) A management business operator shall notify the consignor of the contents of the changed stipulations of the contract without delay in the case where the operator made a report of changes in accordance with the provision of the second sentence of the preceding paragraph.

(3) A management business operator shall not conclude a management consignment contract except in accordance with the stipulations of a management consignment contract reported in accordance with the provisions of paragraph (1).

(Explanation of the contents of the stipulations)

Article 12. A management business operator shall, when intending to conclude a management consignment contract, explain the contents of the stipulations of the contract to those who intend to consign the management of copyright, etc.

(Royalty rules)

Article 13. (1) A management business operator shall specify royalty rules containing the following items and make a previous report thereof to the Commissioner of the Agency for Cultural Affairs. The same shall apply in the case where the operator intends to change the rules;

(i) royalty rates as per exploitation division (“exploitation division” means a division by classification of works and by distinction of exploitation means; the same shall apply in Article 23) specified in accordance with the standard fixed by Ministry of Education and Science Ordinance;

(ii) date of enforcement of the rules;

(iii) other matters specified by Ministry of Education and Science Ordinance.

(2) A management business operator shall, when intending to specify or

change royalty rules, endeavor to hear opinions previously from users or groups of them.

(3) A management business operator shall, when having made a report in accordance with the provisions of paragraph (1), make public the summary of the reported royalty rules.

(4) A management business operator shall not ask for, as royalty rates for works, etc. dealt with, rates exceeding those specified by royalty rules reported in accordance with the provisions of paragraph (1).

(A period for which royalty rules shall not be enforced)

Article 14. (1) A management business operator who made a report in accordance with the provisions of the preceding Article, paragraph (1) shall not enforce the reported royalty rules for a period of thirty days from the day when the Commissioner of the Agency for Cultural Affairs received that report.

(2) The Commissioner may, when having received a report from a management business operator in accordance with the provisions of the preceding Article, paragraph (1) it is thought that the reported royalty rules would possibly obstruct the smooth use of works, etc., extend the period mentioned in the preceding paragraph, with respect to the rules as a whole or parts of them, to a period not exceeding three months from the day of receipt of that report.

(3) The Commissioner may, when having received a report from a designated management business operator (this operator means the operator mentioned in Article 23, paragraph (1); the same shall apply hereinafter in this Article) in accordance with the provisions of the preceding Article, paragraph (1) and received a notice to the effect that a representative of users (this representative means the representative mentioned in Article 23, paragraph (2); the same shall apply in paragraph (5)) asked for a consultation mentioned in Article 23, paragraph (2) with respect to the reported royalty rules within a period mentioned in paragraph (1), extend the period mentioned in paragraph (1), with respect to the parts as a whole or parts of them to be consulted of the rules, to a period not exceeding six months from the day of receipt of that report.

(4) The Commissioner may, when having extended the period mentioned in paragraph (1) in accordance with the provisions of the preceding paragraph and having received, before the lapse of the extended period, a notice from the

designated management business operator to the effect that it was not necessary to change the extended parts as a whole or parts of them of the rules after a consultation made in accordance with the provisions of Article 23, paragraph (2) or given an arbitration mentioned in Article 24, paragraph (1) to the effect that it was not necessary to change the rules, shorten the extended period mentioned in paragraph (1) with respect to the parts of the rules deemed not necessary to change.

(5) The Commissioner shall, when having extended the period mentioned in paragraph (1) in accordance with the provisions of paragraph (2) or when having extended such period in accordance with the provisions of paragraph (3) or shortened such extended period in accordance with the provisions of the preceding paragraph, make a notice thereof to the management business operator or the designated management business operator concerned and the representative of users and make a public notice thereof.

(Public notice of stipulations of a management consignment contract and royalty rules)

Article 15. A management business operator shall, as provided by Ministry of Education and Science Ordinance, make a public notice of the stipulations of a management consignment contract reported in accordance with the provisions of Article 11, paragraph (1) and the royalty rules reported in accordance with the provisions of Article 13, paragraph (1).

