

## **6. Law on Management Business of Copyright and Neighboring Rights**

(Law No.131, of November 29, 2000, as amended up to December 3, 2004 by Law No. 154)

### **Chapter I General Provisions**

#### **(Purpose)**

**Article 1.** The purpose of this Law is, by introducing a registration system for those who engage in management business of copyright and neighboring rights and taking measures for securing a fair operation of such business by making it a duty to make a report and a public notice of the stipulations of a management consignment contract and the royalty rules, to protect those who consign the management of copyright and neighboring rights, to facilitate the exploitation of works, performances, phonograms, broadcasts and wire diffusions, and thereby to contribute to the development of culture.

#### **(Definitions)**

**Article 2.** (1) In this Law, "management consignment contract" means any of the following contracts other than those in which, when a consignee authorizes the exploitation of works, performances, phonograms, broadcasts and wire diffusions (hereinafter referred to as "works, etc.") a consignor (or a consignor of the contract if that consignor is a consignee of any of the following contracts relating to works, etc.; the same shall apply in next paragraph) is to decide royalty rates:

- (i) a trust contract by which a consignor transfers his or her copyright or neighboring rights (hereinafter referred to as "copyright, etc.") to a consignee who is entrusted to authorize the exploitation of his or her works, etc. or otherwise manage copyright, etc. concerned;
- (ii) a mandate contract by which a consignor entrusts a consignee to act as an agent or a proxy to authorize the exploitation of his or her works, etc. and manage copyright, etc. correspondingly.

(2) In this Law, "management business" means an act of business to authorize the exploitation of works, etc. or otherwise manage copyright, etc. under a management consignment contract (other than that in which a consignor is a person specified by Ministry of Education, Culture, Sports, Science and Technology (hereinafter referred to as "Ministry of Education and Science") Ordinance as a person who has a close human or capital relation with a consignee).

(3) In this Law, "management business operator" means a person who operates a management business after being registered in accordance with the provision of next Article.

### **Chapter II Registration**

**(Registration)**

**Article 3.** A person who intends to operate a management business shall be registered by the Commissioner of the Agency for Cultural Affairs.

**(Application for registration)**

**Article 4.** (1) A person who intends to be registered in accordance with the provision of the preceding Article shall submit to the Commissioner of the Agency for Cultural Affairs an application for registration containing the following matters:

- (i) the appellation;
  - (ii) the names of the officers (or the name of the representative in the case of a non-juridical association mentioned in Article 6, paragraph (1), item (i); the same shall apply in Article 6, paragraph (1), item (v) and Article 9, item (iv));
  - (iii) the appellation and the address of the office;
  - (iv) categories of works, etc. to be dealt with and ways of exploitation of such works, etc.
  - (v) other matters specified by Ministry of Education and Science Ordinance.
- (2) An application for registration mentioned in the preceding Article shall be accompanied by the following documents:
- (i) a written oath to the effect that the applicant does not fall within any of items (iii) to (vi) of Article 6, paragraph (1);
  - (ii) a certificate of matters registered, a balance sheet and other documents specified by Ministry of Education and Science Ordinance.

**(Entry in the register)**

**Article 5.** (1) Upon receiving an application for registration mentioned in the preceding Article, the Commissioner of the Agency for Cultural Affairs shall register the following matters in the register of management business operators, except in the case where the Commissioner refuses to register in accordance with the provisions of next Article, paragraph (1):

- (i) matters mentioned in each item of the preceding Article, paragraph (1);
  - (ii) the date of registration and the registration number.
- (2) when having made the registration in accordance with the provisions of the preceding paragraph, the Commissioner shall notify the applicant thereof without delay.
- (3) The Commissioner shall put to the public inspection the register of management business operators.

