

## 1. COPYRIGHT LAW

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

Law No.45, of May 19, 1981,

Law No.78, of December 2, 1983,

Law No.23, of May 1, 1984,

Law No.46, of May 25, 1984,

Law No.62, of June 14, 1985,

Law No.64, of May 23, 1986,

Law No.65, of May 23, 1986,

Law No.87, of November 1, 1988,

Law No.43, of June 28, 1989,

Law No.63, of May 2, 1991,

Law No.106, of December 16, 1992,

Law No.89, of November 12, 1993,

Law No.112, of December 14, 1994,

Law No.91, of May 12, 1995,

Law No.117, of December 26, 1996,

Law No.86, of June 18, 1997,

Law No.101, of June 12, 1998,

Law No.43, of May 14, 1999,

Law No.77, of June 15, 1999,

Law No.160, of December 22, 1999,

Law No.220, of December 22, 1999,

Law No.56, of May 8, 2000,

Law No. 72, of June 19, 2002,

Law No. 85, of June 18, 2003, and

Law No. 92, of June 9, 2004)

[ENTRY INTO FORCE: January 1, 2005]

# 1. COPYRIGHT LAW

## Chapter I General Provisions

### Section 1 General Rules

#### (Purpose)

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

#### (Definitions)

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

- (i) "work" means a production in which thoughts or sentiments are expressed in a creative way and which falls within the literary, scientific, artistic or musical domain;
- (ii) "author" means a person who creates a work;
- (iii) "performance" means the acting on stage, dancing, musical playing, singing, delivering, declaiming or performing in other ways of a work, and includes similar acts not involving the performance of a work which have the nature of public entertainment;
- (iv) "performers" means actors, dancers, musicians, singers and other persons who give a performance as well as those who conduct or direct a performance;
- (v) "phonograms" means fixations of sounds on phonographic discs, recording-tapes and other material forms, excluding those intended for use exclusively with images;
- (vi) "producers of phonograms" means those who first fix the sounds contained in phonograms;
- (vii) "commercial phonograms" means copies of phonograms made for commercial purposes;
- (viii) "public transmission" means the transmission of radio communication or wire-telecommunication intended for direct reception by the public, excluding the transmission (other than that of program works) by wire-telecommunication installations one part of which is located on the same premises where the other part is located or, if the premises are occupied by two or more persons, both parts of which

are located within the area therein occupied by one person;

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

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

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

(ixter) "wire diffusion organizations" means those who engage in wire diffusion service;

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

(ixquinquies) "making transmittable" means the putting in such a state that the interactive transmission can be made by either of the following acts: (a) to record information on public transmission memory of an interactive transmission server already connected with telecommunication networks for the use by the public ("interactive transmission server" means a device which, when connected with telecommunication networks for the use by the public, has a function of making the interactive transmission of information which is either recorded on such a part of its memory as used for the interactive transmission (hereinafter in this item referred to as "public transmission memory" or inputted to such device; the same shall apply hereinafter), to add a memory recording information as a public transmission memory of such an interactive transmission server, to convert such a memory recording information into a public transmission memory of such an interactive transmission server, or to input information to such an interactive transmission server;

(b) to connect with telecommunication networks for the use by the public an interactive transmission server which records information on its public transmission memory or which inputs information to itself. In this case, where a connection is made through a series of acts such as wiring, starting of an interactive transmission server or putting into operation of programs for transmission or reception, the last occurring one of these acts shall be considered to constitute the connection.

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

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

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

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

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

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

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

(xv) "reproduction" means the reproduction in a tangible form by means of printing, photography, polygraphy, sound or visual recording or otherwise; and (a) in the case of dramas and other similar dramatic works, it includes sound and visual recording of the actings, broadcasts or wire diffusions of these works; and

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

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

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

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

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

(xx) "technological protection measures" means measures to prevent or deter such acts as constitute infringements on moral rights of authors or copyright mentioned in Article 17, paragraph (1) or moral rights of performers mentioned in Articles 89,

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

(xxi) "rights management information" means information concerning moral rights or copyright mentioned in Article 17, paragraph (1) or rights mentioned in Article 89, paragraphs (1) to (4) (hereinafter in this item referred to as "copyright, etc.") which falls within any of the following (a), (b) and (c) and which is recorded in a memory or transmitted by electromagnetic means together with works, performances, phonograms, or sounds or images of broadcasts or wire diffusions, excluding such information as not used for knowing how works, etc. are exploited, for conducting business relating to the authorization to exploit works, etc. and for other management of copyright, etc. by computer: (a) information which specifies works, etc., owners of copyright, etc. and other matters specified by Cabinet Order; (b) information relating to manners and conditions of the exploitation in case where the exploitation of works, etc. is authorized; (c) information which enables to specify matters mentioned in (a) or (b) above in comparison with other information.

(xxii) "this country" means the jurisdiction within which this Law is effective.

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

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

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

(4) As used in this Law, "photographic work" includes a work expressed by a process

analogous to photography.

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

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

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

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

(9) In this Law, the meanings assigned to the terms defined in paragraph (1), items (viibis), (viii), (ixbis), (ixquater), (ixquinqies) and (xiii) to (xix) and the preceding two paragraphs shall also apply to their variant forms, as the case may be.

#### **(Publishing of works)**

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

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

(3) A person who would have the right mentioned in any of the preceding two paragraphs if this work were protected under this Law or a person who obtained the authorization to exploit the work from such person shall be considered to be a person

who has such right or a person who obtained the authorization from such person, and the provisions of these paragraphs shall apply with respect to those persons.

**(Making public of works)**

Article 4. (1) A work has been "made public" when it has been published, or when it has been made available to the public, by a person who has the rights mentioned in Articles 22 to 25 or with the authorization of such person, by means of performance, presentation, public transmission, recitation or exhibition. In the case of architectural works, a work also has been "made public" when it has been constructed by a person who has the right mentioned in Article 21 or with the authorization of such person.

(2) A work shall be considered as having been "made public" when it has been put, by a person having the rights mentioned in Article 23, paragraph(1) or with the authorization of such person, in such a state that it can be made transmittable.

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

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

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

**(Publishing of phonograms)**

Article 4bis. A phonogram has been "published" when copies of the phonogram have been reproduced and distributed by a person who has the right mentioned in Article 96 or with the authorization of such person ("authorization" means the authorization to exploit a phonogram under the provision of Article 63, paragraph (1) which shall apply mutatis mutandis in Article 103; the same shall apply in Chapter IV, Sections 2 and 3), in such sufficient quantities as satisfy the reasonable requirements of the public,

having regard to the nature of the phonogram (without prejudice to the right of a person who has the right mentioned in Article 97bis, paragraph (1) or Article 97ter, paragraph (1)).

**(Priority of international treaty)**

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

**Section 2 Scope of Application**

**(Works)**

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

- (i) works of Japanese nationals ("Japanese nationals" includes legal persons established under the Japanese law and those who have their principal offices in this country; the same shall apply hereinafter);
- (ii) works first published in this country, including those first published outside this country and published in this country within thirty days of that first publication;
- (iii) works not falling within those mentioned in the preceding two items, to which Japan has the obligation to grant protection under an international treaty.

**(Performances)**

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

- (i) performances which take place in this country;
- (ii) performances fixed in the phonograms mentioned in item (i) or (ii) of the next Article;
- (iii) performances transmitted through the broadcasts mentioned in Article 9, item (i) or (ii), excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned;
- (iv) performances transmitted through the wire diffusions mentioned in each item of Article 9bis, excluding those incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned;
- (v) any of the following performances not falling within those mentioned in the preceding four items: (a) performances which take place in a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter referred to as "the Convention for the Protection of Performers, etc.");



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

(vi) any of the following performances not falling within those mentioned in the preceding five items: (a) performances which take place in a Contracting Party to the WIPO Performances and Phonograms Treaty (hereinafter referred to as "the WPPT");

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

(vii) any of the following performances not falling within those mentioned in the preceding six items: (a) performances which take place in a member of the World Trade Organization;

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

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

### **(Phonograms)**

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

(i) phonograms the producers of which are Japanese nationals;

(ii) phonograms composed of the sounds which were first fixed in this country;

(iii) any of the following phonograms not falling within those mentioned in the preceding two items: (a) phonograms the producers of which are nationals of any of the Contracting States of the Convention for the Protection of Performers, etc. ("nationals" includes legal persons established under the law of such State and those who have their principal offices in such State; the same shall apply hereinafter.);

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

(iv) any of the following phonograms not falling within those mentioned in the preceding three items: (a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT ("nationals" includes legal persons established under the law of such Contracting Party and those who have their

principal offices in such Contracting Party; the same shall apply hereinafter);

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

(v) any of the following phonograms not falling within those mentioned in the preceding four items: (a) phonograms the producers of which are nationals of any of the members of the World Trade Organization ("nationals" includes legal persons established under the law of such member and those who have their principal offices in such member; the same shall apply hereinafter.);

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

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

#### **(Broadcasts)**

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

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

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

(iii) any of the following broadcasts not falling within those mentioned in the preceding two items: (a) broadcasts transmitted by broadcasting organizations who are nationals of any of the Contracting States of the Convention for the Protection of Performers, etc.;

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

(iv) any of the following broadcasts not falling within those mentioned in the preceding three items: (a) broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the World Trade Organization;

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

### **(Wire diffusions)**

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

- (i) wire diffusions transmitted by wire diffusion organizations of Japanese nationality (excluding those made upon receiving broadcasts; the same shall apply in the next item);
- (ii) wire diffusions transmitted from wire transmitters situated in this country.

