

# COPYRIGHT LAW OF JAPAN

Translated by  
Ryu Kojima  
Fenwick Mark Dalton  
Ken Maeda  
Takakuni Yamane  
Yuki Sawada  
Branislav Hazucha

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Copyright Research and Information Center  
(CRIC)

Copyright Act (Partially unenforced) Act No. 48 of May 6, 1970

The entirety of the Copyright Act (Act No. 39 of 1899) is hereby amended.

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# Chapter I General Provisions

## Section 1 General Rules

(Purpose)

Article 1 The purpose of this Act is to provide for authors' rights and neighboring rights with respect to works, as well as with respect to performances, phonograms, broadcasts, and cablecasts, and to ensure protection for the rights of authors and other such persons while considering the fair exploitation of these cultural products, and thereby contributing to cultural development.

(Definitions)

Article 2 (1) In this Act, the meanings of the terms listed in the following items are as defined in each respective item:

(i) "Work" means a creatively produced expression of thoughts or sentiments that falls within the literary, academic, artistic, or musical domain;

(ii) "Author" means a person who creates a work;

(iii) "Performance" means giving a dramatic performance of, dancing, giving a musical performance of, singing, delivering, declaiming, or by any other means giving a performance of a work (including similar actions not involving the performance of a work but having the nature of a performing art);

(iv) "Performer" means an actor, dancer, musician, singer, or any other person who gives a performance, or a person who conducts or stages a performance;

(v) "Phonogram" means the fixation of sounds on a material object, such as a phonograph disc or recording tape (excluding sounds that are intended to be played exclusively alongside images);

(vi) "Producer of a phonogram" means the person who first fixed the sounds in a phonogram;

(vii) "Commercial phonogram" means a copy of a phonogram that is produced for the purposes of commercial distribution;

(vii)-2 "Transmission to the public" means the act of making a transmission of wireless communications or wired telecommunications with the objective of allowing the public to receive them directly (excluding transmission (unless it constitutes the transmission of a work of computer programming) using telecommunications equipment, one part of which is installed on the same premises as the other parts (or, excluding, if two or more persons

occupy the same premises, transmission using telecommunications equipment, both ends of which are installed within the area a single person occupies));

(viii) “Broadcasting” means the transmission to the public of wireless communications with the objective of allowing the public to simultaneously receive transmissions with the same content;

(ix) “Broadcaster” means a person who is engaged in broadcasting as a business;

(ix)-2 “Cablecasting” means the transmission to the public of wired telecommunications with the objective of allowing the public to simultaneously receive transmissions with the same content;

(ix)-3 “Cablecaster” means a person who is engaged in cablecasting as a business;

(ix)-4 “Automatic public transmission” means a transmission to a member of the public (excluding one that constitutes a broadcast or cablecast) that is made automatically in response to a request from the member of the public;

(ix)-5 “Making a work available for transmission” means making it available to be transmitted via automatic public transmission, through either of the following actions:

(a) Recording data onto a recording medium that an automatic public transmission server connected with a public telecommunications network uses for transmissions to the public (an automatic public transmission server is a device with a function that allows it to send automatic public transmissions of data recorded onto the area of its recording media that is used for automatic public transmissions (hereinafter in this item referred to as a “recording medium for public transmissions”) or of data input into it, through its connection with a public telecommunications network; the same applies hereinafter); adding a recording medium onto which data has been recorded to such an automatic public transmission server as its recording medium for public transmissions; converting a recording medium onto which data has been recorded into such an automatic public transmission server’s recording medium for public transmissions; or inputting data into such an automatic public transmission server;

(b) Connecting an automatic public transmission server, onto the recording medium for public transmissions of which information has been recorded or into which information has been input, to a public telecommunications network (if this is done through a series of actions such as connecting cables, starting up the automatic public transmission server, and initiating the transmission and reception programs, “connecting” refers to the last action in the series);

(ix)-6 “Specified input-type automatic public transmission” means an automatic public transmission made by receiving a broadcast transmission and simultaneously inputting data to an automatic public transmission server that is connected with a public

telecommunications network (including making work available for transmission in order to make that automatic public transmission);

(ix)-7 “Simultaneous broadcasting” means an automatic public transmission of a broadcast program or cablecast program (including making a work available for transmission in order to make that automatic public transmission: hereinafter the same applies in this item), which satisfies the requirements set forth in (a) through (c) (excluding automatic public transmission designated by the Commissioner of the Agency for Cultural Affairs in consultation with the Minister for Internal Affairs and Communications as one that would unreasonably prejudice the interests of the copyright owner, the owner of publishing rights or the owner of neighboring rights (hereinafter referred to as the “copyright owner, etc.”) or one that cannot be easily viewed or listened to widely by citizens, and a specified input-type automatic public transmission):

(a) The automatic public transmission should be made within one week from the day on which the broadcast of the broadcast program or the cablecast of the cablecast program takes place (if the broadcast of the broadcast program or the cablecast of the cablecast program takes place in series in certain intervals under the same title and the interval is longer than one week: within a period specified by the Commissioner of the Agency for Cultural Affairs not exceeding one month, depending on that interval) (excluding any automatic public transmission made before the broadcast or cablecast takes place);

(b) The automatic public transmission should take place without altering the content of the broadcast program or cablecast program (excluding cases where changes are made, such as excluding portions for which authorization for the automatic public transmission has not been obtained from the copyright owner, etc., or due to other unavoidable circumstances); and

(c) The automatic public transmission should be subject to measures, as specified by Order of the Ministry of Education, Culture, Sports, Science and Technology, aimed at preventing or deterring the digital reproduction of the broadcast program or cablecast program by receiving that automatic public transmission;

(ix)-8 “Simultaneous broadcasting service provider” means a service provider who provides simultaneous broadcasting as a business by receiving a broadcast program or cablecast program supplied by a broadcaster or cablecaster with which the service has a close relationship specified by the Commissioner of the Agency for Cultural Affairs that involves personal or capital connections (hereinafter simply referred to as a “close relationship”);

(x) “Producer of a cinematographic work” means the person who conceptualizes and holds responsibility in the production of a cinematographic work;

(x)-2 “Computer program” means something expressed as a set of instructions written for a computer, enabling the computer to function and produce a specific result;

(x)-3 “Database” means an aggregate of data, including articles, numerical values, diagrams, and other information, which is systematically constructed so that such data can be searched with a computer;

(xi) “Derivative work” means a work that a person creates by translating, composing a musical arrangement of, reformulating, dramatizing, making a cinematographic adaptation of, or otherwise adapting a pre-existing work;

(xii) “Joint work” means a work created by two or more persons, where their contributions to the work cannot be separated to allow independent use of each part;

(xiii) “Recording the sound” of something means fixing sounds into a physical object or producing additional copies of that fixation;

(xiv) “Recording the visuals” of something means fixing a sequence of images into a physical object or producing additional copies of that fixation;

(xv) “Reproduction” means the physical replication of a work through printing, photography, or copying, through the recording of sound or visuals, or any another method, and, for each of the following subject matters, includes the action specified therein:

(a) A scenario or other similar work that is used for theatrical purposes: recording the sound or visuals of a stage performance, broadcast, or cablecast of the work; and

(b) An architectural work: the construction of a structure according to the architectural plan;

(xvi) “Stage performance” means performing a work through a method other than by musical performance (a musical performance includes singing; the same applies hereinafter);

(xvii) “On-screen presentation” means projecting a work (excluding those being transmitted to the public) onto a movie screen or other physical object, and includes playing the sounds accompanying the projection that are fixed to a cinematographic work;

(xviii) “Recitation” means communicating a work orally by reading it or through other means (excluding a means that constitutes a performance);

(xix) “Distribution” means transferring or renting out copies of a work to the public, regardless of whether this is done for a fee or free of charge, and with regard to a cinematographic work or a work reproduced therein, it includes transferring or renting out copies of such a work for the purpose of presenting the work to the public;

(xx) “Technological protection measures” means measures that employ electronic means, magnetic means, or other means that cannot be perceived through the human senses (hereafter referred to as “electronic or magnetic means” in the following item and item

(xxii)) to prevent or deter a person from engaging in an action that constitutes infringement of an author's moral rights or copyright as referred to in Article 17, paragraph (1), of a print right, of a performer's moral rights as referred to in Articles 89, paragraph (1), or of neighboring rights as referred to in Article 89, paragraph (6) (hereinafter referred to as "copyright-related matters" in this item, Article 30, paragraph (1), item (ii), Article 113, paragraph (7) and Article 120-2, items (i) and (iv)) (detering such an action means deterring a person from engaging in an action that constitutes infringement of copyright-related matters by causing a considerable barrier to arise as a result of such an action; the same applies in Article 30, paragraph (1), item (ii)) (excluding any measure taken to prevent or suppress such an action that is not based on the intentions of the person that owns the copyright-related matters), and that are taken using signals to which a machine that can be used to exploit a work, performance, phonogram, broadcast, or cablecast (hereinafter referred to as "work") will have a specific reaction if the work is exploited (this includes if an action is taken that constitutes an infringement of the moral rights of the author or performer when taken without the consent of the author or the performer), by recording such signals onto a recording medium, or by transmitting such signals; or by converting the sounds or images of a work, performance, or phonogram and recording them onto a recording medium or converting the sounds or images of a broadcast or cablecast and transmitting them, so that a machine that can be used to exploit that work will need to make a specific conversion when the work is exploited;

(xxi) "Technological exploitation restriction measures" means measures that use electronic or magnetic means to restrict work from being viewed or listened to (or from being executed on a computer, if it is a work of computer programming; the same applies hereinafter in this item and Article 113, paragraph (6)) (excluding any measure taken to restrict this that is not based on the intentions of the copyright owner, etc.), and that are taken using signals to which a machine that can be used to view or listen to work will have a specific reaction if the work is viewed or listened to, by recording such signals onto a recording medium; by transmitting such signals; or by converting the sounds or images of a work, performance, or phonogram and recording them onto a recording medium or converting the sounds or images of a broadcast or cablecast and transmitting them, so that a machine that can be used to exploit that work will need to make a specific conversion when the work is viewed or listened to;

(xxii) "Rights management information" means information about a moral right or copyright provided for in Article 17, paragraph (1), a print right, or a right referred to in Article 89, paragraphs (1) through (4) (hereinafter referred to as a "copyright-related matters" in this item) which falls under (a), (b), or (c) below, and which is recorded onto a

recording medium along with the sounds or images of a work, performance, or phonogram, or transmitted along with the sounds or images of a broadcast or cablecast (excluding information not used for assessing how a work is exploited, for administrative handling related to authorization to exploit a work, or for other management of a work (limited to management by computer)) by electronic or magnetic means:

(a) Information specifying matters set forth by government ordinance including works, etc., rights holders of copyright, etc., and other information

(b) Information regarding the methods and conditions when granting permission for the exploitation of works, etc.

(c) Information that, when collated with other information, allows the identification of matters listed in (i) or (ii).

(xxiii) “Copyright management service” means a copyright management service provided for in Article 2, paragraph (3) of the Act on Copyright Management Service (Act No. 131 of 2000);

(xxiv) “In Japan” means within the jurisdiction where this Act is enforced; and

(xxv) “Abroad” means regions outside the jurisdiction where this Act is enforced.

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

(3) As used in this Act, a “Cinematographic work” includes a work expressed through a method that generates visual or audio-visual effects analogous to those of cinematography and is fixed in a physical medium.

(4) As used in this Act, a “Photograph” includes a work rendered using a method similar to that which is used to produce a photograph.

(5) As used in this Act, “The Public” is deemed to include specific and numerous groups of people.

(6) As used in this Act, a “Corporation” includes an association or foundation that is without legal personality but that has stipulations for a representative or administrator.

(7) In this Act, “Stage performance”, “Musical performance”, and “Recitation” include the playback of sound or visual recordings of a stage performance, musical performance, or recitation of a work (except when this constitutes a transmission to the public or on-screen presentation), and the communication of a stage performance, musical performance, or recitation of a work by means of telecommunication facilities (except when this constitutes a transmission to the public).

(8) In this Act, “Rent out” includes any action that causes a person to acquire the authority for similar exploitation of it, irrespective of the name given to it or the manner in which it is done.

(9) In this Act, any term as set forth in paragraph (1), items (vii)-2, (viii), (ix)-2, (ix)-4,

(ix)-5, (ix)-7, and (xiii) through (xix), and in the preceding two paragraphs encompasses the variant grammatical forms that use the same root.

(Publication of Works)

Article 3 (1) A work is considered published when reproductions thereof in quantities reasonably sufficient to meet public demand, commensurate with the nature of the work, are created and distributed by the person entitled to the rights stipulated in Article 21, or by a person authorized thereby (meaning authorized to utilize the work pursuant to the provisions of Article 63, paragraph (1); the same applies hereinafter in this and the following Chapter, except for this paragraph, Article 4, paragraph (1), Article 4-2, and Article 63), or by a person who has obtained the establishment of publishing rights under Article 79, or by a person authorized thereby to reproduce such work (meaning authorized to reproduce the work pursuant to the provisions of Article 80, paragraph (3); the same applies hereinafter), provided that this is done without prejudice to the rights of the person entitled to the rights set forth in Article 26, Article 26-2, paragraph (1), or Article 26-3. (2) An original work shall be deemed published when copies of a translation of that original work, which constitutes a derivative work, are made and distributed in the quantities specified in the preceding paragraph by the person who, pursuant to the provisions of Article 28, holds the same rights to the relevant work as those prescribed in Article 21, or by a person authorized thereby (limited to when done without prejudice to the rights of the person who, pursuant to the provisions of Article 28, holds the same rights to the relevant work as those set forth in Article 26, Article 26-2, paragraph (1), or Article 26-3). (3) Those who would hold rights under the preceding two paragraphs if the work was protected under this Act, or those authorized to exploit the work, shall be deemed to hold the rights specified in the preceding two paragraphs, respectively, and the provisions of those paragraphs shall apply.

(Making a Work Public)

Article 4 (1) A work is considered made public if it is published or if a person who owns a right provided for in Articles 22 through 25, or a person authorized thereby (meaning authorized to exploit a work pursuant to the provisions of Article 63, paragraph (1)), or a person in favor of whom the publishing rights set forth in Article 79 have been established, or a person authorized thereby to transmit that work to the public (meaning authorized to exploit a work pursuant to the provisions of Article 80, paragraph (3); the same applies hereinafter) presents the work to the public by means of a stage performance, musical performance, on-screen presentation, transmission to the public, recitation, or exhibition (for architectural works, this includes cases where the person who owns the right set forth in Article 21 or the

person authorized thereby (meaning authorized to exploit a work pursuant to the provisions of Article 63, paragraph (1)) constructs it).

(2) A work is deemed to have been made public if the person who owns the right provided for in Article 23, paragraph (1), or a person authorized thereby, or a person in favor of whom the publishing rights set forth in Article 79 have been established, or a person authorized thereby to transmit that work to the public makes the work available for transmission.

(3) An original work is deemed to have been made public if a person who, pursuant to the provisions of Article 28, owns the same right to the relevant work as one provided for in Articles 22 through 24, or a person authorized thereby, presents a translation of it to the public which constitutes a derivative work, by means of a stage performance, musical performance, on-screen presentation, transmission to the public, or recitation, or if a person who, pursuant to the provisions of Article 28, owns the same right with regard to the relevant work as the right provided for in Article 23, paragraph (1), or a person authorized thereby makes that translation available for transmission.

(4) An artistic work or a photographic work is deemed to have been made public if the person prescribed in Article 45, paragraph (1) exhibits it as provided for in that paragraph.

(5) The person who would own a right provided for in paragraphs (1) through (3) of this Article if the work were protected under this Act, and a person authorized thereby to exploit the work, are, respectively, deemed to be the person who owns that right and the person authorized thereby, and the provisions of those paragraphs apply accordingly.

#### (Publication of Phonograms)

Article 4-2 A phonogram is considered published if copies of the phonogram in quantities reasonably sufficient to meet public demand, commensurate with the nature of the work, are made and distributed by the person who owns the right set forth in Article 96 or by a person authorized thereby (meaning authorized to exploit a phonogram pursuant to the provisions of Article 63, paragraph (1) as they apply *mutatis mutandis* pursuant to Article 103; the same applies in Chapter IV, Sections 2 and 3), provided that this is done without prejudice to the rights of the person who owns the right set forth in Article 97-2, paragraph (1), or Article 97-3, paragraph (1).

#### (Effect of International Treaties)

Article 5 If there are specific provisions in an international treaty regarding the rights of authors and neighboring rights, those provisions shall apply.

## Section 2 Scope of Application

(Works Eligible for Protection)

Article 6 A work is eligible for protection under this law only if it falls under one of the following items:

- (i) Works by Japanese nationals (including corporations established under Japanese law or regulations and corporations with a principal office in Japan; the same applies hereinafter).
- (ii) Works first published in Japan (including those first published abroad but published in Japan within 30 days from the date of their first publication).
- (iii) Works, other than those mentioned in the preceding two items, that Japan is obligated to protect under an international treaty.

(Protected Performances)

Article 7 Performances are eligible for protection under this law only if they fall under one of the following items:

- (i) A performance that takes place in Japan.
- (ii) Performances fixed in records listed in the preceding article, item (i) or item (ii).
- (iii) Performances transmitted in broadcasts listed in Article 9, item (i) or item (ii) (excluding those recorded or filmed before transmission with the consent of the performer).
- (iv) Performances transmitted in wired broadcasts listed in Article 9-2, excluding those recorded or filmed before transmission with the consent of the performer.
- (v) Performances other than those listed in the preceding items, falling under one of the following:
  - (a) Performances held in a contracting country of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter referred to as the “the Convention for the Protection of Performers, etc.”).
  - (b) Performances fixed in records listed in Article 8, item (iii).
  - (c) Performances transmitted in broadcasts listed in Article 9, item (iii) (excluding those recorded or filmed before transmission with the consent of the performer).

(vi) Performances other than those listed in the preceding items, falling under one of the following:

- (a) Performances held in a contracting country of the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (hereinafter referred to as

the “WPPT”).

(b) Performances fixed in records listed in Article 8, item (iv).

(vii) Performances other than those listed in the preceding items, falling under one of the following:

(a) Performances held in a member country of the WTO (hereinafter referred to as the “WTO”).

(b) Performances fixed in records listed in Article 8, item (v).

(c) Performances transmitted in broadcasts listed in Article 9, item (iv) (excluding those recorded or filmed before transmission with the consent of the performer). (8) Performances of audiovisual performances concerning the Beijing Treaty on Audiovisual Performance (hereinafter referred to as the “Beijing Treaty”), held by performers who are nationals of a contracting country of the Beijing Treaty or who have a habitual residence in that contracting country.

(Protected Phonograms)

Article 8 Only a phonogram that falls under one of the following items is protected under this Act:

(i) A phonogram whose producer is a Japanese national;

(ii) A phonogram in which sounds are first fixed in Japan;

(iii) Any of the following phonograms, other than one also set forth in either of the preceding two items:

(a) A phonogram whose producer is a national of a contracting state of the Convention for the Protection of Performers, etc. (the nationals of a contracting state include corporations established based on the laws and regulations of that state and corporations that have principal offices in that state; the same applies hereinafter);

(b) A phonogram in which sounds are first fixed in a contracting state of the Convention for the Protection of Performers, etc.;

(iv) Any of the following phonograms, other than one also set forth in the preceding three items:

(a) A phonogram whose producer is a national of a contracting party to the WPPT (the nationals of a contracting party include corporations established based on the laws and regulations of that party and corporations that have principal offices in that party; the same applies hereinafter);

(b) A phonogram in which sounds are first fixed in a contracting party to the WPPT;

(v) Any of the following phonograms, other than one also set forth in the preceding items:

(a) A phonogram whose producer is a national of a WTO member state (the nationals

of a member state include corporations established based on the laws and regulations of that state and corporations that have principal offices in that state; the same applies hereinafter);

(b) A phonogram in which sounds are first fixed in a WTO member state;

(vi) A phonogram, other than one set forth in the preceding items, that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as “the Convention for the Protection of Phonograms” in Article 121-2, item (ii)).

#### (Protected Broadcasts)

Article 9 Only a broadcast that falls under one of the following items is protected under this Act:

(i) A broadcast by a broadcaster who is a Japanese national;

(ii) A broadcast made from a broadcasting facility in Japan;

(iii) Any of the following broadcasts, other than one also set forth in the preceding two items:

(a) a broadcast by a broadcaster who is a national of a contracting state of the Convention for the Protection of Performers, etc.;

(b) a broadcast made from a broadcasting facility in a contracting state of the Convention for the Protection of Performers, etc.;

(iv) Any of the following broadcasts, other than one also set forth in the preceding three items:

(a) A broadcast by a broadcaster who is a national of a WTO member state;

(b) A broadcast made from a broadcasting facility in a WTO member state.

#### (Protected Cablecasts)

Article 9-2: Only cable broadcasting falling under one of the following items is protected under this Act:

(i) Cable broadcasting by a Japanese national (excluding cable broadcasting transmitted by the broadcaster upon receiving a broadcast signal; the same applies to the following item).

(ii) Cable broadcasting originating from a cablecasting facility in Japan.

## Chapter II Rights of Authors

### Section 1 Works

(Examples of Works)

Article 10 (1) The following gives an illustrative example of what is meant, on the whole, by the term “works” as it is used in this Act:

- (i) Novels, scenarios, articles, lectures, and other literary works;
- (ii) Musical works;
- (iii) Works of choreography and pantomime;
- (iv) Paintings, woodblock prints, sculptures, and other works of fine art;
- (v) Works of architecture;
- (vi) Maps and other diagrams of an academic nature, such as plans, charts, and models;
- (vii) Cinematographic works;
- (viii) Photographic works;
- (ix) Works of computer programming.

(2) News reports on current events and miscellaneous news articles that communicate nothing further than the facts do not fall within the scope of works provided in item (i) of the preceding paragraph.

(3) Protection under this Act does not extend to the programming language, coding conventions, or algorithms used to create a work as set forth in paragraph (1), item (ix). The meanings of these terms are as prescribed in the following items:

- (i) “programming language” means letters and other symbols used as a means of expressing a computer program and the systems for their use;
- (ii) “coding conventions” means special stipulations for the use of a programming language in a specific computer program;
- (iii) “algorithm” means a procedure in a computer program, which consists of a set of instructions for the computer.”

(Derivative Works)

Article 11 Protection of a derivative work under this Act does not affect the rights of the author of the original work.

(Compilations)

Article 12 (1) A compilation (except a compilation that constitutes a database; the same

applies hereinafter) that, by reason of the selection or arrangement of its contents, constitutes an intellectual creation is protected as a work.

(2) The provisions of the preceding paragraph do not affect the rights of the author of a work that forms part of a compilation as referred to in that paragraph.

(Databases) Article 12-2 (1) A database that, by reason of the selection or systematic construction of information contained therein, constitutes a creation is protected as a work.

(2) The provisions of the preceding paragraph do not affect the rights of the author of a work that forms part of a database as referred to in that paragraph.

(Works Not Subject to Copyright)

Article 13 The following works are not subject to the rights provided for in this Chapter:

(i) The Constitution and other laws and regulations;

(ii) Notifications, instructions, circular notices, and other similar materials issued by a national or local government agency, an independent administrative agency (meaning an incorporated administrative agency provided for in Article 2, paragraph (1) of the Act on General Rules for Independent Administrative Agencies (Act No. 103 of 1999); the same applies hereinafter), or a local independent administrative agency (meaning a local incorporated administrative agency provided for in Article 2, paragraph (1) of the Local Independent Administrative Agencies Act (Act No. 118 of 2003); the same applies hereinafter);

(iii) Judgments, decisions, orders, and rulings of the courts, as well as administrative determinations and decisions made by administrative agencies in proceedings of a quasi-judicial nature;

(iv) Translations and compilations of the materials listed in the preceding three items, which are made by a national or local government agency, independent administrative agency, or local independent administrative agency.

## Section 2 Authors

(Presumption of Authorship)

Article 14 The person whose name or appellation (hereinafter referred to as “true name”), or whose pen name, abbreviated name, or other substitute for the person’s true name by which that person is commonly known (hereinafter referred to as a “pseudonym”) is indicated as the name of the author in the customary manner on the original work or at the time that the work

is made available or presented to the public is presumed to be the author of that work.

(Authorship of a Work Made in the Course of Duty)

Article 15 (1) For a work (except computer programming) that an employee of a corporation or other employer (hereinafter referred to as a “corporation, etc.”) creates in the course of duty at the direction of the corporation, etc., and that the corporation, etc. publicly presents under its own name as the author, the author is the corporation, etc., unless otherwise specified in a contract, employment rules, or elsewhere at the time the work is created.

(2) For a work of computer programming that an employee of a corporation, etc. creates in the course of duty at the direction of the corporation, etc., the author is the corporation, etc., unless otherwise specified in a contract, employment rules, or elsewhere at the time the work is created.

(Authorship of a Cinematographic Work)

Article 16 The author of a cinematographic work is the person that makes a creative contribution to the overall shaping of the work through responsibility for its production, direction, staging, filming, art direction, etc., other than the author of a novel, scenario, music, or other work that is adapted into or reproduced in the cinematographic work; provided, however, that this does not apply if the provisions of the preceding Article apply.

## **Section 3 The Substance of Rights**

### **Subsection 1 General Rules**

(Authors’ Rights)

Article 17 (1) The author of a work enjoys the rights provided for in paragraph (1) of the following Article; Article 19, paragraph (1); and Article 20, paragraph (1) (hereinafter referred to as the “moral rights of an author”), as well as the rights provided for in Articles 21 through 28 (hereinafter referred to as a “copyright”).

(2) Enjoyment of the moral rights of an author and of a copyright requires no formalities.

### **Subsection 2 Moral Rights of Authors**

(Right to Make a Work Public)

Article 18 (1) The author of a work not yet made public (this includes a work made public without the author’s consent; the same applies hereinafter in this Article) has the right to

make available or present that work to the public. The same applies to any derivative work derived from an original work that has not yet been made public.

(2) In a case set forth in one of the following items, the author is presumed to consent to the action set forth in the relevant item:

(i) The author transfers the copyright to a work not yet made public: making available or presenting the work to the public through the exercise of the copyright to the work;

(ii) The author transfers the original of an artistic or photographic work not yet made public: presenting the work to the public through exhibiting the original;

(iii) The copyright to author's cinematographic work belongs to the producer of the cinematographic work pursuant to the provisions of Article 29: making available or presenting the work to the public through the exercise of the copyright to the work.

(3) In a case set forth in one of the following items, the author is presumed to consent to the action set forth in the relevant item:

(i) The author makes available a work not yet made public to an administrative organ (meaning an administrative organ provided for in Article 2, paragraph (1) of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999; hereinafter referred to as "the Act on Access to Administrative Organs' Information")) (unless the author manifests an intention to the contrary by the time of the decision to disclose it under the provisions of Article 9, paragraph (1) of the Act on Access to Administrative Organs' Information): making available or presenting the work to the public by the head of the administrative organ, pursuant to the provisions of the Act on Access to Administrative Organs' Information (if historical public records and archives (meaning historical public records and archives provided for in Article 2, paragraph (6) of the Public Records and Archives Management Act (Act No. 66 of 2009; hereinafter referred to as "the Public Records Management Act"); the same applies hereinafter) pertaining to that work are transferred from the head of an administrative organ to the National Archives of Japan, etc. (meaning the National Archives of Japan, etc. provided for in Article 2, paragraph (3) of the Public Records Management Act; the same applies hereinafter)) pursuant to the provisions of Article 8, paragraph (1) of the Public Records Management Act (unless the author of the work manifests an intention to the contrary by the time of the decision to permit the use of that work under the provisions of Article 16, paragraph (1) of the Public Records Management Act), this includes making available or presenting the work to the public by the head of the National Archives of Japan, etc. (meaning the head of the National Archives of Japan, etc. provided for in Article 15, paragraph (1) of the Public Records Management Act; the same applies hereinafter), pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act);

(ii) The author makes available a work not yet made public to an incorporated administrative agency, etc. (meaning an incorporated administrative agency, etc. provided for in Article 2, paragraph (1) of the Act on Access to Information Held by Incorporated Administrative Agencies (Act No. 140 of 2001; hereinafter referred to as “the Act on Access to Incorporated Administrative Agencies’ Information”); the same applies hereinafter) (unless the author manifests an intention to the contrary by the time of the decision to disclose it under the provisions of Article 9, paragraph (1) of the Act on Access to Incorporated Administrative Agencies’ Information): making available or presenting the work to the public by the incorporated administrative agency, etc., pursuant to the provisions of the Act on Access to Incorporated Administrative Agencies’ Information (if historical public records and archives pertaining to that work are transferred from that incorporated administrative agency, etc. to the National Archives of Japan, etc. pursuant to the provisions of Article 11, paragraph (4) of the Public Records Management Act (unless the author of the work manifests an intention to the contrary by the time of the decision to permit the use of that work under the provisions of Article 16, paragraph (1) of the Public Records Management Act), this includes making available or presenting the work to the public by the head of the National Archives of Japan, etc., pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act);

(iii) The author makes available a work not yet made public to a local government agency or local incorporated administrative agency (unless the author manifests an intention to the contrary by the time of a decision to make a disclosure): making available or presenting the work to the public by an organ of the relevant local government agency or the relevant local incorporated administrative agency, pursuant to the provisions of information disclosure ordinance (meaning ordinance of local government agencies prescribing the right of a resident, etc. to request that local government agency or a local incorporated administrative agency to disclose the information it holds; the same applies hereinafter) (if historical public records and archives pertaining to that work are transferred from the local government agency or local incorporated administrative agency to the local archives, etc. (meaning facilities provided for by public records management ordinance (meaning ordinance of local government agencies prescribing the appropriate preservation and use of historical public records held by that local government agency or by a local incorporated administrative agency; the same applies hereinafter) as facilities for the appropriate preservation and use of historical public records and archives; the same applies hereinafter) pursuant to public records management ordinance (unless the author of that work manifests an intention to the contrary by the time of the decision to permit the use of the work under the provisions of public records management ordinance (limited to provisions equivalent to the provisions

of Article 16, paragraph (1) of the Public Records Management Act; the same applies hereinafter in this Article), this includes making available or presenting the work to the public by the head of the local archives, etc. (meaning the head of the local government agency to which the local archives, etc. belongs, if the local archives, etc. are the facility of a local government agency facility; or the local incorporated administrative agency by which the local archives, etc. was established, if the local archives, etc. are the facility of a local incorporated administrative agency; the same applies hereinafter), pursuant to the provisions of public records management ordinance);

(iv) The author makes available a work not yet made public to the National Archives of Japan, etc. (unless the author manifests an intention to the contrary by the time of the decision to permit the use of that work under the provisions of Article 16, paragraph (1) of the Public Records Management Act): making available or presenting the work to the public by the head of the National Archives of Japan, etc. pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act;

(v) The author makes available a work not yet made public to the local archives, etc. (unless the author manifests an intention to the contrary by the time of the decision to permit the use of that work under the provisions of public records management ordinance): making available or presenting the work to the public by the head of the local archives, etc. pursuant to the provisions of public records management ordinance.

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

(i) A work not yet made public in which information provided for in Article 5, item (i), (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information has been recorded is made available or presented to the public by the head of an administrative organ pursuant to the provisions of that Article, or a work not yet made public is made available or presented to the public by the head of an administrative organ pursuant to the provisions of Article 7 of the Act on Access to Administrative Organs' Information;

(ii) A work not yet made public in which information provided for in Article 5, item (i), (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Incorporated Administrative Agencies' Information has been recorded is made available or presented to the public by an incorporated administrative agency, etc. pursuant to the provisions of that Article, or a work not yet made public is made available or presented to the public by an incorporated administrative agency, etc. pursuant to the provisions of Article 7 of the Act on Access to Incorporated Administrative Agencies' Information;

(iii) A work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i), (b) or the proviso to Article 5, item (ii) of the Act

on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to the provisions of information disclosure ordinance (limited to those with provisions equivalent to Article 13, paragraphs (2) and (3) of the Act on Access to Administrative Organs' Information; the same applies in item (v));

(iv) A work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i), (c) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to the provisions of the Information Disclosure Regulations;

(v) A work not yet made public is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to the provisions of information disclosure ordinance that are equivalent to the provisions of Article 7 of the Act on Access to Administrative Organs' Information;

(vi) A work not yet made public in which information provided for in Article 5, item (i), (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information or information provided for in Article 5, item (i), (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Incorporated Administrative Agencies' Information has been recorded is made available or presented to the public by the head of the National Archives of Japan, etc. pursuant to the provisions of Article 16, paragraph (1) the Public Records Management Act;

(vii) A work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i), (b) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by the head of the local archives, etc. pursuant to the provisions of public records management ordinance (limited to ordinance with provisions equivalent to Article 18, paragraphs (2) and (4) of the Public Records Management Act);

(viii) A work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i), (c) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by the head of the local archives, etc. pursuant to the provisions of public records management ordinance.

#### (Right of Attribution)

Article 19 (1) The author of a work has the right to decide whether to use the author's true name or pseudonym to indicate the name of the author on the original work or in connection with the work at the time it is made available or presented to the public, or to

decide that the author's name will not be indicated in connection with that work. The same applies with regard to how the name of the author of the original work appears at the time any derivative work derived from it is made available or presented to the public.

(2) Unless the author has manifested a different intention, a person exploiting a work may indicate the name of the author in accordance with how the author has already done so in connection with the work.

(3) The name of the author may be omitted if it is found that doing so is unlikely to harm the interests of the author in a claim to authorship, in light of the purpose of the work and the circumstances of its exploitation, provided that the omission is compatible with fair practices.

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

(i) The work is made available or presented to the public by the head of an administrative organ or by an incorporated administrative agency, etc., a local government agency, or a local incorporated administrative agency pursuant to the provisions of the Act on Access to Administrative Organs' Information, the Act on Access to Incorporated Administrative Agencies' Information, or information disclosure ordinance, and the name of the author is indicated in accordance with how the author has already done so on that work;

(ii) The work is made available or presented to the public by the head of an administrative organ or by an incorporated administrative agency, etc., a local government agency, or a local incorporated administrative agency pursuant to the provisions of Article 6, paragraph (2) of the Act on Access to Administrative Organs' Information, the provisions of Article 6, paragraph (2) of the Act on Access to Incorporated Administrative Agencies' Information, or the provisions of information disclosure ordinance that are equivalent to the provisions of Article 6, paragraph (2) of the Act on Access to Administrative Organs' Information, and it is a case in which the name of the author is to be omitted;

(iii) The work is made available or presented to the public by the head of the National Archives of Japan, etc. or the head of the local archives, etc. pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act or the provisions of public records management ordinance (limited to provisions equivalent to the relevant paragraph of the Public Records Management Act) and the name of the author is indicated in accordance with how the author has already done so on that work.

(Right to Integrity)

Article 20 (1) The author of a work has the right to preserve the integrity of that work and its title, and is not to be made to suffer any alteration, cut, or other modification thereto that is contrary to the author's intention.

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

(i) The alteration of a written character or word, or any other modification made to a work when it is exploited pursuant to the provisions of Article 33, paragraph (1) (including when these apply mutatis mutandis pursuant to paragraph (4) of that Article), Article 33-2, paragraph (1), or Article 34, paragraph (1), which is found to be unavoidable for the purpose of school education;

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

(iii) The necessary modifications to make it so that a work of computer programming that otherwise cannot be executed on a particular computer can be executed on that computer, or to make it so that a work of computer programming can be executed more effectively on a computer;

(iv) A modification other than as set forth in the preceding three items, which is found to be unavoidable in light of the nature of the work and the purpose and circumstances of its exploitation.

### **Subsection 3 Categories of Rights Comprising Copyright**

(Right of Reproduction)

Article 21 The author of a work has the exclusive right to reproduce the work.

(Stage Performance Rights and Musical Performance Rights)

Article 22 The author of a work has the exclusive right to give a stage performance or musical performance of the work with the purpose of having it seen or heard directly by the public (hereinafter referred to as “publicly”).

(Right of On-Screen Presentation)

Article 22-2 The author of a work has the exclusive right to publicly present a work via an on-screen presentation.

(Right to Transmit to the Public)

Article 23 (1) The author of a work has the exclusive right to transmit to the public that work (this includes the right to make the work available for transmission, if the work is to be transmitted to the public via automatic public transmission).

(2) The author of a work that will be transmitted to the public has the exclusive right to publicly communicate that work through a receiver.

(Recitation Rights)

Article 24 The author of a literary work has the exclusive right to recite that work publicly.

(Exhibition Rights)

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

(Distribution Rights)

Article 26 (1) The author of a cinematographic work has the exclusive right to distribute copies of that cinematographic work.

(2) The author of a work that is reproduced in a cinematographic work has the exclusive right to distribute that work in copies of the cinematographic work.

(Right of Transfer)

Article 26-2 (1) The author of a work (except a cinematographic work; the same applies hereinafter in this Article) has the exclusive right to make that work available to the public through the transfer of the original work or a copy of the work (if the work is one that has been reproduced in a cinematographic work, this excludes making that work available to the public through the transfer of a copy of the cinematographic work; the same applies hereinafter in this Article).

(2) The provisions of the preceding paragraph do not apply if a work is made available to the public through the transfer of an original or copy that falls under a category provided for in one of the following items:

(i) An original work or a copy of a work that is transferred to the public by the person who owns the right provided for in the preceding paragraph or a person authorized thereby;

(ii) A copy of a work that is transferred to the public based on a compulsory license under the provisions of Article 67, paragraph (1), Article 67-3, paragraph (1) or Article 69, paragraph (1), or a license under the provisions of Article 5, paragraph (1) of the Act on Special Provisions of the Copyright Act, Required in Consequence of the Enforcement of the Universal Copyright Convention (Act No. 86 of 1956);

(iii) A copy of a work that is transferred to the public based on the application of the provisions of Article 67-2, paragraph (1);

(iv) An original work or a copy of a work that is transferred to exclusive groups made up of a few persons by the person who owns the right provided for in the preceding paragraph or by a person authorized thereby;

(v) An original work or a copy of a work that is transferred abroad without prejudice to

any right equivalent to the right set forth in the preceding paragraph, or that is transferred abroad by the person who owns any right equivalent to the right set forth in that paragraph or a person authorized thereby.

(Right to Rent Out)

Article 26-3 The author of a work (except a cinematographic work) has the exclusive right to make that work available to the public by renting out copies of the work (if the work is one that has been reproduced in a cinematographic work, this excludes making that work available to the public by renting out copies of the cinematographic work).

(Translation Rights, Adaptation Rights, and Other Rights)

Article 27 The author of a work has the exclusive right to translate that work, compose a musical arrangement of it, reformulate it, dramatize it, make a cinematographic adaptation of it, or otherwise adapt the work.

(Rights of the Original Author in Connection with the Exploitation of a Derivative Work)

Article 28 The author of the original work underlying a derivative work holds exclusive rights in the same categories as the rights prescribed in this Subsection that the author of the derivative work holds in connection with the exploitation of that derivative work.

#### **Subsection 4 Ownership of Copyright to Cinematographic Works**

Article 29 (1) If the author of a cinematographic work (excluding a cinematographic work to which the provisions of Article 15, paragraph (1), the following paragraph, or paragraph (3) of this Article apply) has promised the producer of the cinematographic work that the author will participate in its production, the copyright to that cinematographic work belongs to the producer of the cinematographic work.

(2) Among the rights in the copyright to a cinematographic work (excluding a cinematographic work to which the provisions of Article 15, paragraph (1) apply) that a broadcaster produces solely as a practical means of broadcasting or simultaneous broadcasting, the following rights belong to that broadcaster as the producer of the cinematographic work:

(i) The right to broadcast the work, and the right to cablecast the broadcast work, transmit the broadcast work via specified input-type automatic public transmission, or publicly communicate the broadcast work through a receiver;

(ii) The right to transmit the work via simultaneous broadcasting, and the right to publicly communicate the work transmitted via simultaneous broadcasting, through a

receiver; and

(iii) The right to reproduce the work and to distribute copies of it to other broadcasters.

(3) Among the rights in the copyright to a cinematographic work (excluding a cinematographic work to which the provisions of Article 15, paragraph (1) apply) that a cablecaster produces solely as a practical means of cablecasting or simultaneous broadcasting, the following rights belong to the cablecaster as the producer of the cinematographic work:

(i) the right to cablecast the work and to publicly communicate the cablecast work through a receiver;

(ii) the right to transmit the work via simultaneous broadcasting, and the right to publicly communicate the work transmitted via simultaneous broadcasting, through a receiver; and

(iii) the right to reproduce the work and to distribute copies of it to other cablecasters.

### **Subsection 5 Limitations of Copyright**

(Reproduction for Private Use)

Article 30 (1) Except in the following cases, a user may reproduce a work that is subject to copyright (hereinafter in this Subsection referred to as a “work”) if the reproduction is for personal or family use or for any other use of a similarly limited scope (hereinafter referred to as “private use”):

(i) A user reproduces a work by means of an automated duplicator (meaning a device with a function for making reproductions, all or most of whose instruments for making the reproductions are automated) that has been set up for use by the public;

(ii) The reproduction of the work has become possible due to the circumvention of technological protection measures (meaning that the removal or alteration of the signals provided for in Article 2, paragraph (1), item (xx) or any other action that interferes with the effect of the signals (excluding any such action resulting from technological constraints accompanying the conversion of recording or transmission systems) or the restoration of sounds or images of a work, performance, phonogram or broadcast or cablecast which has been converted so as to necessitate a specific conversion as prescribed in that item makes it possible to take an action prevented by the technological protection measures or removes a barrier arising from an action deterred by the technological protection measures (other than a restoration made based on the intentions of the person that owns the copyright, etc.); the same applies in Article 113, paragraph (7) and Article 120-2, items (i) and (ii)) or a barrier to reproduction of the work no longer arises as a result of that circumvention, and the user reproduces the work in knowledge of this fact;

(iii) The work is received via an automatic public transmission that infringes on a

copyright (including an automatic public transmission that is transmitted abroad and that would constitute copyright infringement if it were transmitted in Japan), and the user records the sounds or visuals of the work in digital format (hereinafter referred to as “specified infringing sound or visual recording” in this item and the following paragraph), in knowledge of the fact that the relevant action constitutes the specified infringing sound or visual recording;

(iv) The work is received via an automatic public transmission that infringes on a copyright (excluding the rights provided in Article 28 (limited to those for a derivative work created by a means other than translation); hereinafter the same applies in this item) (including an automatic public transmission that is transmitted abroad and that would constitute copyright infringement if it were transmitted in Japan), and the user reproduces the work in digital format (excluding sound and visual recording; hereinafter the same applies in this item) (excluding reproduction that is minor in light of the percentage of the reproduced part in the work relevant to the copyright, the accuracy of indications made at the time the part is transmitted via automatic public transmission, and other factors; hereinafter in this item and the following paragraph referred to as “specified infringing reproduction”), in knowledge of the fact that the relevant action constitutes the specified infringing reproduction (excluding cases where there are special reasons for finding that the action would not unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of the specified infringing reproduction).