(Limitations on a refusal to authorize the exploitation)

Article 16. A management business operator shall not be allowed, without reasonable reasons, to refuse to authorize the exploitation of works, etc. dealt with.

(Offering of information)

Article 17. A management business operator shall endeavor to offer to users information relating to titles or appellations of works, etc. or other information relating to works, etc. dealt with and information relating to ways of exploitation dealt with as per works, etc.

(Keeping and perusal, etc. of financial documents)

Article 18. (1) A management business operator shall prepare, within

three months after the lapse of each business year, a balance sheet, a business report relating to the management business in that business year and other documents as specified by Ministry of Education and Science Ordinance (referred to as “financial documents” in next paragraph and Article 34, item (ii)) and keep them at the office for five years.

(2) The consignors may, at any time within business hours of the management business operator, ask for the perusal or copying of financial documents.

Chapter IV Supervision

(Asking for a report and the inspection)

Article 19. (1) The Commissioner of the Agency for Cultural Affairs may, to the extent necessary for the enforcement of this Law, order a management business operator to make a report on the business or financial situations or order any of the staffs of the Agency to enter the office of the operator and inspect the business situations or an account book, documents or other materials, or to question the persons concerned.

(2) Any of the staffs of the Agency who makes an inspection in accordance with the provisions of the preceding paragraph shall carry with him or her his or her identification card and show it to the persons concerned.

(3) The authority of making an inspection in accordance with the provisions of paragraph (1) shall not be interpreted as being given for the purpose of criminal investigation.

(Order to improve business affairs)

Article 20. The Commissioner of the Agency for Cultural Affairs may, when it is thought that there is a fact to prejudice the interests of consignors or users, order a management business operator concerned to change the stipulations of a management consignment contract or the royalty rules or take any other measures necessary for improving the operation of business affairs, to the extent necessary for the protection of consignors or users.

(Annulment of the registration, etc.)

Article 21. (1) The Commissioner of the Agency for Cultural Affairs may annul the registration of a management business operator or order the sus-

pension of the management business as a whole or a part of it for a fixed period not exceeding six months in the case where the operator falls within any of the following items:

(i) where the operator violates this Law, an order under this Law or a measure taken under any of them;

(ii) where the operator obtained by dishonest means the registration mentioned in Article 3;

(iii) where the operator falls within any of the items (i), (ii), (iv) and (v) of Article 6, paragraph (1).

(2) The Commissioner may annul the registration of a management business operator in the case where it is thought that the operator has not started the business within one year from the registration or the operator does not conduct the business continuously for more than one year.

(3) The provisions of Article 6, paragraph (2) shall apply *mutatis mutandis* to the cases of the preceding two paragraphs.

(Public notice of measures taken under the supervision)

Article 22. The Commissioner of the Agency for Cultural Affairs shall, when having taken measures in accordance with the provisions of the preceding Article, paragraph (1) or (2), make a public notice thereof as provided by Ministry of Education and Science Ordinance.

Chapter V Consultation and Arbitration relating to Royalty Rules

(Consultation)

Article 23. (1) The Commissioner of the Agency for Cultural Affairs may designate a management business operator as a designated management business operator for any of the exploitation division in the royalty rules (or for more detailed division if it is deemed reasonable to designate such operator for that more detailed division in consideration of a status of exploitation of works, etc. in that exploitation division; the same shall apply hereinafter in this Article) in the case where that operator collects a considerable share of royalty compared with the total amount of royalty collected by all the operators concerned with that exploitation division; provided that:

(i) all the management business operators in an exploitation division concerned collect a considerable share of royalty compared with the total amount of royalty collected in that exploitation division;

(ii) apart from the case in the preceding item, royalty rules of a management business operator concerned are widely used as a standard for royalty rates in an exploitation division concerned and are deemed especially necessary for a smooth exploitation of works, etc. in that exploitation division.

