

4. LAW ON EXCEPTIONAL PROVISIONS FOR THE REGISTRATION OF PROGRAM WORKS

(Law No.65, promulgated on May 23, 1986 as amended up to December 22, 1999 by Law No. 220)

Table of Contents:

- Chapter I General Provisions (Article 1).
- Chapter II Exceptional Provisions for Registration Procedures, etc. (Articles 2 to 4).
- Chapter III Exceptional Provisions for Registration Organ (Articles 5 to 28).
- Chapter IV Penal Provisions (Articles 29 to 31).
- Supplementary Provisions.

Chapter I General Provisions

(Purpose)

Article 1. — The purpose of this Law is to provide for the exceptional provisions to the Copyright Law (Law No.48, of 1970) with respect to the registration of program works.

Chapter II Exceptional Provisions for Registration Procedures, etc.

(Program register, etc.)

Article 2. —(1) In case of the registration, mentioned in Article 75, paragraph (1), Article 76, paragraph (1), Article 76bis, paragraph (1) or Article 77 of the Copyright Law, made of program works (hereinafter referred to as “ program registration”), the copyright register (hereinafter referred to as “ program register”) may, as provided by Cabinet Order, be prepared in whole or in part by means of magnetic tapes (including any similar material object capable of assuring records of given items; the same shall apply in the next paragraph).

(2) Any person may demand of the Commissioner of the Agency for Cultural Affairs the delivery of copies of entries in the part of the program register, prepared by means of magnetic tapes.

(3) The person making such demand shall be required to pay fee, the amount of which is fixed by Cabinet Order, taking into account actual cost.

(Application for program registration)

Article 3.— A person who intends to apply for program registration shall, as provided by Cabinet Order, submit to the Commissioner of the Agency for Cultural Affairs a copy of a program work intended for application as the material for indicating the content of that program work, unless such program work has already been registered as one of the program registrations other than that applied for.

(Public notice of program registration)

Article 4.— The Commissioner of the Agency for Cultural Affairs shall, when having made a registration, mentioned in Article 76, paragraph (1) or Article 76bis, paragraph (1) of the Copyright Law, of a program work, give public notice thereof as provided by Ministry of Education and Science Ordinance.

Chapter III Exceptional Provisions for Registration Organ

(Designation of registration organ, etc.)

Article 5.—(1) The Commissioner of the Agency for Cultural Affairs may entrust a person designated by the Commissioner (hereinafter referred to as “designated registration organ”) with the whole or a part of program registration business as well as business carried out upon demand mentioned in Article 2, paragraph (2), or in Article 78, paragraph (3) of the Copyright Law and business of public notice mentioned in the preceding Article (hereinafter referred to as “registration business”).

(2) Designation mentioned in the preceding paragraph shall, as provided by Ministry of Education and Science Ordinance, be made upon application of a person who intends to conduct registration business.

(3) In case where the Commissioner of the Agency for Cultural Affairs entrusts the designated registration organ with registration business, he shall no longer conduct such registration business as conducted by that organ.

(4) For the application of the provisions of Article 2, paragraph (2), Article 3 and the preceding Article as well as the provisions of Article 78, paragraphs (1) to (3) of the Copyright Law to the case where the designated registration organ conducts registration business, “the Commissioner of the Agency for Cultural Affairs” in these provisions (except Article 78, paragraph (2) of that Law) shall read “the designated registration organ”, and “when having made a registration mentioned in Article 75, paragraph (1)” in Article 78, paragraph (2) of that Law shall read “when the designated registration organ has made a registration mentioned in Article 75, paragraph (1)”.

(Disqualification clause)

Article 6.—The following shall not be able to obtain the designation mentioned in paragraph (1) of the preceding Article:

(i) a person who has been sentenced to a fine or more severe punishment in accordance with the provisions of this Law or the Copyright Law and who has not yet passed two years since the date of fulfilling his sentence or the date when he was excused from fulfilling his sentence;

(ii) a person whose designation has been annulled in accordance with the provisions of Article 20 and who has not yet passed two years since the date of such annulment;

(iii) where any of the officers conducting business falls within either of the following:

(a) a person who falls within item (i) above;

(b) a person who was removed from office by an order issued in accordance with the provisions of Article 15 and who has not yet passed two years since the date of such removal.

