

5. LAW ON INTERMEDIARY BUSINESS CONCERNING COPYRIGHTS

(Law No.67, of April 5, 1939,
as amended up to November 12, 1999 by Law No.160)

Article 1. – The term “intermediary business concerning copyrights” as used in this Law shall mean the conduct, as an occupation, of an act of agency or mediation on behalf of copyright owners regarding contracts for the use of their works for publication, translation, public performance, broadcasting, cinematographing, sound recording, or other uses.

It shall be deemed an intermediary business concerning copyrights to obtain the transfer of copyrights and conduct, as an occupation, an act of managing the copyrighted works in pursuance of a specific object on behalf of other persons.

The categories of works mentioned in the two preceding paragraphs shall be determined by imperial ordinance.

Article 2. – Any person who intends to engage in an intermediary business concerning copyrights shall, in accordance with the provisions of the Ministry of Education and Science Ordinance, specify the scope of the business and the methods of conducting it, and obtain permission of the Commissioner of the Agency for Cultural Affairs therefor.

Article 3. – A person who has been granted the permission mentioned in the preceding Article (hereinafter referred to as an “intermediary”) shall, in accordance with the provisions of the Ministry of Education and Science Ordinance, specify the rules relating to the royalty rates for the use of the works, and obtain the approval of the Commissioner of the Agency for Cultural Affairs therefor. The same shall apply when the intermediary intends to alter the said rules.

Upon receipt of the application for approval mentioned in the preceding paragraph, the Commissioner of the Agency for Cultural Affairs shall issue a public notice giving a summary of the contents of the application.

Any organization formed for the purpose of publishing or public

performance, or any other persons designated by the Ministry of Education and Science Ordinance, may, within one month after the date of the public notice, submit to the Commissioner of the Agency for Cultural Affairs an opinion regarding the summarized contents of the application mentioned in the preceding paragraph.

After the expiration of one month from the date of the public notice, the Commissioner of the Agency for Cultural Affairs shall, before granting the approval mentioned in the first paragraph of this Article, consult the Culture Council. When an opinion has been submitted in accordance with the provisions of the preceding paragraph, the said opinion shall be presented to the Culture Council.

Article 4. — An intermediary shall obtain the permission of the Commissioner of the Agency for Cultural Affairs when intending to change the scope of, or the methods of conducting, the business.

Article 5. — An intermediary shall submit to the Commissioner of the Agency for Cultural Affairs business reports and statements of accounting in accordance with the provisions of the Ministry of Education and Science Ordinance.

Article 6. — The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary, require an intermediary to report on his business or to present his books and documents relating thereto.

Article 7. — The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary, cause an official to visit and inspect the office or other place of business of an intermediary, and to investigate the condition of his business and assets. In such cases, the official shall, when carrying out this duty, identify his status.

Article 8. — The Commissioner of the Agency for Cultural Affairs may, whenever he deems it necessary in view of the condition of the business or assets of an intermediary, order the intermediary to change the methods of conducting the business, and issue such other orders as may be necessary.

Article 9. — When an intermediary has acted in contravention of this Law or of an order issued under this Law or of a disposition made under such order, or when he has committed an act prejudicial to the public good in the conduct of his business, the Commissioner of the Agency for Cultural Affairs may revoke the permission granted him under Article 2, or suspend or restrict the operation of his business.

Article 10. — Any person who conducts an intermediary business concerning copyrights without the permission mentioned in Article 2 shall be liable to a fine of not more than 3,000 Yen* .

Article 11. — An intermediary shall be liable to a fine of not more than 1,000 Yen* if he—

- (i) conducts his business beyond the scope for which permission has been obtained in accordance with the provisions of Article 2 or Article 4;
- (ii) violates an order of suspension or restriction of his business issued in accordance with the provisions of Article 9.

Article 12. — An intermediary shall be liable to a fine of not more than 500 Yen* if he—

- (i) conducts his business by methods not in conformity with those for which permission has been obtained in accordance with the provisions of Article 2 or Article 4;
- (ii) conducts his business in contravention of the rules relating to the royalty rates for the use of the works, as approved in accordance with the provisions of Article 3, paragraph 1;
- (iii) fails to submit a business or accounting report mentioned in Article 5, or makes a false statement therein;
- (iv) fails to submit the report or the books and documents mentioned in Article 6, or makes a false statement therein;
- (v) violates an order issued under Article 8.

Article 13. — Any person who refuses to permit or who obstructs or evades the visit and inspection or the examination mentioned in Article 7 shall be liable to a fine of not more than 500 Yen* .

Article 14. — Whenever an agent, a co-inhabitant, an employee or a co-worker of a juridical or natural person has committed a violation mentioned in Articles 10 to 12 regarding the business of such person, the said juridical or natural person shall not be exempted from the penalty prescribed on the ground that the act of violation was not directed by him.

Article 15. — The penal provisions of Articles 10 to 12 shall apply to the director or other officer in charge of the business when the violator is a juridical person, and to the legal representative when the violator is a minor or an incompetent person; provided, that this shall not apply in the case of a minor who has the legal capacity of an adult regarding the conduct of his business.

Supplementary Provisions

The effective date of this Law shall be prescribed by Imperial Ordinance. [This Law became effective on December 15, 1939 by Imperial Ordinance No.834, of December 13, 1939.]

Any person who has actually conducted an intermediary business concerning copyrights, or who has succeeded thereto, before the effective date of this Law, may, notwithstanding the provisions of Article 2, continue to conduct the said business for a period not exceeding three months from the effective date of this Law.

When the person mentioned in the preceding paragraph has applied for the permission under Article 2 within the period mentioned in the preceding paragraph, the provisions of the said paragraph shall apply until the permission is granted or denied.

Supplementary Provisions (Extract)

(Law No.160, of 1999)

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

(i), (ii): [omitted]

* The maximum amount of fines to be imposed was assessed at 2,000 Yen in accordance with the provisions of Article 2, paragraph (1) of the Fines Special Assessment Law (Law No.251, of 1948).