**(Refusal to register)**

**Article 6.** (1) The Commissioner of the Agency for Cultural Affairs shall refuse to register in the case where the applicant falls within any of the following items, or where there is a false statement in the application for registration or any of the accompanying documents, or where there is no statement about any of the important facts:

- (i) a person who is not a legal person (including a non-juridical association established not for profit, of which a representative is specified and which intends to operate a management business exclusively by a management

consignment contract among its direct or indirect constituent members (hereinafter referred to as a "non-juridical association" ; the same shall apply in this paragraph));

(ii) a legal person who intends to adopt the same appellation as that actually adopted by another management business operator or an appellation likely to be mistaken for another management business operator;

(iii) a legal person whose registration has been cancelled in accordance with the provisions of Article 21, paragraph (1) or (2) and who has not yet passed five years since the date of such cancellation;

(iv) a legal person who violated the provisions of this Law or the Copyright Law (Law No.48, of 1970) and was punished by a fine, and has not yet passed five years since the day when the execution of such punishment had been finished or ceased to be done;

(v) a legal person any of whose officers falls within any of the following sub-items:

(a) an adult ward or an assisted person;

(b) a bankrupt who has not yet rehabilitated;

(c) a person who was an officer, of a management business operator whose registration was cancelled in accordance with the provisions of Article 21, paragraph (1) or (2), within thirty days from the date of such cancellation and who has not yet passed five years since the date of such cancellation;

(d) a person who was sentenced to imprisonment or more severe punishment and who has not yet passed five years since the date when the execution of such punishment had been finished or ceased to be done;

(e) a person who violated the provisions of this Law, the Copyright Law or the Law on Exceptional Provisions for the Registration of Program Works (Law No.65, of 1986) or the provisions (except those of Article 32*bis*, paragraph (7)) of the Law for the Prevention, etc. of an Injustice done by Gangsters (Law No.77, of 1991), or committed the crimes mentioned in Article 204, 206, 208, 208*ter*, 222 or 247 of the Criminal Law (Law No.45, of 1907) or in the Law for the Punishment of the Use of Violence, etc. (Law No.60, of 1926) and was punished by a fine, and who has not yet passed five years since the date when the execution of such punishment had been finished or ceased to be done;

(vi) a legal person who does not have financial basis compatible with the standard, specified by Ministry of Education and Science Ordinance, as deemed necessary for carrying out a management business.

(2) The Commissioner shall, when having refused to register in accordance with the provisions of the preceding paragraph, notify the applicant thereof in writing accompanied by the reasons therefor without delay.

### **(Report of changes)**

**Article 7.** (1) A management business operator shall, when there is a change in any of the matters mentioned in Article 4, paragraph (1), submit a report thereof to the Commissioner of the Agency for Cultural Affairs within two weeks from the day when such change was made.

(2) The Commissioner shall, when having received a report mentioned in the preceding paragraph, register the reported matters in the register of

management business operators.

**(Succession)**

**Article 8.** (1) In the case where a management business operator transfers his or her management business as a whole, or where there is a merger or a division of such business (only a merger or a division involving the succession of such business as a whole), a legal person (including a non-juridical association) who takes over such business as a whole, or a legal person continuing to exist after a merger (excluding a legal person continuing to exist after a merger of a legal person who is a management business operator and of a legal person who is not a management business operator; the same shall apply hereinafter in this paragraph), or a legal person established by a merger, or a legal person who has taken over such business as a whole by a division, shall succeed to the status of the management business operator concerned. However, this rule shall not apply in the case where such a legal person falls within any of items (ii) to (vi) of Article 6, paragraph (1).

(2) A person who has succeeded to the status of a management business operator in accordance with the provisions of the preceding paragraph shall make a report thereof to the Commissioner of the Agency for Cultural Affairs within thirty days from the day when such succession has been made.

(3) The provisions of the preceding Article, paragraph (2) shall apply *mutatis mutandis* to a report made in accordance with the provision of the preceding paragraph.

**(Report of discontinuance of business)**

**Article 9.** In the case where a management business operator has come to fall within any of the following items, a person mentioned in each item shall make a report thereof to the Commissioner of the Agency for Cultural Affairs within thirty days from the day when any of such occurrences has taken place:

- (i) cessation to exist by a merger : a person who was an officer representing a legal person who had ceased to exist;
- (ii) receipt of a decision for entering into bankruptcy procedure : a trustee in bankruptcy;
- (iii) dissolution for other reasons than a merger and a decision for entering into bankruptcy procedure (or an act equivalent to dissolution in the case of a non-juridical association) : a liquidator (or a person who was a representative of a non-juridical association dissolved) ;
- (iv) abolition of a management business : an officer representing a legal person (including a non-juridical association) who was a management business operator.