(2) The provisions of items (iii) and (iv) of the preceding paragraph must not be interpreted as including cases where a user undertakes the relevant action through gross negligence in not knowing that the relevant action constitutes the specified infringing sound or visual recording or the specified infringing reproduction.

(3) A person who, for private use, records the sound or visuals of a work in a digital format, on a digital sound or visual recording medium that is provided for by Cabinet Order, by means of a machine with digital sound or visual recording functions (excluding a machine with special performance capabilities for use in the broadcasting business or other special performance capabilities that are generally not offered for private use, and also excluding a telephone with a sound recording function or any other machine with sound or visual recording functions incidental to its primary function) which is provided for by Cabinet Order must pay a reasonable amount of compensation to the copyright owner.

(Exploitation of Incidentally Captured Works)

Article 30-2 (1) In the process of taking photographs, recording sounds or visuals,

broadcasting, or otherwise reproducing images or sounds of objects or communicating them without reproduction them (hereinafter in this paragraph, referred to as “act of reproducing or communicating”), any other work comprising objects or sounds that are captured incidentally along with the objects or sounds captured during the act of reproducing or communicating (hereinafter in this paragraph referred to as “objects or sounds captured for reproduction or communication”) (those captured incidentally include the objects or sounds captured as constituting a part of the objects or sounds captured for reproduction or communication; hereinafter in this paragraph referred to as “incidentally captured objects or sounds”) (but only another work that constitutes a minor part of the materials created or communicated by the act of reproducing or communicating (hereinafter in this Article referred to as “created or communicated materials”), in light of the percentage of the work in the created or communicated materials, the accuracy of its replication in the created or communicated materials, and other elements; hereinafter in this Article referred to as an “incidentally captured work”) may be exploited, in any way, in connection with the act of reproducing or communicating, within the scope that is justified in light of the existence or nonexistence of the intention of making profit through the exploitation of the incidentally captured work, the degree of difficulty in separating the incidentally captured objects or sounds from the objects or sounds captured for reproduction or communication, the role to be played by the incidentally captured work in the created or communicated materials, and other elements; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the incidentally captured work or the circumstances of its exploitation.

(2) An incidentally captured work exploited pursuant to the provisions of the preceding paragraph may be exploited, in any way, in connection with the exploitation of the created or communicated materials relevant to the incidentally captured work; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the incidentally captured work or the circumstances of its exploitation.

(Exploiting a Work as Part of an Investigation)

Article 30-3 A person seeking to exploit a work with the authorization of its copyright owner or after obtaining a compulsory license under the provisions of Article 67, paragraph (1); , Article 67-3, paragraph (1); Article 68, paragraph (1); or Article 69, paragraph (1) may exploit that work, in any way and to the extent considered necessary, if the purpose of doing so is part of the process by which the person is investigating the exploitation of that work through authorization or a compulsory license (inclusive of the process for obtaining the

authorization or compulsory license); provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation.

(Exploitation without the Purpose of Enjoying the Thoughts or Sentiments Expressed in a Work)

Article 30-4 It is permissible to exploit a work, in any way and to the extent considered necessary, in any of the following cases, or in any other case in which it is not a person's purpose to personally enjoy or cause another person to enjoy the thoughts or sentiments expressed in that work; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation:

- (i) If it is done for use in testing to develop or put into practical use technology that is connected with the recording of sounds or visuals of a work or other such exploitation;
- (ii) If it is done for use in data analysis (meaning the extraction, comparison, classification, or other statistical analysis of the constituent language, sounds, images, or other elemental data from a large number of works or a large volume of other such data; the same applies in Article 47-5, paragraph (1), item (ii));
- (iii) If it is exploited in the course of computer data processing or otherwise exploited in a way that does not involve what is expressed in the work being perceived by the human senses (for works of computer programming, such exploitation excludes the execution of the work on a computer), beyond as set forth in the preceding two items.

(Reproduction in Libraries and Similar Facilities; Related Matters)

Article 31 (1) In the following cases and as part of non-commercial undertakings at the National Diet Library or at a library or other facility specified by Cabinet Order whose purpose is to offer books, records, and other materials for the public to use (hereinafter referred to as a "library or similar facility" in this Article and Article 104-10-4, paragraph (3)), it is permissible for a person to reproduce a work from a book, record, or other material of the library or similar facility (hereinafter referred to in the following paragraph and paragraph (6) as a "library material"):

- (i) When providing a single user of the library or similar facility with a single copy of a part of a work that has been made public (or the whole of public relations materials, research or statistical materials, reports, or any other similar works, which have been prepared by a national or local government agency, incorporated administrative agency, or local incorporated administrative agency with the goal of making them widely known to the

general public, and have been made public under the authorship of such agency (referred to as a “publicity material of a national government agency, etc.” in the following paragraph and paragraph (2) of the following Article) or any other work specified by Cabinet Order as a work for which there are special reasons for finding that making a copy of the whole of the work available would not unreasonably prejudice the interests of the copyright owner), in response to the user’s request and for the purpose of the user’s research or studies;

(ii) When necessary for the purpose of preserving library materials;

(iii) When providing a copy of a library material that is difficult to obtain through normal trade channels because it is out of print or for a similar reason (hereinafter referred to as a “rare or out-of-print material” in this Article), in response to a request from another library or similar facility.

(2) A specified library or similar facility may undertake the following actions as part of its non-commercial undertakings with regard to a part of a work that has been made public (or the whole of publicity materials of a national government agency, etc., or any other work specified by Cabinet Order as a work for which there are special reasons for finding that the transmission of a copy of the whole of the work to the public would not unreasonably prejudice the interests of the copyright owner), in response to the request of a user of the specified library or similar facility (limited to a user who has registered their name and contact information and any other information specified by Order of the Ministry of Education, Culture, Sports, Science and Technology (referred to as “user information” in item (iii) of the following paragraph and paragraph (8), item (i)) with the specified library or similar facility in advance; the same applies in paragraph (4) and Article 104-10-4, paragraph (4)) and for the purpose of the user’s research or studies; provided, however, that this does not apply if the relevant action would unreasonably prejudice the interests of the copyright owner in light of the nature of the work (including the status of implementation of a transmission to the public (excluding broadcast or cablecast; and including making a work available for transmission in cases of an automatic public transmission; hereinafter the same applies in this Article) of the work by the copyright owner, a person authorized thereby, a person in favor of whom the publishing rights set forth in Article 79 have been established, or a person authorized thereby to transmit that work to the public; the same applies in Article 104-10-4, paragraph (4)), the purpose of the work, or the circumstances of the transmission to the public made by the specified library or similar facility:

(i) Reproducing library materials as necessary for the transmission to the public as referred to in the following item; and

(ii) Transmitting to the public the original or a copy of library materials (limited to such action undertaken by taking measures specified by Order of the Ministry of Education,

Culture, Sports, Science and Technology as measures to prevent or deter the making available or presentation of a work in an electronic or magnetic record (meaning a record used in computer data processing that is created in an electronic format, magnetic format, or other format that cannot be perceived with the human senses alone; the same applies hereinafter) prepared by receiving the transmission of the work to the public).

(3) The specified library or similar facility provided for in the preceding paragraph means a library or similar facility which satisfies the following requirements:

(i) It has a person responsible for properly implementing the functions related to the transmission to the public under the provisions of the preceding paragraph;

(ii) It provides its personnel engaged in the functions related to the transmission to the public under the provisions of the preceding paragraph with training for properly implementing these functions;

(iii) It takes necessary measures to properly manage user information;

(iv) It takes measures specified by Order of the Ministry of Education, Culture, Sports, Science and Technology as necessary measures to prevent or deter information in an electronic or magnetic record prepared for the transmission to the public under the provisions of the preceding paragraph from being used for a purpose other than the purposes provided for in that paragraph; and

(v) Beyond what is set forth in the preceding items, it takes measures specified by Order of the Ministry of Education, Culture, Sports, Science and Technology as necessary measures to properly implement the functions related to the transmission to the public under the provisions of the preceding paragraph.

(4) A user of a specified library or similar facility who has received a work transmitted to the public pursuant to the provisions of paragraph (2) may reproduce the work to the extent that this is found to be necessary for using it for the purpose of their research or studies.

(5) Upon transmitting a work to the public pursuant to the provisions of paragraph (2), a person that establishes a specified library or similar facility provided for in paragraph (3) must pay the copyright owner of the work a reasonable amount of compensation.

(6) In addition to cases set forth in the items of paragraph (1), if, either in order to prevent the loss, damage, or defacement of the original copy of a library material that the National Diet Library offers to the public, or in order to use a work that is associated with a rare or out-of-print material in an automatic public transmission pursuant to the provisions of the following paragraph or paragraph (8), an electronic or magnetic record is created at the National Diet Library so that it can be offered for public use in place of the original, it is permissible for a person to record a work that is among the library materials of the National Diet Library onto a recording medium, to the extent considered necessary.

(7) The National Diet Library may transmit a work that is associated with a rare or out-of-print material via automatic public transmission using a copy of that work that it has recorded onto a recording medium pursuant to the preceding paragraph, if the purpose of the transmission is to present the work to the public in a library or similar facility, or in a similar foreign facility as designated by Cabinet Order. In such a case, the library or similar facility may, as part of its non-commercial undertakings, undertake the following actions:

(i) Preparing a copy of the work that has been transmitted via automatic public transmission and making the copy available in response to the request of a user of the library or similar facility and to the extent that this is found to be necessary for the user to use it personally; and

(ii) Publicly communicating the work that has been transmitted via automatic public transmission, through a receiver.

(8) If the following requirements are satisfied, the National Diet Library may transmit a work associated with a specified rare or out-of-print material via automatic public transmission, using a copy of the work recorded onto a recording medium pursuant to the provisions of paragraph (6): (i) the automatic public transmission is intended for making the work available to the user who has registered their user information with the National Diet Library in advance; and (ii) the National Diet Library has taken measures to identify the person who intends to receive the automatic public transmission as a pre-registered user at the time of receiving the automatic public transmission.

(9) A person who has received the automatic public transmission under the provisions of the preceding paragraph may undertake the following actions:

(i) Reproducing the work that has been transmitted via automatic public transmission, to the extent that this is found to be necessary to use the work personally; and

(ii) Publicly communicating the work that has been transmitted via automatic public transmission, through a receiver, in accordance with the requirements provided for in (a) or (b) below according to the category of cases set forth respectively in (a) or (b):

(a) If the person displays the work in a size that is not larger than the size specified by Cabinet Order as the size that is equal to the display size applied in cases of inspecting the work personally or at home: the person undertakes the action for non-commercial purposes and without charging any fee from a person to whom the work is to be communicated; or

(b) In cases other than cases set forth in (a): a facility offered for public use established by the national government, a local government, general incorporated association, general incorporated foundation or any other non-profit corporation, which has personnel equipped with knowledge in law necessary for properly communicating to the

public a work that has been transmitted via automatic public transmission, undertakes the action for non-commercial purposes and without charging any fee from a person to whom the work is to be communicated.

(10) The specified rare or out-of-print material referred to in paragraph (8) means a rare or out-of-print material relevant to a work recorded onto a recording medium under the provisions of paragraph (6), except for materials for which the Director General of the National Diet Library, upon the request of the copyright owner, a person authorized thereby, a person in favor of whom the publishing rights set forth in Article 79 have been established, or a person authorized thereby to reproduce the work or transmit the work to the public, has found that it is highly probable for the materials to cease to fall under the scope of rare or out-of-print materials within three months from the date of the request.

(11) The request referred to in the preceding paragraph is to be made to the Director General of the National Diet Library by attaching materials to support a prima facie showing that it is highly probable for the rare or out-of-print material subject to the request to cease to fall under the scope of rare or out-of-print materials within three months from the date of the request.

#### (Quotations)

Article 32 (1) It is permissible to quote and thereby exploit a work that has been made public. In such a case, the quotation must conform to fair practices and be conducted within a scope justified for purposes of news reporting, critique, study, or other quotation purposes.

(2) Publicity materials of national entities may be reprinted as explanatory materials in newspapers, magazines, or other publications; provided, however, that this does not apply if there is a notice expressly prohibiting it.

#### (Printing of Works in Textbooks)

Article 33 (1) A work that has been made public may be printed in a textbook (hereinafter referred to as "textbooks for school education" as provided for in Article 34, paragraph (1) of the School Education Act (Act No. 26 of 1947) (including as applied mutatis mutandis pursuant to Articles 49; Article 49-8; Article 62; Article 70, paragraph (1); and Article 82 of that Act)).

(2) A person printing a work in a textbook pursuant to the provisions of the preceding paragraph must notify the author thereof and pay the copyright owner compensation calculated based on a method established by the Commissioner of the Agency for Cultural Affairs, taking into consideration the purport of the preceding paragraph, the type and purpose of the work, the usual royalty rate, and other circumstances.

(3) When the Commissioner of the Agency for Cultural Affairs establishes the calculation method referred to in the preceding paragraph, it shall be made public via the internet or by any other appropriate means.

(4) The provisions of the preceding three paragraphs shall apply mutatis mutandis to the reproduction of works in textbooks intended for use in high school correspondence courses (including correspondence courses for the upper-class levels of a school for secondary education) and in the teachers' manuals for textbooks (limited to teachers' manuals published by the person publishing the textbooks).

(Printing of Works in Alternative Teaching Materials to Textbooks)

Article 33-2 (1) It is permissible to print a work that has been published in a textbook in alternative teaching materials for textbooks (meaning teaching materials provided for in Article 34, paragraph (2) of the School Education Act, which may be utilized pursuant to Article 34, paragraph (2) or (3) of that Act (including cases where these provisions are applied mutatis mutandis pursuant to Articles 49; Article 49-8; Article 62; Article 70, paragraph (1); and Article 82 of that Act); the same applies hereinafter in this paragraph); and exploit that work in line with the exploitation of the alternative teaching materials for textbooks, irrespective of the manner in which that work is exploited, to the extent that this is found to be necessary for the purpose of school education.

(2) A person intending to print a work that has been published in a textbook in alternative teaching materials to textbooks pursuant to the provision of the preceding paragraph must inform the person publishing the relevant textbook thereof in advance and pay compensation to the copyright owner in the amount calculated based on a method established by the Commissioner of the Agency for Cultural Affairs, taking into consideration the purport of the provision of that paragraph, the manner and circumstances of the use of the work under that paragraph, the amount of compensation specified in paragraph (2) of the preceding Article, and other conditions.

(3) When the Commissioner of the Agency for Cultural Affairs has established the method referred to in the preceding paragraph, the commissioner shall announce this using the internet or by any other appropriate method.

(Reproduction in Order to Prepare a Large-Print Textbook)

Article 33-3 (1) In order to make a work printed in a textbook available for the learning purposes of children or students who have difficulty using such a work printed in a textbook due to a visual impairment, developmental disorder, or other disabilities, it is permissible to reproduce the work with enlarged letters, illustrations, and the like, or by any other means

necessary for those children or students to use that work.

(2) A person that seeks to prepare textbooks or any other copies in which works are reproduced pursuant to the provisions of the preceding paragraph (excluding copies in which the works are reproduced in Braille, and limited to copies in which all of or a considerable part of the works printed in the relevant textbook are reproduced; hereinafter in this paragraph referred to as a “large-print textbook, etc.”) must inform the person that publishes the relevant textbook of this in advance; and if the person distributes the large-print textbooks, etc. commercially, the person must pay the owners of the copyrights to the relevant works compensation in the amount calculated based on a method established by the Commissioner of the Agency for Cultural Affairs in proportion to the amount of compensation provided for in Article 33, paragraph (2).

(3) When the Commissioner of the Agency for Cultural Affairs has established the calculation method referred to in the preceding paragraph, the commissioner announces this using the internet or by any other appropriate method. (4) A person that provides electronic or magnetic records of the works printed in a textbook pursuant to the provisions of Article 5, paragraph (1) or (2) of the Act to Accelerate the Dissemination of School Textbooks for Children and Students with Disabilities (Act No. 81 of 2008) may exploit those works, to the extent that is found to be necessary in order for the person to provide those electronic or magnetic records.

(Broadcasting of Educational Programs for Schools)

Article 34 (1) It is permissible for a person to broadcast or cablecast a work that has been made public, in broadcast or cablecast programming for schools that conforms to the curriculum standards provided for in laws and regulations on school education; to transmit the work via area-limited specified input-type automatic public transmission (meaning specified input-type automatic public transmission made with the objective of allowing an exclusive audience within the service area that the programming is intended for (meaning a service area as provided in Article 91, paragraph (2), item (ii) of the Broadcast Act (Act No. 132 of 1950) or, if a service area is not specified for the broadcast, meaning a broadcast area as provided in Article 14, paragraph (2), item (ii) of the Wireless Telegraphy Act (Act No. 131 of 1950)) to receive it; the same applies hereinafter); or to transmit the work via simultaneous broadcasting (limited to simultaneous broadcasting undertaken by a broadcaster, cablecaster, or simultaneous broadcasting service; the same applies in Article 38, paragraph (3), Article 39, and Article 40, paragraphs (2) and (3)); and to print such a work in teaching materials for that broadcast programming or cablecast programming, to the extent that this is found to be necessary for the purpose of school education.

(2) A person that exploits a work pursuant to the provisions of the preceding paragraph must inform the author of this and pay the copyright owner a reasonable amount of compensation.

(Reproduction in Schools and Other Educational Institutions; Related Matters)

Article 35 (1) A person responsible for teaching or a person attending classes at a school or other educational institution (excluding those established for commercial purposes) may, to the extent deemed necessary for the educational purposes within the course of their classes, reproduce a publicly available work, or transmit it to the public (including making it available for transmission, if it is intended for transmission to the public through automatic public transmission; hereinafter referred to similarly in this Article), or publicly transmit a publicly available work that is being transmitted to the public through a receiver. However, this provision does not apply if such actions would unduly prejudice the interests of the copyright owner, considering the nature and purpose of the work, the quantity of copies made, and the manner of reproduction, transmission, or communication.

(2) If a work is publicly transmitted under the preceding paragraph, the entity establishing the educational institution mentioned in that paragraph must compensate the copyright owner reasonably.

(3) The provisions of the preceding paragraph do not apply if, within the context of the classes at an educational institution mentioned in paragraph (1), the original work or its copies are provided or presented to individuals directly attending the class for their immediate use, or if the work is exploited through a performance, musical rendition, screening, or recitation pursuant to the provisions of Article 38, paragraph (1), and is transmitted to the public simultaneously for individuals attending the class at a location other than where the class is being conducted.

(Reproduction for Examination Questions; Related Matters)

Article 36 (1) It is permissible to reproduce a work that has been made public in a question on an entrance examination or other examination or in an official certification of knowledge or skills, to the extent that this is found to be necessary for such purpose, and to transmit such a question to the public (except in a broadcast or cablecast; however, it is permissible to make such a question available for transmission if it is to be transmitted to the public via automatic public transmission; the same applies in the following paragraph); provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its transmission.

(2) A person who reproduces a work or transmits a work to the public for commercial purposes

must pay the copyright owner compensation in an amount that corresponds to the ordinary rate of royalties.

(Reproduction for Persons with Visual and Vision-Related Impairments; Related Matters)

Article 37 (1) A work that has been made public may be reproduced in Braille.

(2) A work that has been made public may be recorded onto a recording medium or transmitted to the public using a computerized Braille processing system (excluding broadcasting or cablecasting; however, making the work available for transmission is permissible if it is to be transmitted to the public via automatic public transmission; the same applies in the following paragraph).

(3) A person designated by Cabinet Order to engage in welfare-related activities for individuals experiencing difficulty in perceiving visual representations due to visual or other impairments (hereinafter referred to in this paragraph and in Article 102, paragraph (4) as “persons with visual or vision-related impairments”) may, to the extent necessary for the benefit of such persons, reproduce a work that has been made public and is provided or presented to the public in a visually perceivable form (including works made public and provided or presented to the public in a form perceivable both visually and through other senses) (referred to hereinafter in this paragraph and in Article 102, paragraph (4) as “visual works”), and may transmit such visual works to the public by converting text in the visual works into audio or by any other means necessary to facilitate their use by persons with visual and vision-related impairments who find it difficult to use the visual works in their original visual form, within the limits deemed necessary to provide exclusive use for these individuals; provided, however, that this does not apply if the visual work has already been made available or presented to the public in such a form by the copyright owner, a person authorized thereby, a person for whom the printing rights established under Article 79 have been granted, a person authorized thereby to reproduce the visual work, or a person authorized thereby to transmit the visual work to the public.

(Reproduction for Persons with Hearing Impairments; Related Matters)

Article 37-2 The person specified by Cabinet Order for each category of use listed in the following items, engaging in activities related to the welfare of individuals with hearing impairments and others whose perception of auditory expressions is impaired (hereinafter referred to as “persons with hearing impairments, etc.” in this Article and in paragraph (5) of the following Article), may, within the scope determined to be necessary to provide for the exclusive use of the aural work by persons with hearing impairments, etc. who have difficulty using it in its original aural form, exploit a publicly disclosed work provided or presented to

the public in an auditory perceptible manner (including works presented or provided to the public in a manner perceivable both auditorily and through other senses) (hereinafter referred to as “aural works” in this Article), in the manner specified in each item below; provided, however, that this provision shall not apply if the copyright owner, or a person authorized by the copyright owner, or a person for whom the printing rights prescribed in Article 79 have been established, or a person authorized by any of the aforementioned has already made the aural work available or presented it to the public in a manner necessary for persons with hearing impairments, etc. to utilize it:

(i) Reproducing or automatically transmitting an aural work (including making it available for transmission) by converting the sounds in the aural work into text or any other form necessary to enable the work to be used by persons with hearing impairments, etc.;

(ii) Reproducing an aural work solely for the purpose of lending it to persons with hearing impairments, etc. (limited to cases where this is done in conjunction with the reproduction of sounds in the aural work by converting the sounds into text or any other form necessary to enable the aural work to be used by persons with hearing impairments, etc.).

(Stage Performances, etc. for Non-Commercial Purposes)

Article 38 (1) It is permissible to publicly give a stage performance or a musical performance, make an on-screen presentation, or give a recitation of a work that has been made public, if this is done for non-commercial purposes and without charging a fee to the listening or viewing audience; provided, however, that this does not apply if a performer or reciter is paid any remuneration for the stage performance, musical performance, on-screen presentation, or recitation.

(2) It is permissible to cablecast a broadcast work or to transmit such a work via area-limited specified input-type automatic public transmission for non-commercial purposes and without charging a fee to the listening or viewing audience.

(3) It is permissible to publicly communicate a work that is broadcast, cablecast, transmitted via specified input-type automatic public transmission or transmitted via simultaneous broadcasting (excluding instances where the simultaneous broadcasting commences after the broadcast or cablecast is finished), through a receiver for non-commercial purposes and without charging a fee to the listening or viewing audience. The same applies if the work is communicated publicly through a receiver commonly used in a household.

(4) It is permissible to make available to the public a work that has been made public (except a cinematographic work) by renting out copies of that work (if the work is one that has been reproduced in a cinematographic work, this excludes making that work available to the public by renting out copies of the cinematographic work), if this is done for non-commercial

purposes and without charging a fee to persons renting copies of the work.

(5) An audiovisual education facility or any other facility (excluding one set in place for commercial purposes), designated by Cabinet Order, that aims to offer cinematographic films and other audiovisual materials for public use, or a person, provided for by Cabinet Order as referred to in the preceding Article, that is engaged in an undertaking related to the welfare of persons with hearing impairments, etc. (limited to a person concerned with item (ii) of that Article, and excluding a person that engages in that undertaking for commercial purposes) may distribute a cinematographic work that has been made public, by renting out copies of it, if it does so without charging a fee to the persons renting copies of the work. In such instances, the person distributing the work must pay a reasonable amount of compensation to the owner of the right set forth in Article 26 (including paying such compensation to the person that, pursuant to the provisions of Article 28, owns the same right to the relevant work as the right set forth in Article 26) for the cinematographic work or the work reproduced in that cinematographic work.

(Reprinting of Editorial Commentary on Current Affairs)

Article 39 (1) It is permissible for a person to reprint, in another newspaper or magazine, editorial commentary (excluding that of an academic nature) on political, economic, or social current affairs that has been printed and published in a newspaper or magazine; or to broadcast or cablecast such commentary, or to transmit such commentary via area-limited specified input-type automatic public transmission; or to transmit such commentary via simultaneous broadcasting with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive it; provided, however, that this does not apply if it is expressly indicated that such use is prohibited.

(2) It is permissible to publicly communicate commentary that is broadcast, cablecast, transmitted via area-limited specified input-type automatic public transmission or transmitted via simultaneous broadcasting, pursuant to the provisions of the preceding paragraph, through a receiver.

(Exploitation of Public Speeches)

Article 40 (1) It is permissible to exploit a political speech or statement delivered in public or a public statement given in the course of judicial proceedings or administrative trial proceedings (including ruling by an administrative agency or other proceedings equivalent to a trial; the same applies in Article 41-2), in any manner, except for by making a compilation of speeches or statements by the same author.

(2) If it is found to be justified for the purpose of news reporting, it is permissible for a

person to print a speech or statement that has been delivered in public by a national or local government agency, incorporated administrative agency, or local incorporated administrative agency, other than one under the provisions of the preceding paragraph, in a newspaper or magazine; to broadcast or cablecast such a speech or statement, or to transmit such a speech or statement via area-limited specified input-type automatic public transmission; or to transmit such a speech or statement via simultaneous broadcasting.

(3) It is permissible to publicly communicate a speech or statement that is broadcast, cablecast, transmitted via area-limited specified input-type automatic public transmission or transmitted via simultaneous broadcasting, pursuant to the provisions of the preceding paragraph, through a receiver.

(Reporting of Current Events)

Article 41 When current events are reported in the news by means of photography, cinematography, broadcasting, or other means, it is permissible to reproduce a work that constitutes the event or is seen or heard in the course of the event, and to exploit it in line with the reporting of that event, within a scope that is justified for the purpose of news reporting.

(Reproduction, etc. in Court Proceedings, etc.)

Article 41-2 (1) A work may be reproduced to the extent deemed necessary for the purpose of court proceedings and administrative hearing proceedings; provided, however, that this shall not apply in cases where it would unreasonably prejudice the interests of the copyright holder in light of the type and use of the work and the number and form of its reproduction.

(2) A work may be publicly transmitted (in the case of automatic public transmission, including making it transmittable; hereinafter the same in this paragraph, the following article, and Article 42-2, Paragraph 2) or publicly communicated using a receiving device, to the extent deemed necessary for the purpose of administrative hearing proceedings under the Patent Act (Act No. 121 of 1959) or other acts specified by Cabinet Order, that are conducted using electromagnetic records or involve the transmission and reception of video or audio; provided, however, that this shall not apply in cases where it would unreasonably prejudice the interests of the copyright holder in light of the type and use of the work and the manner of its public transmission or communication.

(Reproduction, etc. for Internal Use for Legislative or Administrative Purposes)

Article 42 A work may be reproduced, publicly transmitted to those who use the internal

materials, or publicly communicated using a receiving device, to the extent deemed necessary for the purpose of internal use for legislative or administrative purposes; provided, however, that this shall not apply in cases where it would unreasonably prejudice the interests of the copyright holder in light of the type and use of the work, the number of its reproductions, and the manner of its reproduction, public transmission, or communication.

(Reproduction, etc. in Examination Procedures, etc.)

Article 42-2 (1) A work may be reproduced to the extent deemed necessary for the following procedures; provided, however, that this shall not apply in cases where it would unreasonably prejudice the interests of the copyright holder in light of the type and use of the work and the number and form of its reproductions.

(i) Proceedings related to patent, industrial design, or trademark examinations; technical valuations of utility models; or international examinations or preliminary examinations for international applications (defined as international applications according to Article 2 of the Act on International Applications, etc. under the Patent Cooperation Treaty (Act No. 30 of 1978), conducted by an administrative body;

(ii) proceedings regarding an administrative agency's examination of a variety (as defined in Article 2, paragraph (2), of the Plant Variety Protection and Seed Act (Act No. 83 of 1998)) or the examination of a registered variety (as defined in Article 20, paragraph (1), of the same Act);

(iii) Proceedings regarding an administrative agency's registration of specific agricultural, forestry, and fishery products and foodstuffs (as defined in Article 2, paragraph (2), of the Act on Protection of Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs (Act No. 84 of 2014) ; hereinafter the same applies in this item), under Article 6 of the same Act, or the designation of specific agricultural, forestry, and fishery products from foreign countries under Article 23, paragraph (1), of the same Act;

(iv) Proceedings regarding an administrative agency's or incorporated administrative agency's examination or investigation of pharmaceutical affairs (pharmaceutical affairs include details of medical devices (as defined in Article 2, paragraph (4), of the Act on Securing Quality, Efficacy, and Safety of Products Including Pharmaceuticals and Medical Devices (Act No. 145 of 1960)) and regenerative medicine products (as defined in Article 2, paragraph (9), of the same Act); the same applies hereinafter in this item), or proceedings regarding a report about pharmaceutical affairs submitted to an administrative agency or incorporated administrative agency;

(v) Beyond what is set forth in the preceding items, proceedings that Cabinet Order prescribes as being similar thereto.

(2) A work may be publicly transmitted or publicly communicated using a receiving device, to the extent deemed necessary for the procedures listed in each item of the preceding paragraph that are conducted using electromagnetic records or involve the transmission and reception of video or audio; provided, however, that this shall not apply in cases where it would unreasonably prejudice the interests of the copyright holder in light of the type and use of the work and the manner of its public transmission or communication.

(Exploitation for Disclosure Pursuant to the Act on Access to Administrative Organs' Information and Other Provisions)

Article 42-3 The head of an administrative organ or an incorporated administrative agency, etc., local government agency, or local incorporated administrative agency may exploit a work in order to make available or present that work to the public, to the extent that this is found to be necessary for disclosing the work by each of the means provided for in Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information (including the provisions of Cabinet Order based on the provisions of that paragraph), Article 15, paragraph (1) of the Act on Access to Incorporated Administrative Agencies' Information (including means decided by the relevant incorporated administrative agency, etc. based on the provisions of that paragraph (excluding anything other than the means provided for by Cabinet Order based on the provisions of Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information)), or information disclosure ordinance (excluding anything other than the means set forth in Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information (including the provisions of Cabinet Order based on the provisions of that paragraph)).

(Exploitation for Preservation Pursuant to the Public Records Management Act and Other Provisions)

Article 42-4 (1) The head of the National Archives of Japan, etc. or the head of the local archives, etc. may reproduce a work associated with the historical public records and archives to the extent that is found to be necessary, if the purpose of doing so is to preserve the historical public records and archives pursuant to the provisions of Article 15, paragraph (1) of the Public Records Management Act or the provisions of public records management ordinance (limited to provisions equivalent to the relevant paragraph of the Public Records Management Act).

(2) The head of the National Archives of Japan, etc. or the head of the local archives, etc. may exploit a work to the extent that this is found to be necessary in order to allow the work to be exploited by each of the means provided for in Article 19 of the Public Records

Management Act (this includes any provisions of Cabinet Order that are based on the provisions of that Article; the same applies hereinafter in this paragraph) or public records management ordinance (excluding anything not constituting a means set forth in the relevant Article of the Public Records Management Act), if the purpose of doing so is to make it available or present it to the public pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act or the provisions of public records management ordinance (limited to provisions equivalent to Article 16, paragraph (1) of the Public Records Management Act).

(Reproduction for Collecting Internet Materials and Online Materials under the National Diet Library Act)

Article 43 (1) The Director General of the National Diet Library may record a work that is included in the internet materials set forth in Article 25-3, paragraph (1) of the National Diet Library Act (Act No. 5 of 1948) (hereinafter in this Article referred to as “internet materials”) or the online materials set forth in Article 25-4, paragraph (3) of that Act onto a recording medium used by the National Diet Library, to the extent that this is found to be necessary for collecting the relevant internet materials or online materials pursuant to the provisions of those paragraphs.

(2) The following persons may reproduce works associated with the materials set forth in the following items, to the extent that is considered to be necessary in order for that person to make those materials available:

(i) A person provided for in Article 24 or 24-2 of the National Diet Library Act: internet materials that the person makes available in response to a request referred to in Article 25-3, paragraph (3) of that Act;

(ii) A person that does not fall under Article 24 or 24-2 of the National Diet Library Act: online materials set forth in Article 25-4, paragraph (1) of that Act that the person makes available pursuant to the provisions of that paragraph.

(Ephemeral Fixation by a Broadcaster or Cablecaster)

Article 44 (1) A broadcaster may make an ephemeral sound or visual recording of a work that the broadcaster is permitted to broadcast or transmit via simultaneous broadcasting without prejudice to the right set forth in Article 23, paragraph (1), for its own broadcasts or simultaneous broadcasting (including simultaneous broadcasting by a simultaneous broadcasting service closely related to the broadcaster, which receives broadcast programs supplied by the broadcaster) by means of its own facilities or those of another broadcaster that is permitted to broadcast the same work or transmit it via simultaneous broadcasting.

(2) A cablecaster may make an ephemeral sound or visual recording of a work that the cablecaster is permitted to cablecast or transmit via simultaneous broadcasting without prejudice to the right set forth in Article 23, paragraph (1), for its own cablecasts (except a cablecast it transmits based on the receipt of a broadcast) or simultaneous broadcasting (including simultaneous broadcasting undertaken by a simultaneous broadcasting service that has a close relationship with the cablecaster by receiving a cablecast program supplied by the cablecaster) by means of its own facilities.

(3) A simultaneous broadcasting service may make an ephemeral sound or visual recording of a work that the service is permitted to transmit via simultaneous broadcasting without prejudice to the right set forth in Article 23, paragraph (1), for its own simultaneous broadcasting by means of its own facilities or those of a broadcaster or cablecaster that has a close relationship with the service.

(4) Sound or visual recordings made pursuant to the provisions of the preceding three paragraphs must not be preserved for more than six months after the recording (or six months after the broadcast, cablecast or transmission via simultaneous broadcasting, if the recording is broadcast, cablecast or transmitted via simultaneous broadcasting within the period of six months after the recording); provided, however, that this does not apply to recordings preserved in official archives specified by Cabinet Order.

#### (Exhibition of an Artistic Work by the Owner of the Original)

Article 45 (1) The owner of the original copy of an artistic work or photographic work or a person authorized thereby may publicly exhibit that work.

(2) The provisions of the preceding paragraph do not apply if the original copy of an artistic work is permanently installed on a street, at a park, or in any other outdoor location accessible to the public, or on the outer wall of a building or other place easily seen by the public.

#### (Exploitation of an Artistic work on Public Display)

##### Article 46

It is permissible to exploit an artistic work the original copy of which is permanently installed in an outdoor location as provided for in paragraph (2) of the preceding Article or an architectural work, in any way whatsoever except the following:

- (i) Producing additional copies of a sculpture or making those additional copies of the sculpture available to the public by transferring them;
- (ii) Reproducing an architectural work by means of construction, or making copies of an architectural work so reproduced available to the public by transferring them;
- (iii) Reproducing a work in order to permanently install it in an outdoor location as

provided for in paragraph (2) of the preceding Article;

(iv) Reproducing an artistic work for the purpose of selling copies of it, or selling those copies.

(Reproduction in Connection with the Exhibition of an Artistic Work; Related Matters)

Article 47 (1) A person that, without prejudice to the right provided for in Article 25, publicly exhibits the original copy of an artistic work or photographic work (hereinafter in this Article such a person is referred to as the “person exhibiting the original copy of a work”, and hereinafter in this Article and Article 47-6, paragraph (2), item (i) such a work is referred to as an “exhibited work”), may print the exhibited work in pamphlets for the purpose of explaining or introducing the exhibited work to persons viewing it; and may reproduce that exhibited work to the extent necessary to present it via an on-screen presentation or to transmit an automatic public transmission (this includes making it available for transmission; the same applies in Article 47-6, paragraph (2), item (i)) about it pursuant to the provisions of the following paragraph; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the exhibited work, the number of copies that would be made, or the circumstances of its reproduction.

(2) For the purpose of explaining or introducing an exhibited work to persons viewing it and to the extent considered to be necessary, the person exhibiting the original copy of a work may present the exhibited work via an on-screen presentation or transmit an automatic public transmission about that exhibited work; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the exhibited work or the circumstances of its on-screen presentation or automatic public transmission.

(3) To the extent considered to be necessary in order to provide information to the public concerning the location of an exhibited work, the person exhibiting the original copy of a work or a person designated by Cabinet Order as equivalent thereto may reproduce that exhibited work or make a transmission to the public about it (this includes making the relevant work available for transmission, if it is to be transmitted to the public via an automatic public transmission); provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the exhibited work or the circumstances of its reproduction or public transmission.

(Reproduction in Connection with an Offer to Transfer an Artistic Work; Related Matters)

Article 47-2 If, without prejudice to the rights set forth in Article 26-2, paragraph (1) and

Article 26-3, the owner of the original or a copy of an artistic work or photographic work or any other person with the authority to transfer or rent out the original or a copy thereof seeks to transfer or rent out the original or copy of the work, the person with that authority or a person commissioned thereby may, for use in making the offer to transfer or rent out the original or copy of the work, reproduce or transmit to the public the work (and may make the work available for transmission, if it is to be transmitted to the public via automatic public transmission) (but the person may do so only if that person takes measures to prevent or deter the copy that is made when the work is reproduced for the offer, from being used to reproduce the work; measures to prevent or deter a person from reproducing the work after receiving it in a transmission to the public; or any other measure designated by Cabinet Order as one that stops the interests of the copyright owner from being unfairly prejudiced).

(Reproduction by the Owner of a Copy of a Work of Computer Programming; Related Matters)

Article 47-3 (1) The owner of a copy of a work of computer programming may reproduce that work to the extent that this is found to be necessary in order for the person to execute the work on that person's own computer; provided, however, that this does not apply in cases when the provisions of Article 113, paragraph (5) apply to the use that is made of such copies in connection with its execution.

(2) After the owner of a copy referred to in the preceding paragraph (including copies made pursuant to the provisions of that paragraph) loses ownership of one of the copies of the work for reasons other than the destruction thereof, the owner must not retain other copies of the work if the copyright owner has not explicitly expressed an intention to allow it.

(Exploitation of Works Incidental to the Exploitation of Works on a Computer)

Article 47-4 (1) A person is permitted to exploit a work that is made available for exploitation on a computer (including exploitation via information and communication technologies; as applicable throughout this Article), by any means and to the extent considered to be necessary, in any of the following cases or in any similar case in which the purpose is to make that work available to be exploited incidentally on a computer so that the relevant work can be smoothly or efficiently exploited on that computer; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation:

(i) If the person is exploiting a work on a computer using a copy of that work or is exploiting a work transmitted as a wireless communications or wired telecommunications

after having received such a transmission, and if, in the course of the data processing that the computer does in order for that work to be exploited, the person records the work on the recording medium of that computer so that it can smoothly and efficiently perform that data processing;

(ii) If a person that, in the course of trade, makes available an automatic public transmission server for another person to use for automatic public transmissions records a work that has been made available for automatic public transmission on a recording medium in order to prevent delays or failures of that other person's automatic public transmissions or in order to efficiently transmit a work that has been made available for transmissions so as to relay automatic public transmissions of that work;

(iii) If the person is providing data by a means that applies information or communication technologies, and records a work on a recording medium or adapts it in order to undertake the computerized data processing that is necessary to prepare to provide that data smoothly and efficiently.

(2) A person may exploit a work that is made available to be exploited on a computer, in any way and to the extent considered to be necessary, in one of the following cases or in any similar case in which the purpose is to maintain or recover the possibility of exploiting a work on that computer; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation:

(i) If, for the purpose of conducting maintenance or repairs on a device with an integrated recording medium, the person temporarily records a work that has been recorded on the recording medium that has been built in to that device (hereinafter in this item and the following item referred to as a "built-in recording medium") on a recording medium other than the built-in recording medium, and then re-records that work onto the built-in recording medium after the maintenance or repairs;

(ii) If, for replacing a device with an integrated recording medium with another device of identical functionality, the person temporarily records a work that has been recorded onto that device's built-in recording medium onto a recording medium other than that built-in recording medium, and then records that work on the built-in recording medium of the device with same functions;

(iii) If a person that, in the course of trade, makes available an automatic public transmission server for another person to use for automatic public transmissions records a work on a recording medium to facilitate recovery in instances that the copy of the work, made available for automatic public transmission by that automatic public transmission server, is either lost or damaged.

(Minor Exploitation Incidental to Computerized Data Processing and the Provision of the Results Thereof)

Article 47-5 (1) A person undertaking an action as set forth in one of the following items that contributes to facilitating the exploitation of a work by creating new knowledge or information through computerized data processing (including those who undertake a part of such action, provided they do so in accordance with the standards prescribed by Cabinet Order) may exploit a work that has been made available or presented to the public (this includes a work that has been made available for transmission; the same applies hereinafter) (hereinafter in this Article and Article 47-6, paragraph (2), item (ii) referred to as a “available or presented work”) (limited to a publicized work or a work made available for transmission), in any way and to the extent considered to be necessary in light of the purpose of the action set forth in the relevant item, when exploiting it incidental to the undertaking of that action (limited to exploitation that is minor in light of the percentage it constitutes of the part of the available or presented work that has been provided for exploitation, the volume of the part of that work that has been provided for exploitation, the accuracy of indications made at the time it was provided for exploitation, and other elements; hereinafter in this Article referred to as “minor exploitation”); provided, however, that this does not apply if the person undertakes that minor exploitation knowing that the making available or presentation of the works to the public constitutes copyright infringement (for a work made available or presented to the public abroad, this is under the condition that such an action would be considered copyright infringement if conducted within Japan); nor does this apply if the action would otherwise unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the available or presented work or the circumstances of its minor exploitation:

(i) Using a computer to search for the title or author name of a work in which information that a person is searching for (hereinafter in this item referred to as “information being searched for”) has been recorded, for the transmitter identification code (meaning the letters, numbers, symbols, or any other code by which the transmitter of an automatic public transmission is identified; the same applies in Article 113, paragraphs (2) and (4)) associated with information being searched for that has been made available for transmission, or for any other information concerning the identification or location of information being searched for; and making the results of that search available;

(ii) Undertaking computerized data analysis and furnishing the results of that analysis;

(iii) An action that Cabinet Order prescribes as contributing to increased convenience in the lives of the citizenry by creating new knowledge or information through computerized data processing and making the results of this available, beyond what is set forth in the

preceding two items.