## **Chapter II Rights of Authors**

### **Section 1 Works**

#### **(Classification of works)**

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

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

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

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

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

computer.

**(Derivative works)**

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

**(Compilations)**

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

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

**(Database works)**

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

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

**(Works not protected)**

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

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

(iv) translations and compilations, of those materials mentioned in the preceding three items, made by organs of the State or local public entities, independent administrative organs or local independent administrative organs.

## **Section 2 Authors**

### **(Presumption of authorship)**

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

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

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

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

### **(Authorship of a cinematographic work)**

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

## **Section 3 Contents of the Rights**

### **Subsection 1 General Rules**

**(Rights of authors)**

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

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

**Subsection 2 Moral Rights of Authors**

**(Right of making the work public)**

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

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

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

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

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

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

(i) where his work which has not yet been made public has been offered to government organizations ("government organizations" means those provided in Article 2, paragraph (1) of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.42, of 1999; hereinafter referred to as "the Government Organizations Information Disclosure Law")), (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the disclosure is decided in accordance with the provisions of Article 9,

paragraph (1) of the Government Organizations Information Disclosure Law): the offering to and the making available to the public of the work by the head of a government organization in accordance with the provisions of the Government Organizations Information Disclosure Law;

(ii) where his work which has not yet been made public has been offered to independent administrative organs, etc. ("independent administrative organs, etc." means those provided in Article 2, paragraph (1) of the Law for the Disclosure of Information Processed by Independent Administrative Organs, etc. (Law No.140, of 2001; hereinafter referred to as "the Independent Administrative Organs, etc. Information Disclosure Law")), (except in the case where any declaration of the intention of the author to the contrary has been made by the time when the disclosure is decided in accordance with the provisions of Article 9, paragraph (1) of the Independent Administrative Organs, etc. Information Disclosure Law): the offering to and the making available to the public of the work by an independent administrative, etc. in accordance with the provisions of the Independent Administrative Organs, etc. Information Disclosure Law;

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

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

(i) where a work, which has not yet been made public and in which information mentioned in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Government Organizations Information Disclosure Law is recorded, is offered to or made available to the public by the head of a government organization in accordance with the provisions of that Article, or where a work, which has not yet been made public, is offered to or made available to the public by the head of a government organization in accordance with the provisions of Article 7 of the Government Organizations Information Disclosure Law;

(ii) where a work, which has not yet been made public and in which information

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

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

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

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

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

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

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

(3) It shall be permissible to omit the name of the author where it is found that there is



no risk of damage to the interests of the author in his claim to authorship in the light of the purpose and the manner of exploiting his work and in so far as such omission is compatible with fair practice.

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

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

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

#### **(Right of preserving the integrity)**

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

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

(i) change of ideographs or words or other modifications deemed unavoidable for the purpose of school education in the case of the exploitation of works under the provisions of Article 33, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of paragraph (4) of the same Article), Article 33bis, paragraph (1) and Article 34, paragraph (1);

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

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

(iv) other modifications not falling within those mentioned in the preceding three items,

which are deemed unavoidable in the light of the nature of a work as well as the purpose and the manner of exploiting it.

### **Subsection 3 Rights Comprised in Copyright**

#### **(Right of reproduction)**

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

#### **(Right of performance)**

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

#### **(Right of presentation)**

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

#### **(Rights of public transmission, etc.)**

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

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

#### **(Right of recitation)**

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

#### **(Right of exhibition)**

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

#### **(Rights of distribution)**

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

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

**(Right of transfer of ownership)**

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

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

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

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

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

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

**(Right of lending)**

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

**(Rights of translation, adaptation, etc.)**

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

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

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

**Subsection 4 Ownership of Copyright in Cinematographic Works**

**(Ownership of copyright in cinematographic works)**

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

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

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

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

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

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

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

## **Subsection 5 Limitations on Copyright**

### **(Reproduction for private use)**

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

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

(ii) where such reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures or it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures ("circumvention" means to enable to do acts prevented by technological protection measures or to stop causing obstruction to the results of acts deterred by such measures, by removal or alteration of signals used for such measures; the same shall apply in Article 120bis, items (i) and (ii)) ("removal" or "alteration" does not include such removal or alteration as is conditional upon technology involved in the conversion of recording or transmission systems).

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

### **(Reproduction in libraries, etc.)**

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

(i) where, at the request of a user and for the purpose of his own investigation or

research, he is furnished with a single copy of a part of a work already made public or of all of an individual work reproduced in a periodical already published for a considerable period of time;

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

(iii) where other libraries, etc. are furnished with a copy of library materials which are rarely available through normal trade channel because the materials are out of print or for other similar reasons.

#### **(Quotations)**

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

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

#### **(Reproduction in school textbooks, etc.)**

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

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

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

(4) The provisions of the preceding three paragraphs shall apply mutatis mutandis with respect to the reproduction of works in textbooks intended for senior high school correspondence courses and in guidance books of school textbooks mentioned in paragraph (1) intended for teachers (these guidance books shall be limited to those published by the same publisher of the textbooks).

**(Reproduction for preparing a textbook in large print)**

Article 33bis. (1) It shall be permissible to reproduce works already reproduced in a school textbook, by enlarging print letters, illustrations, etc. used in that textbook, for the purpose of study use by weak-sighted children or pupils.

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

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

**(Broadcasting, etc. in school education programs)**

Article 34. (1) It shall be permissible to broadcast or diffuse by wire a work already made public, in broadcasting programs or wire diffusion programs which conform to the curriculum standards provided for in regulations on school education, and to reproduce it in teaching materials for these programs, to the extent deemed necessary for the purpose of school education.

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

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

Article 35. (1) A person who is in charge of teaching and those who are taught in a school or other educational institutions\*1 (except those institutions established for profit-making) may reproduce a work already made public if and to the extent deemed

necessary for the purpose of use in the course of lessons, provided that such reproduction does not unreasonably prejudice the interests of the copyright owner in the light of the nature and the purpose of the work as well as the number of copies and the form of reproduction.

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

\*1 In Article 35, paragraph (1), "a school or other educational institutions" includes those schools as established by a school establishing company mentioned in Article 12, paragraph (2) of the Law for Special Districts for Structural Reform (Law No.189, of 2002).

#### **(Reproduction, etc. in examination questions)**

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

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

#### **(Reproduction in braille, etc.)**

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

(2) It shall be permissible to record on a memory, or to make the public transmission



(excluding the broadcasting or wire diffusion, and including the making transmittable in the case of the interactive transmission) of, a work already made public, by means of a braille processing system using a computer.

(3) For braille libraries and other establishments for the promotion of the welfare of the visually handicapped, designated by Cabinet Order, it shall be permissible to make sound recordings of a work already made public, exclusively for the purpose of lending such recordings for the use by the visually handicapped.

**(Interactive transmission for the aurally handicapped)**

Article 37bis. A person, designated by Cabinet Order, who does activities for the promotion of the welfare of the aurally handicapped, may make an interactive transmission (including the making transmittable by means of inputting information to an interactive transmission server already connected with telecommunication network for the use by the public) of a work broadcast or diffused by wire, by converting oral words of that work into written words, exclusively for the purpose of the use by the aurally handicapped.

**(Performance, etc. not for profit-making)**

Article 38. (1) It shall be permissible to publicly perform, present and recite a work already made public, for non-profit-making purposes and without charging any fees ("fees" includes any kind of charge to be imposed on the offering and the making available of a work to the public; the same shall apply hereinafter in this Article) to audience or spectators\*2 ; provided, however, that the performers or reciters concerned are not paid any remuneration for such performance, presentation or recitation.

(2) It shall be permissible to diffuse by wire a work already broadcast, for non-profit-making purposes and without charging any fees to audience or spectators.

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

(4) It shall be permissible to offer to the public a work (except a cinematographic work) already made public, by lending copies of the work (excluding copies of a cinematographic work in the case of a work reproduced in the cinematographic work)

for non-profit-making purposes and without charging any fees to borrowers of such copies.

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

\*2 In Article 38, paragraph (1), "without charging any fees ("fees" includes any kind of charge to be imposed on the offering and the making available of a work to the public; the same shall apply hereinafter in this Article) to audience or spectators" includes the case where, without charging any fees to audience or spectators, a work is exploited for teaching or research activities in such a school as established by a school establishing company mentioned in Article 12, paragraph (2) of the Law for Special Districts for Structural Reform (Law No.189, of 2002).

#### **(Reproduction, etc. of articles on current topics)**

Article 39. (1) It shall be permissible to reproduce in the press, broadcast and diffuse by wire articles published in newspapers or periodicals on current political, economic or social topics, not having a scientific character, provided that such reproduction, broadcasting or wire diffusion thereof is not expressly prohibited.

(2) It shall also be permissible to communicate publicly, by means of a receiving apparatus, articles thus broadcast or diffused by wire.

#### **(Exploitation of political speeches, etc.)**

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

(2) It shall be permissible to reproduce in the press, broadcast and diffuse by wire speeches not falling within the preceding paragraph, which are delivered in public by

organs of the State or local public entities, independent administrative organs or local independent administrative organs, to the extent justified by the informatory purpose.

(3) It shall also be permissible to communicate publicly, by means of a receiving apparatus, speeches thus broadcast or diffused by wire.