(Standard for designation)

Article 7.—The Commissioner of the Agency for Cultural Affairs shall not make designation mentioned in Article 5, paragraph (1) unless he recognizes that the application for such designation meets the following qualifications:

(i) that persons who have such knowledge and experience as meet the conditions provided by Ministry of Education and Science Ordinance are to

conduct program registration business, and that the number of such persons is equal to or more than that provided by Ministry of Education and Science Ordinance;

(ii) that the applicant has a sufficient financial basis and technical capability to conduct properly and smoothly registration business;

(iii) that the applicant is a legal person established under the provisions of Article 34 of the Civil Law (Law No.89, of 1896), and that the composition of officers or staffs thereof is not likely to harm fair conducting of registration business;

(iv) that, in case where the applicant conducts business other than registration business, such business shall not lead to unfair conducting of registration business;

(v) that designation does not hinder a proper and smooth conducting of registration business.

(Duty to make registration, etc.)

Article 8. —(1) In case where program registration is applied for, the designated registration organ shall make program registration without delay unless there are reasonable reasons.

(2) The designated registration organ shall, when making program registration, entrust the persons mentioned in item (i) of the preceding Article (hereinafter referred to as “registrar”) with the making of registration.

(Duty to make a report on registrations of true names)

Article 9. — The designated registration organ shall, when having made a registration mentioned in Article 75, paragraph (1) of the Copyright Law, make a report promptly to the Commissioner of the Agency for Cultural Affairs on matters necessary for giving public notice mentioned in Article 78, paragraph (2) of that Law.

(Change of office)

Article 10. — In case where the designated registration organ intends to change the location of its office where registration business is conducted, it shall give notice thereof to the Commissioner of the Agency for Cultural Affairs at least two weeks prior to such change.

(Registration business rules)

Article 11.—(1) The designated registration organ shall establish rules relating to registration business (hereinafter referred to as “registration business rules”) and obtain the approval thereof from the Commissioner of the Agency for Cultural Affairs. The same shall apply in case where the organ intends to amend registration business rules.

(2) Matters to be provided in registration business rules shall be provided by Ministry of Education and Science Ordinance.

(3) In case where the Commissioner of the Agency for Cultural Affairs recognizes that the approved registration business rules mentioned in paragraph (1) have become inadequate for fair conducting of registration business, the Commissioner may order the designated registration organ to amend such rules.

(Suspension and abolition of registration business)

Article 12.—The designated registration organ may not suspend or abolish the whole or a part of registration business without the permission of the Commissioner of the Agency for Cultural Affairs.

(Business program, etc.)

Article 13.—(1) The designated registration organ shall, without delay after the designation in case of a business year in which the designation mentioned in Article 5, paragraph (1) was made or before the commencement of each business year in case of other business years, prepare a business program and a revenue and expenditure budget for the business year and obtain the approval of the Commissioner of the Agency for Cultural Affairs. The same shall apply in case where the organ intends to amend such program and budget.

(2) The designated registration organ shall, within three months after the close of each business year, prepare a business report and a report on the settlement of accounts for the business year and submit them to the Commissioner of the Agency for Cultural Affairs.

(Appointment to and removal from office of officers, etc.)

Article 14.—The appointment to and the removal from office of officers and registrars of the designated registration organ shall not be effective without

the approval of the Commissioner of the Agency for Cultural Affairs.

(Order of removal from office)

Article 15.— In case where an officer or a registrar of the designated registration organ violates this Law (including orders issued or measures taken in accordance with this Law) or the registration business rules, or performs an act which is considerably inadequate for the registration business, the Commissioner of the Agency for Cultural Affairs may order the designated registration organ to remove such officer or registrar from office.

(Duty to keep secrets, etc.)

Article 16.— (1) Any person who is or was an officer or a staff of the designated registration organ shall not leak out any secret which he or she has come to know in connection with the registration business.