(2) A person that prepares to undertake an action set forth in one of the items of the preceding paragraph (limited to a person who collects, organizes, and provides information in preparation to undertake the action in accordance with the standards prescribed by Cabinet Order) may reproduce or make public transmissions of an available or presented work (or make the relevant work available for transmission, if such transmission is being made via an automatic public transmission; the same applies in this paragraph and Article 47-6, paragraph (2), item (ii)) or distribute copies thereof, to the extent considered to be necessary in order to prepare for minor exploitation under the preceding paragraph; provided, however, that this does not apply if the action would otherwise unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the available or presented work, the number of copies that would be reproduced or distributed, or the circumstances of the reproduction, public transmission, or distribution.

(Exploitation by Means of Translation and Adaptation)

Article 47-6 (1) If it is permissible to exploit a work pursuant to the provisions set forth in one of the following items, it is also permissible to exploit that work in accordance with those provisions by the means set forth in that item:

(i) Article 30, paragraph (1); Article 33, paragraph (1) (including as applied *mutatis mutandis* pursuant to paragraph (4) of Article 33); Article 34, paragraph (1); and Article 35: translation, musical arrangement, reformulation, or adaptation;

(ii) Article 31, paragraph (1) (limited to the part concerned with item (i)), paragraph (2), paragraph (4), paragraph (7) (limited to the part concerned with item (i)) or paragraph (9) (limited to the part concerned with item (i)); Article 32; Article 36, paragraph (1); Article 37, paragraph (1) or (2); Article 39, paragraph (1); Article 40, paragraph (2); Article 41; or Article 42-2: translation;

(iii) Article 33-2, paragraph (1), Article 33-3, paragraph (1), or Article 47: reformulation or adaptation;

(iv) Article 37, paragraph (3): translation, reformulation, or adaptation;

(v) Article 37-2: translation or adaptation;

(vi) Article 47-3, paragraph (1): adaptation.

(2) If, pursuant to one of the items set forth in the preceding paragraph (or the provisions prescribed in one of the following items, as regards a derivative work as set forth in that item; the same applies in this paragraph and Article 48, paragraph (3), item (ii)), it is permissible to exploit the original work underlying a derivative work that has been created pursuant to the preceding paragraph, the derivative work is deemed to constitute a work provided for in the

provisions set forth in the relevant of the items of the preceding paragraph in terms of the relationship with the author of the original work or other person that has the rights provided in Article 28 with respect to the exploitation of the derivative work, and it is permissible for a person to exploit that derivative work based on the provisions set forth in the relevant item:

(i) A derivative work created pursuant to the preceding paragraph in a case in which it is permissible, pursuant to the provisions of Article 47, paragraph (1), to reproduce an exhibited work in order to undertake an on-screen presentation or automatic public transmission of that exhibited work under Article 47, paragraph (2): Article 47, paragraph (2);

(ii) A derivative work created pursuant to the preceding paragraph in a case in which, pursuant to paragraph (2) of the preceding Article, it is permissible to undertake the reproduction or automatic public transmission of an available or presented work or the distribution of copies thereof: Article 47-5, paragraph (1).

(Transfer of Copies Made Pursuant to Restrictions on the Right of Reproduction)

Article 47-7 A work that may be reproduced pursuant to the provisions of Article 30-2, paragraph (2); Article 30-3; Article 30-4; Article 31, paragraph (1) (limited to the part concerned with item (i); the same applies hereinafter in this Article) or paragraph (7) (limited to the part concerned with item (i); the same applies hereinafter in this Article); Article 32; Article 33, paragraph (1) (including when application *mutatis mutandis* is provided for under the provisions of paragraph (4) of that Article); Article 33-2, paragraph (1), Article 33-3, paragraph (1) or (4); Article 34, paragraph (1); Article 35, paragraph (1); Article 36, paragraph (1); Article 37; Article 37-2 (except item (ii); the same applies hereinafter in this Article); Article 39, paragraph (1); Article 40, paragraph (1) or (2); Articles 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4, paragraph (2); ; Articles 46; Article 47, paragraph (1) or (3); Article 47-2; Article 47-4 or 47-5, is also permitted to be made available to the public through the transfer of a copy of that work that is made based on the application of those provisions (excluding copies of a cinematographic work in a case under the provisions of Article 31, paragraph (1) or paragraph (7); Article 36, paragraph (1); Article 42-2 paragraph (1); Article 42; or Article 42-2, paragraph (1) (if the work is one that has been reproduced in a cinematographic work, this exclusion also applies to copies of the relevant cinematographic work; the same applies hereinafter in this Article)); provided however, that this does not apply if the copy of that work that is made based on the application of the provisions of Article 30-3; Article 31, paragraph (1) or paragraph (7); Article 33-2, paragraph (1), Article 33-3, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); Article 37-2; Articles 41; Article 41-2 , paragraph (1); Article 42;

Article 42-2, paragraph (1); Article 42-3; Article 42-4, paragraph (2);; Article 47, paragraph (1) or (3); Article 47-2; Article 47-4 or 47-5 is transferred to the public for a purpose other than what is provided for in Article 31, paragraph (1) or paragraph (7); Article 33-2, paragraph (1), Article 33-3, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); Article 37-2; Articles 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4, paragraph (2);; Article 47, paragraph (1) or (3); Article 47-2; Article 47-4 or 47-5, or if a person transfers to the public a copy of that work that has been made based on the application of the provisions of Article 30-4 with the purpose of personally enjoying or causing another person to enjoy the thoughts or sentiments expressed in the work (excluding a copy of a cinematographic work in a case under the provisions of Article 31, paragraph (1) or paragraph (7); or ; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1)).

(Indication of Sources)

Article 48 (1) In a case set forth in one of the following items, the source of the work must be clearly indicated in the manner and to the extent considered reasonable, commensurate with the circumstances of its reproduction or exploitation:

(i) A work is reproduced pursuant to the provisions of Article 32; Article 33, paragraph (1) (including when application *mutatis mutandis* is provided for pursuant to the provisions of paragraph (4) of that Article); Article 33-2, paragraph (1); Article 37, paragraph (1); Article 41-2, paragraph (1); Article 42; Article 42-2, paragraph (1) or Article 47, paragraph (1);

(ii) A work is exploited pursuant to the provisions of Article 34, paragraph (1); Article 37, paragraph (3); Article 37-2; Article 39, paragraph (1); Article 40, paragraph (1) or (2); Article 47, paragraph (2) or (3); or Article 47-2;

(iii) A work is exploited other than by its reproduction pursuant to the provisions of Article 32 or Article 42 is exploited pursuant to the provisions of Article 35; Article 36, paragraph (1); Article 38, paragraph (1); Article 41; Article 41-2 , paragraph (2); Article 42-2, paragraph (2); Article 46; or Article 47-5, paragraph (1), and it is common practice to indicate the source.

(2) In a source indication as referred to in the preceding paragraph, the name of the author that appears on the work must be cited, except if the author's name is clear from the source indication or if the work is anonymous.

(3) If a work is exploited as provided in one of the following items, the source of the original work underlying the derivative work provided for in that item must be indicated pursuant to the provisions of the preceding two paragraphs:

(i) A derivative work created pursuant to the provisions of Article 40, paragraph (1); Article 46; or Article 47-5, paragraph (1) is exploited pursuant to those provisions;

(ii) A derivative work created pursuant to the provisions of Article 47-6, paragraph (1) is exploited based on the application of the provisions set forth in paragraph (2) of that Article pursuant to the items of paragraph (1) of that Article.

(Use of a Copy Other than for Its Intended Purpose)

Article 49 (1) The following persons are deemed to have undertaken the reproduction referred to in Article 21:

(i) A person that distributes a copy of a work that has been created based on the application of the provisions of Article 30, paragraph (1); Article 30-3; Article 31, paragraph (1), item (i), paragraph (2), item (i), paragraph (4), paragraph (7), item (i) or paragraph (9), item (i); Article 33-2, paragraph (1) Article 33-3, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); the first sentence of Article 37-2 (or item (ii) of that Article, in a case referred to in that item; the same applies in item (i) of the following paragraph); Articles 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4; Article 43, paragraph (2); Article 44, paragraphs (1) through (3); Article 47, paragraph (1) or (3); Article 47-2, or Article 47-5, paragraph (1) (other than one constituting a copy as referred to in item (i) or (ii) of the following paragraph), or presents the work to the public by means of such a copy (this includes making the derivative work available for transmission; the same applies hereinafter), for a purpose other than what is stipulated in those provisions;

(ii) A person that uses a copy of a work that has been created based on the application of the provisions of Article 30-4 (other than one constituting a copy as referred to in item (iii) of the following paragraph) to exploit that work with the purpose of personally enjoying or causing another person to enjoy the thoughts or sentiments expressed therein, irrespective of the manner in which the person exploits it;

(iii) A broadcaster, cablecaster or simultaneous broadcasting service that preserves an ephemeral recording in violation of the provisions of Article 44, paragraph (4);

(iv) A person that distributes a copy of a work that has been created based on the application of the provisions of Article 47-3, paragraph (1) (other than one constituting a copy as referred to in item (iv) of the following paragraph), or a person that presents a work to the public by means of such a copy;

(v) A person that preserves a copy as referred to in Article 47-3, paragraph (2) (other than one constituting a copy as referred to in item (iv) of the following paragraph) in violation of the provisions of that paragraph;

(vi) A person that uses a copy of a work that has been created based on the application of the provisions of Article 47-4; or Article 47-5, paragraph (2) (other than one constituting a copy as referred to in item (vi) or (vii) of the following paragraph) to exploit the work for a purpose other than what is provided for in those provisions, irrespective of the manner in which the person exploits it.

(2) A person as follows is deemed to have undertaken the translation, musical arrangement, reformulation, or adaption under Article 27 of the original work underlying the derivative work in question, or to have reproduced that derivative work as referred to in Article 21:

(i) A person that distributes a copy of a derivative work that has been created based on the application of Article 47-6, paragraph (2) and in accordance with what is set forth in the items of Article 47-6, paragraph (1), or that presents that derivative work to the public by means of such a copy, for a purpose other than what is provided for in Article 30, paragraph (1); Article 31, paragraph (1), item (i), paragraph (2), item (i), paragraph (4), paragraph (7), item (i) or paragraph (9), item (i); Article 33-2, paragraph (1); Article 33-3, paragraph (1); Article 35, paragraph (1) ; Article 37, paragraph (3); the first sentence of Article 37-2; Article 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); or Article 47, paragraph (1) or (3);

(ii) A person that distributes a copy of a derivative work that has been created based on the application of Article 30-3; or Article 47-5, paragraph (1), or that presents that derivative work to the public by means of such a copy, for a purpose other than what is provided for in those provisions;

(iii) A person that uses a copy of a derivative work that has been created based on the application of the provisions of Article 30-4 to exploit that derivative work with the purpose of personally enjoying or causing another person to enjoy the thoughts or sentiments expressed therein, irrespective of the manner in which the person exploits it;

(iv) A person that distributes a copy of a derivative work that has been created based on the application of the provisions of Article 47-6, paragraph (2), and pursuant to the provisions of Article 47-3, paragraph (1), or presents that derivative work to the public by means of such a copy;

(v) A person that preserves the copy referred to in the preceding item, in violation of the provisions of Article 47-3, paragraph (2);

(vi) A person that uses a copy of a derivative work that has been created based on the application of Article 47-4, to exploit the derivative work for a purpose other than what is provided for in that Article, irrespective of the manner in which the person exploits it;

(vii) A person that uses a copy of a derivative work that has been created pursuant to the provisions of Article 47-5, paragraph (2) based on the application of Article 47-6, paragraph

(2) for a purpose other than what is provided for in Article 47-5, paragraph (2), irrespective of the manner in which it is exploited.

(Relationship with the Moral Rights of Authors)

Article 50 The provisions of this Subsection must not be interpreted as affecting the moral rights of authors.

## Section 4 Terms of Protection

(General Terms of Protection)

Article 51 (1) The duration of copyright begins at the time the work is created.

(2) Unless otherwise specified in this Section, a copyright subsists for a period of 70 years after the death of the author (in the case of a joint work, after the death of the last surviving co-author. the same applies in paragraph (1) of following Article).

(Terms of Protection for Anonymous or Pseudonymous Works)

Article 52 (1) The copyright to an anonymous or pseudonymous work subsists for a period of 70 years after the work is made public; provided, however, that if, before the expiration of a duration of copyright for an anonymous or pseudonymous work, it is found that 70 years have elapsed since the death of the author of that work, the copyright is deemed to have expired at the time that is found to constitute the expiration of 70 years since the death of the author.

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

(i) The pseudonym adopted by the author of a pseudonymous work is commonly known to be that author's pseudonym;

(ii) The author's true name is registered pursuant to Article 75, paragraph (1), within the period referred to in the preceding paragraph;

(iii) The author makes the work public using the author's true name or the pseudonym by which the author is commonly known to indicate the name of the author, within the period referred to in the preceding paragraph.

(The Term of Protection for Works Attributed to an Organization)

Article 53 (1) The copyright to a work whose authorship is attributed to a corporation or other organization subsists for a period of 70 years after the work is made public (or for a period of 70 years after the creation of the work, if the work is not made public within 70 years

of its creation).

(2) The provisions of the preceding paragraph do not apply if the individual who is the author of a work whose authorship is attributed to a corporation or other corporate body, makes the work public and uses that individual's true name or the pseudonym by which that individual is commonly known to indicate the name of the author, within the period referred to in the preceding paragraph.

(3) With respect to the duration of copyright for a work whose authorship has been attributed to a corporation or other corporate body pursuant to the provisions of Article 15, paragraph (2), even if such a work does not fall under the category of works provided for in paragraph (1), it is deemed to be attributed to the relevant corporate body, and the provisions of paragraph (1) apply.

#### (The Term of Protection for Cinematographic Works)

Article 54 (1) The copyright to a cinematographic work subsists for 70 years after the work is made public (or for 70 years after the creation of the work, if the work is not made public within the 70 years after its creation).

(2) When the copyright to a cinematographic work expires at the expiration of the duration of copyright, the copyright to original work connected with that cinematographic work also expires as regards the exploitation of the cinematographic work.

(3) The provisions of the preceding two Articles do not apply to the copyright to a cinematographic work.

Article 55 Deleted

#### (The Time at Which a Serial Publication Is Made Public)

Article 56 (1) The time of publication under Article 52, paragraph (1); Article 53, paragraph (1); or Article 54, paragraph (1) shall be considered the time of publication of each volume, each issue, or each occasion for works published in successive volumes, issues, or occasions, respectively, and the time of publication of the final part for works completed by the sequential publication of individual parts.

(2) If, for works completed by the sequential publication of individual parts, a subsequent part has not been published despite three years elapsing since the publication of the most recent part, the most recently published part shall be deemed the final part of the work for the purposes of the preceding paragraph.

#### (Calculation of Terms of Protection)

Article 57 For the purpose of calculating the conclusion of the seventy-year period following the death of the author; or the seventy-year period after a work is made public or created, in a case referred to in Article 51, paragraph (2); Article 52, paragraph (1); Article 53, paragraph (1); or Article 54, paragraph (1), the calculation commences the year subsequent to the year of the author's death or the year the work is published or created.

(Special Provisions on Terms of Protection)

Article 58 If the country of origin of a work (excluding works specified under Article 6(i))—in accordance with the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty, or the Marrakesh Agreement Establishing the WTO—is a foreign country that is a member of the International Union established by the Berne Convention, a contracting party of the WIPO Copyright Treaty, or a member of the WTO, and if it has set a copyright duration shorter than that stipulated in Articles 51 through 54, then the copyright duration for that work shall adhere to the period established by the country of origin.

## **Section 5 The Exclusive Nature of Author's Moral Rights**

(The Exclusive Nature of Author's Moral Rights)

Article 59 Author's moral rights exclusively belong to the author themselves and cannot be transferred.

(Protection of Moral Interests after Author's Death)

Article 60 Even after the death of an author, it is prohibited for a person that makes available or presents the author's work to the public to engage in conduct that would be prejudicial to the moral rights of the author if the author were alive; provided, however, that this does not apply if that conduct is found not to contravene the will of the author in light of the nature and extent of the conduct as well as changes in social circumstances and other conditions.

## **Section 6 Transfer and Expiration of Copyright**

(Transfer of Copyright)

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

(2) In contracts for the transfer of copyright, if there is no specific mention of the rights provided for in Articles 27 and 28, it is presumed that these rights are retained by the transferor.

(Expiration of Copyright When There Are No Heirs)

Article 62 (1) Copyright expires in the following cases:

(i) When the author dies, and the copyright is to revert to the National Treasury, pursuant to the provisions of Article 959 (Reversion of Residual Assets to the National Treasury) of the Civil Code (Act No. 89 of 1896);

(ii) When the corporation that owns the copyright is dissolved, and the copyright is to revert to the National Treasury pursuant to the provisions of Article 239, paragraph (3) of the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006) or the provisions of other similar Acts.

(2) The provisions of Article 54, paragraph (2) apply mutatis mutandis when the copyright to a cinematographic work has expired pursuant to the provisions 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) A person that obtains the authorization referred to in the preceding paragraph is entitled to exploit the work to which that authorization pertains within the scope of the manner and conditions of exploitation under that authorization.

(3) A right of exploitation (meaning the right to exploit a work under the authorization referred to in paragraph (1) pursuant to the provisions of the preceding paragraph; the same applies in the following Article) may not be transferred without the consent of the copyright owner.

(4) Unless otherwise stipulated in a contract, the authorization referred to paragraph (1) in connection with the broadcasting or cablecasting of a work, is not to be construed as including authorization for recording the work's sound or visuals.

(5) If a person that may authorize another person (meaning authorization referred to in paragraph (1); hereinafter the same applies in this paragraph) to broadcast or cablecast a work or transmit a work via simultaneous broadcasting has authorized a specified broadcaster or cablecaster (meaning a broadcaster or cablecaster that undertakes simultaneous broadcasting

in the course of trade, or supplies a broadcast program or cablecast program for simultaneous broadcasting undertaken in the course of trade by a simultaneous broadcasting service having a close relationship therewith, and, as a measure to publicize this fact, discloses information specified by the Commissioner of the Agency for Cultural Affairs as information concerning the status of implementation of simultaneous broadcasting, including the title of the broadcast program or cablecast program subject to simultaneous broadcasting and the broadcast or cablecast time of the program, by a method specified by the Commissioner of the Agency for Cultural Affairs; hereinafter the same applies in this paragraph) to exploit the work in broadcast or cablecast programming by the specified broadcaster or cablecaster, the authorization is presumed to include authorization to transmit the work via simultaneous broadcasting (including simultaneous broadcasting undertaken by a simultaneous broadcasting service that has a close relationship with the specified broadcaster or cablecaster by receiving the broadcast program or cablecast program supplied by the specified broadcaster or cablecaster), unless the person manifests an intention to the contrary upon granting the authorization.

(6) For a person who has received authorization under paragraph (1) to make a work available for transmission, the provisions of Article 23, paragraph (1), do not apply when they make the work available for transmission repeatedly or through the use of another automatic public transmission server, provided this is done within the scope of the manner and conditions of exploitation specified by the authorization (excluding those that concern the number of times the work may be made available for transmission or the automatic public transmission server that may be used to make the work available for transmission).

(Perfection of Right of Exploitation)

Article 63-2 The right of exploitation can be asserted against any individual who has acquired the copyright of the work concerned by such right, or against any other third party.

(Exercise of the Moral Rights of Co-Authors)

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

(2) A co-author may not prevent the agreement referred to in the preceding paragraph from being reached in breach of good faith.

(3) Co-authors may choose one co-author from among themselves to represent them in the exercise of their moral rights.

(4) Limitations on the representative authority of the person representing the co-authors in the exercise of the rights referred to in the preceding paragraph may not be duly asserted

against a third party that is without knowledge of those limitations.

(Exercise of a Joint Copyright)

Article 65 (1) An owner of a copyright to a joint work or any other jointly owned copyright (hereinafter in this Article referred to as a “joint copyright”) cannot transfer or pledge their share of the joint copyright without the consent of the other co-owners.

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

(3) In a case referred to in the preceding two paragraphs, a co-owner may not, without justifiable grounds, refuse the consent referred to in paragraph (1) or prevent the agreement referred to in the preceding paragraph from being reached.

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

(Copyrights That Have Become Subject to Pledge)

Article 66 (1) A copyright owner is entitled to exercise a copyright even if said copyright is subject to a pledge, unless otherwise stipulated in the act of establishing the pledge.

(2) A pledge may be exercised with respect to money or any other thing the copyright owner would receive from the transfer of the copyright or the exploitation of the work (including consideration for the establishment of a print right); provided, however, it is required that the right to receive these payments or transfers is secured by attachment before any payment or transfer to the pledge holder.

## **Section 8 Exploitation of a Work Based on a Compulsory License**

(Exploitation of a Work If the Copyright Owner Is Unknown)

Article 67 (1) In a case prescribed by Cabinet Order as one in which, due to reasons such as the author being unknown, the author of a work that has been made public or a work that has clearly been made available or presented to the public for a considerable period of time cannot be contacted even after a considerable effort, a person may exploit that work in the manner provided for in a compulsory license issued thereto by the Commissioner of the Agency for Cultural Affairs, after depositing for the copyright owner compensation in an amount determined by the Commissioner to be equivalent to the ordinary rate of royalties.

(2) Notwithstanding the provisions of the preceding paragraph, the deposit under the preceding paragraph is not required if the national or local government or a corporation

prescribed by Cabinet Order as being similar thereto (hereinafter referred to as the “national or local government or equivalent corporation” in this paragraph and the following Article) seeks to exploit a work pursuant to the provisions of that paragraph. In such a case, if the national or local government or equivalent corporation becomes able to contact the copyright owner, it must pay compensation to the copyright owner in the amount established by the Commissioner of the Agency for Cultural Affairs in accordance with the provisions of the preceding paragraph.

(3) A person that seeks to be issued the compulsory license referred to in paragraph (1) must submit to the Commissioner of the Agency for Cultural Affairs an application detailing the manner in which that person seeks to exploit the work and other particulars designated by Cabinet Order, and attaching materials to support a prima facie showing that the copyright owner cannot be contacted and the materials designated by Cabinet Order.

(4) Copies of a work that have been made pursuant to the provisions of paragraph (1) must bear an indication that they have been made pursuant to a compulsory license under that paragraph, and give the date on which the compulsory license was issued.

#### (Exploitation of a Work While an Application for a Compulsory License Is Pending)

Article 67-2 (1) If a person who applies for the compulsory license mentioned in paragraph (1) of the preceding Article (hereinafter in this Article referred to simply as a “compulsory license”) deposits collateral in the amount that has been fixed by the Commissioner of the Agency for Cultural Affairs, taking into consideration the method of exploitation of the work as specified in the application, that person may exploit the work to which the application pertains in the manner of exploitation under that application in the time leading up to the disposition granting or denying the compulsory license (or in the time leading up to when the person is able to contact the copyright owner, if the person becomes able to contact the copyright owner in the time leading up to the disposition granting or denying the compulsory license); provided, however, that the person may not exploit the work if it is clear that the author of that work intends to discontinue

(2) Notwithstanding the provisions of the preceding paragraph, the deposit under the preceding paragraph is not required if the national or local government or an equivalent corporation seeks to use a work pursuant to the provisions of that paragraph.

(3) A copy of a work that has been created based on the application of the provisions of paragraph (1) must bear an indication that it has been made pursuant to the provisions of that paragraph, and give the date on which the application for a compulsory license was filed.

(4) Notwithstanding the provisions of paragraph (1) of the preceding Article, if the person exploiting the work pursuant to the provisions of paragraph (1) (hereinafter referred to as a

“user with a pending application”; this does not include the national or local government or an equivalent corporation; the same applies in the following paragraphs) is issued the compulsory license, the user is not required to make a deposit under the provisions of paragraph (1) of the previous Article with regard to the portion of the compensation referred to in that paragraph which is equivalent to the amount of collateral already deposited under the provisions of paragraph (1) of this Article (and if the amount of the collateral exceeds that of the compensation, the user is not required to deposit compensation).

(5) If a user with a pending application is issued a disposition denying the compulsory license (unless the user has been able to contact the copyright owner in the time leading up to the disposition), the user must deposit the compensation for the copyright owner in the amount that has been fixed by the Commissioner of the Agency for Cultural Affairs as equivalent to the amount of royalties for having exploited the work pursuant to the provisions of paragraph (1) in the time leading up to when the user was issued the disposition. In this case, the portion of the collateral deposited pursuant to the provisions of that paragraph which is equivalent to the amount of compensation (or if the amount of compensation exceeds the amount of collateral, the collateral) is deemed to have been deposited as compensation.

(6) If the user with a pending application (limited to the national or local government or an equivalent corporation) becomes able to contact the copyright owner after the disposition denying the compulsory license, the user with a pending application must pay compensation to the copyright owner in the amount equivalent to the royalties for having exploited the work pursuant to the provisions of paragraph (1) for the period preceding the disposition, as established by the Commissioner of the Agency for Cultural Affairs.

(7) If a user with a pending application becomes able to contact the copyright owner in the time leading up to the disposition granting or denying the compulsory license, the user must pay the copyright owner compensation equivalent to the amount of royalties for having exploited the work pursuant to the provisions of paragraph (1) in the time leading up to when the user was able to contact the copyright owner.

(8) In a case referred to in paragraph (4), (5) or (7), the copyright owner is entitled to receive repayment from collateral deposited pursuant to the provisions of paragraph (1) in connection with the right to receive the compensation referred to in paragraph (5) or (7) of this Article.

(9) A person that deposits collateral pursuant to the provisions of paragraph (1) is entitled to recover, pursuant to Cabinet Order, all or a part of the portion of collateral that exceeds the amount of collateral from which the copyright owner is entitled to receive repayment pursuant to the provisions of the preceding paragraph.

(Broadcasting of Works)

Article 68 (1) If a broadcaster or simultaneous broadcasting service seeking to broadcast a work that has been made public or transmit such work via simultaneous broadcasting requests the copyright owner to agree to authorize its broadcast of the work or transmission of the work via simultaneous broadcasting, but an agreement cannot be reached or deliberations about this cannot be entered into, the broadcaster may broadcast the work or transmit the work via simultaneous broadcasting pursuant to a compulsory license by the Commissioner of the Agency for Cultural Affairs, and after paying compensation to the copyright owner in the amount that has been fixed by the Commissioner as equivalent to the ordinary rate of royalties.

(2) A work that is broadcast or transmitted via simultaneous broadcasting pursuant to the provisions of the preceding paragraph may also be cablecast, transmitted via area-limited specified input-type automatic public transmission, or communicated publicly through a receiver. In this case, except in a case to which the provisions of Article 38, paragraphs (2) and (3) apply, the person that makes that cablecast, transmits the area-limited specified input-type automatic public transmission, or sends the communication must pay the copyright owner compensation in an amount equivalent to the ordinary rate of royalties.

(Recording Sounds onto Commercial Phonograms)

Article 69 Once a commercial phonogram has been sold for the first time in Japan and three years have elapsed since the date of its first sale, if a person seeking to make a sound recording of a musical work whose sound has been recorded onto that phonogram with the authorization of the copyright owner and to thereby produce a different commercial phonogram, requests the copyright owner to agree to authorize that person to make such a sound recording or to make such a commercial phonogram available to the public through its transfer, but an agreement cannot be reached or deliberations about this cannot be entered into, the person may make such a sound recording or make such a commercial phonogram available to the public through its transfer pursuant to a compulsory license by the Commissioner of the Agency for Cultural Affairs and after paying compensation to the copyright owner in the amount that has been fixed by the Commissioner as equivalent to the ordinary rate of royalties.

(Procedures and Standards for Compulsory License)

Article 70 (1) An applicant for a compulsory license referred to in Article 67, paragraph (1); Article 68, paragraph (1); or the preceding Article must pay an application fee in the amount that has been fixed by Cabinet Order in consideration of actual costs.

(2) The provisions of the preceding paragraph do not apply if the entity that would be

required to pay the application fee pursuant to the provisions of that paragraph is the national government.

(3) Upon receipt of an application for the compulsory license referred to in Article 68, paragraph (1) or the preceding Article, the Commissioner of the Agency for Cultural Affairs must notify the copyright owner involved in the application thereof, and provide the copyright owner an opportunity to express an opinion, specifying an adequate period of time for this.

(4) If the Commissioner of the Agency for Cultural Affairs has received an application for a compulsory license referred to in Article 67, paragraph (1), Article 68, paragraph (1) or the preceding Article but finds the circumstances to fall under either of the following items, the commissioner must not issue the compulsory license:

(i) It is evident that the author intends to discontinue the printing or other exploitation of the work; or

(ii) There are unavoidable circumstances for the copyright owner's inability to authorize the broadcast or simultaneous broadcasting of the work to which the application for a compulsory license referred to in Article 68, paragraph (1) pertains.

(5) When seeking to issue a disposition denying an applicant the compulsory license referred to in the preceding paragraph (unless the disposition denying the applicant the compulsory license is issued pursuant to the provisions of paragraph (7)) the Commissioner of the Agency for Cultural Affairs must notify the applicant of the reasons for this in advance and afford the applicant an opportunity to explain the applicant's position and furnish evidence in the applicant's favor, and if the commissioner issues the disposition denying the applicant that compulsory license, the commissioner must notify the applicant in writing, providing the reasons for denial.

(6) Upon issuing the compulsory license referred to in Article 67, paragraph (1), the Commissioner of the Agency for Cultural Affairs must issue a public notice of this in the Official Gazette as well as notifying the applicant, and upon issuing the compulsory license referred to in Article 68, paragraph (1) or the preceding Article, the Commissioner must notify the relevant parties of this.

(7) If there has been a petition from a user with a pending application to withdraw that user's application for the compulsory license referred to in Article 67, paragraph (1), the Commissioner of the Agency for Cultural Affairs shall issue a disposition denying the applicant the compulsory license.

(8) Beyond what is provided for in the preceding paragraphs, any necessary particulars involved in the compulsory licenses referred to in this Section are provided by Cabinet Order.

## Section 9 Compensation; Related Matters

(Consultation with the Culture Council)

Article 71 When fixing the amount of compensation referred to in Article 33, paragraph (2) (including as applied mutatis mutandis pursuant to paragraph (4) of that Article); Article 33-2, paragraph (2); Article 67, paragraph (1); Article 67-2, paragraph (5) or (6); Article 68, paragraph (1); or Article 69, the Commissioner of the Agency for Cultural Affairs must consult with the Culture Council.

(Legal Action Concerning Amounts of Compensation)

Article 72 (1) A party that is dissatisfied with the amount of compensation fixed based on the provisions of Article 67, paragraph (5) or (6); Article 67-2, paragraph (4); Article 68, paragraph (1); or Article 69, may bring an action to increase or decrease the amount of compensation, within a period of six months from the date on which the party learns that a compulsory license under any of these provisions (or a disposition denying the compulsory license referred to in Article 67, paragraph (1), in cases referred to in Article 67-2, paragraph (5) or (6)) has been issued.

(2) In an action referred to in the preceding paragraph, the copyright owner must be the defendant if the person bringing the action is the person exploiting the work, and the person exploiting the work must be the defendant if the person bringing the action is the copyright owner.

(Limitations on Requests for Review Concerning Amounts of Compensation)

Article 73 In a request for review concerning a disposition granting or denying the compulsory license referred to in Article 67, paragraph (1); Article 68, paragraph (1); or Article 69, dissatisfaction with the amount of compensation subject to the disposition granting or denying that compulsory license may not be used as grounds for dissatisfaction with the disposition granting or denying the compulsory license; provided, however, that this does not apply if the person that was issued the disposition granting or denying the compulsory license referred to in Article 67, paragraph (1) is unable to bring the action referred to in paragraph (1) of the preceding Article because the copyright owner is unknown or for other similar reasons.

(Depositing Compensation)

Article 74 (1) In the following cases, a person that is required to pay the compensation

referred to in Article 33, paragraph (2) (including as applied mutatis mutandis pursuant to the provisions of paragraph (4) of that Article); Article 33-2, paragraph (2); Article 68, paragraph (1); or Article 69 must deposit the compensation instead of paying it:

- (i) The copyright owner refuses or
- (ii) is unable to receive the compensation;
- (iii) Through no fault of the person required to pay, the copyright owner cannot be identified;
- (iv) The person required to pay brings an action as referred to in Article 72, paragraph (1) with respect to the amount of compensation;
- (v) A pledge has been established on the copyright” (except when the person holding the pledge has given their consent).

(2) If the copyright owner so requests, in cases referred to in item (iv) of the preceding paragraph, the person that is required to pay compensation must pay the sum that accords with the person’s own calculations and deposit the difference between sum that person calculates and the amount of compensation as per the compulsory license.

(3) Deposits of compensation under the provisions of Article 67, paragraph (1); Article 67-2, paragraph (5); or the preceding two paragraphs or a deposit of collateral under the provisions of Article 67-2, paragraph (1) must be made at the deposit office nearest to the domicile or residence of the copyright owner, if known and within Japan, or otherwise at the deposit office nearest to the depositor’s domicile or residence.

(4) A person that makes a deposit referred to in the preceding paragraph must notify the copyright owner of that deposit; provided, however, that this does not apply if the copyright owner cannot be notified due to reasons such as the copyright owner being unknown.

## **Section 10 Registration**

(Registration of True Names)

Article 75 (1) The author of an anonymous or pseudonymous work that has been made public, may have the author’s true name registered for that work, regardless of whether the author currently owns the copyright.

(2) An author may have the registration referred to in the preceding paragraph made after the author’s death by the person designated in the author’s will.

(3) A person whose true name has been registered is presumed to be the author of the work to which the registration pertains.

(Registration of the Date of First Publication)

Article 76 (1) The copyright owner or the publisher of an anonymous or pseudonymous work may have the date of first publication or the date first made public registered for that work.

(2) A work whose date of first publication or date first made public is registered is presumed to have been first published or first made public on the registered date.

(Registration of the Date of Creation)

Article 76-2 (1) The author of a work of computer programming may have the date of creation of the work registered; provided, however, that this does not apply after six months have passed since the creation of that work.

(2) A work of computer programming that has been registered as referred to in the preceding paragraph is presumed to have been created on the registered date.

(Registration of a Copyright)

Article 77 The following particulars cannot be asserted against a third party unless they are registered:

(i) The transfer of a copyright (except a transfer by inheritance or by any other general succession; the same applies in the following item), its alteration as a result of a trust, or a restriction on its disposal;

(ii) The establishment, transfer, alteration, or expiration of a pledge on a copyright (except when due to comingling or to the expiration of the copyright or the claim it secures), or a restriction on its disposal.

(Registration Procedure)

Article 78 (1) The registrations referred to in Article 75, paragraph (1); Article 76, paragraph (1); Article 76-2, paragraph (1); and the preceding Article are made by the Commissioner of the Agency for Cultural Affairs, who enters or records them in the copyright register.

(2) The copyright register may be prepared in whole or in part using magnetic discs (this includes any object on which it is possible to reliably record a fixed set of data using equivalent means; the same applies in paragraph (4)), pursuant to Cabinet Order.

(3) Upon making a registration referred to in Article 75, paragraph (1), the Commissioner of the Agency for Cultural Affairs must issue a public notice of this using the internet or by any other appropriate method.

(4) Any person may enter a request with the Commissioner of the Agency for Cultural

Affairs to be delivered a certified copy or a certified abstract of entries in the copyright register or a copy of its annexed documents, to inspect the register or its annexed documents, or to be delivered documents detailing information recorded in a portion of the copyright register that has been prepared using magnetic discs.

(5) A person entering a request referred to in the preceding paragraph must pay the fee that has been fixed by Cabinet Order in consideration of actual costs.

(6) The provisions of the preceding paragraph do not apply if the person that would be required to pay the fee pursuant to the provisions of that paragraph is the national or local government or an equivalent corporation

(7) The provisions of Chapters II and III of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to measures taken in connection with registrations referred to in paragraph (1).

(8) The provisions of the Act on Access to Administrative Organs' Information do not apply to the copyright register and its annexed documents.

(9) The provisions of Chapter IV of the Act on the Protection of Personal Information Held by Administrative Organs (Act No. 58 of 2003) do not apply to retained personal information (meaning the Retained Personal Information set forth in Article 2, paragraph (5) of that Act) that is recorded in the copyright register and its annexed documents.

(10) Beyond what is provided for in this Section, any necessary particulars connected with the registration referred to in paragraph (1) are provided by Cabinet Order.

(Special Provisions on the Registration of Works of Computer Programming)

Article 78-2 Beyond what is provided for in this Section, the particulars of the registration of works of computer programming are as provided separately by law.

## **Chapter III Publishing Rights**

(Establishment of Publishing Rights)

Article 79 (1) The holder of the right set forth in Article 21 or Article 23, paragraph (1) (hereinafter in this Chapter referred to as "the holder of reproduction rights or public transmission rights") may establish a publishing right in favor of a person that undertakes to either publish the work as a piece of writing or as a picture (this includes recording the work on a recording medium in a format that makes it possible to use a computer to display the work as a piece of writing or picture on a computer screen, and distributing the copy of that work that has been recorded onto that recording medium; referred to as "the act of publishing" in Article 80, paragraph (2) and Article 81, item (i)) or to transmit the work to the public (this

in includes making it transmittable, other than through a broadcast or cablecast, if the work is transmitted via automatic public transmission; hereinafter the same applies in this Chapter) using a copy of that work that has been recorded on a recording medium in the relevant format (referred to as “the act of public transmission” in Article 80, paragraph (2) and Article 81, item (ii)).

(2) If a pledge has been established on the right of reproduction or right to transmit to the public, the owner of reproduction rights or public transmission rights may establish publishing rights only with the authorization of the pledgee.

(Substance of Publishing Rights)

Article 80 The holder of publishing rights exclusively possesses either all or part of the following rights concerning the work that is the subject of these publishing rights, as defined in the establishing act:

(i) The right to reproduce the unaltered original work for the purpose of distribution, as a piece of writing or as a picture, by printing it or by other mechanical or chemical means (including the right to reproduce the unaltered work as an electronic or magnetic record recorded on a recording medium in a format provided for in Article 79, paragraph (1));

(ii) The right to transmit the unaltered work to the public using a copy of that work that has been recorded on a recording medium in a format provided for in Article 79, paragraph (1).

(2) Notwithstanding the provisions of the preceding paragraph, if the author of the work dies during the duration of the publishing rights, or unless specifically provided otherwise in the establishing act, once three years have elapsed from the date of the first act of publishing or public transmission (as referred to as “act of publishing or public transmission” in Article 83, paragraph (2), and Article 84, paragraph (3)) subsequent to the granting of the publishing rights, the holder of the reproduction and public transmission rights may include and reproduce the work in a complete collection or other compilation (limited to compilations consisting solely of the works of that author), or transmit it to the public.

(3) The holder of publishing rights

may grant permission to another person to reproduce or publicly transmit the work that is the subject of these publishing rights only with the consent of the holder of the reproduction or public transmission rights.

(4) The provisions of Article 63, paragraphs (2), (3) and (6) and Article 63-2 apply mutatis mutandis to cases provided for in the preceding paragraph. In this case, the term “the copyright holder” in paragraph (3) of Article 63 is deemed to be replaced with “the holder of reproduction rights or public transmission rights and the holder of publishing rights provided

in Article 79, paragraph (1)” and the phrase “Article 23, paragraph (1)” in paragraph (6) of that Article is deemed to be replaced with “Article 80, paragraph (1) (limited to the part concerned with item (ii))”.

#### (Obligation to Publish)

Article 81 The holder of publishing rights shall fulfill the obligations listed under the respective items below, according to the category specified for the work that is the subject of these publishing rights; however, this is not applicable if specific provisions are otherwise stipulated in the establishing act.

(i) The holder of publishing rights associated with the rights outlined in Article 80, paragraph (1), item (i) (hereafter referred to as “the holder of item (i) publishing rights” in the subsequent Article) has the following obligations:

(a) The obligation to perform publishing actions for the work within six months from the date on which the holder of publishing rights has received the manuscript, other original materials, or their equivalents, or has been provided with the electronic or magnetic recording of the work necessary for reproduction, from the holder of the reproduction rights or public transmission rights;

(b) The obligation to continually perform publishing actions for the work in accordance with customary business practices.

(ii) The holder of publishing rights associated with the rights outlined in Article 80, paragraph (1), item (ii) (hereinafter referred to as “the holder of item (ii) publishing rights” in paragraph (1), item (ii) of the following Article and Article 104-10-3, item (ii)(b)) has the following obligations:

(a) The obligation to perform acts of public transmission for the work within six months from the date on which the holder of publishing rights has received the manuscript, other original materials, or their equivalents, or has been provided with the electronic or magnetic recording of the work necessary for public transmission, from the holder of the reproduction rights or public transmission rights;

(b) The obligation to continuously perform acts of public transmission for the work in accordance with customary business practices.

#### (Adjustments, Additions, and Deletions in Works)

Article 82 (1) The author may make adjustments, additions, or deletions to the work within a reasonable scope in any of the following circumstances:

(i) When the holder of item (i) publishing rights reproduces the work anew;

(ii) When the holder of item (ii) publishing rights transmits the work to the public.

(2) Each time the holder of item (i) publishing rights intends to reproduce anew the work subject to those publishing rights, they must notify the author in advance.

(Duration of Publishing Rights)

Article 83 (1) The duration of publishing rights is determined by the provisions set forth in the act of establishment.

(2) In the absence of specific provisions regarding their duration in the act of establishment, publishing rights shall expire three years from the date of the first act of publishing or public transmission following the granting of those rights.

(Claim to the Extinguishment of Publishing Rights)

Article 84 (1) If the holder of publishing rights violates the obligations specified under Article 81, item (i) (but only in relation to part (a)) or item (ii) (limited to the part concerned with (a)), the holder of the reproduction rights or public transmission rights may notify the holder of publishing rights to terminate the publishing rights associated with the rights outlined in Article 80, paragraph (1), item (i) or (ii).

(2) If the holder of publishing rights breaches the obligations specified in Article 81, item (i) (limited to the part concerned with (b)) or item (ii) (limited to the part concerned with (b)), and despite the holder of the reproduction rights or public transmission rights having set a period of at least three months for compliance and demanded performance within that period, if the holder of publishing rights fails to comply within such period, the holder of the reproduction rights or public transmission rights may terminate the publishing rights associated with the rights outlined in Article 80, paragraph (1), item (i) or (ii) by notifying the holder of publishing rights.

(3) If an author, who is the holder of the reproduction rights or public transmission rights, no longer agrees with the content of their own work, the author may terminate the publishing rights by notifying the holder of the publishing rights, with the aim of halting the publishing activities or public transmission of that work; however, this does not apply if the author fails to compensate the holder of publishing rights in advance for the typical damages that would result from such termination.