**(Reporting of current events)**

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

**(Reproduction for judicial proceedings, etc.)**

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

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

Article 42bis. For the purpose of offering to or making available to the public of a work in accordance with the provisions of the Government Organizations Information Disclosure Law, the Independent Administrative Organs, etc. Information Disclosure Law or the Information Disclosure Regulations, the head of a government organization, an independent administrative organ, etc. or an organ of a local public entity may exploit the work if and to the extent deemed necessary for the purpose of the disclosure by means mentioned in Article 14, paragraph (1) of the Government Organizations Information Disclosure Law (including the provisions of Cabinet Order under that paragraph) by means mentioned in Article 15, paragraph (1) of the Independent Administrative Organs, etc. Information Disclosure Law (including means decided by the independent administrative organ, etc. concerned under that paragraph and excluding means other than those provided for by Cabinet Order under the provisions of Article 14, paragraph (1) of the Government Organizations Information Disclosure Law) or by means provided for in the Information Disclosure Regulations (excluding means other than those mentioned in Article 14, paragraph (1) of the Government Organizations Information Disclosure Law).

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

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

- (i) Article 30, paragraph (1) or Article 33, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of paragraph (4) of the same Article), Article 34, paragraph (1) or Article 35: translation, musical arrangement, transformation, and adaptation;
- (ii) Article 31, item (i), Article 32, 36 or 37, Article 39, paragraph (1), Article 40, paragraph (2), or Article 41 or 42: translation.
- (iii) Article 37bis: adaptation (only in summary form).

**(Ephemeral recordings by broadcasting organizations, etc.)**

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

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

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

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

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

(2) The provision of the preceding paragraph shall not apply with respect to the permanent location of the original of an artistic work in open places accessible to the

public, such as streets and parks, or at places easily seen by the public, such as the outer walls of buildings.

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

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

- (i) multiplication of a sculpture and offering it to the public by transfer of ownership of its copies;
- (ii) imitative reproduction of an architectural work and offering it to the public by transfer of ownership of its copies;
- (iii) reproduction of a work for the purpose of locating it permanently in such open places as mentioned in paragraph (2) of the preceding Article;
- (iv) reproduction of an artistic work exclusively for the purpose of selling its copies and sale of such copies.

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

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

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

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

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

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

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

**(Indication of sources)**

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

(i) where reproduction is made of works in accordance with the provisions of Article 32, Article 33, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of paragraph (4) of the same Article), Article 33bis, paragraph (1), Article 37, paragraph (1) or (3), or Article 42 or 47;

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

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

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

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

**(Uses, etc. of copies for other purposes)**

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

(i) the distribution of copies of works made in accordance with the provisions of Article 30, paragraph (1), Article 31, item (i), Article 33bis, paragraph (1), Article 35, paragraph (1), Article 37, paragraph (3), or Articles 41 to 42bis, or Article 44, paragraph (1) or (2), or the making available to the public of works by the use of these copies, for purposes other than those mentioned in these provisions;

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

(iii) the distribution of copies of works (excluding copies falling within those mentioned in item (ii) of the next paragraph) made in accordance with the provision of Article 47bis, paragraph (1), or the making available to the public of works by the use of these copies;

(iv) the preservation of copies mentioned in Article 47bis, paragraph (2) in violation of that paragraph (excluding copies falling within those mentioned in item (ii) of next paragraph).

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

(i) the distribution of copies of derivative works made in accordance with the provisions of Article 43, paragraph (1) or (2), or the making available to the public of derivative works by the use of these copies, for purposes other than those mentioned in Article 30, paragraph (1), Article 31, item (i), Article 35, Article 37, paragraph (3), or Article 41 or 42;

(ii) the distribution of copies of derivative works made in accordance with the provision of Article 47bis, paragraph (1) or the making available to the public of

derivative works by the use of these copies;

(iii) the preservation of copies mentioned in the preceding item in violation of the provision of Article 47bis, paragraph (2).

**(Relationship with moral rights of authors)**

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

**Chapter III Right of Publication**

**(Establishment of the right of publication)**

Article 79. (1) The owner of the right mentioned in Article 21 (hereinafter in this Chapter referred to as "the owner of reproduction right") may establish the right of publication in favour of a person who undertakes to publish the work in a writing or a printing.

(2) The owner of reproduction right may establish the right of publication only with the authorization of the pledgee if the right of pledge is established on the reproduction right.

**(Contents of the right of publication)**

Article 80. (1) The owner of the right of publication shall, as stipulated in the contract of establishment, have the exclusive right to reproduce the original text of the work, on which the right of publication is established, in a writing or a printing by means of typography or other mechanical or chemical processes for the purpose of distribution.

(2) If the author of the work dies within the duration of the right of publication or, after three years have passed from the first publication following the establishment of the right of publication, unless otherwise stipulated in the contract of establishment, the owner of reproduction right may, notwithstanding the provision of the preceding paragraph, reproduce the work in a complete collection of works or other compilations comprising only the works of the same author.

(3) The owner of the right of publication may not authorize any third person to reproduce the work on which the right of publication is established.

**(Obligation of publication)**

Article 81. Unless otherwise stipulated in the contract of establishment, the owner of the right of publication shall have the following obligations:



- (i) to publish the work within a period of six months after the date when he received, from the owner of reproduction right, manuscripts or other originals or those corresponding thereto which are necessary for the reproduction of the work; and
- (ii) to publish the work continuously in conformity with business practice.

**(Alterations, additions or deletions in works)**

Article 82. (1) In the new reproduction made by the owner of the right of publication, the author may make alterations, additions or deletions in his work to the extent justified.

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

**(Duration of the right of publication)**

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

(2) The right of publication shall expire at the end of a period of three years from the first publication after the establishment of the right, unless otherwise stipulated in the contract of establishment.

**(Request to terminate the right of publication)**

Article 84. (1) When the owner of the right of publication has not discharged his obligation mentioned in Article 81, item (i), the owner of reproduction right may terminate the right of publication by notifying the owner thereof.

(2) When the owner of the right of publication has not discharged his obligation mentioned in Article 81, item (ii), the owner of reproduction right may terminate the right of publication by notifying the owner thereof, provided that the owner of reproduction right has called upon the owner of the right of publication to discharge his obligation within a period exceeding three months, and that the owner of the right of publication has not discharged his obligation within that period.

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

Article 85. Deleted.

**(Limitation on the right of publication)**

Article 86. (1) The provisions of Article 30, paragraph (1), Articles 31 and 32, Article 33, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of paragraph (4) of the same Article), Article 33bis, paragraph (1), Article 34, paragraph (1), Article 35, paragraph (1), Article 36, paragraph (1), Article 37, paragraph (1), Article 39, paragraph (1), Article 40, paragraphs (1) and (2), and Articles 41, 42, 42bis, 46 and 47 shall apply mutatis mutandis to the reproduction of works on which the right of publication is established. In these cases, "the copyright owner" in Article 35, paragraph (1) and Article 42 shall read "the owner of the right of publication".

(2) The distribution and the making available to the public of copies of works reproduced in accordance with the provisions of Article 30, paragraph (1), Article 31, item (i), Article 33bis, paragraph (1), Article 35, paragraph (1), Article 41, 42 or 42bis which shall apply mutatis mutandis in the preceding paragraph, for purposes other than those mentioned in these provisions, shall be considered to constitute the reproduction as mentioned in Article 80, paragraph (1).

**(Transfer, etc. of the right of publication)**

Article 87. The right of publication may be transferred or pledged only with the authorization of the owner of reproduction right.

**(Registration of the right of publication)**

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

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

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

(2) The provision of Article 78 (except paragraph (2)) shall apply mutatis mutandis to the registration mentioned in the preceding paragraph. In this case, "the copyright

register" in Article 78, paragraphs (1), (3), (7) and (8) shall read "the register of the right of publication".

## **Chapter IV Neighboring Rights**

### **Section 1 General Rules**

(Neighboring rights)

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

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

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

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

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

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

(Relationship with the rights of authors)

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

### **Section 2 Rights of Performers**

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

Article 90bis. (1) The performer shall have the right to determine whether his name, his stage name or any other alternative to his name should be indicated or not, as the

name of the performer, when his performances are offered to or made available to the public.

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

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

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

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

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

**(Right of preserving the integrity)**

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

(2) The provision of the preceding paragraph shall not apply to modifications deemed unavoidable in the light of the nature of performances as well as the purpose and

manner of exploiting them or those deemed compatible with fair practice.

**(Right of making sound or visual recordings)**

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

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

**(Rights of broadcasting and wire diffusion)**

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

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

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

**(Right of making transmittable)**

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

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

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

recordings other than those mentioned in that paragraph.

**(Fixation for broadcasting purposes)**

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

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

(i) the use and the offering of sound or visual recordings made in accordance with the provision of the preceding paragraph for a purpose other than that of broadcasting or for the purpose mentioned in the proviso to the same paragraph;

(ii) the further offering, by broadcasting organizations which have been offered such recordings, of sound or visual recordings made in accordance with the provision of the preceding paragraph, to other broadcasting organizations for their broadcasting.

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

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

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

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

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

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

paragraph (1).

**(Secondary use of commercial phonograms)**

Article 95. (1) When broadcasting organizations and wire diffusion organizations (hereinafter in this Article and Article 97, paragraph (1) referred to as "broadcasting organizations, etc".) have broadcast or diffused by wire commercial phonograms incorporating performances with the authorization of the owner of the right mentioned in Article 91, paragraph (1) (except broadcast or wire diffusion made upon receiving such broadcasts or wire diffusions), they shall pay secondary use fees to the performers whose performances (which are mentioned in Article 7, items (i) to (vi) and in which neighboring rights subsist; the same shall apply in the next paragraph to paragraph (4)) have been so broadcast or diffused by wire.