**(Erasure of registration)**

**Article 10.** The Commissioner of the Agency for Cultural Affairs shall, when having received a report in accordance with the provisions of the preceding Article or when having annulled the registration in accordance with the provisions of Article 21, paragraph (1) or (2), erase the registration of the management business operator concerned.

## **Chapter III Business Affairs**

### **(Stipulations of a management consignment contract)**

**Article 11.** (1) A management business operator shall make stipulations of a management trust contract containing following items and make a previous report thereof to the Commissioner of the Agency for Cultural Affairs. The same shall apply in the case where the operator intends to change the stipulations.

- (i) category of a management trust contract (including the distinction between the agency and the proxy in the case of a mandate contract mentioned in Article 2, paragraph (1), item (ii))
  - (ii) a term of the contract;
  - (iii) how to distribute royalties received;
  - (iv) remunerations due to the management business operator;
  - (v) other matters specified by Ministry of Education and Science Ordinance.
- (2) A management business operator shall notify the consignor of the contents of the changed stipulations of the contract without delay in the case where the operator made a report of changes in accordance with the provision of the second sentence of the preceding paragraph.

(3) A management business operator shall not conclude a management consignment contract except in accordance with the stipulations of a management consignment contract reported in accordance with the provisions of paragraph (1).

### **(Explanation of the contents of the stipulations)**

**Article 12.** A management business operator shall, when intending to conclude a management consignment contract, explain the contents of the stipulations of the contract to those who intend to consign the management of copyright, etc.

### **(Royalty rules)**

**Article 13.** (1) A management business operator shall specify royalty rules containing the following items and make a previous report thereof to the Commissioner of the Agency for Cultural Affairs. The same shall apply in the case where the operator intends to change the rules.

- (i) royalty rates as per exploitation division ("exploitation division" means a division by classification of works and by distinction of exploitation means ; the same shall apply in Article 23) specified in accordance with the standard fixed by Ministry of Education and Science Ordinance;
  - (ii) date of enforcement of the rules;
  - (iii) other matters specified by Ministry of Education and Science Ordinance.
- (2) A management business operator shall, when intending to specify or change royalty rules, endeavor to hear opinions previously from users or groups of them.

(3) A management business operator shall, when having made a report in accordance with the provisions of paragraph (1), make public the summary of the reported royalty rules.

(4) A management business operator shall not ask for, as royalty rates for works, etc. dealt with, rates exceeding those specified by royalty rules reported in accordance with the provisions of paragraph (1).

**(A period for which royalty rules shall not be enforced)**

**Article 14.** (1) A management business operator who made a report in accordance with the provisions of the preceding Article, paragraph (1) shall not enforce the reported royalty rules for a period of thirty days from the day when the Commissioner of the Agency for Cultural Affairs received that report.

(2) The Commissioner may, when having received a report from a management business operator in accordance with the provisions of the preceding Article, paragraph (1) it is thought that the reported royalty rules would possibly obstruct the smooth use of works, etc., extend the period mentioned in the preceding paragraph, with respect to the rules as a whole or parts of them, to a period not exceeding three months from the day of receipt of that report.

(3) The Commissioner may, when having received a report from a designated management business operator (this operator means the operator mentioned in Article 23, paragraph (1); the same shall apply hereinafter in this Article) in accordance with the provisions of the preceding Article, paragraph (1) and received a notice to the effect that a representative of users (this representative means the representative mentioned in Article 23, paragraph (2); the same shall apply in paragraph (5)) asked for a consultation mentioned in Article 23, paragraph (2) with respect to the reported royalty rules within a period mentioned in paragraph (1), extend the period mentioned in paragraph (1), with respect to the parts as a whole or parts of them to be consulted of the rules, to a period not exceeding six months from the day of receipt of that report.