Article 85 Deleted

(Limitations on Publishing Rights)

Article 86 (1) The provisions of Articles 30-2 through 30-4; Article 31, paragraph (1) and paragraph (7) (limited to the part concerned with item (i)) and the second sentence of

paragraph (3); Article 32; Article 33, paragraph (1) (including as applied mutatis mutandis pursuant to the provisions of paragraph (4) of that Article); Article 33-2, paragraphs (1); Article 33-3, paragraphs (1) and (4); Article 34, paragraph (1); Article 35, paragraph (1); Article 36, paragraph (1); Article 37; Article 37-2; Article 39, paragraph (1); Article 40, paragraphs (1) and (2); Articles 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4, paragraph (2); Article 46; Article 47, paragraphs (1) and (3); Article 47-2; Articles 47-4 and 47-5 apply mutatis mutandis to the reproduction of works subject to publishing rights. In this case, the term “copyright holder” in the proviso to Article 30-2, paragraph (1); the proviso to Article 30-2, paragraph (2); Article 30-3; the proviso to Article 30-4; Article 31, paragraph (1), item (i); the proviso to Article 35, paragraph (1); the proviso to Article 41-2 , paragraph (1); the proviso to Article 42; the proviso to Article 42-2, paragraph (1); the provisos to Article 47, paragraphs (1) and (3); Article 47-2; the provisos to Article 47-4, paragraphs (1) and (2); and the provisos to Article 47-5, paragraphs (1) and (2) is deemed to be replaced with “holder of publishing rights”; and the term “copyright” in the proviso to Article 47-5, paragraph (1) is deemed to be replaced with “publishing rights”.

(2) The following individuals are considered to have performed the reproduction as specified in Article 80, paragraph (1), item (i):

(i) A person distributing a copy of a work that has been created, for purposes other than the purpose of private use as referred to in Article 30, paragraph (1) or the purpose provided for in Article 31, paragraph (4) or paragraph (9), item (i), by reproducing the unaltered original work as a piece of writing or as a picture by printing it or by other mechanical or chemical means, based on the application of these provisions (including one created by reproducing the unaltered work as an electronic or magnetic record recorded on a recording medium in a format provided for in Article 79, paragraph (1)), or a person presenting the work to the public by means of such a copy;

(ii) A person distributing a copy of a work that has been created based on the application of the provisions of Article 30-3; Article 31, paragraph (1), item (i) or paragraph (7), item (i); Article 33-2, paragraph (1); Article 33-3, paragraphs (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); the first sentence of Article 37-2 (or item (ii) of that Article, in a case referred to in that item); Articles 41; Article 41-2 , paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4, paragraph (2); Article 47, paragraph (1) or (3); Article 47-2; or Article 47-5, paragraph (1) as applied mutatis mutandis pursuant to the preceding paragraph, or presents that work to the public by means of such a copy, for a purpose other than what is provided for in those provisions;

(iii) A person using a copy of a work that has been created based on the application of

the provisions of Article 30-4 as applied mutatis mutandis pursuant to the preceding paragraph to exploit that work with the purpose of personally enjoying or causing another person to enjoy the thoughts or sentiments expressed therein, irrespective of the manner in which the person exploits it;

(iv) A person using a copy of a work that has been created based on the application of the provisions of Article 47-4 or Article 47-5, paragraph (2) as applied mutatis mutandis pursuant to the preceding paragraph, to exploit that work for a purpose other than what is provided for in those provisions, irrespective of the manner in which the person exploits it.

(3) The provisions of Articles 30-2 through 30-4; Article 31, paragraph (2) (limited to the part concerned with item (ii)), paragraph (5), the first sentence of paragraph (7), and paragraph (8); Article 32 paragraph (1); Article 33-2, paragraph (1); Article 33-3, paragraphs (4); Article 35, paragraph (1); Article 36, paragraph (1); Article 37, paragraphs (2) and (3); Article 37-2 (except item (i)); Article 40, paragraph (1); Articles 41; Article 41-2 , paragraph (2); Article 42; Article 42-2, paragraph (2); Article 42-3; Article 42-4, paragraph (2); Article 46; Article 47, paragraphs (2) and (3); Article 47-2; Article 47-4; and Article 47-5 apply mutatis mutandis to the public transmission of works subject to publishing rights. In this case, the term “copyright holder” in the proviso to Article 30-2, paragraph (1); the proviso to Article 30-2, paragraph (2); Article 30-3; the proviso to Article 30-4; Article 31, paragraph (5); the proviso to Article 35, paragraph (1); the proviso to Article 36, paragraph (1); the proviso to Article 41-2 , paragraph (2); the proviso to Article 42; the proviso to Article 42-2, paragraph (2); the provisos to Article 47, paragraphs (2) and (3); Article 47-2; the provisos to Article 47-4, paragraphs (1) and (2); and the provisos to Article 47-5, paragraphs (1) and (2) is deemed to be replaced with “publishing rights”; in Article 31, paragraph (2), the phrase “of the copyright holder” is deemed to be replaced with “of the holder of publishing rights,” and the phrase “the copyright holder, a person authorized thereby, a person in favor of whom the publishing rights set forth in Article 79 have been established, or” is deemed to be replaced with “a person in favor of whom the publishing rights set forth in Article 79 have been established, or”; and the term “copyright” in the proviso to Article 47-5, paragraph (1) is deemed to be replaced with “publishing rights”.

(Transfer or Pledge of Publishing Rights)

Article 87 The holder of publishing rights may transfer or subject all or part of these rights to a pledge only with the consent of the holder of the reproduction rights or public transmission rights.

(Registration of Publishing Rights)

Article 88 (1) The following details may not be asserted against a third party unless they are registered:

(i) The establishment of a publishing right, its transfer (except a transfer by inheritance or other general succession; the same applies in the following item), alteration, extinguishment (except when due to comingling, or because of the extinguishment of the right of reproduction or right to transmit to the public), or a restriction on its disposal;

(ii) The establishment, transfer, modification, or termination of a pledge right established against publishing rights (except when due to a merger of the right of pledge, or because of the termination of the publishing rights or the claim they secure), or restrictions on its disposal.

(2) The provisions of Article 78 (except paragraph (3)) apply *mutatis mutandis* to the registration referred to in the preceding paragraph. In this case, the term “copyright register” in Article 78, paragraphs (1), (2), (4), (8), and (9) is deemed to be replaced with “register of publishing rights”.

## Chapter IV Neighboring Rights

### Section 1 General Rules

(Neighboring Rights)

Article 89 (1) Performers enjoy the rights provided for in Article 90-2, paragraph (1), and Article 90-3, paragraph (1) (hereafter referred to as “moral rights of performers”) and the rights provided for in Article 91, paragraph (1); Article 92, paragraph (1); Article 92-2, paragraph (1); Article 95-2, paragraph (1); and Article 95-3, paragraph (1) , as well as the right to remuneration provided for in Article 94-2 and Article 95-3, paragraph (3) and the right to secondary use fees provided for in Article 95, paragraph (1).

(2) Producers of phonograms enjoy the rights provided for in Article 96, Article 96-2, Article 97-2, paragraph (1), and Article 97-3, paragraph (1), as well as the right to secondary use fees provided for in Article 97, paragraph (1) and the right to remuneration provided for in Article 97-3, paragraph (3).

(3) Broadcasters enjoy the rights provided for in Articles 98 through 100.

(4) Cablecasters enjoy the rights provided for in Articles 100-2 to 100-5.

(5) Enjoyment of the rights referred to in the preceding paragraphs requires no formalities.

(6) The rights referred to in paragraphs (1) through (4) (except the 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)) are called neighboring rights.

(Connection between the Rights of Authors and Neighboring Rights)

Article 90 The provisions of this Chapter must not be interpreted as affecting the protection of the rights of authors.

## Section 2 Rights of Performers

(Right of Attribution)

Article 90-2 (1) A performer has the right to decide whether to use the performer's name, stage name, or any other name to indicate the name of the performer in connection with the performance at the time it is made available or presented to the public, or to decide that the performer's name will not be indicated in connection with that performance.

(2) Unless the performer has manifested a different intention, a person exploiting a performance may indicate the name of the performer in accordance with how the performer has already done so in connection with that performance.

(3) The name of the performer may be omitted if it is found that that doing so is unlikely to harm the interests of the performer in a claim to being the performer in that performance, in light of the purpose and circumstances of its exploitation, or if the omission is found to be compatible with fair practices.

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

(i) When a performance is made available or presented to the public by the head of an administrative body, an incorporated administrative agency, a local government entity, or a local incorporated administrative organization under the provisions of the Act on Access to Information Held by Administrative Organs, the Act on Access to Information Held by Incorporated Administrative Agencies, or any information disclosure ordinances, and the performer's name is displayed following the manner already established by the performer for that particular performance.

(ii) When a performance is provided to the public or presented by the head of an administrative body, an incorporated administrative agency, a local governmental entity, or a local incorporated administrative organization in accordance with Article 6, paragraph (2) of the Act on Access to Information Held by Administrative Organs, Article 6, paragraph (2) of the Act on Access to Information Held by Incorporated Administrative Agencies, or provisions of any information disclosure ordinances equivalent to Article 6, paragraph (2)

of the Act on Access to Information Held by Administrative Organs, and there arises a situation where the performer's name is permitted to be omitted.

(iii) When the head of the National Archives or the head of local public archives offers or presents a performance to the public pursuant to the provisions of Article 16, Paragraph 1 of the Public Records Management Law, or provisions of the Public Records Management Ordinance (limited to provisions corresponding to those of the same paragraph), and the name of the performer is displayed in accordance with the indications already made by the performer for that performance.

#### (Right to Integrity)

Article 90-3 (1) A performer has the right to maintain the integrity of their performance and shall not be subjected to any alterations, cut, or other modifications of their performance that could harm their honor or reputation.

(2) The provisions of the preceding paragraph do not apply to modifications that are found to be unavoidable in light of the nature of the performance as well as the purpose and circumstances of its exploitation, nor to modifications that are found to be compatible with fair practices.

#### (Sound Recording Rights and Visual Recording Rights)

Article 91 (1) A performer exclusively holds the right to make audio and visual recordings of their performance.

(2) Unless the sound of a performance is recorded as a sound recording (other than one that is intended to be played exclusively alongside images), the provisions of the preceding paragraph do not apply to the sound or visuals of a performance that are recorded as part of a cinematographic work with the authorization of the owner of the right referred to in that paragraph (meaning authorization to exploit the performance pursuant to the provisions of Article 63, paragraph (1) as applied *mutatis mutandis* pursuant to Article 103; hereinafter the same applies in this and the following Section).

#### (Broadcasting and Cablecasting Rights)

Article 92 (1) A performer exclusively holds the right to both broadcast and cablecast their performance.

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

(i) The cablecast is of a broadcast performance;

(ii) The broadcast or cablecast is of one of the following performances:

(a) A performance whose sound or visuals have been recorded with the authorization

of the owner of the right provided for in paragraph (1) of the preceding Article;

(b) A performance referred to in paragraph (2) of the preceding Article whose sound or visuals have been recorded other than as a sound recording referred to in that paragraph.

(Right to Make Available for Transmission)

Article 92-2 (1) A performer exclusively holds the right to authorize the availability of their performance for transmission.

(2) The provisions of the preceding paragraph do not apply to any of the following performances:

(i) A performance whose visuals have been recorded with the authorization of the rights holder indicated in Article 91, paragraph (1);

(ii) A performance referred to in Article 91, paragraph (2) whose sound or visuals have been recorded other than as a sound recording referred to in that paragraph.

(Fixation for Broadcasting Purposes)

Article 93 (1) A broadcaster that obtains the authorization to broadcast a performance from the owner of the rights provided for in Article 92, paragraph (1), may record the sound or visuals of that performance for the purpose of broadcasting or simultaneous broadcasting; provided, however, that this does not apply if otherwise stipulated in the contract or if the sound or visuals are recorded with the purpose of using them in a broadcast program of a different content than the broadcast program under authorization.

(2) The following persons are deemed to have recorded the sound or visuals as referred to in Article 91, paragraph (1):

(i) A person that uses or makes available a sound or visual recording made pursuant to the provisions of the preceding paragraph, for a purpose other than broadcasting or simultaneous broadcasting or for the purpose referred to in the proviso to that paragraph;

(ii) A broadcaster or simultaneous broadcasting service that receives a sound or visual recording being made available that has been made pursuant to the provisions of the preceding paragraph, and that further makes it available for another broadcaster's broadcasting or another simultaneous broadcasting service's simultaneous broadcasting.

(Broadcasting of Fixations Made for Broadcasting Purposes)

Article 93-2 (1) Unless otherwise stipulated in the contract, if the holder of the right provided for in Article 92, paragraph (1) authorizes the broadcast of a performance, in addition to it being permissible to make the broadcast under that authorization, it is also

permissible to make the following broadcasts:

(i) A broadcast using the sound and visual recordings that the authorized broadcaster makes pursuant to the provisions of paragraph (1) of the preceding Article;

(ii) A broadcast made based on the reception of a sound or visual recording made available by the authorized broadcaster that has made that sound or visual recording pursuant to the provisions of paragraph (1) of the preceding Article;

(iii) A broadcast made based on the reception of an authorized broadcast program supplied by the authorized broadcaster (other than a broadcast under the preceding item).

(2) If a performance is broadcast in a broadcast set forth in one of the items of the preceding paragraph, the broadcaster provided for in that item must pay a reasonable amount of remuneration to the holder of the right provided for in Article 92, paragraph (1).

(Simultaneous Broadcasting of Fixations Made for Broadcasting Purposes)

Article 93-3 (1) Unless otherwise stipulated in the contract, if the owner of the right provided for in Article 92-2, paragraph (1) (limited to those for simultaneous broadcasting; hereinafter the same applies in this paragraph and Article 94-3, paragraph (1)) (hereinafter referred to as a “specified performer”) authorizes a broadcaster to transmit the performance via simultaneous broadcasting (including simultaneous broadcasting undertaken by a simultaneous broadcasting service that has a close relationship with the broadcaster by receiving a broadcast program supplied by the broadcaster), in addition to it being permissible to undertake the simultaneous broadcasting, it is also permissible to undertake the following simultaneous broadcasting with regard to the authorized performance (excluding performances for which a copyright management service manages the right prescribed in Article 92-2, paragraph (1), or performances for which information necessary for smooth authorization, including the name of the specified performer and the contact information for accepting applications for authorization of simultaneous broadcasting, as specified by the Commissioner of the Agency for Cultural Affairs, has been disclosed by a method specified by the Commissioner of the Agency for Cultural Affairs):

(i) A simultaneous broadcasting using the sound and visual recordings of the performance that the authorized broadcaster undertakes pursuant to the provisions of Article 93, paragraph (1);

(ii) A simultaneous broadcasting undertaken by a simultaneous broadcasting service that has a close relationship with the authorized broadcaster by receiving an authorized broadcast program supplied by the authorized broadcaster.

(2) If a performance is transmitted via simultaneous broadcasting set forth in one of the items of the preceding paragraph, the broadcaster or simultaneous broadcasting service must

pay remuneration in an amount equivalent to the ordinary rate of royalties to the specified performer of the performance.

(3) If a copyright management service is in existence, whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only such service in the country, it is permissible for the right to receive the remuneration referred to in the preceding paragraph to be exercised exclusively through the designated copyright management service thus designated (hereinafter in this Article referred to as the “designated remuneration management service”).

(4) The Commissioner of the Agency for Cultural Affairs may not make the designation under the provisions of the preceding paragraph unless the copyright management service satisfies the following requirements:

- (i) It operates on a non-profit basis;
- (ii) Its members can voluntarily join or leave;
- (iii) Its members have an equal right to vote on resolutions and in elections;
- (iv) It has sufficient capacity to personally and properly perform functions involved in exercising the right to receive the remuneration referred to in paragraph (2) on behalf of the persons that hold those rights (hereinafter in the following paragraph and paragraph (7) referred to as “right holders”).

(5) A designated remuneration management service has the authority to act in and out of court on behalf of the right holder, in its own name, in connection with that right.

(6) The Commissioner of the Agency for Cultural Affairs has the authority, in accordance with Cabinet Orders, to require the designated remuneration management service to provide reports on activities associated with the remuneration outlined in paragraph (2), submit financial records, documents, or other relevant materials, and issue recommendations as necessary to enhance the execution of the service’s operations.

(7) The amount of remuneration that a designated remuneration management service may demand on behalf of a right holder pursuant to the provisions of paragraph (3) is to be fixed each year by mutual agreement between the designated remuneration management service and the broadcaster or simultaneous broadcasting service or the association thereof.

(8) If the agreement referred to in the preceding paragraph is not reached, the relevant parties, as provided by Cabinet Order, may request the Commissioner of the Agency for Cultural Affairs to issue a compulsory license fixing the amount of remuneration.

(9) The provisions of Article 70, paragraphs (3), (6), and (8), Articles 71 (limited to the part concerned with item (ii)), and Article 72, paragraph (1), the main clause of Article 73, Article 74, paragraph (1) (limited to the parts concerned with items (iv) and (v); the same applies in paragraph (11)) and paragraph (2) apply mutatis mutandis to the remuneration

referred to in paragraph (2) and the compulsory license referred to in the preceding paragraph. In this case, the phrase “notify the copyright holder” in Article 70, paragraph (3) and the phrase “notifying the applicant, and upon issuing the compulsory license referred to in Article 68, paragraph (1) or the preceding Article, the Commissioner must notify the relevant parties” in Article 70, paragraph (6) are deemed to be replaced with “notify the relevant parties”; and in Article 74, paragraph (2), the term “copyright holder” is deemed to be replaced with “designated remuneration management service referred to in Article 93-3, paragraph (3)”.

(10) In legal proceedings outlined in Article 72, paragraph (1), as referred to in a corresponding manner in the prior paragraph, broadcasters, simultaneous broadcasting services, or their respective associations must name the designated remuneration management service as the defendant if initiating the suit, conversely, the designated remuneration management service must name the broadcaster, simultaneous broadcasting service, or their respective associations as the defendant if it is the initiating party.

(11) A deposit of remuneration under the provisions of Article 74, paragraphs (1) and (2) as applied *mutatis mutandis* pursuant to paragraph (9) is to be made at the deposit office nearest to the location of the designated remuneration management service. In this case, a person that makes a deposit must notify the designated remuneration management service of that deposit.

(12) The provisions of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947) shall not apply to agreements established through negotiations as mentioned in paragraph (7) and actions based upon such agreements. However, this exemption is not valid if unfair trade practices are used or if it would unreasonably harm the interests of the enterprises concerned.

(13) In addition to the regulations set out from paragraph (2) to the previous paragraph, details necessary for the payment of remuneration outlined in paragraph (2) and matters relating to the designated remuneration management service shall be stipulated by a Cabinet Order.

(Simultaneous Broadcasting in Cases of Inability to Contact Specified Performers)

Article 94 (1) If a performance is broadcast in a broadcast set forth in Article 93-2, paragraph (1) item (i) pursuant to the provisions of that paragraph, and a broadcaster that broadcasts the performance or a simultaneous broadcasting service that has a close relationship with the broadcaster is unable to contact a specified performer of the performance even after taking all of the following measures, the broadcaster or simultaneous broadcasting service may, unless otherwise stipulated in the contract, transmit the performance via simultaneous broadcasting by, in cases of the broadcaster, using the sound

or visual recording used in the broadcast, or in cases of the simultaneous broadcasting service, receiving the broadcast program of the broadcast supplied by the broadcaster, if the broadcaster or simultaneous broadcasting service obtains confirmation regarding the reasons for such inability from a copyright management service whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only such service in the country (hereinafter in this Article referred to as the “designated compensation management service”), and pays the designated compensation management service compensation in an amount equivalent to the ordinary rate of royalties that is due to be paid to the specified performer:

(i) Contacting the specified performer at the point of contact if the contact information is available;

(ii) Making inquiries with a copyright management service that engages in management of performances;

(iii) Confirming whether the information has been disclosed as provided for in paragraph (1) of the preceding Article;

(iv) Disclosing information specified by the Commissioner of the Agency for Cultural Affairs, including the title of the broadcast program scheduled to be transmitted via simultaneous broadcasting and the name of the specified performer, by a method specified by the Commissioner of the Agency for Cultural Affairs.

(2) A broadcaster or simultaneous broadcasting service that intends to obtain confirmation referred to in the preceding paragraph must submit to the designated compensation management service materials to support a prima facie showing of their inability to contact the specified performer of the performance to be transmitted via simultaneous broadcasting even after taking all of the measures set forth in one of the items of that paragraph.

(3) The designated compensation management service that has received compensation pursuant to the provisions of paragraph (1) must pay the compensation to the specified performer of the performance transmitted via simultaneous broadcasting pursuant to the provisions of that paragraph if so requested by the specified performer.

(4) The provisions of paragraph (4) of the preceding Article apply mutatis mutandis to the designation under the provisions of paragraph (1), and the provisions of paragraphs (5) through (13) of that Article apply mutatis mutandis to the compensation and designated compensation management service referred to in paragraph (1). In this case: in paragraph (4), item (iv) of that Article, the phrase “involved in exercising the right to receive the remuneration referred to in paragraph (2) on behalf of the persons that own those rights (hereinafter in the following paragraph and paragraph (7) referred to as “right holders”)” is deemed to be replaced with “relevant to the confirmation referred to in paragraph (1) of the

following Article and the compensation referred to in that paragraph”; in paragraph (5) of that Article, the term “right holder” is deemed to be replaced with “specified performer”; in paragraph (6) of that Article, the phrase “remuneration referred to in paragraph (2)” is deemed to be replaced with “confirmation referred to in paragraph (1) of the following Article and the compensation referred to in that paragraph”; in paragraph (7) of that Article, the phrase “remuneration that a designated remuneration management service may demand on behalf of a right holder pursuant to the provisions of paragraph (3)” is deemed to be replaced with “compensation that a designated remuneration management service receives pursuant to the provisions of paragraph (1) of the following Article.”

(Cablecasts of Broadcast Performances)

Article 94-2 If a cablecaster cablecasts a broadcast performance (unless the cablecast is made for non-commercial purposes and without charging a fee (meaning anything of value received in exchange for presenting the performance, regardless of what it is called; the same applies in Article 95, paragraph (1)) to the listening or viewing audience), it must pay a reasonable amount of remuneration to the performer whose performance it is (but only during the lifetime of the neighboring rights, and not for a performance set forth in Article 92, paragraph (2), item (ii)).

(Simultaneous Broadcasting of Performances Whose Sound Has Been Recorded onto Commercial Phonograms)

Article 94-3 (1) A broadcaster, cablecaster or simultaneous broadcasting service may transmit via simultaneous broadcasting a performance whose sound has been recorded onto a commercial phonogram (including phonograms made available for transmissions; the same applies in the following paragraph, paragraph (1) of the following Article, Article 96-3, paragraphs (1) and (2), and Article 97, paragraphs (1) and (3)) with the authorization of the owner of the right provided for in Article 91, paragraph (1) (excluding performances for which a copyright management service manages the right provided for in Article 92-2, paragraph (1), or performances for which information necessary for smooth authorization, including the name of the specified performer and the contact information for accepting applications for authorization of simultaneous broadcasting, as specified by the Commissioner of the Agency for Cultural Affairs, has been disclosed by a method specified by the Commissioner of the Agency for Cultural Affairs).

(2) In the case referred to in the preceding paragraph, when the performance has been transmitted via simultaneous broadcasting using a commercial phonogram, the broadcaster, cablecaster, or simultaneous broadcasting etc., service provider must pay a compensation

amount equivalent to the customary royalty fee to the specific performer related to that performance.

(3) If a copyright management service is in existence, whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only such service in the country, it is permissible for the right to receive the compensation referred to in the preceding paragraph to be exercised exclusively through the copyright management service.

(4) The provisions of Article 93-3, paragraph (4) shall apply mutatis mutandis to the designation under the provisions of the preceding paragraph, and the provisions of paragraphs (5) through (13) of that Article apply mutatis mutandis to the compensation referred to in paragraph (2) and the designated copyright management service pursuant to the provisions of the preceding paragraph. In this case, in paragraph (4), item (iv) of that Article, the phrase “remuneration referred to in paragraph (2)” is deemed to be replaced with “compensation referred to in Article 94-3, paragraph (2),” and in paragraphs (7) and (10) of that Article, the term “broadcaster” is deemed to be replaced with “broadcaster, cablecaster.”

#### (Secondary Use of Commercial Phonograms)

Article 95 (1) If a broadcaster or cablecaster (hereinafter in this Article and Article 97, paragraph (1) referred to as a “broadcaster or cablecaster”) makes a broadcast or cablecast using a commercial phonogram onto which the sound of a performance has been recorded with the authorization of the owner of the right provided for in Article 91, paragraph (1) (unless it receives a broadcast transmission and makes a cablecast simultaneously, for non-commercial purposes and without charging a fee to the listening or viewing audience), it must pay a secondary use fee to the performer of the performance (but only for a performance referred to in Article 7, items (i) through (vi) and during the lifetime of the neighboring rights; the same applies in the following paragraph to paragraph (4)).

(2) The provisions of the preceding paragraph shall be applied to performers whose performances are recorded on a phonogram produced by a national of a country that is a Contracting State to the Convention for the Protection of Performers, etc., except for those countries that, under the stipulations of Article 16, paragraph 1, item (a), (i) of the Convention, have declared not to apply the provisions of Article 12 of the same Convention.

(3) If the term of the protection under the provisions of Article 12 of the Convention for the Protection of Performers, etc. which a Contracting State of the Convention grants for phonograms set forth in Article 8, item (i) is shorter than the term of protection that performers receive pursuant to the provisions of paragraph (1), the term of protection granted pursuant to the provisions of that paragraph to a performer whose performance has been fixed

in a phonogram whose producer is a national of that Contracting State is the term of protection that the Contracting State grants under Article 12 of the Convention for the Protection of Performers, etc. for the phonograms set forth in Article 8, item (i).

(4) The provisions of paragraph (1) apply to a performer whose performance has been fixed in a phonogram whose producer is the national of a Contracting State of the WPPT (but not a Contracting State of the Convention for the Protection of Performers, etc.) which has set a reservation pursuant to the provisions of Article 15, paragraph (3) of the WPPT, within the limits of that reservation.

(5) If an association is in existence (including a federation of associations) that has as its members a considerable number of persons who perform professionally in Japan, whose consent has been obtained and which has been designated by the Commissioner of the Agency for Cultural Affairs, it is permissible for the right to secondary use fees under paragraph (1) to be exercised exclusively through that association.

(6) The Commissioner of the Agency for Cultural Affairs may not make the designation referred to in the preceding paragraph unless the association satisfies the following conditions:

- (i) It operates on a non-profit basis;
- (ii) Its members can voluntarily join and withdraw;
- (iii) Its members possess equal voting rights and electoral rights;
- (iv) It has sufficient capacity to personally and properly perform functions involved in exercising the right to receive the secondary use fees referred to in paragraph (1) on behalf of the persons that own those rights (hereinafter in this Article referred to as “right holders”).

(7) The association mentioned in paragraph (5) shall not refuse to exercise the rights on behalf of a right holder if such a request has been made by the right holder.

(8) Upon receiving a request as mentioned in the preceding paragraph, the association specified in paragraph (5) is authorized to undertake legal and extralegal actions in its own name on behalf of the rights holder pertaining to said right.

(9) In accordance with the Cabinet Order, the Commissioner of the Agency for Cultural Affairs has the authority to request reports from the association mentioned in paragraph (5) regarding activities associated with the secondary use fees mentioned in paragraph (1), demand the submission of ledgers, documents, and other materials, or provide necessary recommendations for the enhancement of the execution methods of the association’s functions.

(10) The amount of secondary use fees that an association, as referred to in paragraph (5), is authorized to claim on behalf of a rights holder, in accordance with paragraph (5)’s

stipulations, shall be determined annually through negotiation between the said association and the broadcasting entities, or their respective association.

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

(12) The provisions of Article 70, paragraphs (3), (6), and (8) and Articles 71 through 74 apply *mutatis mutandis* to the compulsory license and secondary use fees referred to in the preceding paragraph. In this case, in Article 70, paragraph (3), the term “copyright holder” is deemed to be replaced with “relevant parties”; in Article 72, paragraph (2), the term “user of the work” is deemed to be replaced with “broadcaster or cablecaster referred to in Article 95, paragraph (1)” and the term “copyright holder” is deemed to be replaced with “association referred to in paragraph (5) of that Article”; and in Article 74, the term “copyright holder” is deemed to be replaced with “association referred to in Article 95, paragraph (5)”.

(13) The provisions of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade do not apply to the mutual agreement referred to in paragraph (10) nor to actions taken under it. However, this exemption does not apply if unfair trade practices are used or if it would unreasonably harm the interests of the enterprises concerned.

(14) In addition to the provisions set forth from paragraphs (5) to (13), the details necessary for the payment of the secondary use fees outlined in paragraph (1) and regulations pertaining to the associations mentioned in paragraph (5) shall be stipulated by Cabinet Order.

#### (Right of Transfer)

Article 95-2 (1) A performer exclusively holds the right to make their performance available to the public by transferring a recording of it, whether sound or visual.

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

(i) A performance that has been recorded with the consent of the rights holder as set forth in Article 91, paragraph (1);

(ii) A performance referred to in Article 91, paragraph (2), that has been recorded onto something other than the sound recording specified in that paragraph, whether in sound or visual form.

(3) The provisions of paragraph (1) shall not apply when the performance, excluding those listed in items (i) and (ii) of the preceding paragraph (hereinafter referred to in this Article as the same), is made available to the public through the transfer of a sound or visual recording that corresponds to any of the following categories:

(i) A sound or visual recording of a performance that has been transferred to the public by

the holder of the rights described in paragraph (1) or by someone authorized by them;

(ii) A sound or visual recording of a performance that has been transferred to the public pursuant to an adjudication under the provisions of Article 67, paragraph (1), as applied in a manner analogous to Article 103;

(iii) A sound or visual recording of a performance that has been transferred to the public under the provisions of Article 67-2, paragraph (1), as applied in a manner analogous to Article 103;

(iv) A sound or visual recording of a performance that is transferred to a specifically limited and small group by the holder of the rights described in paragraph (1) or by someone authorized by them;

(v) A sound or visual recording of a performance that is transferred abroad without prejudice to any right equivalent to the right set forth in paragraph (1), or by the holder of any right equivalent to the right set forth in that paragraph or a person authorized thereby.

(Right to Rent Out)

Article 95-3 (1) A performer exclusively holds the right to make their performance available to the public by renting out commercial phonograms on which the performance has been recorded.

(2) The provisions of the preceding paragraph do not apply to the renting out of commercial phonograms after a period specified by Cabinet Order, which shall not be less than one month and not more than twelve months from the date of their first sale (this includes renting out any phonogram that is a complete replica of such commercial phonograms; hereinafter referred to as “post-term commercial phonograms”).

(3) A person engaged in the business of renting out commercial phonograms to the public (hereinafter referred to as a “rental phonogram dealer”) shall pay an appropriate amount of remuneration to the performer for making the performer’s performance available to the public by renting out post-term commercial phonograms, but only within the duration of the neighboring rights relevant to that performance.

(4) The provisions of Article 95, paragraphs (5) through (14) apply mutatis mutandis to the right to receive the remuneration referred to in the preceding paragraph. In this case, the term “broadcaster or cablecaster” in paragraph (10) of that Article and the term “broadcaster or cablecaster referred to in Article 95, paragraph (1)” in paragraph (12) of that Article are deemed to be replaced with “rental phonogram dealer referred to in Article 95-3, paragraph (3)”.

(5) The right to receive royalties in connection with the authorization of the holder of the right provided for in paragraph (1) may be exercised through an association referred to in

Article 95, paragraph (5), as applied mutatis mutandis pursuant to the preceding paragraph.

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

### **Section 3 Rights of Producers of Phonograms**

(Right of Reproduction)

Article 96 The producer of a phonogram exclusively holds the right to reproduce its phonograms.

(Right to Make Available for Transmission)

Article 96-2 The producer of a phonogram exclusively holds the right to make their phonograms available for transmission.

(Simultaneous Broadcasting of Commercial Phonograms)

Article 96-3 (1) A broadcaster, cablecaster or simultaneous broadcasting service may undertake simultaneous broadcasting using a commercial phonogram (excluding commercial phonograms for which a copyright management service manages the right provided for in the preceding Article (limited to the right pertaining to simultaneous broadcasting; hereinafter the same applies in this paragraph and the following paragraph), or commercial phonograms for which information necessary for smooth authorization, including the name of the holder of the right provided for in that Article and the contact information for accepting applications for authorization of simultaneous broadcasting, as specified by the Commissioner of the Agency for Cultural Affairs, has been disclosed by a method specified by the Commissioner of the Agency for Cultural Affairs; the same applies in the following paragraph).

(2) Having undertaken simultaneous broadcasting using a commercial phonogram, a broadcaster, cablecaster or simultaneous broadcasting service must pay compensation in an amount equivalent to the ordinary rate of royalties to the holder of the right provided for in the preceding Article.

(3) If a copyright management service is in existence, whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only such service in the country, it is permissible for the right to receive the compensation referred to in the preceding paragraph to be exercised exclusively through the copyright management service.

(4) The provisions of Article 93-3, paragraph (4) apply mutatis mutandis to the designation under the provisions of the preceding paragraph, and the provisions of paragraphs (5) through (13) of that Article apply mutatis mutandis to the compensation referred to in paragraph (2) and the designated copyright management service pursuant to the provisions of the preceding paragraph. In this case, in paragraph (4), item (iv) of that Article, the phrase “remuneration referred to in paragraph (2)” is deemed to be replaced with “compensation referred to in Article 96-3, paragraph (2),” and in paragraphs (7) and (10) of that Article, the term “broadcaster” is deemed to be replaced with “broadcaster, cablecaster.”

(Secondary Use of Commercial Phonograms)

Article 97 (1) If a broadcaster or cablecaster broadcasts or cablecasts a commercial phonogram (unless it receives a broadcast transmission and makes a cablecast simultaneously, for non-commercial purposes and without charging a fee (meaning anything of value received in exchange for presenting the sound from the commercial phonogram, regardless of what it is called) to the listening or viewing audience), it must pay secondary use fees to the producer whose phonogram it is (but only for a phonogram provided for in Article 8, items (i) through (iv) and only during the lifetime of the neighboring rights).

(2) The provisions of paragraphs (2) and (4) of Article 95 apply mutatis mutandis to the producer of a phonogram under the preceding paragraph, and the provisions of paragraph (3) of that Article apply mutatis mutandis to the term of protection provided for in the preceding paragraph. In this case, in paragraphs (2) through (4) of that Article, the phrase “performer whose performance has been fixed in a phonogram whose producer is the national” is deemed to be replaced with “producer of a phonogram that is the national”; and in paragraph (3) of that Article, the phrase “term of protection that performers are granted” is deemed to be replaced with “term of protection that producers of phonograms are granted”.

(3) If an association is in existence (including a federation of associations) that has as its members a considerable number of persons that produce phonograms professionally in Japan, whose consent has been obtained and which has been designated by the Commissioner of the Agency for Cultural Affairs, it is permissible for the right to secondary use fees under paragraph (1) to be exercised exclusively through such association.

(4) The provisions of Article 95, paragraphs (6) through (14) apply mutatis mutandis to the secondary use fees referred to in paragraph (1) and to an association as referred to in the preceding paragraph.

(Right of Transfer)

Article 97-2

(1) The producer of a phonogram exclusively holds the right to make that phonogram available to the public by transferring copies of it.

(2) The provisions of the preceding paragraph do not apply to the transfer of phonogram copies that meet any of the following conditions:

(i) Copies of a phonogram that are transferred to the public by the holder of the right provided for in the preceding paragraph or a person authorized thereby;

(ii) Copies of a phonogram that are transferred to the public based on a compulsory license referred to in Article 67, paragraph (1), as applied *mutatis mutandis* pursuant to Article 103;

(iii) Copies of a phonogram that are transferred to the public based on the application of the provisions of Article 67-2, paragraph (1), as applied *mutatis mutandis* pursuant to Article 103;

(iv) Copies of a phonogram that are transferred to exclusive groups made up of a few persons by the holder of the right provided for in the preceding paragraph or a person authorized thereby;

(v) Copies of a phonogram that are transferred abroad, without prejudice to any right equivalent to the right provided for in the preceding paragraph, or by the holder of any right equivalent to the right provided for in that paragraph or a person authorized thereby.

#### (Right to Rent Out)

Article 97-3 (1) The producer of a phonogram exclusively holds the right to make that phonogram available to the public by renting out commercial phonograms in which the phonogram has been reproduced.

(2) The provisions of the preceding paragraph do not apply if the phonogram is made available to the public through the rental of post-term commercial phonograms.

(3) When a rental phonogram dealer makes a phonogram available to the public by renting out post-term commercial phonograms, it must pay a reasonable amount of remuneration to the producer whose phonogram it is (but only during the lifetime of the neighboring rights).

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

(5) The provisions of Article 95, paragraphs (6) through (14) apply *mutatis mutandis* to the remuneration referred to in paragraph (3) of this Article and to associations referred to in Article 97, paragraph (3) as applied *mutatis mutandis* pursuant to the preceding paragraph. In this case, the provisions of the first sentence of Article 95-3, paragraph (4) apply *mutatis mutandis*.

(6) The right to receive royalties in connection with the authorization of the holder of the

right provided for in paragraph (1) of this Article may be exercised through an association referred to in Article 97, paragraph (3) as applied mutatis mutandis pursuant to paragraph (4) of this Article.

(7) The provisions of paragraph (5) of this Article apply mutatis mutandis to the preceding paragraph. In this case, “Article 95, paragraph (6)” mentioned in paragraph (5) should be construed as “Article 95, paragraph (7)”.

#### Section 4 Rights of Broadcasters

##### (Right of Reproduction)

Article 98 A broadcaster exclusively holds the right to record sound and visuals from, and to reproduce through photography or by any other similar means, the sounds or images in its broadcast, based on the receipt of its broadcast transmission or based on the receipt of a cablecast transmission that has been made based on the receipt of its broadcast transmission.

##### (Rebroadcasting Rights and Cablecasting Rights)

Article 99 (1) A broadcaster exclusively holds the right to rebroadcast or cablecast its broadcast based on the receipt of its broadcast transmission.

(2) The provisions of the preceding paragraph do not apply to a cablecast that a person that cablecasts based on the receipt of broadcast transmissions is required to make pursuant to the provisions of laws and regulations.

##### (Right to Make Available for Transmission)

Article 99-2 (1) A broadcaster exclusively holds the right to make its broadcast available for transmission based on the receipt of its broadcast transmission or based on the receipt of a cablecast transmission that has been made based on the receipt of its broadcast transmission.

(2) The provisions of the preceding paragraph do not apply to a work’s being made transmissible in connection with an automatic public transmission that a person making automatic public transmissions based on the receipt of broadcast transmissions is required to make pursuant to the provisions of laws and regulations.

##### (Right to Communicate Television Broadcasts)

Article 100 A broadcaster exclusively holds the right to use a special instrument that enlarges images to communicate its television broadcast to the public based on the receipt of its broadcast transmission or based on the receipt of a cablecast transmission that has been made based on the receipt of its broadcast transmission.

## **Section 5 Rights of Cablecasters**

(Right of Reproduction)

Article 100-2 A cablecaster exclusively holds the right to record sound and visuals from, and to reproduce through photography or by any other similar means, the sounds or images in its cablecast, based on the receipt of its cablecast transmission.

(Broadcasting Rights and Re-Cablecasting Rights)

Article 100-3 A cablecaster exclusively holds the right to broadcast and to re-cablecast its cablecast based on the receipt of its cablecast transmission.

(Right to Make Available for Transmission)

Article 100-4 A cablecaster exclusively holds the right to make its cablecast available for transmission based on the receipt of its cablecast transmission.

(Right to Communicate Cable Television Broadcasts)

Article 100-5 A cablecaster exclusively holds the right to use a special instrument that enlarges images to communicate its cable television broadcast to the public based on the receipt of its cable television broadcast transmission.

## **Section 6 Term of Protection**

(The Term of Protection for Performances, Phonograms, Broadcasts, and Cablecasts)

Article 101 (1) The term of neighboring rights shall commence from the following times:

- (i) For a performance, the time when the performance is conducted;
- (ii) For a phonogram, the time when the first fixation of sounds is made;
- (iii) For a broadcast, the time when the broadcast is transmitted;
- (iv) For a cablecast, the time when the cablecast is transmitted.

(2) The duration of neighboring rights expires at the following times:

- (i) For a performance, once 70 years have passed, counting from the year after that in which the performance takes place;
- (ii) For a phonogram, once 70 years have passed, counting from the year following the year in which the phonogram is published (or, if the phonogram is not published within 70 years from the year following the year in which the sounds are first fixed into the phonogram,

then once 70 years have passed counting from the year following the year in which the sounds are first fixed into the phonogram);

(iii) For a broadcast, once 50 years have passed, counting from the year after that in which the broadcast takes place;

(iv) For a cablecast, once 50 years have passed, counting from the year after that in which the cablecast takes place.

## **Section 7 The Exclusive Nature of a Performer's Moral Rights; Related Matters**

(The Exclusive Nature of a Performer's Moral Rights)

Article 101-2 A performer's moral rights are exclusively inherent to the performer and cannot be transferred.

(Protection of Moral Interests after the Performer's Death)

Article 101-3 Even after the death of the performer, any person who makes the performer's performance available to the public, or presents it, is prohibited from engaging in actions that would infringe upon the moral rights of the performer were they still alive. However, this prohibition does not apply if, considering the nature and extent of the action, along with changes in social circumstances and other factors, the action is deemed not to violate the intentions of the deceased performer.

## **Section 8 Limitations, Transfer, Exercise, and Registration of Rights**

(Limitations on Neighboring Rights)

Article 102 (1) The provisions of Article 30, paragraph (1) (except item (iv)); the same applies in paragraph (9), item (i)); Articles 30-2 through 32, Articles 35, and 36; Article 37, paragraph (3); Article 37-2 (except item (i)); the same applies in the following paragraph); Article 38, paragraphs (2) and (4); Articles 41 through 43; Article 44 (except paragraph (2)); Articles 46 through 47-2; and Articles 47-4 to 47-5 apply mutatis mutandis to the exploitation of a performance, phonogram, broadcast, or cablecast that is the subject of neighboring rights; the provisions of Article 30, paragraph (3) and Article 47-7 apply mutatis mutandis to the exploitation of a performance or phonogram that is the subject of neighboring rights; the provisions of Articles 33 through 33-3 apply mutatis mutandis to the exploitation of a performance or cablecast that is the subject of neighboring rights; and the provisions of Article

44, paragraph (2) apply mutatis mutandis to the exploitation of a performance, phonogram, or cablecast that is the subject of neighboring rights. In this case: in Article 30, paragraph (1), item (iii), the phrase “an automatic public transmission that infringes on a copyright (including an automatic public transmission that is transmitted abroad and...)” is deemed to be replaced with “an automatic public transmission involving making a work available for transmission that infringes on a copyright (including making a work available for transmission that is undertaken abroad and...)”; in Article 44, paragraph (1), the phrase “Article 23, paragraph (1)” is deemed to be replaced with “Article 92, paragraph (1); Article 92-2, paragraph (1), Article 96-2, Article 99, paragraph (1); or Article 100-3”, in Article 44, paragraph (2), the phrase “Article 23, paragraph (1)” is deemed to be replaced with “Article 92, paragraph (1), Article 96-2 or Article 100-3”, and in Article 44, paragraph (3), the phrase “Article 23, paragraph (1)” is deemed to be replaced with “Article 92-2, paragraph (1) or Article 96-2.”