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

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

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

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

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

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

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

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

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

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

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

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

(12) The provisions of Article 70, paragraphs (3), (6) and (7) as well as Articles 71 to 74 shall apply mutatis mutandis to the ruling and secondary use fees mentioned in the preceding paragraph. In this case, "the copyright owner" in Article 70, paragraph (3) shall read "the parties concerned", "the user of the work" in Article 72, paragraph (2) shall read "broadcasting organizations, etc. mentioned in Article 95, paragraph (1)", "the copyright owner" in the same paragraph shall read "the association mentioned in paragraph (4) of the same Article and "the copyright owner" in Article 74 shall read "the association mentioned in Article 95, paragraph (5)".



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

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

**(Right of transfer of ownership)**

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

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

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

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

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

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

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

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

**(Right of lending, etc.)**

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

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

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

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

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

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

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

#### **(Right of reproduction)**

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

#### **(Right of making transmittable)**

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

**(Secondary use of commercial phonograms)**

Article 97. (1) When broadcasting organizations, etc. have broadcast or diffused by wire commercial phonograms (except broadcast or wire diffusion made upon receiving such broadcasts or wire diffusions), they shall pay secondary use fees to the producers whose phonograms (which are mentioned in Article 8, items (i) to (iv) and in which neighboring rights subsist) have been so broadcast or diffused by wire.

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

(3) Where there is an association (including a federation of associations) which is composed of a considerable number of producers of phonograms practising in this country and which is so designated, with its consent, by the Commissioner of the Agency for Cultural Affairs, the right to secondary use fees mentioned in paragraph (1) shall be exercised exclusively through the intermediary of such association.

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

**(Right of transfer of ownership)**

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

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

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

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

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

**(Right of lending, etc.)**

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

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

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

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

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

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

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

**Section 4 Rights of Broadcasting Organizations**

**(Right of reproduction)**

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

sounds or images incorporated in these broadcasts.

**(Rights of rebroadcasting and wire diffusion)**

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

(2) The provision of the preceding paragraph shall not apply to the wire diffusion which is made by a person who is required to do so under the provisions of laws and regulations.

**(Right of making transmittable)**

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

**(Right of communication of television broadcasts)**

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

**Section 5 Rights of Wire Diffusion Organizations**

**(Rights of reproduction)**

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

**(Rights of broadcasting and wire rediffusion)**

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

**(Right of making transmittable)**

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

**(Right of communication of wire television diffusions)**

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

### **Section 6 Term of Protection**

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

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

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

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

- (i) when the performance took place, for performances;
- (ii) when the publishing was made or when the first fixation of sounds was made if the publishing has not been made within a period of fifty years following the first fixation of sounds;
- (iii) when the broadcast took place, for broadcasts;
- (iv) when the wire diffusion took place, for wire diffusions.

### **Section 7 Inalienability of Moral Rights, etc. of Performers**

**(Inalienability of moral rights of performers)**

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

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

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

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

### **(Limitations on neighboring rights)**

Article 102. (1) The provisions of Article 30, paragraph (1), Articles 31, 32, 35 and 36, Article 37, paragraph (3), Article 38, paragraphs (2) and (4) and Articles 41, 42, 42bis and 44 (except paragraph (2)) shall apply mutatis mutandis to the exploitation of performances, phonograms, broadcasts or wire diffusions which are the subject matter of neighboring rights, the provision of Article 30, paragraph (2) and Article 47ter shall apply mutatis mutandis to the exploitation of performances or phonograms which are the subject matter of neighboring rights, and the provision of Article 44, paragraph (2) shall apply mutatis mutandis to the exploitation of performances, phonograms or wire diffusions which are the subject matter of neighboring rights. In this case, "Article 23, paragraph (1)" in Article 44, paragraph (1) shall read "Article 92, paragraph (1), Article 99, paragraph (1) or Article 100ter", and "Article 23, paragraph (1)" in Article 44, paragraph (2) shall read "Article 92, paragraph (1) or Article 100ter".

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

(3) Where it is permissible to broadcast or diffuse by wire works under the provision of Article 39, paragraph (1) or Article 40, paragraph (1) or (2), it shall also be permissible to diffuse by wire the broadcasts or wire diffusions of such works and to communicate them to the public by means of a special instrument for enlarging images.

(4) The following shall be considered to constitute the making of sound or visual recordings or the reproduction as mentioned in Article 91, paragraph (1), Article 96, Article 98 or Article 100bis:

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

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

which apply mutatis mutandis in paragraph (1) of this Article.

**(Relationship with moral rights of performers)**

Article 102bis. No provisions of the preceding Article relating to limitations on neighboring rights (except the provisions of paragraph (3) of that Article) may be interpreted as affecting the protection of the moral rights of the performer.

**(Transfer, exercise, etc. of neighboring rights)**

Article 103. The provision of Article 61, paragraph (1) shall apply mutatis mutandis to the transfer of neighboring rights, the provision of Article 62, paragraph (1) to the expiry of these rights, and the provision of Article 63 to the authorization to exploit performances, phonograms, broadcasts or wire diffusions, and the provision of Article 65 shall apply mutatis mutandis with respect to the joint authorship of these rights, and the provision of Article 66 with respect to the establishment of a pledge on these rights. In this case, "Article 23, paragraph (1)" in Article 63, paragraph (5) shall read "Article 92bis, paragraph (1) , Article 96bis, Article 99bis or Article 100quater".

**(Registration of neighboring rights)**

Article 104. The provisions of Articles 77 and 78 (except paragraph (2)) shall apply mutatis mutandis to the registration of neighboring rights. In this case, "the copyright register" in paragraphs (1), (3) and (7) of the latter Article shall read "the register of neighboring rights".

[back to Contents](#)

**Chapter V Compensation for Private Recording**

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

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



private recording (hereinafter in this Chapter referred to as "the designated association"), the right to claim compensation for private recording shall be exercised exclusively through the intermediary of the designated association:

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

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

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

**(Conditions for designation)**

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

(i) that it is a legal person established under the provision of Article 34 (Establishment of non-profit legal persons) of the Civil Law;

(ii) that it is composed of, in the case of compensation for private sound recording, the associations mentioned in the following (a), (c) and (d), and, in the case of compensation for private visual recording, the associations mentioned in the following (b), (c) and (d), respectively: (a) an association (including a federation of associations) which is composed of the persons holding the right of reproduction with respect to works of which private sound recording is made, and which is deemed to represent the interests of such right holders in this country;

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

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

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

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

satisfies the following conditions: (a) that it is not established for profit-making;  
(b) that its members may freely join and withdraw;  
(c) that its members are granted an equal right to vote and to be elected;

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

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

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

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

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

**(Cooperation by manufacturers and importers)**

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

**(Amount of compensation for private recording)**

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

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

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

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

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

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

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

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

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

Article 104octies. (1) The designated association shall allocate an amount

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

(2) When intending to draft the Cabinet Order mentioned in the preceding paragraph or to draft its amendment, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

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

**(Request for report, etc.)**

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

**(Mandate to Cabinet Order)**

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

**Chapter VI Settlement of Disputes**

**(Mediators for the settlement of disputes concerning copyright)**

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

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

**(Application for mediation)**

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

**(Application fee)**

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

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

**(Submission to mediation)**

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

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

**(Mediation)**

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

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

**(Report, etc.)**

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

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

**(Mandate to Cabinet Order)**

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

## **Chapter VI Settlement of Disputes**

### **(Mediators for the settlement of disputes concerning copyright)**

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

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

### **(Application for mediation)**

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

### **(Application fee)**

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

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

### **(Submission to mediation)**

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

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

### **(Mediation)**

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

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

**(Report, etc.)**

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

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

**(Mandate to Cabinet Order)**

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

**Chapter VIII Penal Provisions**

Article 119. The following shall be punishable by imprisonment for a term not exceeding five years or a fine not exceeding five million Yen, or both:

(i) any person who infringes moral rights of authors, copyright, right of publication, moral rights of performers or neighboring rights (excluding those who reproduce by themselves works or performances, etc. for the purpose of private use as mentioned in Article 30, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of Article 102, paragraph (1)) , those who do an act considered to constitute an infringement on moral rights of authors, copyright, moral rights of performers or neighboring rights (including the rights considered as neighboring rights in accordance with the provisions of Article 113, paragraph (4); the same shall apply in Article 120bis, item (iii)) under the provisions of Article 113, paragraph (3) or those who do an act considered to constitute an infringement on copyright or neighboring rights under the provisions of Article 113, paragraph (5);

(ii) any person who, for profit-making purposes, causes others to use automatic reproducing machines mentioned in Article 30, paragraph (1), item (i) for such reproduction of works or performances, etc. as constitutes an infringement on copyright, right of publication or neighboring rights.

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

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

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

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

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

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

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

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



phonograms:

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

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

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

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

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

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

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

under any of the Articles mentioned in item (ii) shall be imposed upon such person, in addition to the punishment of the offender:

(i) Article 119, item (i) (except parts of the provisions relating to moral rights of the author or the performer): a fine not exceeding a hundred and fifty million yen;

(ii) Article 122bis : a fine not exceeding a hundred million yen;

(iii) Article 119, item (i) (only parts of the provisions relating to moral rights of the author or the performer) or (ii), or Article Article 120 to Article 122: a fine under any of these Articles.