(4) The Commissioner may, when having extended the period mentioned in paragraph (1) in accordance with the provisions of the preceding paragraph and having received, before the lapse of the extended period, a notice from the designated management business operator to the effect that it was not necessary to change the extended parts as a whole or parts of them of the rules after a consultation made in accordance with the provisions of Article 23, paragraph (2) or given an arbitration mentioned in Article 24, paragraph (1) to the effect that it was not necessary to change the rules, shorten the extended period mentioned in paragraph (1) with respect to the parts of the rules deemed not necessary to change.

(5) The Commissioner shall, when having extended the period mentioned in paragraph (1) in accordance with the provisions of paragraph (2) or when having extended such period in accordance with the provisions of paragraph (3) or shortened such extended period in accordance with the provisions of the preceding paragraph, make a notice thereof to the management business operator or the designated management business operator concerned and the representative of users and make a public notice thereof.

**(Public notice of stipulations of a management consignment contract and royalty rules)**

**Article 15.** A management business operator shall, as provided by Ministry of Education and Science Ordinance, make a public notice of the stipulations of a management consignment contract reported in accordance with the provisions of Article 11, paragraph (1) and the royalty rules reported in accordance with the provisions of Article 13, paragraph (1).

**(Limitations on a refusal to authorize the exploitation)**

**Article 16.** A management business operator shall not be allowed, without reasonable reasons, to refuse to authorize the exploitation of works, etc. dealt with.

**(Offering of information)**

**Article 17.** A management business operator shall endeavor to offer to users information relating to titles or appellations of works, etc. or other information relating to works, etc. dealt with and information relating to ways of exploitation dealt with as per works, etc.

**(Keeping and perusal, etc. of financial documents)**

**Article 18.** (1) A management business operator shall prepare, within three months after the lapse of each business year, a balance sheet, a business report relating to the management business in that business year and other documents as specified by Ministry of Education and Science Ordinance (referred to as "financial documents" in next paragraph and Article 34, item (ii)) and keep them at the office for five years.

(2) The consignors may, at any time within business hours of the management business operator, ask for the perusal or copying of financial documents.

## **Chapter IV Supervision**

**(Asking for a report and the inspection)**

**Article 19.** (1) The Commissioner of the Agency for Cultural Affairs may, to the extent necessary for the enforcement of this Law, order a management business operator to make a report on the business or financial situations or order any of the staffs of the Agency to enter the office of the operator and inspect the business situations or an account book, documents or other materials, or to question the persons concerned.

(2) Any of the staffs of the Agency who makes an inspection in accordance with the provisions of the preceding paragraph shall carry with him or her his or her identification card and show it to the persons concerned.

(3) The authority of making an inspection in accordance with the provisions of paragraph (1) shall not be interpreted as being given for the purpose of criminal investigation.

**(Order to improve business affairs)**

**Article 20.** The Commissioner of the Agency for Cultural Affairs may, when it is thought that there is a fact to prejudice the interests of consignors or users, order a management business operator concerned to change the stipulations of a management consignment contract or the royalty rules or take any other measures necessary for improving the operation of business affairs, to the extent necessary for the protection of consignors or users.

**(Annulment of the registration, etc.)**

**Article 21.** (1) The Commissioner of the Agency for Cultural Affairs may annul the registration of a management business operator or order the suspension of the management business as a whole or a part of it for a fixed period not exceeding six months in the case where the operator falls within any of the following items:

- (i) where the operator violates this Law, an order under this Law or a measure taken under any of them;
- (ii) where the operator obtained by dishonest means the registration mentioned in Article 3;
- (iii) where the operator falls within any of the items (i), (ii), (iv) and (v) of Article 6, paragraph (1).

(2) The Commissioner may annul the registration of a management business operator in the case where it is thought that the operator has not started the business within one year from the registration or the operator does not conduct the business continuously for more than one year.

(3) The provisions of Article 6, paragraph (2) shall apply *mutatis mutandis* to the cases of the preceding two paragraphs.