(2) A designated management business operator shall grant a request from a representative of users in an exploitation division concerned (this representative means a group or an individual deemed representing the interests of users in one exploitation division in consideration of the number of users constituting the direct or indirect members compared with the total number of users in that exploitation division, of the amount of royalty paid by the direct or indirect members compared with the total amount of royalty paid by users in that exploitation division and of other reasons; the same shall apply hereinafter in this Chapter) for consultation on the royalty rules reported in accordance with the provisions of Article 13, paragraph (1).

(3) A representative of users shall, when making a consultation mentioned in the preceding paragraph, endeavor to hear the opinions of users in an exploitation division concerned (excluding users constituting the direct or indirect members if that representative is a group having such members).

(4) The Commissioner of the Agency for Cultural Affairs may order a designated management business operator to start or restart a consultation upon application from a representative of users concerned in the case where that operator did not grant a request for consultation from that representative of users or where an agreement was not reached.

(5) A designated management business operator shall change the royalty rules concerned upon the result of an agreement reached (except in the case where it is deemed unnecessary to change the rules; the same shall apply in next paragraph).

(6) In the case where an agreement has been reached before the day of coming into force of the royalty rules (or before the day when an extended period has passed if a period mentioned in Article 14, paragraph (1) was extended in accordance with the provisions of Article 14, paragraph (3); the same shall apply in next Article, paragraph (3)), a report made in accordance with the provisions of Article 13, paragraph (1) on the parts deemed necessary to

change of the royalty rules concerned shall be considered as not having been made.

(Arbitration)

Article 24. (1) In the case where an order was made in accordance with the provisions of the preceding Article, paragraph (4) and an agreement was not reached, the parties concerned may apply for an arbitration by the Commissioner of the Agency for Cultural Affairs with respect to the royalty rules concerned.

(2) The Commissioner shall, in receipt of an application for arbitration mentioned in the preceding paragraph (hereinafter referred to as “arbitration”), notify thereof to other parties concerned and give them an opportunity to express their opinions during a considerable period of time designated.

(3) When having applied for arbitration before the day of enforcement of the royalty rules or received a notice mentioned in the preceding paragraph, a designated management business operator shall not enforce the rules concerned until the day when the arbitration is made, even after the lapse of a period during which the rules shall not be enforced in accordance with the provisions of Article 14.

(4) The Commissioner shall, when intending to make an arbitration, consult with the Culture Council.

(5) The Commissioner shall, upon making an arbitration, notify thereof to the parties concerned.

(6) In the case where an arbitration was made to the effect that it is necessary to change the royalty rules, the rules shall be changed in accordance with the decision made by that arbitration.

Chapter VI Miscellaneous Provisions

(Non-application)

Article 25. The provisions of Article 11, paragraph (1), item (iii), Article 13, Article 14, Article 15 (only parts relating to the royalty rules), Article 23 and the preceding Article shall not apply to royalties relating to the rights mentioned in the following items in the case where, having obtained the registration mentioned in Article 3, the associations mentioned in the following items

conduct the management business relating to such rights:

- (i) an association mentioned in Article 95, paragraph (5) of the Copyright Law, the provisions of which shall apply *mutatis mutandis* in Article 95ter, paragraph (4) of that Law: the right mentioned in Article 95ter, paragraph (1) of that Law;
- (ii) an association mentioned in Article 97, paragraph (3) of the Copyright Law, the provisions of which shall apply *mutatis mutandis* in Article 97ter, paragraph (4) of that Law: the right mentioned in Article 97ter, paragraph (1).

(Non-application of the Trust Business Law, etc.)

Article 26. The provisions of Articles 3 of the Trust Business Law (Law No.154, of 2004) shall not apply to persons who engage in the trust business dealing with only copyright, etc. under a contract mentioned in Article 2, paragraph (1), item (i).