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

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

### **Supplementary Provisions**

#### **(Date of enforcement)**

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

#### **(Transitory measures: the scope of application)**

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

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

(3) Notwithstanding the provisions of Articles 7 and 8 of the new Law, the provisions relating to neighboring rights of the new Law (including the provisions of Article 95, Article 95ter, paragraphs (3) and (4), Article 97 and Article 97ter, paragraphs (3) to

(5) ; the same shall apply in Article 15, paragraph (1) of the Supplementary Provisions) shall apply to performances which took place before the enforcement of this Law (excluding those falling within any of the items of Article 7 of the new Law) or to phonograms composed of the sounds which were first fixed before the enforcement of this Law (excluding those falling within any of the items of Article 8 of the new Law), being performances or phonograms in which copyright under the old Law subsists at the time of coming into force of this Law.

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

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

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

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

**(Transitory measures: lending of books, etc.)**

Article 4bis. Deleted.

**(Transitory measures: the ownership of copyright in cinematographic works, etc.)**

Article 5. (1) The provisions of the old Law shall still apply to the ownership of copyright in cinematographic works, mentioned in Article 29 of the new Law, which were created before the enforcement of this Law.

(2) The provisions of the new Law shall not prejudice the effect of the provisions of Article 24 or 25 of the old Law on the ownership of copyright in photographic works included in other works before the enforcement of this Law and on the ownership of copyright in portrait photographs created on commission before the enforcement of this Law.

**(Transitory measures: automatic reproducing machines)**

Article 5bis. For the application of the provisions of Article 30, paragraph (1), item (i) and Article 119, item (ii) of the new Law, the words "automatic reproducing machines"

mentioned in these provisions shall not include for the time being those exclusively for use in copying writings or printings.

**(Transitory measures: artistic works placed in an open place)**

Article 6. The owner of copyright in an artistic work permanently placed in such an open place as mentioned in Article 45, paragraph (2) of the new Law at the time of the enforcement of this Law, shall be considered to have authorized the exhibition of that work by placing its original in an open place.

**(Transitory measures: term of protection)**

Article 7. The provisions of the old Law shall still apply to the duration of copyright in works made public before the enforcement of this Law, provided that the duration under the old Law is longer than that provided in the provisions of Section 4 of Chapter II of the new Law.

**(Transitory measures: duration of the right of translation)**

Article 8. The provisions of Articles 7 and 9 of the old Law shall still be effective with respect to works published before the enforcement of this Law.

**(Transitory measures: disposal of copyright)**

Article 9. The transfer and other disposal, made before the enforcement of this Law, of copyright under the old Law shall be considered made under the new Law, except those falling within the provision of Article 15, paragraph (1) of the Supplementary Provisions.

**(Transitory measures: joint works)**

Article 10. (1) The provisions of Article 13, paragraphs (1) and (3) of the old Law shall still be effective with respect to works created before the enforcement of this Law by two or more persons in which the contribution of each person can be separately exploited.

(2) For the application of the provisions of Article 51, paragraph (2) and Article 52, paragraph (1) of the new Law, works mentioned in the preceding paragraph shall be considered to constitute joint works.

**(Transitory measures: exploitation of works under compulsory license)**

Article 11. (1) The provision of Article 69 of the new Law shall not apply to the making of sound recordings of musical works incorporated in commercial phonograms which were put on sale in this country before the enforcement of this Law.

(2) The person who would be entitled to exploit works in accordance with the provision of Article 22quinquies, paragraph (2) or Article 27, paragraph (1) or (2) of the old Law shall be entitled to continue to exploit these works in accordance with such provision.

(3) The amount of compensation fixed by the Commissioner of the Agency for Cultural Affairs in accordance with the provision of Article 22quinquies, paragraph (2) or Article 27, paragraph (2) of the old Law shall be considered as that fixed in accordance with the provision of Article 68, paragraph (1) or Article 67, paragraph (1) of the new Law, and the provisions of Articles 72 and 73 of the new Law shall apply.

(4) In the preceding paragraph, where the parties concerned who are dissatisfied with the amount of compensation learn of the issuance of a license before the enforcement of this Law, a period mentioned in Article 72, paragraph (1) of the new Law shall be calculated from the date of enforcement of this Law.

**(Transitory measures: registrations)**

Article 12. (1) The disposal of and procedures for registrations of copyright, of the true name or of the date of first publication mentioned in Article 15 of the old Law, made before the enforcement of this Law, shall be considered as those mentioned in Articles 75 to 77 of the new Law, except those falling within the provision of Article 15, paragraph (3) of the Supplementary Provisions.

(2) The provision of Article 35, paragraph (5) of the old Law shall still be effective with respect to works, the date of first publication of which, at the time of the enforcement of this Law, is registered in accordance with the provision of Article 15, paragraph (3) of the old Law.

**(Transitory measures: right of publication)**

Article 13. (1) The right of publication under the old Law which was established before the enforcement of this Law and which subsists at the time of enforcement of this Law shall be considered to be established under the new Law.

(2) The disposal of and procedures for registrations of the right of publication mentioned in Article 28decies of the old Law, made before the enforcement of this Law, shall be considered as those mentioned in Article 88 of the new Law.

(3) Notwithstanding the provisions of Articles 80 to 85 of the new Law, the provisions

of Articles 28ter to 28octies of the old Law shall still be effective with respect to the right of publication mentioned in paragraph (1) of this Article.

Article 14. Deleted.

**(Transitory measures: neighboring rights)**

Article 15. (1) The transfer and other disposal, made before the enforcement of this Law, of copyright under the old Law in performances which took place before the enforcement of this Law or in phonograms composed of the sounds which were first fixed before the enforcement of this Law, being performances or phonograms to which the provisions relating to neighboring rights of the new Law shall apply as from the date of enforcement of this Law, shall be considered as the transfer and other disposal of neighboring rights in such performances or phonograms under the new Law.

(2) Where the duration of neighboring rights in performances or phonograms, mentioned in the preceding paragraph, in which copyright under the old Law subsists at the time of coming into force of this Law is to expire after the end of a period provided in Article 101 of the new Law, the duration of neighboring rights in such performances or phonograms shall, notwithstanding the provisions of that Article, expire at the end of the duration of copyright in such performances or phonograms or under the old Law or at the end of a period of fifty years following the date of enforcement of this Law if the duration of copyright in such performances or phonograms under the old Law is to expire after the end of that period.

(3) The disposal of and procedures for registrations of copyright in performances or phonograms, mentioned in paragraph (1) of this Article, made before the enforcement of this Law in accordance with the provision of Article 15, paragraph (1) of the old Law, shall be considered made in accordance with the provision of Article 104 of the new Law.

(4) The provisions of Article 10, paragraph (1) and Article 12, paragraph (2) of the Supplementary Provisions shall apply mutatis mutandis to performances and phonograms mentioned in paragraph (1) of this Article.

**(Transitory measures: distribution, etc. of copies)**

Article 16. Copies of works, performances or phonograms which were made before the

enforcement of this Law and which would be lawful under the provisions of Subsection 5 of Section 3 of Chapter II of this Law (including the case where their application *mutatis mutandis* is provided for under Article 102, paragraph (1) of the new Law) may be used or distributed to the extent of the purpose of the reproduction as mentioned in these provisions. In this case, the provision of Article 113, paragraph (1), item (ii) of the new Law shall not apply.

**(Transitory measures: infringements)**

Article 17. Notwithstanding the provisions of Article 14 and Chapter VII of the new Law, the provisions of Articles 12, 28undecies, 29, 33 and 34, Article 35, paragraphs (1) to (4), and Articles 36 and 36bis of the old Law shall still apply to acts, made before the enforcement of this Law, which violate the provision of Article 18, paragraph (1) or (2) of the old Law or which fall within the infringements provided for in Chapter III of the old Law (including acts infringing the right of publication).

**(Transitory measures: penal provisions)**

Article 18. The penal provisions of the old Law shall still apply to acts made before the enforcement of this Law.

**Supplementary Provisions**

(Law No.49, of 1978)

**(Date of enforcement)**

1. This Law shall come into force as from the day on which the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms becomes effective with respect to Japan. [This Law came into force on October 14, 1978.]

**(Transitory measures)**

2. The provisions relating to neighboring rights of the amended Copyright Law shall not apply to the phonograms, mentioned in Article 8, item (iii) of the amended Copyright Law, which are composed of the sounds first fixed before the enforcement of this Law.

**Supplementary Provisions (Extract)**

(Law No.45, of 1981)

**(Date of enforcement)**

1. This Law shall come into force on the date of its promulgation. [This Law came into force on May 19, 1981.]

**Supplementary Provisions (Extract)**

(Law No.78, of 1983)

**(Date of enforcement)**

1. This Law (except Article 1) shall come into force on July 1, 1984.

**Supplementary Provisions (Extract)**

(Law No.23, of 1984)

**(Date of enforcement)**

1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on May 21, 1984.]

**Supplementary Provisions**

(Law No.46, of 1984)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 1985.

**(Repeal of the Interim Measure Law)**

2. The Law to Take an Interim Measure for the Protection of the Rights of Authors, etc. with Respect to the Lending of Commercial Phonograms to the Public (Law No.76, of 1983; hereinafter referred to as "the Interim Measure Law") shall be hereby repealed.

**(Transitory measures required by the repeal of the Interim Measure Law)**

3. Notwithstanding the provisions of Articles 26bis, 95bis and 97bis of the amended Copyright Law, those who have obtained authorization with respect to the lending to



the public of commercial phonograms in accordance with the provisions of the Interim Measure Law before the enforcement of this Law may offer to the public such works, performances and phonograms as reproduced in such commercial phonograms by lending such commercial phonograms, within the scope of conditions of that authorization.