(2) For the application of the penal provisions of the Criminal Code (Law No.45, of 1907) and the other laws, the officers and the staffs of the designated registration organ who are engaged in the registration business shall be considered to be an officer engaged in public service by law.

(Adjustment order, etc.)

Article 17.— (1) In case where the Commissioner of the Agency for Cultural Affairs recognizes that the designated registration organ no longer meets the qualifications mentioned in items (i) to (iv) of Article 7, the Commissioner may order the designated registration organ to take measures necessary for meeting such qualifications.

(2) In addition to the order mentioned in the preceding paragraph, the Commissioner of the Agency for Cultural Affairs may issue to the designated registration organ other orders necessary for the supervision of the registration business if the Commissioner considers it necessary for the enforcement of this Law.

(Entries in books, etc.)

Article 18.— (1) The designated registration organ shall keep books and enter into books such matters relating to the registration business as provided by Ministry of Education and Science Ordinance.

(2) The books mentioned in the preceding paragraph shall be preserved as

provided by Ministry of Education and Science Ordinance.

(Report and inspection)

Article 19.—(1) To the extent necessary for the enforcement of this Law, the Commissioner of the Agency for Cultural Affairs may order the designated registration organ to make a report on its business or financial situations, or order the staffs of the Agency to enter the office of the designated registration organ and inspect its business situations or books, documents or other objects, or to question persons concerned.

(2) The staffs of the Agency who make an inspection in accordance with the preceding paragraph shall carry with them their identification cards and show them to persons concerned.

(3) The authority of inspection mentioned in paragraph (1) shall not be interpreted as being given for the purpose of criminal investigation.

(Annulment of designation, etc.)

Article 20.—In case where the designated registration organ falls within any of the following items, the Commissioner of the Agency for Cultural Affairs may annul the designation, or order a suspension of the whole or a part of the registration business by fixing a specific term:

(i) where the designated registration organ violates the provisions of Articles 8 to 10, Article 11, paragraph (1), Articles 12 and 13, Article 16, paragraph (1) and Article 18;

(ii) where the designated registration organ falls within item (i) or (ii) of Article 6;

(iii) where the designated registration organ conducts the registration business not in accordance with registration business rules which obtained the approval mentioned in Article 11, paragraph (1);

(iv) where the designated registration organ violates an order issued in accordance with the provisions of Article 11, paragraph (3), Article 15 or Article 17;

(v) where the designated registration organ obtained the designation by dishonest means.

(Exceptional provisions for hearing procedures)

Article 21.—(1) An inquiry to be made on the date for the hearing on the

order of removal from office mentioned in Article 15 or the annulment of designation mentioned in the preceding Article shall be open to the public.

(2) A person who presides over the hearing mentioned in the preceding paragraph shall, if a person interested in measures taken requests to take part in such hearing procedures in accordance with the provisions of Article 17, paragraph (1) of the Administrative Procedures Law (Law No.88, of 1993), allow such request.

(Conduct of the registration business by the Commissioner of the Agency for Cultural Affairs, etc.)

Article 22.—(1) In case where the designated registration organ has suspended the whole or a part of its registration business with the permission mentioned in Article 12, where the Commissioner of the Agency for Cultural Affairs has ordered the designated registration organ to suspend the whole or a part of its registration business in accordance with the provisions of Article 20, or where it has become difficult for the designated registration organ to conduct the whole or a part of its registration business by an act of God or for other reasons, the Commissioner of the Agency for Cultural Affairs shall conduct the whole or a part of such registration business by himself if he recognizes it necessary.

(2) In case where the Commissioner of the Agency for Cultural Affairs conducts the whole or a part of the registration business by himself in accordance with the provisions of the preceding paragraph, where the designated registration organ abolishes the whole or a part of its registration business with the permission mentioned in Article 12, or where the Commissioner of the Agency for Cultural Affairs annuls the designation of the designated registration organ in accordance with the provisions of Article 20, the succession of the registration business and other necessary matters shall be provided by Ministry of Education and Science Ordinance.