(2) If a performance, a phonogram, or sounds or images from a broadcast or cablecast (hereinafter collectively referred to as “performances, etc.”) are reproduced under the provisions of Article 32; Article 33, paragraph (1) (including instances where applied mutatis mutandis under paragraph 4 of the same article); Article 33-2, paragraph (1); Article 33-3, paragraph (1); Article 37, paragraph (3); Article 37-2; Article 41-2, paragraph (1); Article 42; Article 42-2, paragraph (1); or Article 47, as applied mutatis mutandis according to the preceding paragraph, or under the provisions of the subsequent paragraph or paragraph (4), and there exists a customary practice to indicate the source, then the source must be indicated in a manner and to an extent deemed reasonable according to the nature of the reproduction.

(3) If it is permissible to reproduce a work printed in a school textbook pursuant to the provisions of Article 33-3, paragraph (1), it is also permissible to reproduce any performance recorded in a sound recording created under the application of the provisions of that paragraph, to reproduce any phonogram related to the said sound recording, and to make available to the public the performance or phonogram through the transfer of copies thereof, for the purposes stipulated in that paragraph.

(4) If a person set forth by Cabinet Order that is as referred to in Article 37, paragraph (3) and that engages in an undertaking related to the welfare of persons with visual and other such impairments is permitted to reproduce a visual work pursuant to the provisions of that paragraph, that person may also reproduce any performance whose sound has been recorded in a sound recording made based on the application of the provisions of that paragraph, may reproduce any phonogram associated with such sound recording, may make the performance or phonogram available for transmission, and may present the performance or phonogram to the public through the transfer of copies thereof, for the purpose referred to in that paragraph.

(5) A performance subject to neighboring rights, when broadcast, may be transmitted via area-limited specified input-type automatic public transmission; provided, however, that this does not apply if doing so would prejudice the rights of the person that owns the rights provided for in Article 99-2, paragraph (1) with respect to that broadcast.

(6) Unless the provisions of Article 38, paragraph (2) as applied *mutatis mutandis* pursuant to paragraph (1) of this Article are applicable, a person that makes a performance available for transmission pursuant to the provisions of the preceding paragraph must pay a reasonable amount of compensation to the owner of the right set forth in Article 92-2, paragraph (1) with respect to that performance.

(7) The provisions of the preceding two paragraphs apply *mutatis mutandis* to the exploitation of a phonogram that is the subject of neighboring rights. In this case, in the preceding paragraph, the phrase “Article 92-2, paragraph (1)” is deemed to be replaced with “Article 96-2”.

(8) If it is permissible for a person to broadcast or cablecast a work pursuant to the provisions of Article 39, paragraph (1) or Article 40, paragraph (1) or (2), it is also permissible for the person to cablecast the work or use a special instrument that enlarges images to communicate the work to the public based on the receipt of that broadcast or cablecast transmission, and to transmit such a broadcast transmission via area-limited specified input-type automatic public transmission.

(9) The persons set forth in the following are deemed to have recorded the sound or visuals of a performance, etc. or to have reproduced a performance, etc. pursuant to Article 91, paragraph (1), Article 96, Article 98 or Article 100-2:

(i) A person that distributes a copy of a performance, etc. which has been made based on the application of the provisions of Article 30, paragraph (1); Article 30-3; Article 31, paragraph (1), item (i), paragraph (2), item (i), paragraph (4), paragraph (7), item (i) or paragraph (9), item (i); Article 33-2, paragraph (1); Article 33-3, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); Article 37-2, item (ii); Article 41; Article 41-2, paragraph (1); Article 42; Article 42-2, paragraph (1); Article 42-3; Article 42-4; Article 43, paragraph (2); Article 44, paragraphs (1) through (3); Article 47, paragraph (1) or (3); Article 47-2; or Article 47-5, paragraph (1) as applied *mutatis mutandis* pursuant to paragraph (1) of this Article, or that presents a performance, sounds from a phonogram, or sounds or images from a broadcast or cablecast to the public by means of such a copy, for a purpose other than what is provided for in those provisions;

(ii) A person that uses a copy of a performance, etc. that has been created based on the application of the provisions of Article 30-4 as applied *mutatis mutandis* pursuant to paragraph (1) of this Article to exploit that performance, etc. with the purpose of personally

enjoying or causing another person to enjoy it, irrespective of the manner in which the person exploits it;

(iii) A broadcaster, cablecaster or simultaneous broadcasting service that preserves a sound or visual recording provided for in Article 44, paragraph (4) as applied *mutatis mutandis* pursuant to paragraph (1) of this Article, in violation of the provisions of that paragraph;

(iv) A person that uses a copy of a performance, etc. that has been created based on the application of the provisions of Article 47-4; or Article 47-5, paragraph (2) as applied *mutatis mutandis* pursuant to paragraph (1), to exploit that performance, etc. for a purpose other than what is provided for in those provisions, irrespective of the manner in which the person exploits it;

(v) A person that distributes a copy of a performance or phonogram that has been created based on the application of the provisions of paragraph (3) or (4), or that uses such a copy to present sounds from the performance or phonogram to the public, for a purpose other than what is provided for in Article 33-2, paragraph (1) or Article 37, paragraph (3).

(Relationship with the Moral Rights of Performers)

Article 102-2 The provisions of the preceding Article that concern limitations on neighboring rights (other than the provisions of paragraphs (7) and (8) of that Article) must not be interpreted as affecting the protection of the moral rights of performers.

(Transfer and Exercise of Neighboring Rights)

Article 103 The provisions of Article 61, paragraph (1) apply *mutatis mutandis* to the transfer of neighboring rights; the provisions of Article 62, paragraph (1) to the expiration of those rights; the provisions of Articles 63 and 63-2 to the authorization to exploit a performance, phonogram, broadcast, or cablecast; the provisions of Article 65 to the joint authorship of those rights; the provisions of Article 66 to the establishment of a pledge on those rights; and the provisions of Article 67; Article 67-2 (except the proviso to paragraph (1)); Article 70 (except paragraphs (3) through (5)); Articles 71 (limited to the part concerned with item (ii)); Article 72; Article 73; and Article 74, paragraphs (3) and (4) to the exploitation of a performance, phonogram, broadcast, or cablecast if the owners of neighboring rights cannot be found; the provisions of Article 68, Article 70 (except paragraph (4), item (i) and paragraph (7)), Article 71 (limited to the part concerned with item (ii)), Article 72, the main clause of Article 73, and Article 74 to the exploitation of a performance, phonogram, broadcast, or cablecast if an agreement with the owners of neighboring rights has been sought but cannot be reached or deliberations cannot be entered into; and the provisions

of Article 71 (limited to the part concerned with item (i)); and Article 74 to the exploitation of a performance or cablecast under the provisions of Articles 33 through 33-3 as applied mutatis mutandis pursuant to the preceding paragraph. In this case, in Article 63, paragraph (6), the phrase “Article 23, paragraph (1)” is deemed to be replaced with “Article 92-2, paragraph (1), Article 96-2; Article 99-2, paragraph (1); or Article 100-4”, and in Article 68, paragraph (2), the phrase “Article 38, paragraphs (2) and (3)” is deemed to be replaced with “Article 38, paragraph (2), as applied mutatis mutandis pursuant to Article 102, paragraph (1)”.

(Registration of Neighboring Rights)

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

## **Chapter V Compensation for Exploitation within Copyright Limitations**

### **Section 1 Compensation for Private Sound and Visual Recordings**

(Exercise of the Right to Receive Compensation for Private Sound and Visual Recordings)

Article 104-2 (1) If an association is in existence that has as its purpose the exercise of rights on behalf of persons that own the right to receive the compensation referred to in Article 30, paragraph (3) (including as applied mutatis mutandis pursuant to the provisions of Article 102, paragraph (1); the same applies hereinafter in this Section) (hereinafter in this Section referred to as “compensation for private sound and visual recording”) (hereinafter in the following paragraph and item (iv) of the following Article that persons are referred to as “right holders”), whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only association in the country for the relevant category of compensation for private sound and visual recording among those set forth in the following, the right to receive compensation for private sound and visual recording may be exclusively exercised through the designated association (hereinafter in this Section referred to as the “designated association”):

- (i) Compensation for private sound and visual recording in connection with sound recorded for the purpose of private use (unless the recorded sound is exclusively for use

with recorded visuals; hereinafter referred to in this Chapter as “private sound recording”);

(ii) Compensation for private sound and visual recording in connection with private visual recording, conducted for the purpose of private use (including recording of visuals conducted solely along with sound recording; hereinafter referred to in this Chapter as “private visual recording”).

(2) A designated management organization has the authority to undertake judicial or extrajudicial acts concerning the right of a rights holder to receive compensation for private sound and visual recording, in its own name.

(Designation Criteria)

Article 104-3 The Commissioner of the Agency for Cultural Affairs may not make a designation under the provisions of paragraph (1) of the preceding Article unless the association satisfies the following criteria:

(i) It is a general incorporated association.

(ii) In a case involving the compensation for private sound and visual recording set forth in paragraph (1), item (i) of the preceding Article, it has as its members the associations set forth in (a), (c), and (d), or, in a case involving the compensation for private sound and visual recording set forth in item (ii) of that paragraph, it has as its members the associations set forth in (b), (c), and (d):

(a) An association (including a federation of associations) that has as its members persons that own the rights provided for in Article 21 in connection with works associated with private sound recording, and which is recognized as representing, in Japan, the interests of persons that own the right provided for in that Article in connection with works associated with private sound recording;

(b) An association (including a federation of associations) that has as its members persons that own the right provided for in Article 21 in connection with works associated with private visual recording, and which is recognized as representing, in Japan, the interests of persons that own the right provided for in that Article in connection with works associated with private visual recording;

(c) An association (including a federation of associations) that has as its members a considerable number of persons that perform professionally in Japan;

(d) An association (including a federation of associations) that has as its members a considerable number of persons that produce phonograms professionally in Japan.

(iii) The associations set forth in (a) through (d) of the preceding item satisfy the following conditions:

(a) They are not-for-profit;

- (b) Their members may freely join and leave;
- (c) Their members have an equal right to vote on resolutions and in elections;
- (iv) They have sufficient capacity to personally and properly perform functions involved in exercising the right to receive compensation for private sound and visual recording (including functions involved in the undertaking referred to in Article 104-8, paragraph (1); hereinafter in this Chapter referred to as “functions connected with compensation”) on behalf of the right holders.

(Special Provisions on the Payment of Compensation for Private Sound and Visual Recording)

Article 104-4 (1) A person that purchases a machine or recording medium specified by Cabinet Order, as referred to in Article 30, paragraph (3) (hereinafter in this Article and the following Article referred to as a “specified machine” and a “specified recording medium”, respectively) (limited to persons that make the initial purchase of a specified machine or specified recording medium after it is retailed), if so requested by the designated association, must pay compensation for private sound and visual recording at the time of the purchase, in an amount established for the relevant specified machine or specified recording medium pursuant to the provisions of Article 104-6, paragraph (1), as a lump-sum payment representing compensation for private sound and visual recording, for the private sound recording or private visual recording that will be done using that specified machine or specified recording medium.

(2) A person who has paid compensation for private sound and visual recording pursuant to the preceding paragraph may claim a refund of that compensation for private sound and visual recording from the designated association by proving that the person uses the specified machine or specified recording medium for which the person has paid that compensation exclusively for purposes other than private sound recording and private visual recording.

(3) Notwithstanding the provisions of Article 30, paragraph (3), a person that uses a specified machine for which compensation for private sound and visual recording has been paid as per a request for payment under the provisions of paragraph (1) of this Article to do private sound recording or private visual recording on a specified recording medium for which compensation for private sound and visual recording has been paid as per a request for payment under that paragraph is not required to pay compensation for private sound and visual recording at the time of doing such private sound recording or private video recording; provided, however, that this does not apply if compensation for private sound and visual recording has been refunded for the relevant specified machine or specified recording medium pursuant to the provisions of the preceding paragraph.

(Cooperation by Manufacturers)

Article 104-5 If a designated association requests the payment of compensation for private sound and visual recording pursuant to the provisions of paragraph (1) of the preceding Article, a person that manufactures or imports specified machines or specified recording media in the course of trade (referred to as a “manufacturer, etc.” in paragraph (3) of the following Article) must cooperate with the designated association in connection with the request for the payment of compensation for private sound and visual recording and in connection with its receipt.

(Amount of Compensation for Private Sound and Visual Recording)

Article 104-6 (1) Before exercising the right to receive compensation for private sound and visual recording pursuant to the provisions of Article 104-2, paragraph (1), a designated association must fix the amount of such compensation and obtain the approval of the Commissioner of the Agency for Cultural Affairs. The same applies if the designated association seeks to change such amount.

(2) Notwithstanding the provisions of Article 30, paragraph (3), if the approval referred to in the preceding paragraph has been given, the amount of compensation for private sound and visual recording is the amount for which such approval has been received.

(3) Before applying for the approval referred to in paragraph (1) in connection with compensation for private sound and visual recording the payment of which is requested pursuant to the provisions of Article 104, paragraph (1), a designated association must hear the opinions of associations of manufacturers, etc. that are recognized as representing the opinions of manufacturers, etc.

(4) The Commissioner of the Agency for Cultural Affairs must not approve the amount of compensation for private sound and visual recording to which an application for permission under paragraph (1) pertains, unless it is found to be an appropriate amount in consideration of the purport of the provisions of Article 30, paragraph (1) (including as applied *mutatis mutandis* pursuant to the provisions of Article 102, paragraph (1)) and Article 104-4, paragraph (1), the ordinary rate of royalties for sound or visual recording, and any other circumstances.

(5) Before granting the approval referred to in paragraph (1), the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(Rules on the Execution of Functions Connected with Compensation)

Article 104-7 (1) Before initiating the functions connected with compensation, a

designated association must establish rules on the execution of functions connected with compensation and notify the Commissioner of the Agency for Cultural Affairs thereof. The same applies if the designated association seeks to amend these rules.

(2) The rules referred to in the preceding paragraph must include the particulars of the distribution of compensation for private sound and visual recording (limited to such compensation as paid pursuant to the provisions of Article 104-4, paragraph (1)), and the designated association must establish the particulars of the distribution in consideration of the purport of the provisions of Article 30, paragraph (3).

(Expenditures for Undertakings Related to the Protection of Copyright)

Article 104-8 (1) A designated association must expend an amount equivalent to the Cabinet-Order-specified rate of within 20% of the amount of compensation for private sound and visual recording (limited to such compensation as paid pursuant to the provisions of Article 104-4, paragraph (1)), for undertakings related to the protection of copyright and neighboring rights, as well as undertakings that contribute to promoting the creation of works and to their dissemination.

(2) Before establishing the Cabinet Order referred to in the preceding paragraph or drafting an amendment to it, the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(3) If the Commissioner of the Agency for Cultural Affairs finds it to be necessary in order to ensure the proper operation of functions related to an undertaking referred to in paragraph (1), the Commissioner may issue any order that is necessary for supervising the relevant functions.

(Collection of Reports)

Article 104-9 If the Commissioner of the Agency for Cultural Affairs finds it to be necessary in order to ensure a designated association's proper operation of functions connected with compensation, the commissioner may have the designated association report on its functions connected with compensation or request it to submit its books, documents, and other materials, or may issue any recommendations necessary for improvement in the way in which the designated association executes its functions connected with compensation.

(Delegation to Cabinet Order)

Article 104-10 Other than what is provided for in this Chapter, the necessary particulars of designated associations and of the functions connected with compensation are provided for by Cabinet Order.

## **Section 2 Compensation for Public Transmission by Libraries or Similar Facilities**

(Exercise of the Right to Receive Compensation for Public Transmission by Libraries or Similar Facilities)

Article 104-10-2 (1) If an association is in existence that has as its purpose the exercise of rights on behalf of persons that own the right to receive the compensation referred to in Article 31, paragraph (5) (including as applied mutatis mutandis pursuant to the provisions of Article 86, paragraph (3) and Article 102, paragraph (1); the same applies hereinafter in Article 104-10-4, paragraph (2) and Article 104-10-5, paragraph (2)) (hereinafter in this Section referred to as “compensation for public transmission by libraries or similar facilities”) (hereinafter in the following paragraph and item (iv) of the following Article wherein persons are referred to as “right holders”), whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only association in the country, the right to receive compensation for public transmission by libraries or similar facilities may be exercised exclusively through the designated association (hereinafter in this Section referred to as the “designated association”);

(2) A designated association has the authority to act in and out of court on behalf of a right holder, in its own name, in connection with the right to receive compensation for public transmission by libraries or similar facilities.

(Designation Criteria)

Article 104-10-3 The Commissioner of the Agency for Cultural Affairs may not make a designation under the provisions of paragraph (1) of the preceding Article unless the association satisfies the following criteria:

(i) It is a general incorporated association;

(ii) It has as its members the following associations:

(a) An association (including a federation of associations) that has as its members persons that own the rights provided for in Article 23, paragraph (1) in connection with works associated with public transmission (hereinafter in this Section referred to as “public transmission by libraries or similar facilities”) under the provisions of Article 31, paragraph (2) (including as applied mutatis mutandis pursuant to the provisions of Article 86, paragraph (3) and Article 102, paragraph (1); the same applies hereinafter in paragraph (4) of the following Article), and which is recognized as representing, in Japan, the interests of persons that own the right provided for in that paragraph in connection with works associated with public transmission by libraries or similar facilities;

(b) An association (including a federation of associations) that has as its members owners of item (ii) publishing rights in connection with works associated with public transmission by libraries or similar facilities, and which is recognized as representing, in Japan, the interests of the owners of item (ii) publishing rights in connection with works associated with public transmission by libraries or similar facilities;

(iii) The associations set forth in (a) and (b) of the preceding item satisfy the following conditions:

(a) They are non-profit associations;

(b) Their members may freely join and leave;

(c) Their members have an equal right to vote on resolutions and in elections;

(iv) They have sufficient capacity to properly perform functions involved in exercising the right to receive compensation for public transmission by libraries or similar facilities (including functions involved in the undertaking referred to in Article 104-10-6, paragraph (1); hereinafter in this Section referred to as “functions connected with compensation”) on behalf of the right holders.

(Amount of Compensation for Public Transmission by Libraries or Similar Facilities)

Article 104-10-4 (1) Before exercising the right to receive compensation for public transmission by libraries or similar facilities pursuant to the provisions of Article 104-10-2, paragraph (2), a designated association must fix the amount of compensation for public transmission by libraries or similar facilities and obtain the approval of the Commissioner of the Agency for Cultural Affairs. The same applies to cases where a change in the amount is made to the amount.

(2) Notwithstanding the provisions of Article 31, paragraph (5), if the approval referred to in the preceding paragraph has been given, the amount of compensation for public transmission by libraries or similar facilities is the amount for which that approval has been received.

(3) Before applying for the approval referred to in paragraph (1), a designated association must hear the opinions of associations of persons that establish libraries or similar facilities and are recognized as representing the opinions of persons that establish libraries or similar facilities.

(4) The Commissioner of the Agency for Cultural Affairs must not approve the amount of compensation for public transmission by libraries or similar facilities to which an application for permission under paragraph (1) pertains, unless it is found to be an appropriate amount in consideration of the purport of the provisions of Article 31, paragraph (2), the influence on the interests of the copyright owner, etc. in light of the nature and purpose of the works

associated with public transmission by libraries or similar facilities as well as the circumstances of public transmission by libraries or similar facilities, the benefit enjoyed by users of specified libraries or similar facilities when they are able to easily acquire electronic or magnetic records via public transmission by libraries or similar facilities, and any other circumstances.

(5) Before granting the approval referred to in paragraph (1), the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(Rules on the Execution of Functions Connected with Compensation)

Article 104-10-5 (1) Before initiating the functions connected with compensation, a designated association must establish rules on the execution of functions connected with compensation and notify the Commissioner of the Agency for Cultural Affairs thereof. The same applies to cases where a change is made to rules.

(2) The rules referred to in the preceding paragraph must include the particulars of the distribution of compensation for public transmission by libraries or similar facilities, and the designated association must establish the particulars of the distribution in consideration of the purport of the provisions of Article 31, paragraph (5).

(Expenditures for Undertakings Related to the Protection of Copyright)

Article 104-10-6 (1) A designated association must expend an amount equivalent to an amount calculated pursuant to the provisions of Cabinet Order in consideration of how a work is exploited, expenses for administrative handling related to the distribution of compensation for public transmission by libraries or similar facilities, or other circumstances, of the total amount of compensation for public transmission by libraries or similar facilities, for undertakings that relate to protecting copyright, print right and neighboring rights, as well as undertakings that contribute to promoting the creation of works and to their dissemination.

(2) Before establishing the Cabinet Order referred to in the preceding paragraph or drafting an amendment to it, the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(3) If the Commissioner of the Agency for Cultural Affairs finds it is necessary in order to ensure the proper operation of functions related to an undertaking referred to in paragraph (1), the Commissioner may issue any order required for supervising the relevant functions.

(Collection of Report)

Article 104-10-7 If the Commissioner of the Agency for Cultural Affairs determines that it is necessary to ensure the proper operation of a designated association's functions related to compensation, the Commissioner may require the designated association to report on its

functions connected with compensation; may request that it submit its books, documents, and other materials; or may issue any recommendations necessary for improvement in the way in which the designated association executes its functions connected with compensation.

(Delegation to Cabinet Order)

Article 104-10-8 Other than what is provided for in this Section, the necessary particulars of designated associations and of the functions connected with compensation are provided for by Cabinet Order.

### **Section 3 Compensation for Public Transmission for Classes**

(Exercise of the Right to Receive Compensation for Public Transmission for Classes)

Article 104-11 (1) If an association is in existence that has as its purpose the exercise of rights on behalf of persons that own the right to receive the compensation referred to in Article 35, paragraph (2) (including as applied mutatis mutandis pursuant to the provisions of Article 102, paragraph (1); the same applies hereinafter in Article 104-13, paragraph (2) and Article 104-14, paragraph (2)) (hereinafter in this Section referred to as “compensation for public transmission for classes”) (hereinafter in the following paragraph and item (iv) of the following Article wherein persons are referred to as “right holders”), whose consent has been obtained and which the Commissioner of the Agency for Cultural Affairs has designated as the only association in the country, the right to receive compensation for public transmission for classes may be exercised exclusively through the designated association thus designated (hereinafter in this Section referred to as the “designated association”);

(2) A designated association has the authority to act in and out of court on behalf of a right holder, in its own name, in connection with the right to receive compensation for public transmission for classes.

(Designation Criteria)

Article 104-12 The Commissioner of the Agency for Cultural Affairs may not make a designation under the provisions of paragraph (1) of the preceding Article unless the association satisfies the following criteria:

(i) It is a general incorporated association;

(ii) It has as its members the following associations:

(a) An association (including a federation of associations) that has as its members persons that own the rights provided for in Article 23, paragraph (1) in connection with works associated with public transmission (excluding public transmission referred to in

Article 35, paragraph (3); hereinafter in this Section referred to as “public transmission for classes”) referred to in Article 35, paragraph (1) (including as applied mutatis mutandis pursuant to the provisions of Article 102, paragraph (1); the same applies hereinafter in paragraph (4) of the following Article), and which is recognized as representing, in Japan, the interests of persons that own the right provided for in that paragraph in connection with works associated with public transmission for classes;

(b) An association (including a federation of associations) that has as its members persons that own the right provided for in Article 92, paragraph (1) and Article 92-2, paragraph (1) in connection with performances associated with public transmission for classes, and which is recognized as representing, in Japan, the interests of persons that own the right provided for in those Articles in connection with performances associated with public transmission for classes;

(c) An association (including a federation of associations) that has as its members persons that own the right provided for in Article 96-2 in connection with phonograms associated with public transmission for classes, and which is recognized as representing, in Japan, the interests of persons that own the right provided for in that Article in connection with phonograms associated with public transmission for classes;

(d) An association (including a federation of associations) that has as its members persons that own the right provided for in Article 99, paragraph (1) and Article 99-2, paragraph (1) in connection with broadcasts associated with public transmission for classes, and which is recognized as representing, in Japan, the interests of persons that own the right provided for in those Articles in connection with broadcasts associated with public transmission for classes;

(e) An association (including a federation of associations) that has as its members persons that own the right provided for in Articles 100-3 and 100-4 in connection with cablecasts associated with public transmission for classes, and which is recognized as representing, in Japan the interests of persons that own the right provided for in those Articles in connection with cablecasts associated with public transmission for classes;

(iii) The associations set forth in (a) through (e) of the preceding item satisfy the following conditions:

(a) They are non-profit associations;

(b) Their members may freely join and leave;

(c) Their members have an equal right to vote on resolutions and in elections;

(iv) They have sufficient capacity to properly perform functions involved in exercising the right to receive compensation for public transmission for classes (including functions involved in the undertaking referred to in Article 104-15, paragraph (1); hereinafter in this

Section referred to as “functions connected with compensation”) on behalf of the right holders.

(Amount of Compensation for Public Transmission for Classes)

Article 104-13 (1) Before exercising the right to receive compensation for public transmission for classes as provided in Article 104-11, paragraph (1), a designated association must determine the amount of compensation for public transmission for classes and obtain approval from the Commissioner of the Agency for Cultural Affairs. The same procedure applies when seeking to amend the amount.

(2) Despite the provisions of Article 35, paragraph (2), if approval has been granted under the preceding paragraph, the compensation amount for public transmission for classes shall be the approved amount.

(3) Before applying for the approval referred to in paragraph (1), a designated association must hear the opinions of associations of persons that establish educational institutions referred to in Article 35, paragraph (1) where public transmission for classes is made and are recognized as representing the opinions of persons that establish educational institutions referred to in that paragraph.

(4) The Commissioner of the Agency for Cultural Affairs must not approve the amount of compensation for public transmission for classes to which an application for permission under paragraph (1) pertains, unless it is found to be an appropriate amount in consideration of the purport of the provisions of Article 35, paragraph (1), the ordinary rate of royalties for public transmission (including making it available for transmission, if it is to be transmitted to the public via automatic public transmission), and any other circumstances.

(5) Before granting approval under paragraph (1), the Commissioner of the Agency for Cultural Affairs must consult with the Culture Council.

(Rules on the Execution of Functions Connected with Compensation)

Article 104-14 (1) Before initiating the functions connected with compensation, a designated association must establish rules on the execution of functions connected with compensation and notify the Commissioner of the Agency for Cultural Affairs thereof. The same applies to cases where a change is made to rules.

(2) The rules referred to in the preceding paragraph must include the particulars of the distribution of compensation for public transmission for classes, and the designated association must establish the particulars of the distribution in consideration of the purport of the provision of Article 35, paragraph (2).

(Expenditures for Undertakings Related to the Protection of Copyright)

Article 104-15 (1) A designated association must expend an amount equivalent to an amount calculated pursuant to the provisions of Cabinet Order in consideration of how a work is exploited, expenses for administrative handling related to the distribution of compensation for public transmission for classes, or other circumstances, of the total amount of compensation for public transmission for classes, for undertakings that relate to protecting copyright and neighboring rights, as well as undertakings that contribute to promoting the creation of works and to their dissemination.

(2) Before establishing the Cabinet Order referred to in the preceding paragraph or drafting an amendment to it, the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(3) If the Commissioner of the Agency for Cultural Affairs finds it is necessary, in order to ensure the proper operation of functions related to an undertaking referred to in paragraph (1), the Commissioner may issue any order required for supervising the relevant functions.

(Collection of Reports)

Article 104-16 If the Commissioner of the Agency for Cultural Affairs determines that it finds it is necessary, in order to ensure a designated association's proper operation of functions connected with compensation, the commissioner may stipulate that the designated association report on its functions connected with compensation; may request that it submit its books, documents, and other materials; or may issue any recommendations necessary for improvement in the way in which the designated association executes its functions connected with compensation.

(Delegation to Cabinet Order)

Article 104-17 Other than what is provided for in this Section, the necessary particulars of designated associations and of the functions connected with compensation are provided for by Cabinet Order.

## **Chapter VI Dispute Resolution**

(Mediators in Copyright Dispute Resolution)

Article 105 (1) In order for disputes concerning the rights provided for in this Act to be resolved through mediation, mediators for copyright dispute resolution (hereinafter in this Chapter referred to as "mediators") are placed on staff at the Agency for Cultural Affairs.

(2) The Commissioner of the Agency for Cultural Affairs delegates up to three mediators for each case, from among persons of learning and experience in matters related to copyright or neighboring rights.

(Application for Mediation)

Article 106 If a dispute arises in connection with a right provided for in this Act, a party to the dispute may file an application for mediation with the Commissioner of the Agency for Cultural Affairs.

(Application Fees)

Article 107 (1) A person that applies for mediation must pay the application fee that has been fixed by Cabinet Order in consideration of actual costs.

(2) The provisions of the preceding paragraph do not apply if the person that would be required to pay an application fee pursuant to the provisions of that paragraph is the national government.

(Referral to Mediation)

Article 108 (1) If the Commissioner of the Agency for Cultural Affairs receives an application based on the provisions of Article 106 from both parties, or, if the Commissioner receives an application from one of the parties and the other party consents, the commissioner is to refer the matter to mediation by the mediators.

(2) The Commissioner of the Agency for Cultural Affairs may refrain from referring a matter to mediation if the commissioner finds that the nature of cases renders it inappropriate for mediation, or if the commissioner finds that a party has applied for mediation without due cause and in pursuit of an unjustifiable end.

(Mediation)

Article 109 (1) A mediator must endeavor to resolve a case by mediating between the parties and ascertaining the salient points of both parties' assertions in line with actual circumstances.

(2) A mediator may cut the mediation short if the mediator finds there to be no prospect of settling cases.

(Reports)

Article 110 (1) When a mediation ends, a mediator must report this to the Commissioner of the Agency for Cultural Affairs.

(2) If a mediator cuts a mediation short pursuant to the provisions of the preceding Article,

the mediator must inform the parties of this and of the reason for doing so, as well as reporting this to the Commissioner of the Agency for Cultural Affairs.

(Delegation to Cabinet Order)

Article 111 Beyond what is provided for in this Chapter, the necessary particulars of the procedures for mediation and mediators are provided for by Cabinet Order.

## Chapter VII Infringement of Rights

(Right to Demand an Injunction)

Article 112 (1) The author, copyright owner, owner of publishing rights, performer, or owner of neighboring rights, may file a claim against a person who is infringing or who is likely to infringe the moral rights of the author, the copyright, the publishing rights, the moral rights of the performer, or the neighboring rights, for the cessation or prevention of such infringement.

(2) When filing the demand under the preceding paragraph, the author, copyright owner, owner of publishing rights, performer, or owner of neighboring rights may demand the destruction of objects that give rise to an act of infringement, objects made through an act of infringement, or machines or tools used solely for an act of infringement, or demand that any other measures necessary to effect the cessation or prevention of infringement be taken.

(Acts Deemed to Constitute Infringement)

Article 113 (1) The following acts are deemed to constitute infringement of the moral rights of the author, the copyright, the publishing rights, the moral rights of the performer, or the neighboring rights:

(i) The importation, for the purpose of distribution in Japan, of an object that is made through an act that, were the object to be made in Japan at the time of its import, would constitute infringement of the moral rights of the author, the copyright, the publishing rights, the moral rights of the performer, or the neighboring rights;

(ii) The distribution, possession for the purpose of distribution, offering for distribution, exportation in the course of trade, or possession for the purpose of exportation in the course of trade, of an object made through an act that infringes the moral rights of the author, the copyright, the publishing rights, or the neighboring rights (including an object imported as referred to in the preceding item), with knowledge of such infringement.

(2) The facilitation of the exploitation of an infringing work (meaning a work that has been

made available for transmission by infringing a copyright (excluding the rights provided in Article 28 (limited to those for a derivative work created by a method other than translation); hereinafter the same applies in this paragraph and the following paragraph), a print right, or neighboring rights; and including a work that has been made available for transmission abroad where such action would constitute infringement of any of these rights if it were undertaken in Japan; hereinafter the same applies in this paragraph and the following paragraph) by others through the provision of a transmitter identification code, or of any code other than a transmitter identification code or any other information the provision of which has an effect that is identical or similar to the provision of a transmitter identification code (hereinafter in this paragraph and the following paragraph referred to as “transmitter identification code, etc.”) (this act is referred to as “facilitation of the exploitation of an infringing work” in the following paragraph), which is carried out on a website, etc. set forth in item (i) (referred to as a “website, etc. facilitating the exploitation of an infringing work” in the following paragraph and Article 119, paragraph (2), item (iv)) or with the use of a computer program set forth in item (ii) (referred to as a “computer program facilitating the exploitation of an infringing work” in the following paragraph and paragraph (2), item (v) of the same Article), is deemed to constitute infringement of the copyright, print right or neighboring rights for the infringing work, if the person carrying out the relevant act knew, or there are reasonable grounds to find that the person could have known, that the work involved in the act was an infringing work:

(i) The following websites, etc.:

(a) A website, etc. that is found to be deliberately leading the public to an infringing work on the website, etc., in light of the circumstances under which words that encourage the use of the transmitter identification code, etc. regarding the infringing work (hereinafter in this Article and Article 119, paragraph (2) referred to as an “infringing transmitter identification code, etc.”) are indicated or the infringing transmitter identification code, etc. is emphasized, and any other circumstances under which the infringing transmitter identification code, etc. is provided on the website, etc.;

(b) A website, other than one set forth in (a), that is found to be used mainly for the exploitation of an infringing work by the public, in light of the number of infringing transmitter identification codes, etc. provided on the website, the ratio of that number to the total number of transmitter identification codes, etc. provided on the website, the status of classification or compilation conducive to the use of the infringing transmitter identification codes, etc., and any other status of provision of infringing transmitter identification codes, etc. on the website;

(ii) The following computer programs:

(a) A computer program that is found to be deliberately leading the public to an infringing work when providing a transmitter identification code, etc. by means of the computer program, in light of the circumstances under which words that encourage the use of the transmitter identification code regarding the infringing work are indicated or the infringing transmitter identification code, etc. is emphasized, and any other circumstances under which the infringing transmitter identification code, etc. is provided by means of the computer program;

(b) A computer program, other than one set forth in (a), that is found to be used mainly for the exploitation of an infringing work by the public, in light of the number of infringing transmitter identification codes, etc. provided by means of the computer program, the ratio of that number to the total number of transmitter identification codes, etc. provided by means of the computer program, the status of classification or compilation conducive to the use of the infringing transmitter identification codes, etc., and any other status of provision of infringing transmitter identification codes, etc. by means of the computer program.

(3) If a person presenting a website, etc. facilitating the exploitation of an infringing work to the public (excluding a person merely providing the opportunity to present it to the public on a website, etc. that includes the website, etc. facilitating the exploitation of an infringing work and a considerable number of other websites, etc. (excluding cases where that person has, continuously for a considerable period of time and without reasonable grounds, failed to comply with a request from the copyright owner, etc. for the deletion of the infringing transmitter identification codes, etc. provided on the website, etc. facilitating the exploitation of an infringing work or there are other special circumstances under which the person's action is found to unreasonably prejudice the interests of the copyright owner)) or a person making available or presenting a computer program facilitating the exploitation of an infringing work to the public (excluding a person merely providing the opportunity to make available or present the computer program facilitating the exploitation of an infringing work to the public on a website, etc. that includes the website, etc. used for making available or presenting the computer program to the public and a considerable number of other websites, etc. or on a website, etc. used for making available or presenting to the public the computer program facilitating the exploitation of an infringing work and a considerable number of computer programs (excluding cases where that person has, continuously for a considerable period of time and without reasonable grounds, failed to comply with a request from the copyright owner, etc. for the deletion of the infringing transmitter identification codes, etc. provided by means of the computer program facilitating the exploitation of an infringing work or there are other special circumstances under which the person's action is found to unreasonably

prejudice the interests of the copyright owner)) fails to take measures to prevent the facilitation of the exploitation of the infringing work although it is technically possible to take these measures, in cases where transmitter identification codes, etc. for the facilitation of the exploitation of the infringing work by others are provided on the website, etc. facilitating the exploitation of an infringing work or with the use of the computer program facilitating the exploitation of an infringing work, and the person knew, or there are reasonable grounds to find that the person could have known, that the work involved in the transmitter identification codes, etc. was an infringing work, the person's failure to take those measures is deemed to constitute infringement of the copyright, print right or neighboring rights for the infringing work

(4) The website, etc. provided for in the preceding two paragraphs means a collection of webpages (meaning electronic or magnetic records provided for inspection of information using the internet, which are specified by Order of the Ministry of Education, Culture, Sports, Science and Technology; hereinafter the same applies in this paragraph) that have a common part in the transmitter identification code to be used to identify each computer on the internet (including multiple webpages that constitute part of the collection, which satisfy the requirements specified by Cabinet Order as those that are found to be presented to the public in an integrated manner in light of circumstances such as the relationships between the webpages).

(5) The use of a copy made through an act that infringes the copyright to a work of computer programming (including copies made by the owner of such copies pursuant to the provisions of Article 47-3, paragraph (1) as well as copies of a work of computer programming imported as referred to paragraph (1), item (i) and copies made by the owner of such imported copies pursuant to the provisions of Article 47-2, paragraph (1)) on a computer in the course of business is deemed to constitute an infringement of the copyright, but only if the person using such copy had knowledge of such infringement at the time that the person acquired the title to use the copy.

(6) The circumvention of technological exploitation restriction measures (meaning making it possible to view or listen to a work that technological exploitation restriction measures have been used to restrict from being view or listened to, by hindering the effect of those technological exploitation restriction measures (unless this is done based on the intent of the copyright owner, etc.); the same applies in the following paragraph and Article 120-2, items (i) and (ii)) is deemed to constitute infringement of the copyright, publishing rights, or neighboring rights connected to those technological exploitation restriction measures unless this is done within a scope that is justified for the purpose of research or technological development in connection with technological exploitation restriction measures, or otherwise

does not harm the interests of the copyright owner, etc.

(7) An act of transferring or renting to the public a command code (meaning a command to a computer by which alone a single result can be obtained) with a function that circumvents technological protection measures or technological exploitation restriction measures, manufacturing, importing, or possessing such a command code for the purpose of transferring or renting it to the public, offering such a command code for public use, transmitting such a command code to the public or making it available for transmission is deemed to constitute infringement of the copyright, etc. relevant to the technological protection measures or the copyright, print right or neighboring rights relevant to the technological exploitation restriction measures.

(8) The following acts are deemed to constitute infringement of the moral rights of the author, the copyright, the print right, the moral rights of the performer, or the neighboring rights to which the relevant rights management information pertains:

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

(ii) the intentional removal or alteration of rights management information (excluding when this is due to technological constraints involved in the conversion of recording or transmission methods and any other case in which this is found to be unavoidable in light of the purpose and circumstances of the exploitation of the work or performance, etc.);

(iii) the distribution, importation, or possession for the purpose of distribution, of copies of a work or performance, etc. with the knowledge that an act referred to in one of the preceding two items has been carried out on such work or performance, etc., or the transmission to the public or making available for transmission of such work or performance, etc. with knowledge of such an act.

(9) With regard to the application of the provisions of the preceding paragraph, the right to receive the remuneration provided for in Article 94-2; Article 95-3, paragraph (3); and Article 97-3, paragraph (3) and the right to receive the secondary use fees provided for in Article 95, paragraph (1) and Article 97, paragraph (1) are deemed to be neighboring rights. In this case, in the preceding Article, the phrase “owner of neighboring rights” is deemed to be replaced with “owner of neighboring rights (including the owner of rights deemed to be neighboring rights pursuant to the provisions of paragraph (9) of the following Article)”, and in paragraph (1) of the preceding Article, the phrase “neighboring rights” is deemed to be replaced with “neighboring rights (including the rights deemed to be neighboring rights pursuant to the provisions of paragraph (5) of the following Article)”.

(10) If the owner of a copyright or neighboring rights that personally publishes or allows another person to publish a commercial phonogram intended for distribution in Japan (hereinafter in this paragraph referred to as a “commercial phonogram for domestic

distribution”) personally publishes or allows another person to publish abroad a commercial phonogram that is the same as the commercial phonogram for domestic distribution but that is intended exclusively for distribution abroad (hereinafter in this paragraph referred to as a “commercial phonogram for foreign distribution”), the knowing importation of the commercial phonogram for foreign distribution for the purpose of distribution in Japan; the knowing distribution in Japan of the commercial phonogram for foreign distribution; or the knowing possession of the commercial phonogram for foreign distribution for the purpose of distribution in Japan, is only deemed to constitute an act that infringes the copyright or neighboring rights of the copyright owner or the owner of neighboring rights if the profits that these persons would foreseeably obtain through the publication of the commercial phonogram for domestic distribution are unreasonably adversely affected by the distribution in Japan of the commercial phonogram for foreign distribution; provided, however, that this does not apply with regard to the importation, distribution in Japan, or possession for the purpose of distribution in Japan, of a commercial phonogram for foreign distribution that is the same as a commercial phonogram for domestic distribution which has passed beyond the Cabinet-Order-specified period of not more than seven years counting from the day on which that phonogram is first published in Japan.

(11) The exploitation of a work in a way that is prejudicial to the honor or reputation of the author is deemed to constitute an infringement of the author’s moral rights.

(Special Provisions on the Right of Transfer of a Bona Fide Third Party)

Article 113-2 If, at the time a person is transferred the original or a copy of a work (excluding a copy of a cinematographic work (if the work is one that has been reproduced in a cinematographic work, this includes copies of the cinematographic work); the same applies hereinafter in this Article), a sound or visual recording of a performance, or a copy of a phonogram, the person does not know that the original or copy of the work, sound or visual recording of the performance, or copy of the phonogram does not fall under any of the items of Article 26-2, paragraph (2); Article 95-2, paragraph (3); or Article 97-2, paragraph (2), respectively, and is not negligent in having failed to learn this, such person’s transfer of the original or copy of the work, the sound or visual recording of the performance, or the copy of the phonogram to the public is deemed not to constitute an infringement of the rights set forth in Article 26-2, paragraph (1); Article 95-2, paragraph (1); or Article 97-2, paragraph (1).