(Mandate to Ministry of Education and Science Ordinance)

Article 27. Other than those provided for in this Law, matters necessary for the enforcement of this Law shall be provided by Ministry of Education and Science Ordinance.

(Transitory measures)

Article 28. In the case where a Ministry of Education and Science Ordinance is to be enacted, amended or repealed in accordance with the provisions of this Law, necessary transitory measures may be provided by that Ordinance to the extent deemed necessary following to such enactment, amendment or repeal.

Chapter VII Penal Provisions

Article 29. The following shall be punishable by a fine not exceeding one million Yen:

- (i) any person who conducted the management business in violation of the provisions of Article 3;
- (ii) any person who obtained by dishonest means the registration men-

tioned in Article 3.

Article 30. Any person who violates the order to suspend the management business in accordance with the provisions of Article 21, paragraph (1) shall be punishable by a fine not exceeding five hundred thousand Yen.

Article 31. The following shall be punishable by a fine not exceeding three hundred thousand Yen:

- (i) any person who concluded a management consignment contract in violation of the provisions of Article 11, paragraph (3);
- (ii) any person who received a royalty charged in violation of the provisions of Article 13, paragraph (4);
- (iii) any person who violated the order made in accordance with the provisions of Article 20.

Article 32. The following shall be punishable by a fine not exceeding two hundred thousand Yen:

- (i) any person who did not make a report or made a false report in accordance with the provisions of Article 7, paragraph (1) or Article 8, paragraph (2);
- (ii) any person who did not make a public notice of stipulations of a management consignment contract or of royalty rules in violation of the provisions of Article 15;
- (iii) any person who did not make a report or made a false report in accordance with the provisions of Article 19, paragraph (1), or refused, hindered or evaded the inspection made in accordance with the provisions of that paragraph, or did not answer or answered falsely to the questions made in accordance with the provisions of that paragraph.

Article 33. (1) In the case where a representative or an administrator of a legal person (including a non-juridical association or foundation which has a representative or an administrator; the same shall apply hereinafter in this paragraph) or an agent, an employee or any other worker of a legal person or a person made an offense mentioned in any of Article 29 to the preceding Article in connection with the business of such legal person or such person, a fine under any of these Articles shall be imposed upon such legal person or

such person in addition to the punishment of an offender.

(2) In the case where the provisions of the preceding paragraph applies to a non-juridical association or foundation, its representative or administrator shall represent such association or foundation with regard to the proceedings, and the provisions of the Code of Criminal Procedure which are applicable where a legal person is the accused or the suspect shall apply *mutatis mutandis*.

Article 34. The following shall be punishable by a fine not exceeding two hundred thousand Yen:

(i) any person who did not make a report or made a false report in accordance with the provisions of Article 9;

(ii) any person who did not keep financial documents in violation of the provisions of Article 18, paragraph (1), or did not enter matters to be entered in financial documents or made a false entry, or refused without reasonable reasons the perusal or copying of financial documents in accordance with the provisions of Article 18, paragraph (2).

Supplementary Provisions (Extract)

(Date of enforcement)

Article 1. This Law shall come into force on October 1, 2001. However, the provisions of Article 9 of the Supplementary Provisions shall come into force on the date of promulgation of this Law [on November 29, 2000].

(Repeal of the Law on Intermediary Business concerning Copyrights)

Article 2. The Law on Intermediary Business concerning Copyrights (Law No.67, of 1939) shall be hereby repealed.

7. LAW ON INTERMEDIARY
BUSINESS CONCERNING
COPYRIGHTS (Repealed)

7. LAW ON INTERMEDIARY BUSINESS CONCERNING COPYRIGHTS (Repealed)

(Law No.67, of April 5, 1939,
as amended up to November 22, 1999 by Law No.160)

Article 1. The term “intermediary business concerning copyrights” as used in this Law shall mean the performance, as an occupation, of an act of agency or mediation on behalf of copyright owners regarding contracts for the use of their works for publication, translation, public performance, broadcasting, cinematographing, sound recording, or other uses. It shall be deemed an intermediary business concerning copyrights to obtain the transfer of copyrights and perform, as an occupation, an act of managing the copyrighted works in pursuance of a specific object on behalf of other persons. The categories of works mentioned in the two preceding paragraphs shall be determined by imperial ordinance.