**(Public notice of measures taken under the supervision)**

**Article 22.** The Commissioner of the Agency for Cultural Affairs shall, when having taken measures in accordance with the provisions of the preceding Article, paragraph (1) or (2), make a public notice thereof as provided by Ministry of Education and Science Ordinance.

## **Chapter V Consultation and Arbitration relating to Royalty Rules**

**(Consultation)**

**Article 23.** (1) The Commissioner of the Agency for Cultural Affairs may designate a management business operator as a designated management business operator for any of the exploitation division in the royalty rules (or for more detailed division if it is deemed reasonable to designate such operator for that more detailed division in consideration of a status of exploitation of works, etc. in that exploitation division; the same shall apply hereinafter in this Article) in the case where that operator collects a considerable share of royalty compared with the total amount of royalty collected by all the operators concerned with that exploitation division; provided that:



- (i) all the management business operators in an exploitation division concerned collect a considerable share of royalty compared with the total amount of royalty collected in that exploitation division;
  - (ii) apart from the case in the preceding item, royalty rules of a management business operator concerned are widely used as a standard for royalty rates in an exploitation division concerned and are deemed especially necessary for a smooth exploitation of works, etc. in that exploitation division.
- (2) A designated management business operator shall grant a request from a representative of users in an exploitation division concerned (this representative means a group or an individual deemed representing the interests of users in one exploitation division in consideration of the number of users constituting the direct or indirect members compared with the total number of users in that exploitation division, of the amount of royalty paid by the direct or indirect members compared with the total amount of royalty paid by users in that exploitation division and of other reasons; the same shall apply hereinafter in this Chapter) for consultation on the royalty rules reported in accordance with the provisions of Article 13, paragraph (1).
- (3) A representative of users shall, when making a consultation mentioned in the preceding paragraph, endeavor to hear the opinions of users in an exploitation division concerned (excluding users constituting the direct or indirect members if that representative is a group having such members).
- (4) The Commissioner of the Agency for Cultural Affairs may order a designated management business operator to start or restart a consultation upon application from a representative of users concerned in the case where that operator did not grant a request for consultation from that representative of users or where an agreement was not reached.
- (5) A designated management business operator shall change the royalty rules concerned upon the result of an agreement reached (except in the case where it is deemed unnecessary to change the rules; the same shall apply in next paragraph).
- (6) In the case where an agreement has been reached before the day of coming into force of the royalty rules (or before the day when an extended period has passed if a period mentioned in Article 14, paragraph (1) was extended in accordance with the provisions of Article 14, paragraph (3); the same shall apply in next Article, paragraph (3) ), a report made in accordance with the provisions of Article 13, paragraph (1) on the parts deemed necessary to change of the royalty rules concerned shall be considered as not having been made.

**(Arbitration)**

**Article 24.** (1) In the case where an order was made in accordance with the provisions of the preceding Article, paragraph (4) and an agreement was not reached, the parties concerned may apply for an arbitration by the Commissioner of the Agency for Cultural Affairs with respect to the royalty rules concerned.

(2) The Commissioner shall, in receipt of an application for arbitration mentioned in the preceding paragraph (hereinafter referred to as "arbitration"), notify thereof to other parties concerned and give them an opportunity to express their opinions during a considerable period of time designated.

(3) When having applied for arbitration before the day of enforcement of the royalty rules or received a notice mentioned in the preceding paragraph, a designated management business operator shall not enforce the rules concerned until the day when the arbitration is made, even after the lapse of a period during which the rules shall not be enforced in accordance with the provisions of Article 14.

(4) The Commissioner shall, when intending to make an arbitration, consult with the Culture Council.

(5) The Commissioner shall, upon making an arbitration, notify thereof to the parties concerned.

(6) In the case where an arbitration was made to the effect that it is necessary to change the royalty rules, the rules shall be changed in accordance with the decision made by that arbitration.