4. The provisions of the Interim Measure Law (including a Cabinet Order under it) shall still be effective with respect to acts made before the enforcement of this Law in violation of the provision of Article 4, paragraph (1) of the Interim Measure Law.

#### **Supplementary Provisions (Extract)**

(Law No.62, of 1985)

#### **(Date of enforcement)**

1. This Law shall come into force on January 1, 1986. However, the provision for amendment to insert Article 76bis next to Article 76 and the amended provision of Article 78, paragraph (1) as well as the provision of paragraph 6 of the Supplementary Provisions shall come into force on the date of enforcement of the law mentioned in Article 78bis of the amended Copyright Law [on April 1, 1987].

#### **(Transitory measures: works made by an employee in the course of his duties)**

2. The provisions of Article 15 of the amended Copyright Law shall still apply to works created after the enforcement of this Law, and the provision of Article 15 of the Copyright Law before amendment shall still apply to works created before the enforcement of this Law.

#### **(Transitory measures: registration of the date of creation)**

3. The provision of the proviso to Article 76bis, paragraph (1) shall not apply to the registration made under the provision of the same paragraph of program works created within six months before the date of enforcement of the law referred to in Article 78bis of the amended Copyright Law, until the lapse of three months from that date of enforcement.

#### **(Transitory measures: use of copies of program works)**

4. The provision of Article 113, paragraph (2) of the amended Copyright Law shall not

apply to copies of a program work which were made before the enforcement of this Law and which would be lawful and could be preserved under the provisions of Article 47bis of the amended Copyright Law.

**(Transitory measures: penal provisions)**

5. The penal provisions of the Copyright Law before amendment shall still apply to acts made before the enforcement of this Law.

Supplementary Provisions  
(Law No.64, of 1986)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 1987.

**(Transitory measures: ownership of copyright in cinematographic works made for wire diffusion purposes)**

2. The provisions of Article 29 of the Copyright Law before amendment shall still apply to the ownership of copyright in cinematographic works, mentioned in Article 29, paragraph (3) of the amended Copyright Law, which were created before the enforcement of this Law.

**(Transitory measures: neighboring rights of wire diffusion organizations and performers)**

3. The provisions of the amended Copyright Law relating to neighboring rights of wire diffusion organizations and performers (including the provisions of Article 95 and Article 95ter, paragraphs (3) and (4)) shall not apply to wire diffusions which took place before the enforcement of this Law nor to performances transmitted through such wire diffusions (excluding such performances as fall within items (i) to (iii) of Article 7 of the Copyright Law).

**(Transitory measures: penal provisions)**

4. The penal provisions of the Copyright Law before amendment shall still apply to acts made before the enforcement of this Law.

### **Supplementary Provisions**

(Law No.87, of 1988)

#### **(Date of enforcement)**

1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on November 21, 1988.]

#### **(Transitory measures)**

2. The provision of Article 121, item (ii) of the amended Copyright Law shall not apply to the following acts made after the enforcement of this Law:

(i) the making or the distribution of copies of commercial phonograms reproduced from commercial phonograms which have been manufactured, by those engaging in the business of manufacturing commercial phonograms in this country, from matrices of phonograms (except those phonograms falling within any of the three items of Article 8) offered by producers of phonograms (in the next item, referred to as "commercial phonograms which have been manufactured from matrices coming from certain foreign countries") and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices (in the next item, referred to as "a prohibition period before amendment") have passed before the enforcement of this Law;

(ii) the distribution of copies, made before a prohibition period before amendment has passed, of commercial phonograms which have been manufactured from matrices coming from certain foreign countries and in relation to which a prohibition period before amendment has passed before the enforcement of this Law.

### **Supplementary Provisions**

(Law No.43, of 1989)

#### **(Date of enforcement)**

1. This Law shall come into force as from the day on which the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations becomes effective with respect to Japan. [This Law came into force on October 26, 1989.]

**(Transitory measures: performances, etc. to which Japan has the obligation to grant protection under a treaty)**

2. The provisions relating to neighboring rights (including the provisions of Articles 95 and 97) of the amended Copyright Law (hereinafter referred to as "the new Law") shall not apply to the following:

(i) performances, mentioned in Article 7, item (v) of the new Law, which took place before the enforcement of this Law;

(ii) phonograms, mentioned in Article 8, item (iii) of the new Law, which are composed of the sounds first fixed before the enforcement of this Law (excluding those phonograms as referred to in the next paragraph);

(iii) broadcasts, mentioned in Article 9, item (iii) of the new Law, which took place before the enforcement of this Law.

3. The Copyright Law before amendment shall still apply to phonograms, mentioned in Article 8, item (iii) of the new Law, which are composed of the sounds first fixed before the enforcement of this Law and to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

**(Transitory measures: foreign performers who did not have habitual residence in this country)**

4. The provisions relating to neighboring rights (including the provisions of Article 95 and Article 95ter, paragraphs (3) and (4) ) of the new Law shall not apply to foreign performers whose performances took place before the enforcement of this Law and who did not have habitual residence in this country at the time when their performances took place, provided that their performances do not fall within those which took place before the enforcement of the Copyright Law and in which copyright under the old Copyright Law (Law No.39, of 1899) subsists at the time of coming into force of the Copyright Law.

#### **Supplementary Provisions**

(Law No.63, of 1991)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 1992.

**(Transitory measures)**

2. The amended provisions of Article 95ter shall not apply to performances, mentioned in Article 7, item (v), which took place before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 43, of 1989; in the next paragraph, item (ii) referred to as "the Amendments Law of 1989").

3. The amended provisions of Article 97ter shall not apply to the following phonograms:

(i) phonograms (excluding those mentioned in Article 8, item (i) or (ii)) to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (in the next item and paragraph 5, item (iii) of the Supplementary Provisions, referred to as "the Phonograms Convention") and which are composed of the sounds first fixed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 49, of 1978);

(ii) phonograms, mentioned in Article 8, item (iii) (excluding those to which Japan has the obligation to grant protection under the Phonograms Convention), which are composed of the sounds first fixed before the enforcement of the Amendments Law of 1989.

4. The provision before amendment of Article 95ter, paragraph (2) shall still apply to the starting date of calculating a period for commercial phonograms going beyond the period, mentioned in Article 95ter, paragraph (2), with respect to the right of performers and producers of phonograms to offer to the public, by means of lending, their commercial phonograms first sold before the enforcement of this Law, provided that such commercial phonograms are those in which performances mentioned in Article 7, items (i) to (iv) or phonograms mentioned in Article 8, item (i) or (ii) are incorporated.

5. The amended provisions of Article 121bis shall not apply to any of the following acts made after the enforcement of this Law:

(i) the making, the distribution or the possession for distribution, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening

copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms in this country, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms (in the next item, referred to as "commercial phonograms manufactured from matrices coming from certain foreign countries") and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices (in the next item, referred to as "a prohibition period of twenty years") have passed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 87, of 1988; in the next item and item (iii), referred to as "the Amendments Law of 1988");

(ii) the distribution or the possession for distribution of commercial phonograms which are reproduced, within a prohibition period of twenty years, from commercial phonograms manufactured from matrices coming from certain foreign countries and in relation to which a prohibition period of twenty years have passed before the enforcement of the Amendments Law of 1988;

(iii) the making, the distribution or the possession for distribution, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms outside the jurisdiction of the Copyright Law, from matrices of phonograms (except those phonograms falling within any of the four items of Article 8) offered by producers of phonograms who are nationals of any of the Contracting States of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Phonograms Convention ("nationals" includes legal persons established under the law of such State and those who have their principal offices in such State) and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices have passed before the enforcement of the Amendments Law of 1988.

6. The penal provisions before amendment shall apply to acts made before the enforcement of this Law.

### **Supplementary Provisions**

(Law No.106, of 1992)

**(Date of enforcement)**

1. This Law shall come into force on the date fixed by Cabinet Order within six months from the date of its promulgation. [This Law came into force on June 1, 1993.] However, the provision amending the Table of Contents, the provision renumbering Chapter VII as Chapter VIII, Chapter VI as Chapter VII, and Chapter V as Chapter VI and inserting the new Chapter V next to Chapter VI (except the parts relating to Article 104quater, Article 104quinquies and Article 104octies, paragraphs (1) and (3) ) and the provision amending Article 17 of the Supplementary Provisions shall come into force on the date of promulgation of this Law [on December 16, 1992].

**(Transitory measures)**

2. The provisions of the amended Copyright Law shall not apply to such private sound or visual recording as made on a specified recording medium purchased (the word "purchased" means "initially purchased after retail"; the same shall apply hereinafter) before the date of enforcement of this Law (hereinafter referred to as "the date of enforcement") by means of a specified recording machine purchased before the date of enforcement.

3. When private recording is made on a specified recording medium purchased after the date of enforcement by means of a specified recording machine purchased before the date of enforcement, compensation for private recording shall be considered to have been paid with respect to such recording machine in accordance with the provision of Article 104quater, paragraph (1) of the amended Copyright Law. The same shall apply to a specified recording medium, purchased before the date of enforcement, on which private recording is made by means of a specified recording machine purchased after the date of enforcement.

**Supplementary Provisions (Extract)**

(Law No.89, of 1993)

**(Date of enforcement)**

Article 1. This Law shall come into force as from the date of enforcement of the Administrative Procedures Law (Law No.88, of 1993). [This Law came into force on October 1, 1994.]