(Presumption of the Amount of Damage)

Article 114 (1) When a copyright owner, etc. seeks compensation for damage against a

person who intentionally or unintentionally infringes copyright, publishing rights, or neighboring rights (hereinafter referred to as the “infringer”), and the infringer has transferred objects created through the act of infringement (referred to as “infringing creations” in item 1) or has engaged in public transmission constituting the act of infringement (referred to as “infringing public transmission” in the same item, including enabling transmission in the case of automatic public transmission), the total amount specified in the following items may be considered as the amount of damage incurred by the copyright owner, etc.:

(i) Of the quantity of objects transferred (referring to objects transferred by the infringer and copies of works or performances created by the public receiving infringing transmissions by the infringer, hereinafter referred to as ‘infringing received copies’ mentioned in the next item), the portion not exceeding the quantity corresponding to sales, etc. (referring to the quantity based on the ability of the copyright owner, etc. to perform actions necessary for the sale of the infringing creations or infringing received copies if they were to be sold, hereinafter referred to as ‘corresponding quantity for sales, etc.’) (deducting the quantity corresponding to circumstances where the copyright owner, etc. cannot sell some or all of the transferred objects, if such circumstances exist, referred to as ‘specified quantity’ in the same item), multiplied by the profit per unit of objects that the copyright owner, etc. could have sold if there had been no act of infringement.

(ii) In cases where there is a quantity exceeding the corresponding quantity for sales, etc. or a specified quantity among the quantity of objects transferred (excluding cases where the copyright owner, etc. is deemed unable to exercise their copyright, publishing rights, or neighboring rights), the amount corresponding to the money to be received for the exercise of the copyright, publishing rights, or neighboring rights, according to these quantities.

(2) If a copyright owner, the owner of publishing rights, or the owner of neighboring rights claims compensation for damage incurred due to infringement, against a person that, intentionally or due to negligence, infringes the owner’s copyright, publishing rights, or neighboring rights, and the infringer has made a profit from the act of infringement, the amount of that profit is presumed to be the amount of damage that the copyright owner, the owner of publishing rights, or the owner of neighboring rights has incurred.

(3) The copyright owner, the owner of publishing rights, or owner of neighboring rights may fix the amount of damages incurred as being equivalent to the amount of money that the owner should have received in connection with the exercise of the copyright, print right or neighboring right, and may claim compensation therefor against a person that, intentionally or due to negligence, infringes the owner’s copyright, publishing rights or neighboring rights.

(4) If the copyright owner or owner of neighboring rights claims compensation for damage

pursuant to the provisions of the preceding paragraph against a person that has infringed the owner's copyright or neighboring rights and the copyright or neighboring rights are managed by a copyright management service under a management entrustment agreement provided for in Article 2, paragraph (1) of the Act on Copyright, etc. Management Service, the copyright owner or owner of neighboring rights may fix the amount provided for in the preceding paragraph using the amount of royalties for the work associated with the copyright or neighboring rights, calculated based on those of the provisions of the royalty rules established by the copyright management service that are provided for in Article 13, paragraph (1) of the Act which are applicable to the circumstances of the exploitation of the work associated with the act of infringement (if there are several methods for calculating that amount, this means the largest of the amounts calculated based on those methods).

(5) The court, when determining the amount of money that the copyright owner, etc. should have received in connection with the exercise of the copyright, publishing rights or neighboring right as provided for in paragraph 1, items 2 and 3, may consider the amount that the copyright owner, etc. would have received if an agreement had been reached between the copyright holder, etc. and the person who infringed their copyright, publishing rights, or neighboring rights, based on the fact that there was an infringement of the copyright, publishing right, or neighboring rights.

(6) The provisions of paragraph (3) do not preclude any claim to compensation for damage in excess of the amount referred to therein. In such a case, the court may consider the absence of intent or gross negligence by the person that infringed the copyright, publishing rights, or neighboring rights, in fixing the amount of compensation for the damage.

#### (Duty to Clarify Specific Circumstances)

Article 114-2 In litigation involving infringement of the moral rights of an author, a copyright, publishing rights, the moral rights of a performer, or neighboring rights, if the adverse party denies the specific circumstances of the thing that is being asserted, by the author, copyright owner, owner of publishing rights, performer, or owner of neighboring rights, to constitute an act of infringement or to have been made through an act of infringement, the adverse party must clarify the specific circumstances of the adverse party's own actions; provided, however, that this does not apply if there are reasonable grounds for the adverse party not being able to clarify these.

#### (Submission of Documents)

Article 114-3 (1) In litigation involving infringement of the moral rights of an author, a copyright, publishing rights, the moral rights of a performer, or neighboring rights, the court,

at the petition of a party, may order a party to submit documents that are needed to prove the relevant act of infringement or to calculate the damage caused by the relevant act of infringement; provided, however, that this does not apply if the person in possession of such documents has just cause for refusing to submit them.

(2) If the court finds it to be necessary in order to judge whether the document submitted upon filing the petition referred to in the main clause of the preceding paragraph constitutes the document referred to in the main clause of the same paragraph or whether the just cause set forth in the proviso to the same paragraph is present, the court may have the person in possession of documents present such documents. In such a case, no person may request the disclosure of any document so presented.

(3) In a case referred to in the preceding paragraph, if the court finds that it is necessary to disclose a document referred to in the second sentence of the preceding paragraph and hear opinions with regard to whether the document submitted upon filing the petition referred to in the main clause of paragraph (1) constitutes the document referred to in the main clause of the same paragraph or whether the just cause provided for in the proviso to the same paragraph is present, the court may disclose that document to the parties, etc. (meaning the parties (or if a party is a corporation, its representative), or the parties' agents (other than litigation representatives and assistants in court), employees, or any other worker; the same applies in Article 114-6, paragraph (1)), their litigation representatives, or their assistants in court.

(4) In a case referred to in paragraph (2), if the court finds that it is necessary to disclose a document referred to in the second sentence of the same paragraph and hear an explanation based on expert knowledge, the court may disclose the document to a technical adviser as provided in Part I, Chapter V, Section 2, Subsection 1 of the Code of Civil Procedure (Act No. 109 of 1996), with the consent of the parties.

(5) The provisions of the preceding paragraphs apply *mutatis mutandis* to the presentation of the object of any inspection that is necessary for proving the relevant act of infringement in litigation involving infringement of the moral rights of an author, a copyright, publishing rights, the moral rights of a performer, or neighboring rights.

#### (Duty of the Parties to Explain to an Appraiser)

Article 114-4 In litigation involving infringement of a copyright, publishing rights, or neighboring rights, if, at the petition of a party, the court orders an appraisal of particulars that are necessary for calculating the damage caused by the relevant act of infringement, the parties must explain the particulars necessary for such appraisal to be made to the appraiser.

(Approval of a Reasonable Amount of Damage)

Article 114-5 When damage is found to have been incurred in litigation involving infringement of a copyright, publishing rights, or neighboring rights, if, due to the nature of the relevant facts, it is extremely difficult to prove the facts that are necessary for proving the amount of damage, the court may approve a reasonable amount of damage based on the overall gist of oral proceedings and the results of the examination of evidence.

(Confidentiality Protective Orders)

Article 114-6 (1) In litigation involving infringement of the moral rights of an author, a copyright, publishing rights, the moral rights of a performer, or neighboring rights, if a prima facie showing of circumstances that fall under both of following is made with regard to a trade secret kept by a party (meaning a trade secret as provided in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); the same applies hereinafter), the court, at the petition of the party, may issue a ruling ordering a party, etc., litigation representative, or assistant in court not to use the trade secret for purposes other than those of pursuing the relevant litigation, or not to disclose the trade secret to persons other than those that are subject to an order under the provisions of this paragraph that involves that trade secret; provided, however, that this does not apply if the party, etc., litigation representative, or assistant in court has acquired or gained possession of the relevant trade secret before the petition is filed, by means other than the perusal of the brief referred to in item (i) or the examination of evidence or disclosure referred to in that item:

(i) A trade secret kept by a party is detailed in a brief that has already been submitted or that must be submitted, or a trade secret is included in the content of evidence that has already been examined or that must be examined (including documents disclosed pursuant to the provisions of Article 114 -3, paragraph (3));

(ii) The use of the trade secret referred to in the preceding item for a purpose other than pursuing litigation or the disclosure of that trade secret would be likely to hinder the business activities of the party that are based on that trade secret, and it is necessary to restrict such use or disclosure in order to prevent such hindrance.

(2) A petition for an order under the provisions of the preceding paragraph (hereinafter referred to as a “confidentiality protective order”) must be filed in writing and detail the following particulars:

(i) The person that would be subject to the confidentiality protective order;

(ii) Facts sufficient to identify the trade secret that would be made the subject of the confidentiality protective order;

(iii) Facts falling under the category of circumstances set forth in the items of the

preceding paragraph.

(3) If a confidentiality protective order has been issued, the written ruling must be served on the person that the confidentiality protective order has been issued against.

(4) A confidentiality protective order comes into force as from the time at which a written ruling is served on the person that has become subject to the confidentiality protective order.

(5) An immediate appeal against a ruling may be filed against a judicial decision denying a petition for a confidentiality protective order.

#### (Cancellation of a Confidentiality Protective Order)

Article 114-7 (1) A person that petitions for a confidentiality protective order or a person that becomes subject to a confidentiality protective order may file a petition with the court that has cases record on file (if there is no such court, with the court that issued the order) to cancel the confidentiality protective order, on the grounds that any of the conditions referred to in paragraph (1) of the preceding Article are lacking or have come to be lacking.

(2) Once the judicial decision is reached on a petition to cancel a confidentiality protective order, the written ruling must be served on the person that has filed the petition and on the adverse party.

(3) An immediate appeal against a ruling may be filed against a judicial decision on a petition to cancel a confidentiality protective order.

(4) A judicial decision canceling a confidentiality protective order does not take effect until it becomes final and binding.

(5) If the court reaches a judicial decision to cancel a confidentiality protective order, and any person other than the person that has filed the petition to cancel the confidentiality protective order or the adverse party is subject to a confidentiality protective order involving the relevant trade secret in the litigation in which such confidentiality protective order was issued, the court must immediately notify such person that it has reached a judicial decision to cancel the confidentiality protective order.

#### (Notice of a Request to Inspect Case Records; Related Matters)

Article 114-8 (1) In the event that the ruling provided for in Article 92, paragraph (1) of the Code of Civil Procedure is reached with regard to cases record in connection with litigation in which a confidentiality protective order has been issued (excluding litigation with regard to which all confidentiality protective orders have been cancelled), if a party to cases requests to inspect, etc. a portion of cases record in which a secret provided for in that paragraph is entered, and the person filing such request is not subject to the confidentiality protective order in the relevant litigation, the court clerk, immediately after such request is

filed, must notify the party that filed the petition referred to in that paragraph (unless the person filing that petition is the person filing the request; the same applies in paragraph (3)) that the request has been filed.

(2) In a case referred to in the preceding paragraph, the court clerk must not allow the person filing the request to inspect, etc. a portion of cases record in which a secret as referred to in that paragraph is entered, until two weeks have passed since the day the court clerk receives the request (or if, during those two weeks, a petition for a confidentiality protective order is filed against the person filing the request, the court clerk must not allow the person filing the request to inspect, etc. such a portion of cases record until the judicial decision on the petition becomes final and binding).

(3) The provisions of the preceding two paragraphs do not apply if all parties concerned that have filed a petition as referred to in Article 92, paragraph (1) of the Code of Civil Procedure agree to allow the person filing the request referred to in paragraph (1) to inspect, etc. the portions of cases record in which the secrets referred to in that paragraph are entered.

(Measures to Restore the Author's or Performer's Honor)

Article 115 An author or performer may file a claim against a person that, intentionally or due to negligence, has infringed that author's or performer's moral rights, demanding that that person take the appropriate measures to ensure that the author or performer is identified as the author or performer, to correct modifications to the work or performance, or to restore the author's or performer's honor or reputation, either in lieu of or in addition to claiming damages.

(Measures to Protect the Author's or Performer's Moral Interests Posthumously)

Article 116 (1) After the death of an author or performer, a surviving family member (meaning a surviving spouse, child, parent, grandchild, grandparent, or sibling of the deceased author or performer; the same applies hereinafter in this Article) may file the claim referred to in Article 112 against a person that violates or is likely to violate the provisions of Article 60 or Article 101-3 with respect to the relevant author or the performer, and may file the claim referred to in the preceding Article against a person that, intentionally or due to negligence, infringes the moral rights of the author or performer or violates the provisions of Article 60 or Article 101-3.

(2) The order in which surviving family members are permitted to file the claim referred to in the preceding paragraph is the order in which they are listed in that paragraph; provided, however, that if the author or performer leaves a will stipulating a different order, the order given in the will applies.

(3) An author or performer, in a will, may designate the person that is permitted to file the claim referred to in paragraph (1) on behalf of the surviving family members. In this case, the designated person may not file such a claim once 70 years have passed, counting from the year after that in which the author or performer dies (or, if surviving family members are still alive at such a time, the designated person may not file such a claim once there are no longer any surviving family members).

#### (Infringement with Respect to a Joint Work)

Article 117 (1) Any one co-author or copyright owner in a joint work may file the claim referred to in Article 112, claim that co-author's or co-owner's personal share of compensation for damage due to copyright infringement, or claim the return of the benefit of any unjust enrichment in accordance with that co-author's or co-owner's personal share, without the consent of the other co-authors or co-owners of the copyright.

(2) The provisions of the preceding paragraph apply *mutatis mutandis* in connection with infringement of a copyright or neighboring rights in co-ownership.

#### (Preservation of Rights to Anonymous and Pseudonymous Works)

Article 118 (1) The publisher of an anonymous or pseudonymous work may file the claim referred to in Article 112, Article 115, or Article 116, paragraph (1) or may claim damages or the return of the benefit of any unjust enrichment in that person's own name, on behalf of the author or the owner of the copyright to the work; provided, however, that this does not apply if the pseudonym is the name by which the author is commonly known or if the true name of the author has been registered as referred to in Article 75, paragraph (1).

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

## Chapter VIII Penal Provisions

Article 119 (1) A person that infringes on a copyright, publishing rights, or neighboring rights (other than one that personally reproduces a work or performance, etc. for the purpose of private use as referred to in Article 30, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 102, paragraph (1); same applies in paragraph (3)); one whose action is deemed to constitute infringement of a copyright, publishing rights, or neighboring rights pursuant to the provisions of Article 113, paragraphs (2), (3) or (6) through (8) (in cases under Article 113, paragraph (8), including rights deemed to be neighboring rights

pursuant to the provisions of Article 113, paragraph (9); the same applies in Article 120-2, item (v)); one whose action is deemed to constitute infringement of a copyright or neighboring rights pursuant to the provisions of Article 113, paragraph (10); or a person set forth in item (iii) or (vi) of the following paragraph) is subject to imprisonment for a term of up to ten years, a fine of up to ten million yen, or both.

(2) A person falling under any of the following items is subject to imprisonment for a term of up to five years, a fine of up to five million yen, or both:

(i) A person that infringes the moral rights of an author or the moral rights of a performer (other than one whose action is deemed to constitute infringement of an author's moral rights or a performer's moral rights pursuant to the provisions of Article 113, paragraph (8));

(ii) A person that, for commercial purposes, causes an automated duplicator referred to in Article 30, paragraph (1), item (i) to be used to reproduce a work or performance, etc. as constitutes an infringement of a copyright, publishing rights, or neighboring rights;

(iii) A person that engages in an action that is deemed to constitute infringement of a copyright, publishing rights, or neighboring rights pursuant to the provisions of Article 113, paragraph (1);

(iv) A person that presented a website, etc. facilitating the exploitation of an infringing work to the public (excluding a person that merely provided the opportunity to present to the public on a website, etc. that includes the website, etc. facilitating the exploitation of an infringing work and a considerable number of other websites, etc. (meaning the website, etc. provided in Article 113, paragraph (4); hereinafter the same applies in this item and the following item) (excluding cases where that person has, continuously for a considerable period of time and without reasonable grounds, failed to comply with a request from the copyright owner, etc. for the deletion of the infringing transmitter identification codes, etc. provided on the website, etc. facilitating the exploitation of an infringing work or there are other special circumstances under which the person's action is found to unreasonably prejudice the interests of the copyright owner, etc.))

(v) A person that made available or presented a computer program facilitating the exploitation of an infringing work to the public (excluding a person that merely provided the opportunity to make available or present the computer program facilitating the exploitation of an infringing work to the public on a website, etc. that includes the website, etc. used for making available or presenting the computer program to the public and a considerable number of other websites, etc. or on a website, etc. used for making available or presenting to the public the computer program facilitating the exploitation of an infringing work and a considerable number of computer programs (excluding cases where

that person has, continuously for a considerable period of time and without reasonable grounds, failed to comply with a request from the copyright owner, etc. for the deletion of the infringing transmitter identification codes, etc. provided by means of the computer program facilitating the exploitation of an infringing work or there are other special circumstances under which the person's action is found to unreasonably prejudice the interests of the copyright owner, etc.);

(vi) A person that engages in an action that is deemed to constitute infringement of a copyright pursuant to the provisions of Article 113, paragraph (5).

(3) A person falling under one of the following items is subject to imprisonment for a term of up to two years, a fine of up to two million yen, or both:

(i) A person that infringes on a copyright or neighboring rights by digitally recording, for the purpose of private use as referred to in Article 30, paragraph (1), the sound or visuals of a fee-based recorded work (meaning a work or performance, etc. (limited to one that is the subject of a copyright or neighboring rights) that has undergone sound or visual recording and that is being made available or presented to the public for value (limited to those that are made available or presented to the public without infringing any copyrights or neighboring rights)) that has been transmitted to the public via an automatic public transmission that infringes on a copyright (including an automatic public transmission that is transmitted abroad and that would constitute copyright infringement if it were transmitted in Japan) or via an automatic public transmission through the action of making a work available for transmission that infringes neighboring rights (including the action of making a work available for transmission that is undertaken abroad and that would constitute neighboring rights infringement if it were undertaken in Japan) (hereinafter in this item and the following item referred to as the "specified infringing sound or visual recording of a fee-based work"), knowing that the relevant action constitutes a specified infringing sound or visual recording of a fee-based work;

(ii) A person that continuously or repeatedly infringes on a copyright by digitally reproducing, for the purpose of private use as referred to in Article 30, paragraph (1), a work (limited to one that is the subject of a copyright; hereinafter the same applies in this item) that is being made available or presented to the public for value (limited to those that are made available or presented to the public without infringing any copyrights) and that has been transmitted to the public via an automatic public transmission that infringes on a copyright (excluding the rights provided in Article 28 (limited to those for a derivative work created by a method other than translation); hereinafter the same applies in this item and paragraph (5)) (including an automatic public transmission that is transmitted abroad and that would constitute copyright infringement if it were transmitted in Japan) (excluding

sound and visual recording; hereinafter the same applies in this item) (excluding reproduction that is minor in light of the percentage of the reproduced part in the relevant work, the accuracy of indications made at the time the part is transmitted via automatic public transmission, and other elements; hereinafter in this item and paragraph (5) referred to as “specified infringing reproduction of a fee-based work”), knowing that the relevant action constitutes the specified infringing reproduction of a fee-based work (excluding cases where there are special reasons for finding that the action would not unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of the specified infringing reproduction of a fee-based work).

(4) The person set forth in item (i) of the preceding paragraph must not be construed as including a person that infringes on a copyright or neighboring rights by undertaking the specified infringing sound or visual recording of a fee-based work through gross negligence in not knowing the fact that the relevant action constitutes the specified infringing audio or visual recording of a fee-based work

(5) The person set forth in paragraph (3), item (ii) must not be construed as including a person that continuously or repeatedly infringes on a copyright by undertaking the specified infringing reproduction of a fee-based work through gross negligence in not knowing the fact that the relevant action constitutes the specified infringing reproduction of a fee-based work.

Article 120 A person that violates the provisions of Article 60 or Article 101-3 is subject to a fine of up to five million yen.

Article 120-2 A person falling under one of the following items is subject to imprisonment for a term of up to three years, a fine of up to three million yen, or both:

(i) A person that transfers or rents to the public a device with a function that circumvents technological protection measures or technological exploitation restriction measures (including an easily assembled set of parts for such a device) or copies of a computer program with a function that circumvents technological protection measures or technological exploitation restriction measures; manufactures, imports, or possesses such a device or copies of such a computer program for the purpose of transferring or renting them to the public; or offers such a device or copies of such a computer program for public use; or a person that transmits that computer program to the public or makes it available for transmission (if the device or program has functions other than such circumvention functions, this is limited to if the device or program is used to enable the infringement of a Copyright-related matters through the circumvention of technological protection measures or to enable acts deemed to constitute the infringements of a copyright, publishing rights,

or the neighboring rights prescribed in the provisions of Article 113, paragraph (6) through the circumvention of technological exploitation restriction measures);

(ii) A person that, in the course of trade, circumvents technological protection measures or technological exploitation restriction measures at the request of the public;

(iii) A person that engages in an action that is deemed to constitute infringement of a copyright, print right or neighboring rights pursuant to the provisions of Article 113, paragraph (2);

(iv) A person that engages in an action that is deemed to constitute infringement of a copyright, etc. relevant to the technological protection measures or a copyright, print right or neighboring rights relevant to the technological exploitation restriction measures pursuant to the provisions of Article 113, paragraph (7);

(v) A person that, for commercial purposes, engages in an action that is deemed to constitute infringement of an author's moral rights, a copyright, a print right, a performer's moral rights, or neighboring rights pursuant to the provisions of Article 113, paragraph (8);

(vi) A person that, for commercial purposes, engages in an action that is deemed to constitute an infringement of a copyright or neighboring rights pursuant to the provisions of Article 113, paragraph (10).

Article 121 A person that distributes copies of a work that use the true name of a person other than the author or the pseudonym by which a person other than the author is commonly known, to indicate the name of the author (including copies of derivative works that use the true name of a person other than the author of the original work or the pseudonym by which a person other than the author of the original work is commonly known, to indicate the name of the original author) is subject to imprisonment for a term of up to one year, a fine of up to one million yen, or both.

Article 121-2 A person that reproduces, as a commercial phonogram, a commercial phonogram as set forth in either of the following items (or a copy of such a commercial phonogram (this includes a copy that is two or more intervening reproductions removed from such a commercial phonogram)), distributes copies of a commercial phonogram so reproduced, possesses such copies for the purpose of distribution, or offers to distribute such copies (except for a person that engages in the relevant reproduction, distribution, possession, or offer after 70 years have passed, counting from the year after that in which the sound is first fixed into the master referred to in the relevant item) is subject to imprisonment for a term of up to one year, a fine of up to one million yen, or both:

(i) A commercial phonogram that a person in the business of producing commercial

phonograms in Japan produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that is made available by the producer of that phonogram;

(ii) A commercial phonogram that a person in the business of producing commercial phonograms abroad produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that is made available by the producer of that phonogram that is the national of a Contracting State of the Convention for the Protection of Performers, etc., the national of a WTO Member State, or the national of a Contracting State of the Convention for the Protection of Phonograms (the nationals of a Contracting State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State).

Article 122 A person that violates the provisions of Article 48 or Article 102, paragraph (2) is subject to a fine of up to five hundred thousand yen.

Article 122-2 (1) A person that violates a confidentiality protective order is subject to imprisonment for a term of up to five years, a fine of up to five million yen, or both.

(2) The offence referred to in the preceding paragraph is also applicable if a person commits the offence referred to in that paragraph abroad.

Article 123 (1) Prosecution may not be instituted for the offence referred to in Article 119, paragraphs (1) through (3); Article 120-2, items (iii) through (vi); Article 121-2; and paragraph (1) of the preceding Article, unless an accusation is filed by the injured party.

(2) The provisions of the preceding paragraph do not apply to an offence as referred to in Article 119, paragraph (1) that a person commits by undertaking one of the acts set forth in the following items, either for the purpose of gaining a financial benefit in consideration of the act set forth therein or for the purpose of damaging the profit that the copyright owner, etc. is expected to gain by making available or presenting a fee-based work:

(i) Transferring copies of an unaltered original fee-based work to the public or transmitting an unaltered original fee-based work to the public (including making that work available for transmission, if it is to be transmitted to the public via automatic public transmission; the same applies in the following item) (but only if the profit that the copyright owner, etc. is expected to gain by making available or presenting that fee-based work would be unreasonably damaged in light of the nature or purpose of the fee-based work, the number of copies that would be transferred, the circumstances of the transfer or public transmission, or any other conditions); or

(ii) Reproducing a fee-based work for the purpose of transferring copies of the unaltered original fee-based work to the public or of transmitting the unaltered original fee-based work to the public (but only if the profit that the copyright owner, etc. is expected to gain by making available or presenting its fee-based work would be unreasonably damaged in light of the nature or purpose of the fee-based work, the number of copies that would be reproduced, the circumstances of its reproduction, or any other conditions).

(3) The fee-based work provided for in the preceding paragraph means a work or performance, etc. (limited to one that is the subject of a copyright, publishing rights, or neighboring rights) made available or presented to the public for value (other than through an action that infringes copyrights, publishing rights or neighboring rights (for a work made available or presented abroad, this means an action would constitute copyright infringement if it took place in Japan)).

(4) The publisher of an anonymous or a pseudonymous work may file an accusation in connection with an offense referred to in paragraph (1) involving such a work; provided, however, that this does not apply in cases specified in the proviso to Article 118, paragraph (1), or if the accusation is contrary to the express will of the author.

Article 124 (1) If the representative of a corporation (including the administrator of an association or foundation without legal personality) or the agent, employee, or other worker of a corporation or person violates the provisions set forth in one of the following items in connection with the business of that corporation or person, in addition to the offender being subject to punishment, the corporation is subject to punishment by the fine prescribed in the relevant item and the person is subject to punishment by the fine prescribed in the provisions referred to in the relevant item:

(i) Article 119, paragraph (1); Article 119, paragraph (2), items (iii) through (vi); or Article 122-2, paragraph (1): a fine of up to three hundred million yen;

(ii) Article 119, paragraph (2), item (i) or (ii) or Article 120 through Article 122: the fine referred to in the relevant of these provisions.

(2) If the provisions of the preceding paragraph are applicable to an association or foundation without legal personality, its representative or administrator represents the association or foundation in any procedural acts and the provisions of the Code of Criminal Procedure that are applicable when a corporation is the accused or the suspect, apply *mutatis mutandis*.

(3) In cases referred to in paragraph (1), an accusation lodged against the offender or the withdrawal of such an accusation is also effective against the corporation or the person concerned, and an accusation lodged against a corporation or the person concerned or the

withdrawal of such an accusation is also effective against the offender.

(4) The period of prescription if a corporation or person is subject to a fine, pursuant to the provisions of paragraph (1) of this Article, in connection with a violation referred to in Article 119, paragraph (1) or (2) or Article 122-2, paragraph (1), is the period of prescription for the offense referred to in the relevant of those provisions.

## Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come into effect on January 1, 1971.

(Transitional Measures Regarding the Scope of Application)

Article 2 (1) Provisions concerning copyright in the amended Copyright Act (hereinafter referred to as “the new Act”) shall not apply to works for which the entire copyright protection under the pre-amended Copyright Act (hereinafter referred to as “the former Act”) has expired at the time this Act comes into effect. (2) If part of the copyright to a work under the former Act has expired at the time this Act comes into effect, the corresponding provisions concerning the expired part of the copyright in the new Act shall not apply to that work. (3) Notwithstanding the provisions of Articles 7 and 8 of the new Act, provisions concerning neighboring rights in the Copyright Act (including the provisions of Articles 94-2 and 95; Article 95-3, paragraphs (3) and (4); Article 97; and Article 97-3, paragraphs (3) through (5)) shall apply to a performance conducted before the enforcement of this Act (excluding a performance falling under any of the items of Article 7 of the new Act) and to a phonogram in which sounds were first fixed before the enforcement of this Act (excluding a phonogram falling under any of the items of Article 8 of the new Act) for which a copyright under the former Act exists at the time this Act comes into effect.

(Transitional Measures for Translations Made by the National or Local Government or an Equivalent Corporation)

Article 3 The provisions of Article 13, item (iv) of the new Act do not apply to a work that falls under that item on which print rights under the former Act have been established as of the time this Act comes into effect, but only within the lifetime of those print rights.

(Transitional Measures for the Author of a Work Attributed to a Corporation)

Article 4 The provisions of Articles 15 and 16 of the new Act do not apply to a work

created before the enforcement of this Act.

(Transitional Measures for the Ownership of Copyrights to Cinematographic Works)

Article 5 (1) The ownership of a copyright to a cinematographic work as provided in Article 29 of the new Act, created before the enforcement of this Act, continues to be governed by the previous laws.

(2) The provisions of the new Act do not prevent the validity, under the provisions of Article 24 or 25 of the former Act, of the ownership of a copyright to a photographic work inserted into another work before the enforcement of this Act, or the ownership of a copyright to a photographic portrait created on commission before the enforcement of this Act, from taking effect pursuant to the provisions of Article 24 or 25 of the former Act.

(Transitional Measures for Automated Duplicators)

Article 5-2 With respect to the application of the provisions stipulated in Article 30, paragraph (1), item (i), and Article 119, paragraph (2), item (ii) of the Copyright Act, for the time being, the automated duplicators specified in these provisions shall not encompass those exclusively utilized for reproducing documents or pictures.

(Transitional Measures for Artistic Works on Public Display)

Article 6 The owner of a copyright to an artistic work, the original of which is permanently installed in an outdoor location specified in Article 45, paragraph (2) of the new Act as of the commencement of this Act, shall be deemed to have granted permission for the exhibition of said work through its installation.

(Transitional Measures for the Term of Protection)

Article 7 If the duration of copyright under the former Act for a work that has been made public before the commencement of this Act is longer than the period stipulated in Chapter II, Section 4 of the new Act, the previous regulations shall apply to the duration of copyright for that work.

(Transitional Measures for the Duration of the Right of Translation)

Article 8 The provisions of Articles 7 and 9 of the former Act remain in force for a work published before this Act comes into effect.

(Transitional Measures for the Disposal of a Copyright)

Article 9 Except in a case falling under the provisions of Article 15, paragraph (1) of the

Supplementary Provisions, a transfer or other disposal of a copyright as referred to the former Act, which is carried out before this Act comes into effect, is deemed to be the corresponding transfer or other disposal of a copyright as referred to in the new Act.

(Transitional Measures for Joint Works)

Article 10 (1) The provisions of Article 13, paragraphs (1) and (3) of the former Act remain in force for a work created before this Act comes into effect by two or more persons whose contributions to the work can be separated so as to allow each part of the work to be used independently.

(2) With regard to the application of the provisions of Article 51, paragraph (2) and Article 52, paragraph (1) of the new Act, the work referred to in the preceding paragraph is deemed to be a joint work.

(Transitional Measures for the Exploitation of a Work Based on a Compulsory License)

Article 11 (1) The provisions of Article 69 of the new Act do not apply to a sound recording for producing another commercial phonogram of a musical work whose sound has been recorded onto a commercial phonogram that is sold in Japan before this Act comes into effect.

(2) The person entitled to exploit a work pursuant to the provisions of Article 22-5, paragraph (2), or Article 27, paragraph (1) or (2) of the former Act continues to be entitled to exploit that work under the previous provisions.

(3) The amount of compensation fixed by the Commissioner of the Agency for Cultural Affairs pursuant to the provisions of Article 22-5, paragraph (2), or Article 27, paragraph (2) of the former Act is deemed to be the amount of compensation fixed pursuant to the provisions of Article 68, paragraph (1), or Article 67, paragraph (1) of the new Act, and the provisions of Articles 72 and 73 of the new Act apply.

(4) In a case referred to in the preceding paragraph, if a party dissatisfied with the relevant amount of compensation learns of the issuance of a compulsory license before this Act comes into effect, the period provided for in Article 72, paragraph (1) of the new Act is calculated from the date on which this Act comes into effect.

(Transitional Measures for Registrations)

Article 12 (1) Except in cases falling under the provisions of Article 15, paragraph (3) of the Supplementary Provisions, any action or procedure related to the registration of copyright, registration of the author's real name, or registration of the date of first publication as stipulated in Article 15 of the former Act is deemed equivalent to the actions or procedures

related to registration as stipulated in Articles 75 through 77 of the new Act.

(2) The provisions of Article 35, paragraph (5) of the former Act remain applicable to works for which the registration of the date of authorship is made as stipulated in Article 15, paragraph (3) of the former Act as of the time this Act comes into effect.

(Transitional Measures for Print Rights)

Article 13 (1) Print rights established under the former Act before the enforcement of this Act and existing at the time of the enforcement of this Act are considered print rights under the new Act.

(2) Actions or procedures related to the registration of print rights as stipulated in Article 28-10 of the former Act conducted before the enforcement of this Act are considered equivalent to the corresponding actions or procedures related to registration as stipulated in Article 88 of the new Act.

(3) The provisions of Articles 28-3 to 28-8 of the former Act continue to have effect for the print rights referred to in paragraph (1) of this Article, notwithstanding the provisions of Articles 80 through 85 of the new Act.

Article 14 Deleted

(Transitional Measures for Neighboring Rights)

Article 15 (1) A transfer or other disposal of a copyright referred to in the former Act that is carried out before this Act comes into effect, which is connected with a performance that takes place before this Act comes into effect or with a phonogram in which sounds are first fixed before this Act comes into effect and to which the provisions of the new Act that concern neighboring rights begin to apply from the date on which this Act comes into effect, is deemed to be a transfer or other disposal of the corresponding neighboring rights referred to in the new Act.

(2) Notwithstanding the provisions of Article 101 of the new Act, if the day on which the duration of copyright expires under the former Act is after the day on which the duration expires under the provisions of Article 101 of the new Act, the duration of neighboring rights linked to a performance or phonogram which is provided for in the preceding paragraph and for which a copyright under the former Act exists at the time this Act comes into effect is until the day on which the duration of copyright expires under the former Act (or, if this falls after the day that marks the passage of 70 years counting from the day on which this Act comes into effect, the duration of such neighboring rights is until the day that marks the passage of those 70 years).

(3) A disposition or other process connected with the registration of a copyright as referred to Article 15, paragraph (1) of the former Act, which is made for a performance or phonogram provided for in paragraph (1) of this Article before this Act comes into effect, is deemed to be the disposition or other process connected with the corresponding registration of neighboring rights as referred to in Article 104 of the new Act.

(4) The provisions of Article 10, paragraph (1), and Article 12, paragraph (2) of the Supplementary Provisions apply *mutatis mutandis* to the performance or phonograms provided for in paragraph (1) of this Article.

(Transitional Measures for the Distribution of Copies)

Article 16 Copies of a work, performance, or phonogram created before the enforcement of this Act, which would be considered legal if the provisions of Chapter II, Section 3, Subsection 5 of the new Act (including when applied *mutatis mutandis* pursuant to Article 102, paragraph (1) of the new Act) were applied, may be used or distributed within the scope of the purposes of reproduction specified in those provisions. In this case, the provisions of Article 113, paragraph (1), item (ii) of the new Act do not apply.

(Transitional Measures for Infringement)

Article 17 Notwithstanding the provisions of Article 14 and Chapter VII of the new Act, the provisions of Article 12; Article 28-11; Article 29; Article 33; Article 34; Article 35, paragraphs (1) through (4); Articles 36; and Article 36-2 of the former Act remain applicable to an act in violation of the provisions of Article 18, paragraph (1) or (2) of the former Act or falling under the category of piracy provided for in Chapter III of the former Act (including an act that infringes on print rights) that is performed before this Act comes into effect.

(Transitional Measures for Penal Provisions)

Article 18 Prior laws continue to govern the applicability of penal provisions to actions undertaken before this Act comes into effect.

Supplementary Provisions [Act No. 49 of May 18, 1978]

(Effective Date)

(1) This Act shall enter into force on the day on which the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms takes effect with respect to Japan.

(Transitional Measures)

(2) Provisions of the post-amendment Copyright Act that concern neighboring rights do not apply to a phonogram set forth in Article 8, item (vi) of the Copyright Act in which sounds were first fixed before this Act comes into effect.

Supplementary Provisions [Act No. 45 of May 19, 1981] [Extract]

(Effective Date)

(1) This Act comes into effect on the date of its promulgation.

Supplementary Provisions [Act No. 78 of December 2, 1983] [Extract]

(1) This Act (except Article 1) comes into effect on July 1, 1984.

(2) Cabinet Orders may prescribe necessary transitional measures concerning institutions and other organizations that have been established by law as of the day before the effective date of this Act and that, on and after the effective date of this Act, will be established pursuant to the provisions of the National Government Organization Act or pursuant to provisions of Cabinet Orders based on the relevant Acts as amended by this Act (hereinafter referred to as “the relevant Cabinet Orders”). Additionally, Cabinet Orders may prescribe other necessary transitional measures for the establishment, amendment, or repeal of the relevant Cabinet Orders due to the implementation of this Act.

Supplementary Provisions [Act No. 23 May 1, of 1984] [Extract]

(Effective Date)

(1) This Act comes into effect 20 days after the date of its promulgation.

Supplementary Provisions [Act No. 46 of May 25, 1984]

(Effective Date)

(1) This Act comes into effect on January 1, 1985.

(Repeal of the Interim Measures Act)

(2) The Interim Measures Act on the Rights of Authors and Similar Persons in the Renting of Commercial Phonograms to the Public (Act No. 76 of 1983; hereinafter referred to as “the Interim Measure Act”) is hereby repealed.

(Transitional Measures Accompanying the Repeal of the Interim Measures Act)

(3) Notwithstanding the provisions of Article 26-3, Article 95-3, and Article 97-3 of the post-amendment Copyright Act, a person who obtains authorization to rent out a commercial phonogram to the public under the provisions of the Interim Measures Act before the effective date of this Act may, within the scope of the conditions under such authorization, provide the works, performances, or phonograms reproduced in the commercial phonogram to the public by renting out that commercial phonogram.

(4) The provisions of the Interim Measures Act (including any Cabinet Order based on it) continue to be effective concerning actions that violate the provisions of Article 4, paragraph (1) of the Interim Measures Act, which occur before the effective date of this Act.

Supplementary Provisions [Act No. 62 of June 14, 1985] [Extract]

(Effective Date)

(1) This Act comes into effect on January 1, 1986; provided, however, that the provisions adding Article 76-2 after Article 76, the provisions amending Article 78, paragraph (1), and the provisions of paragraph (6) of the Supplementary Provisions come into effect on the date on which the law provided for in Article 78-2 of the post-amendment Copyright Act comes into effect.

(Transitional measures for works made in the course of duty)

(2) The provisions of Article 15 of the post-amendment Copyright Act apply to a work created after this Act comes into effect, while prior laws continue to govern a work created before this Act comes into effect.

(Transitional Measures for the Registration of the Date of Creation)

(3) The proviso to Article 76-2, paragraph (1) does not apply to the registration of a copyright as referred to in that paragraph for a work of computer programming created within the six months before the date on which the law provided for in Article 78-2 of the post-amendment Copyright Act comes into effect, until the day that marks the passage of three months after the date on which that law comes into effect.

(Transitional Measures for the Use of Copies of a Work of Computer Programming)

(4) The provisions of Article 113, paragraph (2) of the post-amendment Copyright Act do not apply to a copy of a work of computer programming created before this Act comes into

effect, which would be lawful and could be preserved if the provisions of Article 47-2 of the post-amendment Copyright Act were to be applied.

(Transitional Measures for Penal Provisions)

(5) Prior laws continue to govern the applicability of penal provisions to actions undertaken before this Act comes into effect.

Supplementary Provisions [Act No. 64 of May 23, 1986]

(Effective Date)

(1) This Act comes into effect on January 1, 1987.

(Transitional Measures for the Ownership of a Copyright to a Work of Cinematography for Cablecasting Purposes)

(2) Prior laws continue to govern the ownership of a copyright to a cinematographic work as provided for in Article 29, paragraph (3) of the post-amendment Copyright Act which has been created before this Act comes into effect.

(Transitional Measures for the Neighboring Rights of Cablecasters and Performers)

(3) Provisions of the Copyright Act that concern the neighboring rights of a cablecaster or performer (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)) do not apply to a cablecast conducted before this Act comes into effect or to a performance transmitted in such a cablecast (excluding performances falling under the categories provided for in Article 7, items (i) through (iii) of the Copyright Act).

(Transitional Measures for Penal Provisions)

(4) Prior laws continue to govern the applicability of penal provisions to actions undertaken before this Act comes into effect.

Supplementary Provisions [Act No. 65 of May 23, 1986] [Extract]

(Effective Date)

(1) This Act comes into effect on April 1, 1987.

Supplementary Provisions [Act No. 87 of November 1, 1988]

(Effective Date)

(1) This Act comes into effect 20 days after the date of its promulgation.

(Transitional Measures)

(2) The provisions of Article 121, item (ii) of the post-amendment Copyright Act do not apply to the following acts that take place after this Act comes into effect:

(i) The reproduction, as a commercial phonogram, of copies of a commercial phonogram that a person in the business of producing commercial phonograms in Japan produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that is made available by the producer of that phonogram (referred to as a “commercial phonogram produced from a master from a specified foreign country” in the following item). This includes reproductions for which the day marking the end of the pre-amendment prohibition, being the day that marks the passage of 20 years from the year following the year in which the sounds are first fixed into the master, falls before this Act comes into effect. Additionally, this covers the distribution of the copies of such a reproduced commercial phonogram as a commercial phonogram.

(ii) The distribution of a commercial phonogram in which a commercial phonogram produced from a master from a specified foreign country has been reproduced on or before the day marking the end of the pre-amendment prohibition, provided that the day marking the end of the pre-amendment prohibition falls before this Act comes into effect.

#### Supplementary Provisions [Act No. 43 of June 28, 1989]

(Effective Date)

(1) This Act comes into effect on the date on which the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations becomes effective for Japan.

(Transitional Measures for Performances That Japan Is under the Obligation to Protect Pursuant to Treaty)

(2) Provisions of the post-amendment Copyright Act (hereinafter referred to as “the new Act”) concerning neighboring rights (including the provisions of Articles 95 and 97) do not apply to the following: (i) Performances as described in Article 7, item (v) of the new Act, conducted before the enactment of this Act; (ii) Phonograms as described in Article 8, item (iii) of the new Act, in which sounds are first fixed before the enactment of this Act, except as provided in the following paragraph; (iii) Broadcasts as set forth in Article 9, item (iii) of the new Act, conducted before the enactment of this Act.

(3) Prior laws continue to govern a phonogram as set forth in Article 8, item (iii) of the new Act, in which sounds were first fixed before the enactment of this Act and which Japan is obligated to protect under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

(Transitional Measures for Performers Who Are Foreign Nationals without a Habitual Residence in Japan)

(4) Provisions of the Copyright Act concerning neighboring rights (including those in Article 95 and Article 95-3, paragraphs (3) and (4)) do not apply to performers involved in performances conducted before the enactment of this Act, who were foreign nationals without a habitual residence in Japan at the time of the performance. However, this exemption does not apply to performers involved in performances conducted before the enactment of the Copyright Act, for which copyright protection exists under the former Copyright Act (Act No. 39 of 1899) at the time of the enactment of the Copyright Act.

#### Supplementary Provisions [Act No. 63 of May 2, 1991]

(Effective Date)

(1) This Act comes into effect on January 1, 1992.