## **Chapter VI Miscellaneous Provisions**

### **(Non-application)**

**Article 25.** The provisions of Article 11, paragraph (1), item (iii), Article 13, Article 14, Article 15 (only parts relating to the royalty rules), Article 23 and the preceding Article shall not apply to royalties relating to the rights mentioned in the following items in the case where, having obtained the registration mentioned in Article 3, the associations mentioned in the following items conduct the management business relating to such rights:

- (i) an association mentioned in Article 95, paragraph (5) of the Copyright Law, the provisions of which shall apply *mutatis mutandis* in Article 95ter, paragraph (4) of that Law: the right mentioned in Article 95ter, paragraph (1) of that Law;
- (ii) an association mentioned in Article 97, paragraph (3) of the Copyright Law, the provisions of which shall apply *mutatis mutandis* in Article 97ter, paragraph (4) of that Law: the right mentioned in Article 97ter, paragraph (1).

### **(Non-application of the Trust Business Law, etc.)**

**Article 26.** The provisions of Articles 3 of the Trust Business Law (Law No.154, of 2004) shall not apply to persons who engage in the trust business dealing with only copyright, etc. under a contract mentioned in Article 2, paragraph (1), item (i).

### **(Mandate to Ministry of Education and Science Ordinance)**

**Article 27.** Other than those provided for in this Law, matters necessary for the enforcement of this Law shall be provided by Ministry of Education and Science Ordinance.

**(Transitory measures)**

**Article 28.** In the case where a Ministry of Education and Science Ordinance is to be enacted, amended or repealed in accordance with the provisions of this Law, necessary transitory measures may be provided by that Ordinance to the extent deemed necessary following to such enactment, amendment or repeal.

## **Chapter VII Penal Provisions**

**Article 29.** The following shall be punishable by a fine not exceeding one million Yen:

- (i) any person who conducted the management business in violation of the provisions of Article 3;
- (ii) any person who obtained by dishonest means the registration mentioned in Article 3.

**Article 30.** Any person who violates the order to suspend the management business in accordance with the provisions of Article 21, paragraph (1) shall be punishable by a fine not exceeding five hundred thousand Yen.

**Article 31.** The following shall be punishable by a fine not exceeding three hundred thousand Yen:

- (i) any person who concluded a management consignment contract in violation of the provisions of Article 11, paragraph (3);
- (ii) any person who received a royalty charged in violation of the provisions of Article 13, paragraph (4);
- (iii) any person who violated the order made in accordance with the provisions of Article 20.

**Article 32.** The following shall be punishable by a fine not exceeding two hundred thousand Yen:

- (i) any person who did not make a report or made a false report in accordance with the provisions of Article 7, paragraph (1) or Article 8, paragraph (2);
- (ii) any person who did not make a public notice of stipulations of a management consignment contract or of royalty rules in violation of the provisions of Article 15;
- (iii) any person who did not make a report or made a false report in accordance with the provisions of Article 19, paragraph (1), or refused, hindered or evaded the inspection made in accordance with the provisions of that paragraph, or did not answer or answered falsely to the questions made in accordance with the provisions of that paragraph.

**Article 33.** (1) In the case where a representative or an administrator of a legal person (including a non-juridical association or foundation which has a

representative or an administrator; the same shall apply hereinafter in this paragraph) or an agent, an employee or any other worker of a legal person or a person made an offense mentioned in any of Article 29 to the preceding Article in connection with the business of such legal person or such person, a fine under any of these Articles shall be imposed upon such legal person or such person in addition to the punishment of an offender.

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

**Article 34.** The following shall be punishable by a fine not exceeding two hundred thousand Yen:

- (i) any person who did not make a report or made a false report in accordance with the provisions of Article 9;
- (ii) any person who did not keep financial documents in violation of the provisions of Article 18, paragraph (1), or did not enter matters to be entered in financial documents or made a false entry, or refused without reasonable reasons the perusal or copying of financial documents in accordance with the provisions of Article 18, paragraph (2).

## **Supplementary Provisions (Extract)**

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

**Article 1.** This Law shall come into force on October 1, 2001. However, the provisions of Article 9 of the Supplementary Provisions shall come into force on the date of promulgation of this Law [on November 29, 2000].

### **(Repeal of the Law on Intermediary Business concerning Copyrights)**

**Article 2.** The Law on Intermediary Business concerning Copyrights (Law No.67, of 1939) shall be hereby repealed.