## **Supplementary Provisions**

(Law No.112, of 1994)

### **(Date of enforcement)**

1. This Law shall come into force on the date fixed by Cabinet Order within one year from the day following the day on which the Marrakesh Agreement Establishing the World Trade Organization becomes effective with respect to Japan. [This Law came into force on January 1, 1996.]

### **(Application of the provisions relating to neighboring rights)**

2. The provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986), paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; hereinafter referred to as "the Amendments Law of 1989") and paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.63, of 1991; in paragraph 4 of the Supplementary Provisions of this Law referred to as "the Amendments Law of 1991") shall not apply, in case of the application of the provisions relating to neighboring rights (including the provisions of Article 95ter, paragraphs (3) and (4)) of the Copyright Law amended by the provisions of Article 1 of this Law (hereinafter referred to as "the new Law") to the performances mentioned in Article 7, item (iv) of the new Law (excluding those falling within the performances mentioned in Article 7, items (i) to (iii)) which fall within the following performances, or to the performances mentioned in Article 7, item (v) of the new Law which fall within the following performances:

- (i) performances which took place in a member of the World Trade Organization;
- (ii) performances fixed in the following phonograms: (a) phonograms the producers of which are nationals of any of the members of the World Trade Organization ("nationals" includes legal persons established under the law of such member and those who have their principal offices in such member; the same shall apply hereinafter);  
(b) phonograms composed of the sounds which were first fixed in any of the members of the World Trade Organization;
- (iii) performances transmitted through the following broadcasts, excluding those



incorporated in sound or visual recordings before the transmission with the authorization of the performers concerned: (a) broadcasts transmitted by broadcasting organizations who are nationals of any of the members of the World Trade Organization;

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

3. The provisions of paragraph 4 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 95ter, paragraphs (3) and (4)) to foreign performers whose performances are mentioned in the preceding paragraph, items (i) to (iii) and who did not have habitual residence in this country at the time when their performances took place. The Provisions of paragraph

4. The Provisions of paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.49, of 1978), paragraphs 2 and 3 of the Supplementary Provisions of the Amendments Law of 1989, and paragraph 3 of the Supplementary Provisions of the Amendments Law of 1991 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 97ter, paragraphs (3) to (5)) to the following phonograms:

(i) phonograms, mentioned in Article 8, item (iii) of the new Law, which fall within the following phonograms: (a) phonograms the producers of which are nationals of any of the members of the World Trade Organization;

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

(ii) phonograms, mentioned in Article 8, item (iv) of the new Law, to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (in paragraph 6 of the Supplementary Provisions of this Law, referred to as "the Phonograms Convention").

5. The Provisions of paragraph 2 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law to the broadcasts, mentioned in the Article 9, item

(iii) of the new Law, which fall within the following broadcasts:

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

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

**(Transitory measures: the making, etc. of copies of commercial phonograms manufactured from matrices coming from foreign countries)**

6. The provisions of the Article 121bis of the new Law shall not apply to the making, the distribution or the possession for distribution, act made after the enforcement of this Law, of copies of commercial phonograms reproduced from commercial phonograms (including copies of such commercial phonograms and those made through one or more intervening copies) which have been manufactured, by those engaging in the business of manufacturing commercial phonograms outside the jurisdiction of the Copyright Law, from matrices of phonograms (except those phonograms falling within any of the five items of Article 8 of the new Law) offered by producers of phonograms who are nationals of any of the members of the World Trade Organization (except nationals of any of the Contraction States of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Phonograms Convention ("nationals" includes legal persons established under the law of such State and those who have their principal offices in such State)) and in relation to which twenty years from the year following the date of the first fixation of sounds on the matrices have passed before the enforcement of the Law for Partial Amendments to the Copyright Law (Law No.87, of 1988).

**Supplementary Provisions (Extract)**

(Law No.91, of 1995)

**(Date of enforcement)**

Article 1. This Law shall come into force twenty days after the date of its promulgation. [This Law came into force on June 1, 1995.]

**Supplementary Provisions**

(Law No.117, of 1996)

**(Date of enforcement)**

1. This Law shall come into force on the date fixed by Cabinet Order within three months from the date of its promulgation. [This Law came into force on March 25, 1997.]

**(Transitory measures: term of protection for photographic works)**

2. The provisions relating to the term of protection for works of the amended Copyright Law (in next paragraph, referred to as "the new Law") shall apply to photographic works in which copyright under the Copyright Law before amendment subsists at the time of coming into force of this Law, and the provisions relating to the term of protection for works of the copyright Law before amendment shall still apply to photographic works in which copyright under the Copyright Law before amendment has expired at the time of coming into force of this Law.

3. Where the duration of copyright, in photographic works created before the enforcement of this Law, under the provisions relating to the term of protection for works of the Copyright Law before amendment (hereinafter referred to as "the old Law") is to expire after the end of the duration of copyright under the new Law, the duration of copyright in such photographic words shall, notwithstanding the provisions of the new Law, expire at the end of the duration of copyright under the old Law.

**Supplementary Provisions**

(Law No.86, of 1997)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 1998.

**(Transitory measures: works, etc. in a state that the interactive transmission thereof can be made)**

2. The provision of Article 23, paragraph(1), Article 92bis, paragraph(1) or Article 96bis of the revised Copyright Law (hereinafter referred to as "the new Law") shall not apply to the making transmittable, by means of an interactive transmission server mentioned in Article 2, paragraph(1), item (ixquinques) of the new Law, of such works, performances (only those mentioned in Article 92, paragraph(2), item (ii) of the Copyright Law before amendment (hereinafter referred to as "the old Law")); the same

shall apply hereinafter in this paragraph) or phonograms as have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by a person who has made transmittable such works, performances or phonograms through such interactive transmission or, if such a person is different from a person who, by means of such interactive transmission server for such making transmittable of such works, performances or phonograms, has put such works, performances or phonograms in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by the latter.

3. The provision of Article 92, paragraph(1) of the old Law shall still be effective, even after the enforcement of this Law, with respect to performances (other than those mentioned in Article 92, paragraph(2), item (ii)) which have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law.

**(Transitory measures: penal provisions)**

4. The penal provisions of the old Law shall still apply to acts made before the enforcement of this Law.

**Supplementary Provisions (Extract)**

(Law No.101, of 1998)

**(Date of enforcement)**

Article 1. This Law shall come into force on April 1, 1999.

**Supplementary Provisions (Extract)**

(Law No.77, of 1999)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 2000. However, the amended provisions inserting the new items (xx) and (xxi) next to item (xix) of Article 2, paragraph (1), the amended provisions of Article 30, paragraph (1), the amended provisions of Article 113, the amended provisions of Article 119, the amended

provisions inserting the new Article 120bis next to Article 120, the amended provisions of Article 123, paragraph (1), the amended provisions of Article 5bis of the Supplementary Provisions [Law No.49, of 1970] and the provisions of paragraph 5 of the Supplementary Provisions [Law No.77, of 1999] shall come into force on October 1, 1999.

**(Transitory measures)**

2. The provisions of Article 26bis, paragraph (1), Article 95bis, paragraph (1) and Article 97bis, paragraph (1) of the amended Copyright Law shall not apply in the case of the transfer of ownership of such originals or copies of works, of such sound or visual recordings of performances or of such copies of phonograms as subsisting at the time of enforcement of this Law (only those made without prejudice to the right of persons who have the right mentioned in Article 21, Article 91, paragraph (1) or Article 96 of the Copyright Law and excluding copies of works made by the owners of the right of publication).

3. The provision of Article 26bis, paragraph (1) of the amended Copyright Law shall not apply to such distribution of copies of works, on which the right of publication is established, as made within the duration of such right by persons who have such right which was established before the enforcement of this Law and which subsists at the time of enforcement of this Law.

4. The Provisions of the Copyright Law before amendment shall still apply to such distribution of copies of works, made within the duration of the right of publication, as made by persons who had such right after the termination of such right (only such right established before the enforcement of this Law).

5. For a period from October 1, 1999 to the day before the date of enforcement of this Law, "Article 95ter, paragraph (3)" and "Article 97ter, paragraph (3)" in Article 113, paragraph (4) of the amended Copyright Law shall read "Article 95bis, paragraph (3)" and "Article 97bis, paragraph (3)", respectively.

6. In the case where the date of enforcement of the Law for the Readjustment, etc. of Related Laws Required in Consequence of the Enforcement of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.43, of 1999; hereinafter referred to as "the Readjustment Law" is preceded by the date of

enforcement of this Law, "Article 42, Article 42bis" and "Article 42 or 42bis" in Article 47ter of the amended Copyright Law shall read "Article 42" and "or Article 42", respectively, for a period until the day before the date of enforcement of the Readjustment Law.

7. The penal provisions of the Copyright Law before amendment shall still apply to acts done before the enforcement of this Law and to acts done after the enforcement of this Law in the case where the provisions of the Copyright Law before amendment shall still apply in accordance with the provisions of paragraph 4 of the Supplementary Provisions [Law No.77, of 1999]

#### **Supplementary Provisions (Extract)**

(Law No.43, of 1999)

##### **(Date of enforcement)**

Article 1. This Law shall come into force as from the date of enforcement of the Law for the Disclosure of Information Possessed by Government Organizations (Law No.42, of 1999; hereinafter referred to as "the Information Disclosure Law").

##### **(Transitory measures required by partial amendments to the Copyright Law)**

Article 2. The Provisions of Article 18, paragraph (3) of the Copyright Law amended by the provisions of Article 11 shall not apply to works which have not yet been made public (including works which have been made public without consent of the authors) and which the authors have offered, before the enforcement of this Law, to government organizations or local public entities mentioned in the provisions of Article 2, paragraph (1) of the Information Disclosure Law.