(Transitional Measures)

(2) The provisions of Article 95-3 of the Copyright Act do not apply to a performance as set forth in Article 7, item (v) of the Copyright Act, which takes place before the Act Partially Amending the Copyright Act (Act No. 43 of 1989; referred to as “the Amending Act of 1989” in item (ii) of the following paragraph) comes into effect.

(3) The provisions of Article 97-3 of the Copyright Act do not apply to the following phonograms:

(i) A phonogram (excluding one set forth in Article 8, item (i) or (ii) of the Copyright Act) that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as “the Convention for the Protection of Phonograms” in the following item and paragraph (5), item (iii) of the Supplementary Provisions), and in which sounds are first fixed before the Act Partially Amending the Copyright Act (Act No. 49 of 1978) comes into effect;

(ii) A phonogram set forth in Article 8, item (iii) of the Copyright Act (excluding one that Japan is under the obligation to protect pursuant to the Convention for the Protection of Phonograms) in which sounds are first fixed before the Amending Act of 1989 comes into effect.

(4) Prior laws continue to govern the first day of calculation in the period for a post-term commercial phonogram provided for in Article 95-3, paragraph (2), in connection with the right of the performer or producer of a phonogram to make available a commercial phonogram first sold on a day before this Act comes into effect to the public by renting it out (limited to a commercial phonogram in which the sound of a performance set forth in Article 7, items (i) through (iv) has been recorded or one in which a phonogram set forth in Article 8, item (i) or (ii) has been reproduced).

(5) The provisions of Article 121-2, as amended, do not apply to the following actions conducted after the enactment of this Act:

(i) The reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram, including copies that are two or more intervening reproductions removed from the original commercial phonogram) produced by a person engaged in the business of producing commercial phonograms in Japan from the master of a phonogram (excluding those falling under any of the categories listed in Article 8) provided by the producer of said phonogram (referred to as a “commercial phonogram produced from a master from a specified foreign country” in the following item). This applies when the 20-year period has elapsed from the year following the year in which the sounds were first fixed into the master (referred to as the “end of the twenty-year prohibition period” in the following item) before the enactment of the Act Partially Amending the Copyright Act (Act No. 87 of 1988; referred to as “the Amending Act of 1988” in the following item and in item (iii)); distribution of the copies of such reproduced commercial phonograms as commercial phonograms; or possession of such copies for the purpose of distribution as commercial phonograms.

(ii) The distribution, or possession for the purpose of distribution, of a commercial phonogram in which a commercial phonogram produced from a master from a specified foreign country has been reproduced on or before the end of the twenty-year prohibition period, provided that said period ends before the Amending Act of 1988 comes into effect.

(iii) The reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram, including copies that are two or more intervening reproductions removed from the original commercial phonogram) produced by a person engaged in the business of producing commercial phonograms in a jurisdiction outside the scope of the Copyright Act from the master of a phonogram (excluding those falling under any of the categories listed in Article 8) provided by the producer of said phonogram, who is a national of a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, or of the Convention for the Protection of Phonograms (Contracting State nationals include

corporations established based on the laws and regulations of that State and corporations that have principal offices in that State). This applies when the 20-year period has elapsed from the year following the year in which the sounds were first fixed into the master before the Amending Act of 1988 comes into effect; distribution of the copies of such reproduced commercial phonograms as commercial phonograms; or possession of such copies for the purpose of distribution as commercial phonograms.

(6) The application of penalties for actions taken before the enactment of this law shall continue to be governed by previous statutes.

#### Supplementary Provisions [Act No. 106 of December 16, 1992]

##### (Effective Date)

(1) This Act comes into effect on the date fixed by Cabinet Order within six months from the date of its promulgation; provided, however, that the provisions amending the Table of Contents; the provisions renumbering Chapter VII as Chapter VIII, Chapter VI as Chapter VII, and Chapter V as Chapter VI, and adding a new chapter after Chapter IV (except the parts that pertain to Article 104-4, Article 104-5, and Article 104-8, paragraphs (1) and (3)); and the provisions amending Article 17 of the Supplementary Provisions, come into effect on the date of promulgation of this Act.

##### (Transitional Measures)

(2) The provisions of the post-amendment Copyright Act (hereinafter referred to as “the new Act”) do not apply to private sound recording referred to in Article 104-2, paragraph (1), item (i) of the new Act nor to private visual recording referred to in item (ii) of that paragraph, which is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased (limited to the initial purchase after the machine is retailed) before the day on which this Act comes into effect (hereinafter referred to as “the effective date”), on a specified recording medium referred to in that paragraph that is purchased before the effective date.

(3) If the private sound recording referred to in Article 104-2, paragraph (1), item (i) of the new Act or the private visual recording referred to in item (ii) of that paragraph is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased before the effective date, on a specified recording medium referred to in that paragraph which is purchased after the effective date, compensation for private sound and visual recording is deemed to have been paid for the specified machine pursuant to the provisions of Article 104-4, paragraph (1) of the new Act. If the private sound recording

referred to in Article 104-2, paragraph (1), item (i) of the new Act or the private visual recording referred to in item (ii) of that paragraph is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased after the effective date, on a specified recording medium referred to in that paragraph which is purchased before the effective date, the same applies with regard to the specified recording medium.

Supplementary Provisions [Act No. 89 of November 12, 1993] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date on which the Administrative Procedure Act comes into effect (Act No. 88 of 1993).

(Delegation to Cabinet Order)

Article 15 Beyond what is prescribed between Article 2 to the preceding Article of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 112 of December 14, 1994]

(Effective Date) (1) This Act comes into effect on the date fixed by Cabinet Order within one year of the day following that on which the Marrakesh Agreement Establishing the WTO comes into force with respect to Japan.

(Application of Provisions That Concern Neighboring Rights)

(2) In the application of the provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 95-3, paragraphs (3) and (4)) to a performance set forth in the following that is also set forth in Article 7, item (iv) of the Copyright Act as amended under the provisions of Article 1 (hereinafter referred to as "the new Act") (other than a performance that also falls under a category set forth in item (i) through item (iii) of that Article), and in the application of such provisions to a performance set forth in the following that is also set forth in Article 7, item (v) of the new Act, the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 64 of 1986); paragraph (2) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 43 of 1989; hereinafter referred to as "the Amending Act of 1989"); and paragraph (2) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 63 of 1991; referred to as "the Amending Act of 1991" in paragraph (4) of these Supplementary Provisions) do not apply:

(i) A performance that takes place in a WTO Member State;

(ii) A performance fixed in one of the following phonograms:

(a) A phonogram whose producer is the national of a WTO Member State (the nationals of a Member State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State; the same applies hereinafter);

(b) A phonogram in which sounds are first fixed in a WTO Member State;

(iii) A performance transmitted in one of the following broadcasts (excluding a performance whose sound or visuals are recorded before the transmission with the authorization of the performer):

(a) The broadcast of a broadcaster that is the national of a WTO Member State;

(b) A broadcast made from a broadcasting facility in a WTO Member State.

(3) In the application of the provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 95-3, paragraphs (3) and (4)) to a performer involved in a performance set forth in one of the items of the preceding paragraph, who is a foreign national without a habitual residence in Japan at the time the performance takes place, the provisions of paragraph (4) of the Supplementary Provisions of the Amending Act of 1989 do not apply.

(4) In the application of the provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 97-3, paragraphs (3) through (5)) to the following phonograms, the provisions of paragraphs (2) and (3) of the Supplementary Provisions of the Amending Act of 1989, and paragraph (3) of the Supplementary Provisions of the Amending Act of 1991 do not apply:

(i) A phonogram that is set forth in Article 8, item (iii) of the new Act, and that is also set forth in one of the following:

(a) A phonogram whose producer is the national of a WTO Member State;

(b) A phonogram in which sounds are first fixed in a WTO Member State;

(ii) A phonogram set forth in Article 8, item (v) of the Copyright Act that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as “the Convention for the Protection of Phonograms” in paragraph (6) of these Supplementary Provisions).

(5) In the application of the provisions of the Copyright Act that concern neighboring rights, to a broadcast set forth in the following that is also set forth in Article 9, item (iii) of the new Act, the provisions of paragraph (2) of the Supplementary Provisions of the Amending Act of 1989 do not apply:

- (i) The broadcast of a broadcaster that is the national of a WTO Member State;
- (ii) A broadcast made from a broadcasting facility in a WTO Member State.

(Transitional Measures for the Reproduction of a Commercial Phonogram Produced from a Master from a Specified Foreign Country; Related Matters)

(6) The provisions of the Article 121-2 of the new Act do not apply to the reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram (this includes a copy that is two or more intervening reproductions removed from the commercial phonogram)) that a person in the business of producing commercial phonograms in a place outside the jurisdiction of the Copyright Act produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8 of the new Act) that is made available by the producer of that phonogram that is the national of a WTO Member State (other than one that is also the national of a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Convention for the Protection of Phonograms (the nationals of these Contracting States include corporations established based on the laws and regulations of these States and corporations that have principal offices in these States)), for which the day that marks the passage of 20 years counting from the year following the year in which the sounds are first fixed into the master is before the enforcement of the Act Partially Amending the Copyright Act (Act No. 87 of 1988), if that reproduction takes place after this Act comes into effect; nor do the provisions of the Article 121-2 of the new Act apply to the distribution of the copies of such a reproduced commercial phonogram as a commercial phonogram, or the possession of such copies for the purpose of distribution as a commercial phonogram, if the distribution or possession takes place after this Act comes into effect.

#### Supplementary Provisions [Act No. 91 of May 12, 1995] [Extract]

(Effective Date)

Article 1 This Act comes into effect 20 days after the date of its promulgation.

#### Supplementary Provisions [Act No. 117 of December 26, 1996] [Extract]

(Effective Date)

(1) This Act comes into effect on the date fixed by Cabinet Order within three months after the date of its promulgation.

(Transitional Measures for the Term of Protection for Photographic Works)

(2) Provisions of the post-amendment Copyright Act that concern the term of protection

for a work (referred to as “the new Act” in the following paragraph) apply to a photographic work for which a copyright under the pre-amendment Copyright Act exists at the time this Act comes into effect; and prior laws continue to govern a photographic work for which the copyright under the pre-amendment Copyright Act has expired as of the time this Act comes into effect.

(3) Notwithstanding the new Act, if the day on which the duration expires under the provisions of the pre-amendment Copyright Act that concern the term of protection (hereinafter referred to as “the former Act”) for a photographic work created before this Act comes into effect is after the day on which the duration expires under the new Act, the duration of copyright for such a photographic work is until the day on which the duration expires under the former Act.

#### Supplementary Provisions [Act No. 86 of June 18, 1997]

(Effective Date)

(1) This Act comes into effect on January 1, 1998.

(Transitional Measures for Works Put into a Form That Allows Them to Be Transmitted via Automatic Public Transmission)

(2) The provisions of Article 23, paragraph (1); Article 92-2, paragraph (1); and Article 96-2 of the post-amendment Copyright Act (hereinafter referred to as “the new Act”) do not apply if the person that has made available for transmission via automatic public transmission, a work, performance (limited to one set forth in Article 92, paragraph (2) item (ii) of the pre-amendment Copyright Act (hereinafter referred to as “the former Act”)) or phonogram that has been put into a form that allows it to be transmitted via automatic public transmission as of the time this Act comes into effect (if the person that makes a work, performance, or phonogram available for transmission and the person that, as of the time this Act comes into effect, has used the automatic public transmission server, as referred to in Article 2, paragraph (1), item (ix)-5 of the new Act in connection with the relevant work, performance, or phonogram available for transmission, to put the relevant work, performance, or phonogram into a form that allows it to be transmitted via automatic public transmission are different persons, this means the person that has put the work, performance, or phonogram into a form that allows it to be transmitted via automatic public transmission), uses the relevant automatic public transmission server to make the work, performance, or phonogram available for transmission.

(3) The provisions of Article 92, paragraph (1) of the former Act remain in force even after this Act comes into effect, with respect to a performance (other than one set forth in Article

92, paragraph (2), item (ii)) that has been put into a form that allows it to be transmitted via automatic public transmission as of the time this Act comes into effect.

(Transitional Measures for Penal Provisions)

(4) Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect.

Supplementary Provisions [Act No. 101 of June 12, 1998] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 1999.

Supplementary Provisions [Act No. 43 of May 14, 1999] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the effective date of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999; hereinafter referred to as “the Act on Access to Information”).

(Transitional Measures Accompanying the Partial Amendment of the Copyright Act)

Article 2 The provisions of Article 18, paragraph (3) of the Copyright Act as amended under the provisions of Article 11 do not apply to a work not yet made public (which includes a work made public without the consent of the author) that the author makes available, before this Act comes into effect, to an administrative organ or local public entity provided for in Article 2, paragraph (1) of the Act on Access to Information.

Supplementary Provisions [Act No. 77 of June 23, 1999] [Extract]

(Effective Date)

(1) This Act comes into effect on January 1, 2000; provided, however, that the provisions that add two items after Article 2, paragraph (1), item (xix); the provisions amending Article 30, paragraph (1); the provisions amending Article 113; the provisions amending Article 119; the provisions that add an Article after Article 120; the provisions amending Article 123, paragraph (1); the provisions amending Article 5-2 of the Supplementary Provisions (Act No. 49 of 1970); and the provisions of paragraph (5) of the Supplementary Provisions (Act No. 77 of 1999) come into effect on October 1, 1999.

(Transitional Measures)

(2) The provisions of Article 26-2, paragraph (1); Article 95-2, paragraph (1); and Article 97-2, paragraph (1) of the post-amendment Copyright Act do not apply in a case that involves the transfer of the original or a copy of a work, a sound or visual recording of a performance, or a copy of a phonogram, any of which exists as of the time this Act comes into effect (but only one made without prejudice to the rights of the person who owns the right set forth in Article 21, Article 91, paragraph (1) or Article 96 of the Copyright Act; excluding copies made by the owner of publishing rights).

(3) The provisions of Article 26-2, paragraph (1) of the post-amendment Copyright Act do not apply to the distribution, by a person that holds a print right established before this Act comes into effect and in existence at the time this Act comes into effect, of copies of the work that is subject to that print right, during the duration of the print right.

(4) Prior laws continue to govern the distribution, after the expiration of a print right (limited to one established before this Act comes into effect) by a person that formerly held that print right, of copies of a work made during the duration of that print right.

(5) During the period from October 1, 1999, to the day before that on which this Act comes into effect, the phrases “Article 95-3, paragraph (3)” and “Article 97-3, paragraph (3)” in Article 113, paragraph (4) of the post-amendment Copyright Act are deemed to be replaced with “Article 95-2, paragraph (3)” and “Article 97-2, paragraph (3)”, respectively.

(6) If the effective date of the Act to Adjust Related Acts to Coordinate with the Coming into Effect of the Act on Access to Information Held by Administrative Organs (Act No. 43 of 1999; hereinafter referred to as “the adjustment Act” falls after the date on which this Act comes into effect, in Article 47-3 of the post-amendment Copyright Act the phrase “Article 42, Article 42-2” is deemed to be replaced with “Article 42” and the phrase “Article 42 or 42-2” is deemed to be replaced with “or Article 42”, until the day before the effective date of the adjustment Act.

(7) Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect and to an action that a person undertakes after this Act comes into effect but that prior laws continue to govern pursuant to the provisions of paragraph (4) of the Supplementary Provisions.

#### Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]

(Effective Date)

Article 1 This Act (except Articles 2 and 3) comes into effect on January 6, 2001; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

The provisions of Article 995 (limited to the part pertaining to the amending provisions of the Supplementary Provisions of the Act for Partial Amendment of the Act on the Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors), Article 1305, Article 1306, Article 1324, paragraph 2, Article 1326, paragraph 2, and Article 1344: The date of promulgationSupplementary Provisions [Act No. 220 of December 22, 1999] [Extract]

(Effective Date)

Article 1 This Act (except Article 1) comes into effect on January 6, 2001

(Delegation to Cabinet Order)

Article 4 Beyond what is prescribed in the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

#### Supplementary Provisions [Act No. 56 of May 8, 2000]

(Effective Date)

(1) This Act comes into effect on January 1, 2001; provided, however, that the provisions of Article 1 amending Article 58 of the Copyright Act and the provisions of Article 2 come into effect as o the day on which the WIPO Copyright Treaty comes into force with respect to Japan.

(Transitional Measures for the Approval of an Amount of Damage)

(2) The provisions of Article 114-4 of the Copyright Act as amended under the provisions of Article 1 do not apply to a case for which oral arguments before the high court or district court that constitutes the court of second instance have finished before this Act comes into effect, nor do such provisions apply to a case for which a party, before this Act comes into effect, reserves the right to a final appeal but agrees not to appeal to the court of second instance against a summary court decision or a decision that the district court has reached as the court of first instance.

(Transitional Measures for Penal Provisions)

(3) Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect.

#### Supplementary Provisions [Act No. 131 of November 29, 2000] [Extract]

(Effective Date)

Article 1 This Act comes into effect on October 1, 2001; provided, however, that the provisions of Article 9 of the Supplementary Provisions come into effect on the date of this Act's promulgation.

Supplementary Provisions [Act No. 140 of December 5, 2001] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

(Transitional Measures Accompanying the Partial Amendment of the Copyright Act)

Article 7 The provisions of Article 18, paragraph (3) (limited to the part concerned with item (ii)) of the Copyright Act as amended under the provisions of the preceding Article do not apply to a work not yet made public (this includes a work made public without the consent of its author) which has been made available to an incorporated administrative agency, etc. by its author before the provisions of the preceding Article come into effect.

Supplementary Provisions [Act No. 72 of June 19, 2002] [Extract]

(Effective Date)

(1) The provisions of this Act come into effect as of the day specified in each of the following items, in accordance with the categories set forth in those items:

(i) The provisions amending Article 7; the provisions amending Article 8; the provisions amending Article 95; the provisions amending Article 95-3; the provisions amending Article 97; and the provisions amending Article 97-3, as well as the provisions of paragraphs (2) through (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") comes into force with respect to Japan;

(ii) The provisions amending the Table of Contents (limited to the parts renumbering Article 100-4 as Article 100-5); the provisions amending Article 89, paragraph (4); the provisions that add an Article after Article 99; the provisions of Chapter IV, Section 5 renumbering Article 100-4 as Article 100-5 and adding an Article after Article 100-3; and the provisions amending Article 103: January 1, 2003;

(iii) Provisions other than those referred to in the preceding two paragraphs: the day on which the WPPT comes into force with respect to Japan or January 1, 2003, whichever is

earlier.

(Application of Provisions That Concern Neighboring Rights)

(2) In the application of the provisions of the post-amendment Copyright Act (referred to hereinafter as “the new Act”) that concern neighboring rights (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)) to a performance set forth in the following that is also set forth in Article 7, item (iv) of the new Act (excluding a performance that also falls under a category set forth in Article 7, items (i) through (iii)), and in the application of such provisions to a performance set forth in the following that is also set forth in Article 7, item (v) of the new Act, the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 64 of 1986); paragraph (2) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 43 of 1989; hereinafter referred to as “the Amending Act of 1989”); and paragraph (2) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 63 of 1991; hereinafter referred to as “the Amending Act of 1991”) do not apply:

- (i) A performance that takes place in a Contracting Party to the WPPT;
- (ii) A performance fixed in one of the following phonograms:
  - (a) A phonogram whose producer is the national of a Contracting Party to the WPPT (the nationals of a Contracting Party include corporations established based on the laws and regulations of that Party and corporations that have principal offices in that Party; the same applies hereinafter);
  - (b) A phonogram in which sounds were first fixed in a Contracting Party to the WPPT.

(3) In the application of the provisions of the new Act that concern neighboring rights (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)), to a performer involved in a performance set forth in one of the items of the preceding paragraph, who is a foreign national without a habitual residence in Japan at the time the performance takes place, the provisions of paragraph (4) of the Supplementary Provisions of the Amending Act of 1989 do not apply.

(4) In the application of the provisions of the new Act that concern neighboring rights (including the provisions of Article 97 and Article 97-3, paragraphs (3) through (5)), to the following phonograms, the provisions of paragraphs (2) and (3) of the Supplementary Provisions of the Amending Act of 1989 and paragraph (3) of the Supplementary Provisions of the Amending Act of 1991 do not apply:

- (i) A phonogram set forth in the following that is also set forth in Article 8, item (ii) of the new Act:
  - (a) A phonogram whose producer is the national of a Contracting Party to the WPPT;

- (b) A phonogram in which sounds were first fixed in a Contracting Party to the WPPT;
- (ii) A phonogram set forth in Article 8, item (iv) of the new Act that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

(Transitional Measures for the Moral Rights of Performers)

(5) The provisions of Article 90-2, paragraph (1) and Article 90-3, paragraph (1) of the new Act do not apply to a performance fixed in a sound or visual recording that is made with the authorization of the performer before this Act comes into effect; provided, however, that this does not apply if the indication of the name of the performer involved in that performance which is indicated for that performance is deleted or altered after this Act comes into effect, if the name of the performer is newly indicated for the performance after this Act comes into effect, or if the performance is altered after this Act comes into effect.

(Transitional Measures for the Secondary Use of Commercial Phonograms)

(6) Notwithstanding the provisions of Article 95, paragraph (2) of the new Act, the application of the provisions of paragraph (1) of the new Act is governed by the provisions of paragraph (4) of that Article, for a performer involved in a performance that is fixed in a phonogram whose producer is the national of a country that is a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (referred to as “the Convention for the Protection of Performers, etc.” in this and the following paragraph) as well as being a Contracting Party to the WPPT, and which is fixed in that phonogram before the day on which the Convention for the Protection of Performers, etc. comes into force with respect to Japan.

(7) Notwithstanding the provisions of Article 95, paragraph (2) of the new Act as applied mutatis mutandis pursuant to the provisions of Article 97, paragraph (2) of the new Act, the application of the provisions of Article 97, paragraph (2) of the new Act is governed by the provisions of Article 95, paragraph (4) of the new Act as applied mutatis mutandis pursuant to the provisions of Article 97, paragraph (2) of the new Act, for the producer of a phonogram that is the national of a country that is a Contracting State of the Convention for the Protection of Performers, etc. as well as being a Contracting Party to the WPPT, and in whose phonogram sounds are first fixed before the day on which the Convention for the Protection of Performers, etc. comes into force with respect to Japan.

(Transitional Measures for the Term of Protection for Phonograms)

(8) The provisions of Article 101, paragraph (2), item (ii) of the new Act apply to a

phonogram for which neighboring rights under the pre-amendment Copyright Act exist at the time this Act comes into effect; and prior laws continue to govern a phonogram for which the neighboring rights under the pre-amendment Copyright Act have expired as of the time this Act comes into effect.

Supplementary Provisions [Act No. 61 of May 30, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the effective date of the Act on the Protection of Personal Information Held by Administrative Organs.

(Delegation of Other Transitional Measures to Cabinet Order)

Article 4 Beyond what is prescribed in the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 85 of June 18, 2003]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2004.

(Transitional Measures for the Term of Protection for Cinematographic Works)

Article 2 The provisions of Article 54, paragraph (1) of the post-amendment Copyright Act (referred to as “the new Act” in the following Article) apply to a cinematographic work for which a copyright under the pre-amendment Copyright Act exists at the time this Act comes into effect; and prior laws continue to govern a cinematographic work for which the copyright under the pre-amendment Copyright Act has expired as of the time this Act comes into effect.

Article 3 Notwithstanding the provisions of Article 54, paragraph (1) of the new Act, if the day on which the duration of copyright expires under the former Copyright Act (Act No. 39 of 1899) is after the day on which the duration expires under the provisions of Article 54, paragraph (1) of the new Act, the duration of copyright for a cinematographic work that is created before the Copyright Act comes into effect and which prior laws continue to govern pursuant to the provisions of Article 7 of the Supplementary Provisions of that Act is until the day on which the duration of copyright expires under the former Copyright Act.

(Transitional Measure for Penal Provisions)

Article 4 Prior laws continue to govern the applicability of penal provisions to an action

that a person undertakes before this Act comes into effect.

Supplementary Provisions [Act No. 119 of July 16, 2003] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the effective date of the Local Independent Administrative Agencies Act (Act No. 118 of 2003).

(Delegation of Other Transitional Measures to Cabinet Order)

Article 6 Beyond what is prescribed in these Supplementary Provisions, transitional measures that are necessary in connection with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 84 of June 9, 2004] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

Supplementary Provisions [Act No. 92 of June 9, 2004] [Extract]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2005.

(Transitional Measures for the Importation of Commercial Phonograms)

Article 2 The provisions of Article 113, paragraph (5) of the post-amendment Copyright Act do not apply to a commercial phonogram for foreign distribution provided for in that paragraph which is imported before this Act comes into effect and which a person possesses for the purpose of distribution at the time this Act comes into effect.

Article 3 In the application of the provisions of Article 113, paragraph (5) of the post-amendment Copyright Act to a commercial phonogram for domestic distribution provided for in that paragraph which has been published as of the time this Act comes into effect, in the proviso to that paragraph, the phrase “day on which that phonogram is first published in Japan” is deemed to be replaced with “effective date of the Act Partially Amending the Copyright Act (Act No. 92 of 2004), if that commercial phonogram for domestic distribution has been published as of the day on which it comes into effect”, and the phrase “that has passed beyond”

is deemed to be replaced with “after it has passed beyond”.

(Transitional Measures for the Renting Out of Books)

Article 4 The provisions of Article 4-2 of the Supplementary Provisions of the pre-amendment Copyright Act remain in force even after this Act comes into effect, with respect to the renting out of books or magazines (excluding those consisting mainly of sheet music) that a person possesses for the purpose of renting them out to the public as of the first day of the month two months after the month that includes the day of promulgation of this Act.

Supplementary Provisions [Act No. 120 of June 18, 2004] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2005.

(Principles of Transitional Measures)

Article 2 Unless otherwise stipulated in these Supplementary Provisions, the provisions (except penal provisions) of the Courts Act, the Code of Civil Procedure, the Act on the Costs of Civil Proceedings, the Patent Act, the Utility Model Act, the Design Act, the Trademarks Act, the Prevention of Unfair Competition Act, and the Copyright Act, as amended under this Act, also apply to things that take place before this Act comes into effect; provided, however, that this does not preclude validity arising pursuant to the provisions of these Acts prior to their amendment

(Transitional Measures Accompanying the Partial Amendment of the Patent Act)

Article 3 The following provisions do not apply to a case for which litigation is completed before this Act comes into effect; nor to a case for which oral arguments before the high court or district court that constitutes the court of second instance are finished before this Act comes into effect; nor to a case for which a party, before this Act comes into effect, reserves the right to a final appeal but agrees not to appeal to the court of second instance against a summary court decision or a decision that the district court has reached as the court of first instance:

(i) Through (iv): omitted

(v) The provisions of Articles 114-6 to 114-8 of the Copyright Act, following the amendment under the provisions of Article 9.

Supplementary Provisions [Act No. 147 of December 1, 2004] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within six months from the date of its promulgation.

Supplementary Provisions [Act No. 75 of 2005] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

(Delegation to Cabinet Order)

Article 5 Beyond what is prescribed in Article 2 of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 50 of June 2, 2006] [Extract]

This Act shall come into force as from the date on which the General Incorporated Associations and General Incorporated Foundations Act comes into force.

Supplementary Provisions [Act No. 121 of December 22, 2006] [Extract]

(Effective Date)

Article 1 This Act comes into effect on July 1, 2007; provided, however, that the provisions of Article 1 and Article 4 of the Supplementary Provisions come into effect 20 days after the date of promulgation of this Act.

(Transitional Measures for Ownership of a Copyright to a Cinematographic Work Created for Broadcasting Purposes)

Article 2 Prior laws continue to govern the ownership of a copyright to a cinematographic work as provided for in Article 29, paragraph (2) of the Copyright Act as amended under this Act (referred to as “the new Act” in the following Article) which has been created before this Act comes into effect.

(Transitional Measures for the Cablecasting of a Broadcast Performance)

Article 3 The provisions of Article 94-2 of the new Act do not apply to a performance to which, based on the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 64 of 1986) or paragraph (2) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 43 of 1989; hereinafter in this Article referred to as “the Amending Act of 1989”), the provisions of the new Act that concern neighboring rights do not apply, nor do the provisions of Article 94-2 of the new Act apply to the performance of a performer to whom, based on the provisions of paragraph (4) of the Supplementary Provisions of the Amendment Act of 1989, the provisions of the new Act that concern neighboring rights do not apply.

(Transitional Measures for Penal Provisions)

Article 4 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act (or the provisions stipulated in the proviso to Article 1 of the Supplementary Provisions) comes into effect.

Supplementary Provisions [Act No. 81 of June 18, 2008] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within three months from the date of its promulgation, and applies from the authorized textbooks, etc. and specified textbooks, etc. used in 2009.

(Transitional Measures for Penal Provisions)

Article 6 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before the provisions referred to in the preceding Article come into effect.

Supplementary Provisions [Act No. 53 of June 19, 2009] [Extract]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2010; provided, however, that the provisions amending 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, come into effect on the date fixed by Cabinet Order within two years from the date of the promulgation of this Act.

(Transitional Measures for the Use of Sound Recordings for Persons with Visual Impairments)

Article 2 Notwithstanding the provisions of Article 37, paragraph (3) and Article 47-9 of the Copyright Act as amended under this Act (hereinafter referred to as “the new Act”) (including as these provisions are applied mutatis mutandis pursuant to Article 102, paragraph (1) of the new Act), prior laws continue to govern the use of a sound recording that has been made before this Act comes into effect based on the application of the provisions of Article 37, paragraph (3) of the Copyright Act prior to its amendment under this Act (hereinafter referred to as “the former Act”) (including as applied mutatis mutandis pursuant to Article 102, paragraph (1) of the former Act) (excluding a sound recording connected to a work, performance, phonogram, broadcast, or cablecast that it is permissible to reproduce or transmit via automatic public transmission (including one that it is permissible to make available for transmission) pursuant to the provisions of Article 37, paragraph (3) of the new Act).

(Transitional Measures for the Exploitation of a Work Based on a Compulsory License)

Article 3 The provisions of Articles 67 and 67-2 of the new Act (including as these provisions are applied mutatis mutandis pursuant to Article 103 of the new Act) apply to a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of the new Act (including as applied mutatis mutandis pursuant to Article 103 of the new Act) on or after the day on which this Act comes into effect; and prior laws continue to govern with respect to a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of the former Act before the day on which this Act comes into effect.

(Transitional Measures for an Offer to Distribute Copies of a Commercial Phonogram)

Article 4 The provisions of Article 121-2 of the new Act do not apply to the act of offering to distribute a commercial phonogram after this Act comes into effect if, pursuant to the provisions of paragraph (5) of the Supplementary Provisions of the Act Partially Amending the Copyright Act (Act No. 63 of 1991) or paragraph (6) of the Supplementary Provisions of the Act Partially Amending the Copyright Act and the Act on Special Provisions of the Copyright Act, in Consequence of the Enforcement of the Universal Copyright Convention (Act No. 112 of 1994), the provisions of that Article are not to apply to its distribution or possession for the purpose of distribution.

(Transitory Measures for Penal Provisions)

Article 5 Prior laws continue to govern the applicability of penal provisions to an action

that a person undertakes before this Act comes into effect.

Supplementary Provisions [Act No. 73 of July 10, 2009] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2010.

Supplementary Provisions [Act No. 65 of December 3, 2010] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within nine months from the date of its promulgation (hereinafter referred to as “the effective date”).

Supplementary Provisions [Act No. 74 of June 24, 2011] [Extract]

(Effective Date)

Article 1 This Act comes into effect 20 days after the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) Through (iv): omitted

(v) The provisions of Article 62 of these Supplementary Provisions: the date of promulgation of the Act Partially Amending the Unfair Competition Prevention Act (Act No. 62 of 2011; referred to as the “Act Partially Amending Unfair Competition Prevention Act” in that Article and Article 63 of these Supplementary Provisions) or the effective date, whichever comes later.

Supplementary Provisions [Act No. 32 of June 22, 2012] [Extract]

(Effective Date)

Article 1 This Act comes into effect on July 1, 2013.

(Provisions on Coordination)

Article 5 If this Act comes into effect before the effective date of the provisions of the Act Partially Amending the Copyright Act (Act No. 43 of 2012) that rename Article 42-3 as Article 42-4 and add a new Article after Article 42-2, the words “Article 42-2” in the provisions of the preceding Article that amend the heading for Article 42-4 of the Copyright Act are deemed to be replaced with “Article 42-3”.

Supplementary Provisions [Act No. 43 of June 27, 2012] [Extract]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2013; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 7; Article 8; and Article 10 of these Supplementary Provisions: the date of promulgation;

(ii) The provisions which amend Article 2, paragraph (1), item (xx) and Article 18, paragraphs (3) and (4); the provisions adding an item to Article 19, paragraph (4); the provisions amending Article 30, paragraph (1), item (ii); the provisions renaming Article 42-3 to Article 42-4 and adding a new Article after Article 42-2; the provisions amending Article 47-9 (limited to the part replacing “or Article 46” with “, Article 42-3, paragraph (2) or Article 46”); the provisions amending the proviso to Article 47-9 (limited to the part adding “, Article 42-3, paragraph (2)” under “to Article 42-2”); the provisions amending Article 49, paragraph (1), item (i) (limited to the part renaming “Article 42-2” as “Article 42-3” and “Article 42-3, paragraph (2)” as “Article 42-4, paragraph (2)”); the provisions amending Article 86, paragraphs (1) and (2) (limited to the part adding “, Article 42-3, paragraph (2)” under “to Article 42-2”); the provisions adding an item to Article 90-2, paragraph (4); the provisions amending Article 102, paragraph (1) (limited to the part renaming “Article 42-3” as “Article 42-4”); the provisions amending Article 102, paragraph (9), item (i) (limited to the part renaming “Article 42-2” as “Article 42-3” and “Article 42-3, paragraph (2)” as “Article 42-4, paragraph (2)”); the provisions amending Article 119, paragraph (1); the provisions adding a paragraph to Article 119; the provisions amending Article 120-2, item (i); and the provisions of the following Article, Articles 4 through 6 and Article 9 of these Supplementary Provisions: October 1, 2012.

(Transitional Measures)

Article 2 (1) The provisions of Article 18, paragraph (3), items (i) through (iii) of the Copyright Act as amended by this Act (hereinafter referred to as “the new Act”) do not apply to a work not yet made public (this includes a work made public without the consent of the author) that the author makes available, before the provisions of item (ii) of the preceding Article come into effect, to an administrative organ (meaning an administrative organ as prescribed in Article 2, paragraph (1) of the Act on Access to Information Held by

Administrative Organs (Act No. 42 of 1999)), an incorporated administrative agency, etc. (meaning an incorporated administrative agency, etc. as prescribed in Article 2, paragraph (1) of the Act on Access to Information Held by Incorporated Administrative Agencies (Act No. 140 of 2001)), or a local government agency or local incorporated administrative agency (meaning a Local Incorporated Administrative Agency as prescribed in Article 2, paragraph (1) of the Act on Local Incorporated Administrative Agencies (Act No. 118 of 2003); the same applies hereinafter in this paragraph) and that is transferred to the National Archives of Japan, etc. (meaning the National Archives of Japan, etc. provided for in Article 2, paragraph (3) of the Public Records and Archives Management Act (Act No. 66 of 2009; hereinafter referred to as the “Public Records Management Act” in this paragraph); the same applies in the following paragraph) pursuant to the provisions of Article 8, paragraph (1) or Article 11, paragraph (4) of the Public Records Management Act or is transferred to the local archives, etc. (meaning facilities provided for by public records management ordinance (meaning ordinance of local government agencies prescribing the appropriate preservation and use of historical public records and archives (meaning historical public records and archives provided for in Article 2, paragraph (6) of the Public Records Management Act; the same applies in this paragraph) held by that local government agency or by local incorporated administrative agencies; the same applies in this paragraph) as facilities for the appropriate preservation and use of historical public records and archives; the same applies in the following paragraph) pursuant to public records management ordinance.

(2) The provisions of Article 18, paragraph (3), items (iv) and (v) of the new Act do not apply to a work not yet made public (this includes a work made public without the consent of the author) that the author makes available, before the provisions of item (ii) of the preceding Article come into effect, to the National Archives of Japan or the local archives, etc.

Article 3 A work that has been recorded on a recording medium as of the effective date of this Act pursuant to the provisions of Article 31, paragraph (2) of the Copyright Act prior to its amendment by this Act and that is associated with a rare or out-of-print material (meaning a “rare or out-of-print material” as prescribed in Article 31, paragraph (1), item (3) of the new Act) may be transmitted via automatic public transmission (this includes making a work available for transmission) using a copy of that work, pursuant to the provisions of Article 31, paragraph (3) of the new Act.

(Transitional Measures Concerning the Applicability of Penal Provisions)

Article 4 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect (as for the provisions of Article 1, item (ii) of these Supplementary Provisions, such provisions come into effect).

(Delegation to Cabinet Order)

Article 5 Beyond what is prescribed in the preceding three Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

(Raising the Awareness of the People)

Article 7 (1) The national government and local government agencies must raise awareness regarding the prevention of the act of infringing a copyright or neighboring rights by undertaking, for private use as provided in Article 30, paragraph (1) of the Copyright Act (including as applied mutatis mutandis pursuant to Article 102, paragraph (1) of the same Act), the specified infringing sound or visual recording of a fee-based work (meaning the specified infringing sound or visual recording of a fee-based work as prescribed in Article 119, paragraph (3), item (i) of the same Act; the same applies hereinafter in this paragraph), knowing that the relevant action constitutes the specified infringing sound or visual recording of a fee-based work (hereinafter referred to as a “specified act of infringement”), and take other necessary measures, so that the people are able to gain a deeper understanding of the importance of preventing specified acts of infringement.

(2) The national government and local government agencies must enhance education regarding the prevention of specified acts of infringement in schools and in a variety of other settings, so that minors are able to gain a deeper understanding of the importance of preventing specified acts of infringement at every opportunity.

(3) To apply the provisions of paragraph (1) up until the day before the effective date of the provisions prescribed in Article 1, item (ii) of these Supplementary Provisions, the phrase “Article 30, paragraph (1) of the new Act (including cases where it is applied mutatis mutandis pursuant to Article 102, paragraph (1) of the new Act)” in that paragraph is deemed to be replaced with “Article 30, paragraph (1) of the Copyright Act (including as applied mutatis mutandis pursuant to Article 102, paragraph (1) of the Copyright Act)” and the phrase “a fee-based work as prescribed in Article 119, paragraph (3) of the new Act” is deemed to be replaced with “the sound or images in a sound or visual recording of a work, performance, phonogram, broadcast, or cablecast (limited to one that is the subject of a copyright or neighboring rights) that is being made available or presented to the public for value (limited to one being made available or presented to the public without infringing any copyrights or neighboring rights)”.

(Measures to Be Taken by Relevant Enterprises)

Article 8 An enterprise that makes available or presents the sound or visuals of a fee-based

recorded work as provided in Article 119, paragraph (3), item (i) of the Copyright Act to the public must endeavor to take measures to prevent specified acts of infringement.

(Considerations to Operations)

Article 9 In applying the provisions of Article 119, paragraph (3) of the Copyright Act (limited to the part concerned with item (i)), due consideration must be given so as not to unreasonably restrict the collection of information using the internet and other acts undertaken using the internet.

Supplementary Provisions [Act No. 84 of November 27, 2013] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation; provided, however, that the provisions set forth in Article 64, Article 66 and Article 102 of these Supplementary Provisions come into effect as of the date of promulgation.

(Effect of Dispositions)

Article 100 Except as otherwise provided by these Supplementary Provisions, a disposition, procedure, or other action undertaken before this Act comes into force based on the pre-amendment provisions of any of the relevant Acts (including orders based on those Acts; hereinafter the same applies in this Article), and with regard to which there are equivalent provisions in the post-amendment Acts, is deemed to have been undertaken based on the equivalent provisions of the post-amendment Acts.

(Transitional Measures for Penal Provisions)

Article 101 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect, and to an action that a person undertakes after this Act comes into effect but that prior laws continue to govern pursuant to the provisions of this Act.

(Delegation to Cabinet Order)

Article 102 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures (including transitional measures for penal provisions) connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 103 of December 13, 2013] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of the date fixed by Cabinet Order within six months from the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) Omitted

(ii) The provisions of Article 17 of these Supplementary Provisions: the date of promulgation of the Act Partially Amending the Pharmaceutical Affairs Act, etc. (Act No. 84 of 2013) or the date of promulgation of this Act, whichever comes later.

#### Supplementary Provisions [Act No. 35 of May 14, 2014]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2015; provided, however, that the provisions amending Article 7 and the provisions of the following Article come into effect as of the date on which the Beijing Treaty on Audiovisual Performances (referred to as the “Audiovisual Performances Treaty” in those Articles) takes effect in Japan.

(Application of Provisions Concerning Neighboring Rights)

Article 2 (1) With respect to the application of the provisions concerning neighboring rights under the Copyright Act as amended by this Act (hereinafter in this Article referred to as the “New Act”), to performances listed in Article 7, item (iv) of the New Act (excluding those that fall under items (i) through (iii) of the same Article) or performances listed in item (v) of the same Article that pertain to performers who are nationals of, or who have their habitual residence in, a Contracting Party to the Audiovisual Performances Treaty, the provisions of the Supplementary Provisions, paragraph (3) of the Act for Partial Amendment of the Copyright Act (Act No. 64 of 1986), the provisions of the Supplementary Provisions, paragraph (2) of the Act for Partial Amendment of the Copyright Act (Act No. 43 of 1989; hereinafter in the next paragraph referred to as the “1989 Amendment Act”), and the provisions of the Supplementary Provisions, paragraph (2) of the Act for Partial Am(2) With respect to the application of the provisions concerning neighboring rights under the New Act (including the provisions of Article 95-3, paragraphs (3) and (4)) to performers who are nationals of, or who have their habitual residence in, a Contracting Party to the Audiovisual Performances Treaty (limited to those who were foreigners not having their habitual residence within Japan at the time the performance pertaining to such performer was given), the provisions of the Supplementary Provisions, paragraph (4) of the 1989 Amendment Act

shall not apply.

(Transitional Measures for Publishing rights) Article 3

Prior laws continue to govern publishing rights as under the Copyright Act prior to its amendment under this Act that have been established before this Act comes into effect and that exist as of the time this Act comes into effect.

(Delegation to Cabinet Order)

Article 4 Beyond what is prescribed in the provisions of the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 69 of June 13, 2014] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date on which the Administrative Complaint Review Act (Act No. 68 of 2014) comes into effect.

(Principles Concerning Transitional Measures)

Article 5 Unless otherwise provided for in these Supplementary Provisions, prior laws continue to govern an administrative appeal against a disposition or any other action or inaction by an administrative agency regarding a disposition or other action of an administrative agency that has been undertaken before this Act comes into effect, as well as against the inaction of an administrative agency in connection with an application filed before this Act comes into effect.