(Complaint against measures, etc. taken by the designated registration organ)

Article 23.— Any person who has a complaint against a disposal or an omission thereof made in relation to the registration business conducted by the designated registration organ, may request the Commissioner of the Agency for Cultural Affairs an inquiry under the Complaints Against

Administrative Acts Inquiries Law (Law no.160, of 1962).

(Public notice)

Article 24. — The Commissioner of the Agency for Cultural Affairs shall give a public notice in the Official Gazette as provided by Ministry of Education and Science Ordinance in the following cases:

(i) where the Commissioner has made the designation mentioned in Article 5, paragraph (1);

(ii) where a notice is given in accordance with the provisions of Article 10;

(iii) where the Commissioner has given the permission mentioned in Article 12;

(iv) where the Commissioner has annulled the designation or ordered a suspension of the whole or a part of the registration business in accordance with the provisions of Article 21;

(v) where the Commissioner intends to conduct the whole or a part of the registration business by himself in accordance with the provisions of Article 22, paragraph (1), or where he intends to stop the whole or a part of the registration business conducted by him.

(Fees)

Article 25. — In case where the designated registration organ makes the program registration, a person who intends to apply for the registration shall be required to pay the designated registration organ a fee, the amount of which is fixed by Cabinet Order, taking into account actual cost.

Article 26. — In case where the designated registration organ conducts the registration business (excluding a public notice mentioned in Article 4), the provisions of Article 2, paragraph (3) or the preceding Article, or Article 78, paragraph (4) of the Copyright Law shall not apply if a person required to pay a fee in accordance with these provisions is the State or an independent administrative organ (designated by Cabinet Order in consideration of the contents of its business or other circumstances) mentioned in Article 2, paragraph (1) of the Law for General Rules for Independent Administrative Organs (Law No.103, of 1999).

Article 27.— Fees paid to the designated registration organ in accordance with the provision of Article 2, paragraph (3) or Article 25, or Article 78, paragraph (4) of the Copyright Law shall be the income of that organ.

Article 28.— Other than those provided for in this Chapter, matters necessary for the registration business conducted by the designated registration organ shall be provided by Cabinet Order.

Chapter IV Penal Provisions

Article 29.— Any person who violates the provisions of Article 16, paragraph (1) shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding three hundred thousand Yen.

Article 30.— In case where an order of suspension of the registration business under the provisions of Article 20 is violated, the officer or staff of the designated registration organ who committed the act of violation shall be punishable by imprisonment for a term not exceeding one year or a fine not exceeding three hundred thousand Yen.

Article 31.— The officer or staff of the designated registration organ who committed any of the following acts of violation shall be punishable by a fine not exceeding two hundred thousand Yen.

(i) where he abolished the whole of the registration business without obtaining the permission mentioned in Article 12;

(ii) where he does not keep books or does not enter necessary matters into books in violation of the provisions of Article 18, paragraph (1), or enters false matters into books, or he does not preserve books in violation of the provisions of paragraph (2) of the same Article;

(iii) where he does not make a report under the provisions of Article 19, paragraph (1), or makes a false report, or he refuses, hinders or avoids the inspection under the same provisions, or he does not answer the question under the same provisions or makes a false answer thereto.

Supplementary Provisions

(Date of enforcement)

1.—This Law shall come into force on April 1, 1987. However, the provisions of Articles 5 to 7, Articles 10 and 11, Article 13, paragraph (1), Articles 14 to 17, Articles 19 and 20 (except item (iii)), Articles 21, 24 and 29, Article 31, item (iii) and the next paragraph shall come into force on October 1, 1986.

(Transitory measures)

2.—In case where the designated registration organ was designated before the date of enforcement of this Law, the organ cannot, notwithstanding the provisions of Article 5, paragraph (1), make registration business until that date of enforcement.

Supplementary Provisions (Extract)

(Law No.160, of 1999)

Article 1.—This Law (except Articles 2 and 3) shall come into force on January 6, 2001. However, the following provisions shall come into force on the day mentioned in each item concerned:

(i), (ii): [omitted]

Supplementary Provisions (Extract)

(Law No.220, of 1999)

Article 1.—This Law (except Article 1) shall come into force as from the day mentioned in each item concerned:

(i)~(iii): [omitted]