#### **Supplementary Provisions (Extract)**

(Law No.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]

**Supplementary Provisions (Extract)**

(Law No.220, of 1999)

Article 1. This Law (except Article 1) shall come into force on January 6, 2001. However the following provisions shall come into force as from the day mentioned in any of the following items:

(i) to (iii) [omitted]

**Supplementary Provisions**

(Law No.56, of 2000)

**(Date of enforcement)**

1. This Law shall come into force on January 1, 2001. However, the amended provisions of Article 58 of the Copyright Law in Article 1 and the provisions of Article 2 shall come into force as from the day on which the WIPO Copyright Treaty becomes effective with respect to Japan.

**(Transitory measures: award of an amount of damages)**

2. The provisions of Article 114quater of the Copyright Law amended by the provisions of Article 1 shall not apply to such cases as those in which, prior to the enforcement of this Law, oral proceedings have been terminated in higher courts or in district courts in the second instance, or in which there has been an agreement as not to make an appeal with the reservation of the right to appeal to a decision by a summary court or a decision by a district court in the first instance.

**(Transitory measures: penal provisions)**

3. The penal provisions of the copyright Law before amendment shall still apply to acts done before the enforcement of this Law.

**Supplementary Provisions**

(Law No.72, of 2002)

**(Date of enforcement)**

1. The provisions of this Law shall come into force as from the day mentioned in any of the following items, as follows:

(i) the amended provisions of Articles 7, 8, 95, 95ter, 97 and 97ter as well as the provisions of paragraphs 2 to 4, 6, 7 and 9 of the Supplementary Provisions: the day on which the WIPO Performances and Phonograms Treaty (hereinafter referred to as "the WPPT") becomes effective with respect to Japan;

(ii) the amended provisions of the Table of Contents (only parts of the provision renumbering Article 100quater as Article 100quinquies) and of Article 89, paragraph (4), the provision inserting the new Article 99bis next to Article 99, the provisions renumbering Article 100quater as Article 100quinquies and inserting the new Article 100quater next to Article 100ter and the amended provisions of Article 103: January 1, 2003;

(iii) the provisions other than those mentioned in the preceding two paragraphs: the day on which the WPPT becomes effective with respect to Japan or January 1, 2003 whichever earlier.

**(Application of the provisions relating to neighboring rights)**

2. The provisions of paragraph 3 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.64, of 1986), paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.43, of 1989; hereinafter referred to as "the Amendments Law of 1989") and paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.63, of 1991; hereinafter referred to as "the Amendments Law of 1991") shall not apply, in case of the application of the provisions relating to neighboring rights (including the provisions of Article 95 and Article 95ter, paragraphs (3) and (4)) of the amended Copyright Law (hereinafter referred to as "the New Law") to the performances mentioned in Article 7, item (iv) of the new Law (excluding those falling within the performances mentioned in Article 7, items (i) to (iii)) which fall within the following performances, or to the performances mentioned in Article 7, item (v) of the new Law which fall within the following performances:

(i) performances which took place in a Contracting Party to the WPPT;

(ii) performances fixed in the following phonograms: (a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT ("nationals" includes legal persons established under the law of such Contracting Party and those who have their principal offices in such Contracting Party; the same shall apply



hereinafter);

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

3. The provisions of paragraph 4 of the Supplementary Provisions of the Amendments Law of 1989 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 95 and Article 95ter, paragraphs (3) and (4)) to foreign performers whose performances are mentioned in the preceding paragraph, items (i) and (ii) and who did not have habitual residence in this country at the time when their performances took place.

4. The provisions of paragraph 2 of the Supplementary Provisions of the Law for Partial Amendments to the Copyright Law (Law No.49, of 1978), paragraphs 2 and 3 of the Supplementary Provisions of the Amendments Law of 1989, and paragraph 3 of the Supplementary Provisions of the Amendments Law of 1991 shall not apply, in case of the application of the provisions relating to neighboring rights of the new Law (including the provisions of Article 97 and Article 97ter, paragraphs (3) to (5)) to the following phonograms:

(i) phonograms, mentioned in Article 8, item (ii) of the new Law, which fall within the following phonograms: (a) phonograms the producers of which are nationals of any of the Contracting Parties to the WPPT;

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

(ii) phonograms, mentioned in Article 8, item (iv) of the new Law, to which Japan has the obligation to grant protection under the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

**(Transitory measures: moral rights of performers)**

5. The provisions of Article 90bis, paragraph (1) and Article 90ter, paragraph (1) of the new Law shall not apply to performances fixed in sound or visual recordings which have been made with the authorization of the performer concerned before the enforcement of this Law, except in the case where, after the enforcement of this Law, the name of the performer concerned indicated at his performances is deleted or

altered, or the name of the performer concerned is newly indicated at his performances, or his performances are altered.

**(Transitory measures: secondary use of commercial phonograms)**

6. Notwithstanding the provisions of Article 95, paragraph (2) of the new Law, the provisions of paragraph (4) of that Article shall apply, in case of the application of the provisions of paragraph (1) of that Article to performers whose performances have been fixed in phonograms the producers of which are nationals of a country which is a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter in this and next paragraphs referred to as "the Convention for the Protection of Performers, etc.") and which is a Contracting Party to the WPPT and whose performances have been so fixed before the day on which the Convention for the Protection of Performers, etc. became effective with respect to Japan.

7. Notwithstanding the provisions of Article 95, paragraph (2) of the new Law which shall apply mutatis mutandis in the provisions of Article 97, paragraph (2) of the new Law, the provisions of Article 95, paragraph (4) of the new Law which shall apply mutatis mutandis in the provisions of Article 97, paragraph (2) of the new Law shall apply, in case of the application of the provisions of Article 97, paragraph (1) of the new Law to producers of phonograms who are nationals of a country which is a Contracting State of the Convention for the Protection of Performers, etc. and which is a Contracting Party to the WPPT and whose phonograms have been composed of the sounds first fixed before the day on which the Convention for the Protection of Performers, etc. became effective with respect to Japan.

**(Transitory measures: term of protection for phonograms)**

8. The provisions of Article 101, paragraph (2), item (ii) shall apply to phonograms in which neighboring rights under the Copyright Law before amendment subsist at the time of coming into force of this Law, and the provisions relating to the term of protection for phonograms of the Copyright Law before amendment shall still apply to phonograms in which neighboring rights under the Copyright Law before amendment have expired at the time of coming into force of this Law.

**(Partial amendments to the Law on Management Business of Copyright and Neighboring Rights)**

9. The Law on Management Business of Copyright and Neighboring Rights (Law No.131, of 2000) shall be partially amended as follows: In Article 25, item (i), the words "Article 95, paragraph (4)" shall be replaced by the words "Article 95, paragraph (5)".

**Supplementary Provisions**

(Law No.85, of 2003)

**(Date of enforcement)**

Article 1. This Law shall come into force on January 1, 2004.

**(Transitory measures: term of protection for cinematographic works)**

Article 2. The provision of Article 54, paragraph (1) of the amended Copyright Law (in next Article referred to as "the new Law") shall apply to cinematographic works in which copyright under the Copyright Law before amendment subsists at the time of coming into force of this Law, and the provisions relating to the term of protection for cinematographic works of the Copyright Law before amendment shall still apply to cinematographic works in which copyright under the Copyright Law before amendment has expired at the time of coming into force of this Law.

Article 3. In the case of cinematographic works which were created before the enforcement of the Copyright Law and to which the provisions of the old Copyright Law (Law No.39, of 1899) shall still apply in accordance with the provision of Article 7 of the Supplementary Provisions of the Copyright Law, if the duration of copyright in such cinematographic works under the provisions of the old Copyright Law is to expire after the end of the duration of copyright under the provisions of Article 54, paragraph (1) of the new Law, the duration of copyright in such cinematographic works shall, notwithstanding the provision of the new Law, expire at the end of the duration of copyright under the old Copyright Law.

**(Transitory measures: penal provisions)**

**Article 4.** The penal provisions of the Copyright Law before amendment shall still apply to acts done before the enforcement of this Law.

(Law No.92, of 2004)

**(Date of enforcement)**

**Article 1.** This Law shall come into force on January 1, 2005.

**(Transitory measures: importation, etc. of commercial phonograms)**

**Article 2.** The provisions of Article 113, paragraph (5) of the amended Copyright Law shall not apply to such phonograms for foreign distribution mentioned in that paragraph, as having been imported before the enforcement of this Law and are possessed for distribution at the time of coming into force of this Law.

**Article 3.** In case of the application of the provisions of Article 113, paragraph (5) of the amended Copyright Law to such phonograms for domestic distribution, mentioned in that paragraph, as having been published at the time of enforcement of this Law, "the first publication of such phonograms in this country" in the proviso to that paragraph shall read "the date of enforcement of the Law for Partial Amendments to the Copyright Law (Law No. 92, of 2004) if such phonograms for domestic distribution have been published at the time of such enforcement", and "which go beyond" in that proviso shall read "after they have gone beyond".

**Article 4.** The provision of Article 4bis of the Supplementary Provisions of the Copyright Law before amendment shall be effective, after the enforcement of this Law, with respect to the lending of books or magazines (excluding those consisting mainly of music) which have been possessed for lending to the public at the first day of the month after next to the month of promulgation of this Law.

**(Partial amendments to the Law for Partial Amendments to the Courts Law, etc.)**

**Article 5.** (Omitted.)