Article 2. Any person who intends to engage in an intermediary business concerning copyrights shall, in accordance with the provisions of the Ministry of Education and Science Ordinance, specify the scope of the business and the methods of conducting it, and obtain the permission of the Commissioner of the Agency for Cultural Affairs therefor.

Article 3. A person who has been granted the permission mentioned in the preceding Article (hereinafter referred to as an “intermediary”) shall, in accordance with the provisions of the Ministry of Education and Science Ordinance, specify the rules relating to the royalty rates for the use of the works, and obtain the approval of the Commissioner of the Agency for Cultural Affairs therefor. The same shall apply when the intermediary intends to alter the said rules.

Upon receipt of the application for approval mentioned in the preceding paragraph, the Commissioner of the Agency for Cultural Affairs shall issue a public notice giving a summary of the contents of the application.

Any organization formed for the purpose of publishing or public performance, or any other persons designated by the Ministry of Education and

Science Ordinance, may, within one month after the date of the public notice, submit to the Commissioner of the Agency for Cultural Affairs an opinion regarding the summarized contents of the application mentioned in the preceding paragraph.

After the expiration of one month from the date of the public notice, the Commissioner of the Agency for Cultural Affairs shall, before granting the approval mentioned in the first paragraph of this Article, consult the Culture Council. When an opinion has been submitted in accordance with the provisions of the preceding paragraph, the said opinion shall be presented to the Culture Council.

Article 4. An intermediary shall obtain the permission of the Commissioner of the Agency for Cultural Affairs when intending to change the scope of, or the methods of conducting, the business.

Article 5. An intermediary shall submit to the Commissioner of the Agency for Cultural Affairs business reports and statements of accounting in accordance with the provisions of the Ministry of Education and Science Ordinance.

Article 6. The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary, require an intermediary to report on his business or to present his books and documents relating thereto.

Article 7. The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary, cause an official to visit and inspect the office or other place of business of an intermediary, and to investigate the condition of his business and assets. In such cases, the official shall, when carrying out this duty, identify his status.

Article 8. The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary in view of the condition of the business or assets of an intermediary, order the intermediary to change the methods of conducting the business, and issue such other orders as may be necessary.

Article 9. When an intermediary has acted in contravention of this Law or of an order issued under this Law or of a disposition made under such order,

or when he has committed an act prejudicial to the public good in the conduct of his business, the Commissioner of the Agency for Cultural Affairs may revoke the permission granted him under Article 2, or suspend or restrict the operation of his business.

Article 10. Any person who conducts an intermediary business concerning copyrights without the permission mentioned in Article 2 shall be liable to a fine of not more than 3,000 Yen* .

Article 11. An intermediary shall be liable to a fine of not more than 1,000 Yen* if he-

- (i) conducts his business beyond the scope for which permission has been obtained in accordance with the provisions of Article 2 or Article 4;
- (ii) violates an order of suspension or restriction of his business issued in accordance with the provisions of Article 9.

Article 12. An intermediary shall be liable to a fine of not more than 500 Yen* if he-

- (i) conducts his business by methods not in conformity with those for which permission has been obtained in accordance with the provisions of Article 2 or Article 4;
- (ii) conducts his business in contravention of the rules relating to the royalty rates for the use of the works, as approved in accordance with the provisions of Article 3, paragraph 1;
- (iii) fails to submit a business or accounting report mentioned in Article 5, or makes a false statement therein;
- (iv) fails to submit the report or the books and documents mentioned in Article 6, or makes a false statement therein;
- (v) violates an order issued under Article 8.