(Transitional Measures for Litigation)

Article 6 (1) Prior laws continue to govern the filing of an action in a matter regarding which, pursuant to the provisions of an Act prior to its amendment under this Act, an action may not be filed until after an administrative agency's determination, decision, or other action on an administrative appeal, if the period during which the relevant appeal must be filed has passed, without the appeal having been filed, before this Act comes into effect (if such an appeal may not be filed until after an administrative agency's determination, decision, or other action on another appeal, this includes a case in which the period during which the other appeal must be filed has passed, without that other appeal having been filed, before this Act comes into effect).

(2) Prior laws continue to govern an action for revocation that concerns a disposition or other action subject to an objection filed pursuant to the provisions of an Act prior to its amendment under the provisions of this Act (including when prior laws continue to govern the filing of an action pursuant to the provisions of the preceding Article) even if, pursuant to the provisions of an Act amended by the provisions of this Act, it is not permissible to file an action for revocation until a determination has been made in response to a request for administrative review.

(3) Prior laws continue to govern an action filed before this Act comes into effect seeking the revocation of an administrative agency's determination, decision, or other action on an administrative appeal.

(Transitional Measures for Penal Provisions)

Article 9 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect, and to an action that a person undertakes after this Act comes into effect but that prior laws continue to govern pursuant to the provisions of Article 5 or the preceding two Articles of these Supplementary Provisions.

(Other Transitional Measures Delegated to Cabinet Order)

Article 10 Beyond what is prescribed in Article 5 through the preceding Article of these Supplementary Provisions, necessary transitional measures (including transitional measures for offences) connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 46 of June 24, 2015] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2016.

Supplementary Provisions [Act No. 51 of May 27, 2016] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year and six months from the date of its promulgation.

Supplementary Provisions [Act No. 108 of December 16, 2016] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date that the Trans-Pacific Partnership Agreement takes effect in Japan (referred to as the “effective date” in item (iii)); provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 9 of these Supplementary Provisions: the date of promulgation;

(Transitional Measures Accompanying the Partial Amendment of the Copyright Act)

Article 7 (1) The provisions of Article 51, paragraph (2), Article 52, paragraph (1), Article 53, paragraph (1), Article 57, and Article 101, paragraph (2), items (i) and (ii) of the Copyright Act as amended by the provisions of Article 8 (hereinafter in the following paragraph and paragraph (3) referred to as the “New Copyright Act”) shall apply to works, performances, and phonograms with respect to which copyright or neighboring rights exist under the Copyright Act prior to its amendment by the provisions of Article 8 (hereinafter in this paragraph referred to as the “Former Copyright Act”) as of the day immediately preceding the date of enforcement, and with respect to works, performances, and phonograms for which copyright or neighboring rights under the Former Copyright Act have expired as of that day, the provisions then in force shall continue to apply.(2) The provisions of Article 116, paragraph (3) of the New Copyright Act shall apply in cases where the day on which fifty years have elapsed, calculated from the year following the year in which the author or performer died, falls on or after the date of enforcement, and in cases where that day falls prior to the date of enforcement, the provisions then in force shall continue to apply.

(3) The provisions of Article 121-2 of the New Copyright Act shall not apply to commercial phonograms listed in each item of the same Article (including reproductions of such commercial phonograms, including reproductions produced through two or more stages of reproduction), for which the day on which fifty years have elapsed, calculated from the year following the year in which the day on which sound was first fixed in the master recording pertaining to each such item, falls prior to the date of enforcement (including those for which the day of such fixation falls on or before December 31, 1967).

(Transitional Measures Concerning Penal Provisions)

Article 8 With respect to the application of penal provisions to acts committed prior to the date of enforcement and to acts committed on and after the date of enforcement in cases where, pursuant to the provisions of Article 5 of the Supplementary Provisions, the provisions then in force shall continue to apply, the provisions then in force shall continue to apply.

(Delegation to Cabinet Order)

Article 9 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures (including transitional measures for penal provisions) connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 45 of June 2, 2017]

This Act comes into effect on the date the Act Partially Amending the Civil Code comes into effect; provided, however, that the provisions set forth in Article 103-2; Article 103-3; Article 267-2; Article 267-3; and Article 362 come into effect on the date of promulgation.

Supplementary Provisions [Act No. 30 of May 25, 2018]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2019; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions amending Article 113, paragraph (4) and the provisions of Article 4 and Articles 7 through 10 of these Supplementary Provisions: the date of promulgation;

(ii) The provisions amending the Contents; the provisions amending Article 35; the provisions amending Article 48, paragraph (1), item (iii) (limited to the part replacing the term “Article 35” with “Article 35, paragraph (1)”); the provisions amending the first sentence of Article 86, paragraph (3) (limited to the part replacing the term “Article 35, paragraph (2)” with “Article 35, paragraph (1)”); the provisions amending the second sentence of Article 86, paragraph (3) (limited to the part replacing the term “Article 35, paragraph (2)” with “the proviso to Article 35, paragraph (1)”); and the provisions amending Chapter V: the date fixed by Cabinet Order within three years from the date of promulgation.

(Transitional Measures for the Use of Copies)

Article 2 (1) Notwithstanding the provisions of Article 49 of the Copyright Act as amended under this Act (hereinafter referred to as “the new Act”), prior laws continue to govern the use of copies of works created based on the application of the provisions of Article 30-4 or Articles 47-4 through 47-9 of the Copyright Act prior to its amendment under this Act (hereinafter referred to as “the former Act”), copies of derivative works created in

accordance with the provisions of Article 30, paragraph (1); Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 33-2, paragraph (1); Article 35, paragraph (1); Article 37, paragraph (3); the main clause of Article 37-2; Article 41; or Article 42 of the former Act based on the application of the provisions of Article 43 of the former Act, and copies of derivative works created in accordance with the provisions of Article 30-3 or Article 47-3, paragraph (1) of the former Act created before the date this Act comes into effect (hereinafter referred to as the “effective date”). In such a case, the term “presented to the public” in Article 49, paragraph (1), item (i) of the former Act and “presented to the public” in Article 49, paragraph (1), item (iii) and paragraph (2), items (i) and (ii) of the former Act are deemed to be replaced with “conducted a presentation to the public (including making it available for transmission; the same applies hereinafter in this Article)” and “conducted a presentation to the public”, respectively.

(2) Notwithstanding the provisions of Article 102, paragraph (9) of the new Act, prior laws continue to govern the use of copies of sounds or images connected with performances, phonograms, broadcasts or cablecasts created before the effective date based on the application of the provisions of Article 30-4 or Articles 47-4 through 47-9 of the former Act applied mutatis mutandis pursuant to Article 102, paragraph (1) of the former Act. In such a case, the terms “presented to the public” in Article 102, paragraph (9), item (i) of the former Act and “presented to the public” in Article 102, paragraph (9), item (viii) of the former Act are deemed to be replaced with “conducted a presentation to the public (including making it available for transmission; the same applies in item (viii))” and “conducted a presentation to the public”, respectively.

#### (Transitional Measures for the Exploitation of a Work Based on a Compulsory License)

Article 3 The provisions of Articles 67 and 67-2 of the new Act (including cases where these provisions are applied mutatis mutandis pursuant to Article 103 of the Copyright Act) apply to a person that files an application for a compulsory license as referred to in Article 67, paragraph (1) of the new Act (including as applied mutatis mutandis pursuant to Article 103 of the Copyright Act) on or after the effective date; and prior laws continue to govern with respect to a person that files an application for a compulsory license as referred to in Article 67, paragraph (1) of the former Act (including as applied mutatis mutandis pursuant to Article 103 of the Copyright Act) before the effective date.

#### (Preparatory Actions)

Article 4 A designation under the provisions of Article 104-11, paragraph (1) of the new Act, approval under the provisions of Article 104-13, paragraph (1) of the new Act,

consultation under the provisions of Article 104-13, paragraph (5) of the new Act, notification under the provisions of Article 104-14, paragraph (1) of the new Act, consultation under the provisions of Article 104-15, paragraph (2) of the new Act, or the necessary procedure or other action in connection with the same may be undertaken in accordance with the provisions of Chapter V, Section 2 of the new Act prior to the date on which the provisions set forth in Article 1, item (ii) of these Supplementary Provisions come into effect (hereinafter referred to as “item (ii) effective date”).

(Replacements until the Day Preceding the Item (ii) Effective Date)

Article 5 To apply the provisions of Article 47-6, paragraph (1), item (i) and Article 47-7 of the new Act during the period between the effective date and the day preceding the item (ii) effective date, the phrase “Article 35, paragraph (1)” in Article 47-6, paragraph (1), item (i) and “(Article 31, paragraph (1) or the second sentence of paragraph (3))” in Article 47-7 are deemed to be replaced with “Article 35” and “(Article 31, paragraph (1) or the second sentence of paragraph (3), Article 35, paragraph (1))”, respectively.

(Transitional Measures for Penal Provisions)

Article 6 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect (as for provisions specified in Article 1, item (ii) of these Supplementary Provisions, before each provision comes into effect).

(Delegation to Cabinet Order)

Article 7 Beyond as prescribed from Article 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

(Provisions on Coordination)

Article 8 If the effective date of the provisions set forth in Article 1, item (i) of these Supplementary Provisions falls before the effective date of the Act to Adjust Related Acts to Coordinate with the Conclusion of the Trans-Pacific Partnership Agreement (Act No. 108 of 2016; hereinafter referred to as the “adjustment Act”), the term “Article 113, paragraph (5)” in the provisions amending Article 113, paragraph (5) and the provisions of Article 1, paragraph (1), item (i) of these Supplementary Provisions are deemed to be replaced with “Article 113, paragraph (4)”.

Article 9 (1) If the effective date falls before the effective date of the adjustment Act, the

phrase “is deleted and the term ‘exploit’ in item (xxi) of the that paragraph is replaced with ‘execute’ “ in the provisions amending Article 2, paragraph (1) is deemed to be replaced with “is deleted”.

(2) In cases prescribed in the preceding paragraph, the term “exploit” in the provisions of Article 8 of the adjustment Act amending Article 2, paragraph (1) of the Copyright Act by replacing item (xxiii) with item (xxiv), item (xxii) with item (xxiii), item (xxi) with item (xxii), and adding an item after item (xx), is deemed to be replaced with “execute”.

Article 10 If the item (ii) effective date falls before the effective date of the adjustment Act, the term “cablecast (... in the following item)” in the provisions of Article 2, paragraph (1), item (xx) of the Copyright Act is deemed to be replaced with “cablecast (... in the following item and Article 104-15, paragraph (1))” upon its application during the period between the item (ii) effective date and the effective date of the adjustment Act.

#### Supplementary Provisions [Act No. 39 of June 1, 2018] [Extract]

(Effective Date)

Article 1 This Act comes into effect on April 1, 2019.

(Transitional Measures for Penal Provisions)

Article 2 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act comes into effect.

(Delegation to Cabinet Order)

Article 3 Beyond what is prescribed in the preceding Article, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

#### Supplementary Provisions [Act No. 70 of July 6, 2018] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date of promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) Omitted

(ii) The provisions of Article 4 and Article 5 of these Supplementary Provisions: the date of promulgation of this Act or the date of promulgation of the Act Partially Amending the Copyright Act (Act No. 30 of 2018), whichever comes later.

(Provisions on Coordination Due to the Partial Amendment of the Amended Copyright Act)

Article 5 If the effective date falls on or after the effective date of the provisions set forth in Article 1, item (i) of the Supplementary Provisions of the Amended Copyright Act, the phrases “; hereinafter referred to as the ‘adjustment Act’” in Article 8 of the Supplementary Provisions of the Amended Copyright Act and “adjustment Act” in Article 9, paragraph (1) of the Supplementary Provisions of the Amended Copyright Act are deemed to be replaced with “)” and “the Act on Adjust Related Acts to Coordinate with the Conclusion of the Trans-Pacific Partnership Agreement and the Conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Act No. 108 of 2016; hereinafter referred to as the ‘adjustment Act’)”, respectively and the provisions of the preceding Article do not apply.

Supplementary Provisions [Act No. 72 of July 13, 2018] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 30 and Article 31 of these Supplementary Provisions: the date of promulgation.

(Transitional Measures Accompanying the Partial Amendment of the Copyright Act)

Article 20 The provisions of Article 77 of the Copyright Act as amended by the provisions of the preceding Article (including as applied mutatis mutandis pursuant to Article 104 of that Act) and of Article 88, paragraph (1) of the Copyright Act as amended by the provisions of the preceding Article apply to the transfer of a copyright, print right, or neighboring rights, or a pledge on any of these rights (hereinafter referred to as a “copyright, etc.” in this Article) that is conducted on or after the effective date, and prior laws continue to govern the transfer of a copyright, etc. that is conducted before the effective date.

(Delegation to Cabinet Order)

Article 31 Beyond as prescribed in these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 48 of June 12, 2020] [Extract]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2021; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 3 (limited to the provisions amending Article 20, item (i) of the Act on Special Provisions for the Registration of Program Works) and the following Article, and the provisions of Articles 3, 6, 7, 12 and 13 of the Supplementary Provisions (Article 13 is limited to the part adding “; the same applies in paragraph (3)” following the phrase “including...” in the provisions amending Article 4, paragraph (1) of the Act on Prevention of Unauthorized Recording of Films (Act No. 65 of 2007)): the date of promulgation;

(ii) The provisions of Article 1 and the provisions of Articles 4, 8, 11, and 13 of the Supplementary Provisions (Article 13 excludes the provisions for amendment set forth in the preceding item): October 1, 2020.

(Raising the Awareness of the People)

Article 2 (1) The national government and local government agencies must raise awareness regarding prevention of the act of infringing a copyright by undertaking, for private use (meaning the private use as provided in Article 30, paragraph (1) of the Copyright Act as amended under the provisions of Article 2 (hereinafter referred to as the “Copyright Act amended under Article 2”)), the specified infringing reproduction (meaning the specified infringing reproduction as provided in item (iv) of the same paragraph; hereinafter the same applies in this paragraph), knowing that the relevant action constitutes the specified infringing reproduction (hereinafter referred to as a “specified act of infringement”), and take other necessary measures, so that the people are able to gain a deeper understanding of the importance of preventing specified acts of infringement.

(2) The national government and local government agencies must enhance education regarding the prevention of specified acts of infringement in schools and in a variety of other settings, so that minors are able to gain a deeper understanding of the importance of preventing specified acts of infringement at every opportunity.

(Measures to Be Taken by Relevant Businesses)

Article 3 A business that makes available or presents a work (limited to one that is the subject of a copyright) to the public must endeavor to take measures to prevent specified acts of infringement.

(Considerations to Operations Concerning Penal Provisions)

Article 4 In applying the provisions of Article 119, paragraph (2) (limited to the parts concerned with items (iv) and (v)) and Article 120-2 (limited to the part concerned with item (iii)) of the Copyright Act as amended under the provisions of Article 1 (referred to as the “Copyright Act amended under Article 1” in Article 8 of the Supplementary Provisions), due consideration must be given so as not to unreasonably restrict the provision of information using the internet and other acts undertaken using the internet.

Article 5 In applying the provisions of Article 119, paragraph (3) (limited to the part concerned with item (ii)) of the Copyright Act amended under Article 2, due consideration must be given so as not to unreasonably restrict the collection of information using the internet and other acts undertaken using the internet.

(Reviews)

Article 6 Approximately one year after this Act comes into effect, the government is to review the provisions of Article 30, paragraph (1) (limited to the part concerned with item (iv)) and Article 119, paragraph (3) (limited to the part concerned with item (ii)) of the Copyright Act amended under Article 2 in consideration of the status of their enforcement, and take necessary measures based on the results of this review.

Article 7 With regard to the initiatives to deal with the action of making a work available for transmission that infringes on a copyright, print right or neighboring rights, the government is to conduct a review from the perspective of enhancing these initiatives, and take necessary measures based on the results of this review.

(Transitional Measures for Perfection of Right of Exploitation)

Article 8 The provisions of Article 63-2 of the Copyright Act amended under Article 1 (including as applied mutatis mutandis pursuant to Article 80, paragraph (4) and Article 103 of the Copyright Act amended under Article 1) also apply to the right to exploit a work (meaning a work, performance, phonogram, broadcast, or cablecast; hereinafter the same applies in this Article) under the authorization referred to in Article 63, paragraph (1) of the Copyright Act prior to the amendment under the provisions of Article 1 (hereinafter referred to as the “Copyright Act prior to amendment under Article 1”) in this Article) (including cases where Article 63, paragraph (1) of Copyright Act prior to amendment under Article 1 is applied mutatis mutandis pursuant to Article 103 of the same Act) and the authorization referred to in Article 80, paragraph (3) of the same Act, as prescribed in Article 63, paragraph (2) of the Copyright Act prior to amendment under Article 1 (including as applied mutatis mutandis pursuant to Article 80, paragraph (4) and Article 103 of the Copyright Act prior to

amendment under Article 1), if the authorization has been established before the day preceding the day on which the provisions set forth in Article 1, item (ii) of the Supplementary Provisions come into effect (hereinafter referred to as the “effective date under item (ii)”); provided, however, that this right may be asserted only against a person that has acquired the copyright, print right or neighboring rights for a work that is subject to the right of exploitation on or after the effective date under item (ii) or any other third party.

(Transitional Measures for Payment of Fees)

Article 9 (1) Notwithstanding the provisions of Article 70, paragraph (2) and Article 107, paragraph (2) of the Copyright Act amended under Article 2, prior laws continue to govern the payment of fees regarding an application for a compulsory license under Article 67, paragraph (1) of the Copyright Act prior to the amendment by the provisions of Article 2 (hereinafter referred to as the “Copyright Act prior to amendment under Article 2” in this Article) (including as applied mutatis mutandis pursuant to Article 103 of the Copyright Act prior to amendment under Article 2), and an application for mediation under Article 106 of the Copyright Act prior to amendment under Article 2, which are filed, prior to the day on which this Act comes into effect (hereinafter referred to as the “effective date”), by an incorporated administrative agency (meaning the incorporated administrative agency as provided in Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No. 103 of 1999) (limited to an incorporated administrative agency designated by Cabinet Order under Article 70, paragraph (2) of the Copyright Act prior to amendment under Article 2).

(2) Notwithstanding the provisions of Article 78, paragraph (6) of the Copyright Act amended under Article 2 and Article 26 of the Act on Special Provisions for the Registration of Program Works as amended under the provisions of Article 3 (hereinafter referred to as the “New Act on Special Provisions for the Registration of Program Works” in the following Article), prior laws continue to govern the payment of fees regarding an application for registration under Article 75, paragraph (1), Article 76, paragraph (1), Article 76-2, paragraph (1), and Article 77 of the Copyright Act prior to amendment under Article 2, and a request under Article 78, paragraph (4) of the Copyright Act prior to amendment under Article 2 (including as applied mutatis mutandis pursuant to Article 104 of the Copyright Act prior to amendment under Article 2), which are filed prior to the effective date by the national government or an incorporated administrative agency (limited to an incorporated administrative agency designated by Cabinet Order under Article 26 of the Act on Special Provisions for the Registration of Program Works prior to the amendment by the provisions of Article 3).

(Transitional Measures for Penal Provisions)

Article 11 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before the effective date under item (ii).

(Delegation to Cabinet Order)

Article 12 Beyond what is prescribed in Article 8 through the preceding Article of these Supplementary Provisions, necessary transitional measures (including transitional measures for penal provisions) connected with the coming into effect of this Act are provided for by Cabinet Order.

Supplementary Provisions [Act No. 37 of May 19, 2021] [Extract]

(Effective Date)

Article 1 This Act comes into effect on September 1, 2021; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 27 (limited to the amendment provisions from appended tables 1 through 5 of the Residential Basic Book Act) and the provisions of Articles 45, 47 and 55 (limited to the amendment provisions of appended tables 1 and 2 of the Act on the Use of Numbers to Identify a Specific Individual in Administrative Procedures (other than the amendment provisions of paragraph (27) of that table)) and the provisions of Article 8, paragraph (1), Articles 59 through 63, 67 and 71 through 73 of these Supplementary Provisions : the date of promulgation;

(ii) and (iii): omitted

(iv) The provisions of Articles 17, 35, 44, 50, 58, and the following Article, and the provisions of Articles 3, 5, 6, 7 (except paragraph (3)), 13, 14, 18 (limited to the amendment provisions of Article 129 of the Family Register Act (other than the part adding “the original and” following the phrase “in a family register”)), 19 through 21, 23, 24, 27, 29 (other than the amendment provisions of Article 30-15, paragraph (3) of the Residential Basic Book Act), 30, 31, 33 through 35, 40, 42, 44 through 46, 48, 50 through 52, 53 (other than the amendment provisions of Article 45-2, paragraphs (1), (5), (6) and (9), and the Article 52-3 of the Act on the Use of Numbers to Identify a Specific Individual in Administrative Procedures), 55 (other than the amendment provisions of Article 35 of the Act on Promotion of Cancer Registry (Act No. 111 of 2013) (limited to the part deleting “including Ordinances”)), 56, 58, 64, 65, 68 and 69: the date fixed by Cabinet Order within one year

from the date of its promulgation.

(Transitional Measures for Penal Provisions)

Article 71 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act (as for the provisions of the items of Article 1 of these Supplementary Provisions; hereinafter the same applies in this Article) comes into effect and to an action that a person undertakes after this Act comes into effect but that prior laws continue to govern pursuant to the provisions of the Supplementary.

(Delegation to Cabinet Order)

Article 72 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures (including transitional measures for penal provisions) connected with the coming into effect of this Act are provided for by Cabinet Order.

#### Supplementary Provisions [Act No. 52 of June 2, 2021]

(Effective Date)

Article 1 This Act comes into effect on January 1, 2022; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

- (i) The provisions of Article 7 of these Supplementary Provisions: the date of promulgation;
- (ii) The provisions of Articles 3 and 4 of the Supplementary Provisions: October 1, 2021;
- (iii) The provisions of Article 1 amending Article 3, paragraph (1) of the Copyright Act; the provisions amending Article 4, paragraph (1) of that Act; the provisions amending Article 31 of that Act; the provisions amending Article 38, paragraph (1) of that Act; the provisions amending Article 47-6, paragraph (1), item (ii) of that Act; the provisions amending Article 47-7 of that Act; the provisions amending Article 49, paragraph (1), item (i) (limited to the part replacing the term “or the second sentence of paragraph (3)” with “, paragraph (3), item(i) or paragraph (5) item (i)”) of that Act; the provisions amending Article 49, paragraph (2), item (i) of that Act; the provisions amending Article 86 of that Act; the provisions amending Article 102, paragraph (9), item (i) (limited to the part replacing the term “or the second sentence of paragraph (3)” with “, paragraph (3), item(i) or paragraph (5) item (i)”) of that Act and the provisions of Article 5 of the Supplementary Provisions: the date fixed by Cabinet Order within one year from the date of its promulgation;

(iv) The provisions of Article 2: the date fixed by Cabinet Order within two years from the date of its promulgation.

(Transitional Measures)

Article 2 The provisions of Article 29, paragraphs (2) and (3) of the Copyright Act as amended by the provisions of the Article 1 (other than the amending provisions set forth in the item (iii) of the preceding Article) (hereinafter referred to as the “Copyright Act amended under Article 1”) apply to the ownership of copyright to a cinematographic work created on or after the day on which this Act comes into effect (hereinafter referred to as the “effective date”); and prior laws continue to govern the ownership of copyright to a cinematographic work which has been created before the effective date.

(Preparatory Actions for Determining Automatic Public Transmission not to Make the Subject of the Simultaneous Broadcasting)

Article 3 The Commissioner of the Agency for Cultural Affairs may consult with the Minister for Internal Affairs and Communications for determining automatic public transmission that would unreasonably prejudice the interests of the copyright owner, the owner of publishing rights or the owner of neighboring rights or one that cannot be easily viewed or listened to widely by citizens, provided for in Article 2, paragraph (1), item (ix)-7 of the Copyright Act amended under Article 1 even before the date of its enforcement.

(Preparatory Actions for Designation of Copyright Management Services)

Article 4 (1) The Commissioner of the Agency for Cultural Affairs may designate the copyright management service (meaning the copyright management service provided in Article 2, paragraph (1), item (xxiii) of the Copyright Act amended under Article 1; the same applies hereinafter in this Article) in accordance with the provisions of Article 93-3, paragraph (3), Article 94, paragraph (1), Article 94-3 paragraph (3) or Article 96-3, paragraph (3) of the Copyright Act amended under Article 1 and the provisions of Article 93-3, paragraph (4) of the Copyright Act amended under Article 1 (including as applied mutatis mutandis pursuant to the provisions of Articles 94, paragraph (4), Article 94-3, paragraph (4), and Article 96-3, paragraph (4)) even before the date of its enforcement. In this case, such designation is, respectively, deemed to be the designation under the provisions of Article 93-3, paragraph (3), Article 94, paragraph (1), Article 94-3, paragraph (3) or Article 96-3, paragraph (3) after the effective date.

(2) The designated copyright management service pursuant to the provisions of the preceding paragraph may fix the amount of remuneration or compensation provided for in

Article 93-3, paragraph (7) of the Copyright Act amended under Article 1, in consultation with broadcasters, cablecasters or simultaneous broadcasting services (meaning the simultaneous broadcasting service provided in Article 2, paragraph (1), item (ix)-8 of the Copyright Act amended under Article 1; the same applies hereinafter in Article 8, paragraph (1) of the Supplementary Provisions.) in accordance with the provisions of Article 93-3, paragraphs (7) and (12) of the Copyright Act amended under Article 1 (including as these provisions are applied mutatis mutandis pursuant to the provisions of Article 94, paragraph (4), Article 94-3, paragraph (4) and Article 96-3, paragraph (4) ; the same applies hereinafter in this paragraph) even before the date of its enforcement.

(Preparatory Actions for Designation of the Association)

Article 5 (1) The Commissioner of the Agency for Cultural Affairs may designate the association in accordance with the provisions of Article 104-10-2, paragraph (1) and Article 104-10-3 of the Copyright Act as amended by the provisions of the Article 2 (hereinafter referred to as the “Copyright Act amended under Article 2” in this Article and Article 8, paragraph (2) of the Supplementary Provisions) prior to the date on which the provisions set forth in Article 1, item (iv) of the Supplementary Provisions come into effect (hereinafter referred to as “item (iv) effective date”). In this case, such designation is deemed to be the designation under the provisions of Article 104-10-2, paragraph (1) after the item (iv) effective date.

(2) The designated association under the provisions of the preceding paragraph may hear the opinions of that paragraph and file an application for the approval of Article 104-10-4, paragraph (1) in accordance with the provisions of Article 104-10-4, paragraphs (1) and (3) of the Copyright Act amended under Article 2 before the item (iv) effective date.

(3) Upon receipt of an application for the approval of the provisions of the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may consult the Culture Council and grant the approval in accordance with the provisions of Article 104-10-4, paragraphs (4) and (5) of the Copyright Act amended under Article 2 before the item (iv) effective date. In this case, the approval deemed to be the approval under the provisions of Article 104-10-4, paragraph (1) after the item (iv) effective date.

(4) The designated association under the provisions of paragraph (1) may establish rules on the execution of functions connected with compensation of Article 104-10-5, paragraph (1) and notify the Commissioner of the Agency for Cultural Affairs thereof in accordance with the provisions of Article 104-10-5 of the Copyright Act amended under Article 2 before the item (iv) effective date. In this case, the notification deemed to be the notification under the provisions of the preceding paragraph after the item (iv) effective date.

(5) The Commissioner of the Agency for Cultural Affairs may consult the Culture Council

for planning the enactment of Cabinet Order referred to in Article 104-10-6, paragraph (1) of the Copyright Act amended under Article 2 before the item (iv) effective date.

(Transitional Measures for Penal Provisions)

Article 6 Prior laws continue to govern the applicability of penal provisions to an action that a person undertakes before this Act (as for the provisions of Article 1, items (iii) and (iv) of these Supplementary Provisions) comes into effect.

(Delegation to Cabinet Order)

Article 7 Beyond as prescribed from Article 2 through the preceding Article of these Supplementary Provisions, necessary transitional measures (including transitional measures for penal provisions) connected with the coming into effect of this Act are provided for by Cabinet Order.

(Reviews)

Article 8 (1) Approximately three years after this Act comes into effect, the government is to review what initiatives should be implemented for the fair exploitation of the work, performance, or phonogram for simultaneous broadcasting and maintenance of the proper interests of the copyright owner and owner of neighboring rights in consideration of the status of implementation of simultaneous broadcasting (meaning the simultaneous broadcasting provided for in Article 2, paragraph (1), item (ix)-7 of the Copyright Act amended under Article 1 ; hereinafter the same applies in this paragraph) undertaken by a broadcaster, cablecaster or simultaneous broadcasting service in the course of trade, the status of payment of the remuneration and the compensation to the copyright owner and other status of the Copyright Act amended under Article 1, and take necessary measures based on the results of this review.

(2) In view of the fact that it is important to reflect expenses required for compensation for public transmission by libraries or similar facilities by a person that establishes a specified library or similar facility provided for in Article 31, paragraph (3) of the Copyright Act amended under Article 2 (meaning the compensation for public transmission by libraries or similar facilities provided for in Article 104-10-2, paragraph (1) of the Copyright Act amended under Article 2; hereinafter the same applies in this paragraph ) in costs of the user of the specified library or similar facility provided for in Article 31, paragraph (2) of the Copyright Act amended under Article 2, the government must endeavor to obtain public understanding and cooperation by making public the purport and content of the purport and program of compensation for public transmission by libraries or similar facilities through publicity activities to contribute to smooth and proper shifting of expenses.

Supplementary Provisions (Act No. 48 of May 25, 2022) (Extract)

(Date of Enforcement)

Article 1 This Act shall come into force on the date specified by Cabinet Order within a period not exceeding four years from the date of promulgation; provided, however, that the provisions listed in the following item shall come into force on the date specified therein.

(i) The provisions of Article 3, the provisions of Article 60 of the Supplementary Provisions amending Article 52, paragraph (2) of the Commercial Registration Act (Act No. 125 of 1963), and the provisions of Article 125 of the Supplementary Provisions: the date of promulgation.

(Delegation to Cabinet Order)

Article 125 In addition to what is provided for in these Supplementary Provisions, transitional measures necessary for the enforcement of this Act shall be prescribed by Cabinet Order.

Supplementary Provisions (Act No. 68 of June 17, 2022) (Extract)

(Date of Enforcement)

(1) This Act shall come into force on the date of enforcement of the Act for Partial Amendment of the Penal Code and Other Acts; provided, however, that the provisions listed in the following item shall come into force on the date specified therein.

(i) The provisions of Article 509: the date of promulgation.

Supplementary Provisions (Act No. 33 of May 26, 2023) (Extract)

(Date of Enforcement)

Article 1 This Act shall come into force on the date specified by Cabinet Order within a period not exceeding three years from the date of promulgation; provided, however, that the provisions listed in the following items shall come into force on the dates respectively specified therein.

(i) The provisions of Article 6 of the Supplementary Provisions: the date of promulgation.

(ii) The provisions amending Article 40, the provisions adding one Article after Article 41, the provisions amending Article 42, the provisions renumbering Article 42-3 as Article 42-4, renumbering Article 42-2 as Article 42-3, and adding one Article after Article 42, the provisions amending Article 47-6, paragraph (1), item (ii), the provisions amending Article

47-7, the provisions amending Article 48, paragraph (1), the provisions amending Article 49, the provisions amending Article 86, the provisions amending Article 102, and the provisions amending Article 114, as well as the provisions of Articles 5 and 9 of the Supplementary Provisions: January 1, 2024.

The provisions of Articles 3 and 4 of the Supplementary Provisions: the date specified by Cabinet Order within a period not exceeding two years and six months from the date of promulgation.

(Preparatory Acts Related to the Designation of the Designated Compensation Management Organization)

Article 3 (1) A person who intends to obtain the designation under Article 104-18 of the New Act may, even prior to the date of enforcement, file an application pursuant to the example of the provisions of Article 104-19, paragraphs (1) and (2) of the New Act.

(2) When an application for designation has been filed pursuant to the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may, even prior to the date of enforcement, grant such designation and give public notice thereof pursuant to the example of the provisions of Article 104-18 and Article 104-19, paragraphs (3) and (4) of the New Act. In such case, the designation and the public notice shall, on and after the date of enforcement, be deemed respectively to be the designation under Article 104-18 of the New Act and the public notice under Article 104-19, paragraph (4) of the New Act.

(3) A person who has obtained designation pursuant to the preceding paragraph may, even prior to the date of enforcement, file an application for approval of the compensation management rules prescribed in Article 104-23, paragraph (1) of the New Act, pursuant to the example of the provisions of Article 104-23, paragraphs (1) and (2) of the New Act.

(4) When an application for approval has been filed pursuant to the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may, even prior to the date of enforcement, make inquiries to the Council for Cultural Affairs and grant such approval pursuant to the example of the provisions of Article 104-23, paragraphs (1) and (3) of the New Act. In such case, the approval and the public notice shall, on and after the date of enforcement, be deemed respectively to be the approval under Article 104-23, paragraph (1) of the New Act and the public notice under Article 104-23, paragraph (3) of the New Act.

(5) With respect to the application of Article 104-23, paragraph (4) of the New Act in cases where public notice has been given by the Commissioner of the Agency for Cultural Affairs pursuant to the preceding paragraph, the phrase “the day following the day of the public notice under the preceding paragraph” in that paragraph shall be read as “the date of enforcement of the Act for Partial Amendment of the Copyright Act (Act No. 33 of 2023).”

(6) The Commissioner of the Agency for Cultural Affairs may, even prior to the date of enforcement, consult the Council for Cultural Affairs, pursuant to the example of the provisions of Article 104-22, paragraph (3) of the New Act, for the purpose of drafting the Cabinet Order under Article 104-22, paragraph (1) of the New Act.

(Preparatory Acts Related to the Registration of the Registration Confirmation Organization)

Article 4 (1) A person who intends to obtain the registration under Article 104-33, paragraph (1) of the New Act may, even prior to the date of enforcement, file an application pursuant to the example of the provisions of Article 104-34, paragraphs (1) and (2) of the New Act.

(2) When an application for registration has been filed pursuant to the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may, even prior to the date of enforcement, grant such registration and give public notice thereof pursuant to the example of the provisions of Article 104-33, paragraph (1) and Article 104-34, paragraphs (3) through (6) of the New Act. In such case, the registration and the public notice shall, on and after the date of enforcement, be deemed respectively to be the registration under Article 104-33, paragraph (1) of the New Act and the public notice under Article 104-34, paragraph (6) of the New Act.

(3) A person who has obtained registration pursuant to the preceding paragraph may, even prior to the date of enforcement, hear opinions pursuant to the example of Article 104-35, paragraphs (1) through (3) of the New Act, and may file an application for approval of the confirmation and related administrative rules prescribed in Article 104-35, paragraph (1) of the New Act.

(4) When an application for approval has been filed pursuant to the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may, even prior to the date of enforcement, consult the Council for Cultural Affairs and grant the approval pursuant to the example of the provisions of Article 104-35, paragraphs (1), (4), and (5) of the New Act. In such case, the approval shall, on and after the date of enforcement, be deemed to be the approval under Article 104-35, paragraph (1) of the New Act.

(Transitional Measures Concerning Penal Provisions)

Article 5 With respect to the application of penal provisions to acts committed prior to the enforcement of this Act (or, with regard to the provisions listed in Article 1, item (ii) of these Supplementary Provisions, acts committed prior to the enforcement of those provisions), the provisions then in force shall continue to apply.

(Delegation to Cabinet Order)

Article 6 In addition to what is provided for in Articles 2 through the preceding Article of these Supplementary Provisions, transitional measures necessary for the enforcement of this Act (including transitional measures concerning penal provisions) shall be prescribed by Cabinet Order.

Supplementary Provisions (Act No. 53 of June 14, 2023)

This Act shall come into force on the date specified by Cabinet Order within a period not exceeding five years from the date of promulgation; provided, however, that the provisions listed in the following items shall come into force on the dates respectively specified therein.

(i) The provisions of Chapter XXXII and the provisions of Article 388: the date of promulgation.

(ii) The provisions amending Article 22, item (v) of the Civil Execution Act, the provisions amending Article 25 of the same Act, the provisions amending Article 26 of the same Act, the provisions amending Article 29 of the same Act (excluding the part adding, below “no tōhon,” the phrase “or electromagnetic record in which all matters recorded in the electromagnetic record are recorded”), the provisions amending Article 91, paragraph (1), item (iii) of the same Act, the provisions amending Article 141, paragraph (1), item (iii) of the same Act, the provisions amending Article 181, paragraph (1) of the same Act, the provisions amending paragraph (4) of the same Article, the provisions amending Article 183 of the same Act, the provisions amending Article 189 of the same Act, and the provisions amending Article 193, paragraph (1) of the same Act; the provisions of Articles 12, 33, 34, 36, and 37; the provisions amending Article 39, paragraph (2) of the Act on Punishment of Organized Crimes and Control of Crime Proceeds in Article 42; the provisions of Article 45 (excluding the provisions amending Article 98, paragraph (2) and Article 151, paragraph (4) of the Civil Code); the provisions amending Article 41 of the Railway Mortgage Act and the provisions amending Article 43, paragraph (3) of the same Act in Article 47; the provisions of Article 48 and of Chapter IV; the provisions amending Article 2 of the Act on Costs of Civil Procedure in Article 88; the provisions of Article 91; the provisions amending Article 12, paragraph (3) of the Act on Prevention of Domestic Violence and Protection of Victims in Article 185; the provisions of Article 198; and the provisions of Article 387: the date specified by Cabinet Order within a period not exceeding two years and six months from the date of promulgation.

The provisions adding one Article after Article 18 of the Civil Execution Act in Article 1, the provisions amending Article 27 of the same Act, the provisions amending Article 29 of the same Act (limited to the part adding, below “no tōhon,” the phrase “or electromagnetic record in which all matters recorded in the electromagnetic record are recorded”), the

provisions amending Article 33, paragraph (1) of the same Act, the provisions renumbering Article 86 of the same Act as Article 86-2 and adding three Articles after Article 85 of the same Act (excluding the part adding Articles 85-2 and 85-3); the provisions adding five paragraphs to Article 92 of the same Act; the provisions amending Article 111 of the same Act (limited to the part revising the phrase “Article 85 and” to “Articles 85 through 86 and”); the provisions amending Article 142, paragraph (2) of the same Act; the provisions amending Article 166, paragraph (2) of the same Act; the provisions amending Article 167-11, paragraph (7) of the same Act (limited to the part adding, below “Article 92, paragraph (1),” the phrase “and paragraphs (3) through (7)”); the provisions adding two Articles after Article 199 of the same Act; the provisions amending Article 200, paragraph (1) of the same Act; and the provisions adding six Articles to the Supplementary Provisions of the same Act; the provisions of Articles 35 and 40; the provisions amending Article 59 of the Railway Mortgage Act by adding two paragraphs in Article 47; the provisions amending the table of contents of the Civil Conciliation Act in Article 63; the provisions adding one paragraph to Article 27 of the same Act and adding one section to Chapter II of the same Act; the provisions amending Article 17, paragraph (2) of the Enterprise Mortgage Act (limited to the part adding, after “Article 18,” the phrase “and Article 18-2”) and the provisions amending Article 55 of the same Act; the provisions in Article 88 revising the Supplementary Provisions of the Act on Costs of Civil Procedure to be Article 1 of the Supplementary Provisions of that Act and adding headings and adding twelve Articles to the Supplementary Provisions; the provisions adding one Article after Article 59 of the Act on Limitation of Liability of Shipowners, etc., in Article 94; the provisions amending Article 46 of the Civil Provisional Remedies Act (limited to the part adding, after “Article 18,” the phrase “and Article 18-2”); the provisions amending Article 66 and Article 232 of the Act on Special Provisions of Civil Rehabilitation Proceedings, etc., for Financial Institutions in Article 130; the provisions adding one Article after Article 115 of the Civil Rehabilitation Act and the provisions amending Article 153, paragraph (3) of the same Act (limited to the part revising “Civil Execution Act (Act No. 4 of 1979) Article 85” to “Civil Execution Act Articles 85 through 86”); the provisions of Article 161, paragraph (1); the provisions amending Article 110, paragraph (3) of the Corporate Reorganization Act in Article 202 (limited to revising the phrase “Civil Execution Act (Act No. 4 of 1979) Article 85” to “Civil Execution Act Articles 85 through 86”) and the provisions adding one Article after the same Article; the provisions of Article 216, paragraph (1); the provisions amending Article 9 of the Code of Personal Status Litigation by adding one paragraph and the provisions adding two paragraphs to Article 33 of the same Act in Article 219; the provisions amending Article 121 of the Bankruptcy Act by adding one Article after it, the provisions amending Article

122, paragraph (2) of the same Act, the provisions adding one Article after Article 136 of the same Act, and the provisions amending Article 191, paragraph (3) of the same Act (limited to the part adding, after “Article 85,” the phrase “through Article 86”); the provisions of Article 265, paragraph (1); the provisions amending Article 33, paragraph (4) of the Non-Contentious Case Procedures Act in Article 304, the provisions amending Article 43 of the same Act, and the provisions amending Article 47, paragraph (1) of the same Act; the provisions amending Article 40 of the Domestic Relations Case Procedures Act in Article 326, the provisions amending Article 49 of the same Act, the provisions amending Article 54, paragraph (1) of the same Act, the provisions amending Article 59 of the same Act, the provisions amending Article 60, paragraph (2) of the same Act (limited to revising “and paragraph (2)” to “through paragraph (3)”), the provisions amending Article 84, paragraph (1) of the same Act (limited to revising “through paragraph (3),” to “through paragraph (4),” and adding the phrase, after “to the High Court,” “, and in Article 59, paragraph (3), the phrase ‘Family Court and’ shall be read as ‘High Court and’”), the provisions amending Article 260, paragraph (1), item (vi) of the same Act, and the provisions amending Article 261, paragraph (5) of the same Act; the provisions amending Article 70 of the Act for Implementation of the Convention on the Civil Aspects of International Child Abduction in Article 341, the provisions amending Article 75, paragraph (1) of the same Act, the provisions adding one paragraph to Article 80 of the same Act, and the provisions amending Article 103, paragraph (6) of the same Act; and the provisions amending Article 53 of the Act on Special Provisions of Civil Court Procedures for Collective Recovery of Property Damage Suffered by Consumers in Article 356 (limited to the part deleting “, Article 87-2”): the date of enforcement of the Act for Partial Amendment of the Code of Civil Procedure and Related Acts.

#### Supplementary Provisions (Act No. 55 of June 19, 2024)

This Act shall come into force on the day on which one month has elapsed from the date of promulgation.

#### Supplementary Provisions (Act No. 27 of April 25, 2025) (Extract)

(Date of Enforcement)

Article 1 This Act shall come into force on the date specified by Cabinet Order within a period not exceeding nine months from the date of promulgation."