Article 13. Any person who refuses to permit or who obstructs or evades the visit and inspection or the examination mentioned in Article 7 shall be liable to a fine of not more than 500 Yen* .

Article 14. Whenever an agent, a co-inhabitant, an employee or a co-worker of a juridical or natural person has committed a violation mentioned in Arti-

cles 10 to 12 regarding the business of such person, the said juridical or natural person shall not be exempted from the penalty prescribed on the ground that the act of violation was not directed by him.

Supplementary Provisions

The effective date of this Law shall be prescribed by Imperial Ordinance. [This Law became effective on December 15, 1939 by Imperial Ordinance No.834, of December 13, 1939.]

Any person who has actually conducted an intermediary business concerning copyrights, or who has succeeded thereto, before the effective date of this Law, may, notwithstanding the provisions of Article 2, continue to conduct the said business for a period not exceeding three months from the effective date of this Law.

When the person mentioned in the preceding paragraph has applied for the permission under Article 2 within the period mentioned in the preceding paragraph, the provisions of the said paragraph shall apply until the permission is granted or denied.

Supplementary Provisions (Extract)

(Law No.160, of 1999)

Article 1. This Law (except Article 2 and 3) shall come into force on January 6, 2000. However, the following provisions shall come into force as from the day mentioned in each item concerned:

(i), (ii): [omitted]

* The maximum amount of fines to be imposed was assessed at 20,000 Yen in accordance with the provisions of Article 2, paragraph (1) of the Fines Special Assessment Law (Law No.251, of 1948).

Compensation System for
Private Recording

Compensation System for Private Recording

The system of “compensation for private recording” was established for “audio” and “audiovisual” recording for private use.

The Japanese Copyright Law stipulates a limitation that reproduction by a user himself/herself for the purpose of his /her personal use, family use or similar uses within a limited circle (excluding profit/non-profit business uses), which is called reproduction for private use” by the Law, can be done without authorization of the relevant right owner.

This limitation on right was provided for in the Copyright Law in 1971 as such reproduction for private use was not prevailing widely, and therefore, it was envisaged that the limitation would not seriously damage economic interests of right owners.

However, the development of audio/audiovisual recording technologies as well as the diffusion of good and cheap recording devices brought about tremendous amount of copies produced without authorization by making use of this limitation.

Furthermore, on top of the above problem of the “quantity” of such copies, newly invented digital audio/audiovisual recording devices caused another new problem of “quality” of such copies viz. the copy has exactly the same quality as the original.

Consequently, it became a widely shared idea that the limitation of reproduction for private use itself was unduly damaging the interests of relevant right owners through e.g. the expanding market of used phonograms (original phonograms after digital copies are made).

With a view to coping with this problem, the system of compensation for private audio/audiovisual was established by an amendment of the Copyright Law in 1992 by balancing the interests of users and right owners.

This system is to make it obligatory for those who make copies for private use by making use of a digital device/medium to pay compensation to relevant owners of the right of reproduction including foreign right owners covered by national treatment of treaties in force.

However, as it would be too troublesome for users to pay compensation to all right owners each time they make a digital copy for private use, the following mechanism was introduced:

- the compensation is included in the prices of the designated digital devices/media with cooperation of the producers of the devices/media (therefore, paid by the users only once at the purchase);
- the producers of the devices /media send the compensation, which was included in the prices and paid by the consumers, to the relevant organization of the right owners;
- the above mentioned relevant organization of the right owners is designated by the Government; and
- the designated organization of the right owners allocates the collected compensation to the relevant right owners as well as reserves a part of the compensation as the Common Interests Fund to be used for such activities contributing to the protection of copyright and neighboring rights as education and public awareness raising.

Two organizations have been designated by the Government as such organization of the right owners: sarah (Society for the Administration of Remuneration for Audio Home Recording) for audio recording and SARVH (Society for Administration of Remuneration for Video Home Recording) for audiovisual recording.

The publication of this booklet is supported as a public awareness raising activity by the Common Interests Fund of sarah.