

# Copyright Act

(Act No. 48 of May 6, 1970)

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

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## **Chapter I General Provisions**

### **Section 1 General Rules**

(Purpose)

Article 1 The purpose of this Act is to provide for authors' rights and neighboring rights with respect to works and performances, phonograms, broadcasts and cablecasts, and to ensure protection for the rights of authors, etc. while according attention to the fair exploitation of these cultural products, and thereby to contribute to the development of culture.

(Definitions)

Article 2 (1) In this Act, the meaning of the terms set forth in each of the following items is as prescribed in that item:

- (i) "work" means a production in which thoughts or sentiments are creatively expressed and which falls within the literary, academic, artistic or musical domain;
- (ii) "author" means a person who creates a work;
- (iii) "performing" means acting dramatically, dancing, giving a musical performance, singing, giving a speech, giving a recitation, or by any other means for acting of work (including similar actions not involving the interpretation of a work but having the nature of a performing art);
- (iv) "performer" means an actor, dancer, musician, singer, or any other person who gives a performance or a person who conducts or stages a performance;
- (v) "phonogram" means the fixation of sounds on a material object such as a phonograph disc or recording tape (except sound intended to be played exclusively alongside images);
- (vi) "producer of a phonogram" means the person that was the first to fix the sounds that have been fixed into a phonogram;
- (vii) "commercial phonogram" means a copy of a phonogram that is produced for the purposes of commercial distribution;
- (vii)-2 making a "transmission to the public" means making a transmission of wireless communications or wired telecommunications with the objective of

- allowing the public to receive them directly (excluding transmission (unless this constitutes the transmission of a work of computer programming) with telecommunications facilities one part of which is installed on the same premises as the other parts (or, excluding, if two or more persons occupy the same premises, transmission with telecommunications facilities both ends of which are installed within the area the same person occupies));
- (viii) "broadcasting" means the transmission to the public of wireless communications with the objective of allowing the public to simultaneously receive transmissions with the same content;
- (ix) "broadcaster" means a person that does broadcasting in the course of trade;
- (ix)-2 "cablecasting" means the transmission to the public of wired telecommunications with the objective of allowing the public to simultaneously receive transmissions with the same content;
- (ix)-3 "cablecaster" means a person that does cablecasting in the course of trade;
- (ix)-4 "automatic public transmission" means a transmission to a member of the public (excluding one that constitutes a broadcast or cablecast) that is made automatically in response to a request from the member of the public;
- (ix)-5 "making available for transmission" means making it ready to be transmitted via automatic public transmission, through either of the following actions:
- (a) recording data onto a recording medium which an automatic public transmission server that is connected with a public telecommunications network uses for transmissions to the public (an automatic public transmission server is a device with a function that allows it to send automatic public transmissions of data which is recorded onto the area of its recording media that is used for automatic public transmissions (hereinafter in this item referred to as a "recording medium for public transmissions") or of data that is input into it, through its connection with a public telecommunications network; the same applies hereinafter); adding a recording medium onto which data has been recorded to such an automatic public transmission server as its recording medium for public transmissions; converting a recording medium onto which data has been recorded into such an automatic public transmission server's recording medium for public transmissions; or inputting data into such an automatic public transmission server;
- (b) connecting an automatic public transmission server onto whose recording medium for public transmissions data has been recorded or into which data has been input, to a public telecommunications network (if this is done through a series of actions such as connecting cables, starting up the automatic public transmission server, and booting the programs for

- transmission and reception, connecting means the last action in the series).
- (x) "producer of a cinematographic work" means the person that takes the initiative and has the responsibility for a cinematographic work;
  - (x)-2 "computer program" means something expressed as a set of instructions written for a computer, which makes the computer function so that a specific result can be obtained;
  - (x)-3 "database" means an aggregate of data such as articles, numerical values, or diagrams, which is systematically constructed so that such data can be searched with a computer;
  - (xi) "derivative work" means a work created by translating, composing as a musical arrangement, reformulating, dramatizing, making into a cinematographic work, or otherwise adapting a pre-existing work;
  - (xii) "joint work" means a work created by two or more persons whose contributions to the work cannot be separated so as to allow each part of the work to be used independently;
  - (xiii) "sound recording" means fixing sounds into a physical object or producing additional copies of such a fixed object;
  - (xiv) "visual recording" means fixing a sequence of images into a physical object or producing additional copies of such a fixed object;
  - (xv) "reproduction" means reproducing a work in a physical form through printing, photography, or replication, by recording its sound or visuals, or in any other way, and, for each of the following subject matters, includes the action set forth therein:
    - (a) a scenario or other similar work that is used for acting: recording the sound or visuals of a stage performance, broadcast. or cablecast of the work; and
    - (b) an architectural work: the construction of a structure in accordance with the architectural plan.
  - (xvi) "stage performance" means acting a work other than by giving a musical performance (a musical performance includes singing; the same applies hereinafter);
  - (xvii) "on-screen presentation" means projecting a work (other than one being transmitted to the public) on a movie screen or other physical object, and includes playing the sounds accompanying the projection that are fixed to a cinematographic work;
  - (xviii) "recitation" means communicating a work orally by reading it or through other means (except for a means that constitutes a performance);
  - (xix) "distributing" a work means transferring or renting out copies of a work to the public, regardless of whether this is done for a price or at no charge, and with regard to a cinematographic work or a work reproduced therein, it includes transferring or renting out copies of such a work for the purpose of

presenting the work to the public;

(xx) "technological protection measures" means measures that use electronic means, magnetic means, or other means that are impossible to perceive through the human senses (referred to as "electronic or magnetic means" in the following item and item (xxii)) to prevent or deter a person from engaging in an action that constitutes infringement of an author's moral rights or copyright as referred to in Article 17, paragraph (1), of a print right, of a performer's moral rights as referred to in Articles 89, paragraph (1), or of neighboring rights as referred to in Article 89, paragraph (6) (hereinafter referred to as a "copyright, etc." in this item, Article 30, paragraph (1), item (ii) and Article 120-2, item (i)) (detering such an action means deterring a person from engaging in an action that constitutes infringement of a copyright, etc. by causing a considerable barrier to arise as a result of such an action; the same applies in Article 30, paragraph (1), item (ii)) (excluding means of preventing or suppressing such an action that are not based on the intentions of the person that owns the copyright, etc.), and that are taken using signals to which a machine that can be used to exploit a work, performance, phonogram, broadcast, or cablecast (hereinafter referred to as a "work, etc.") has a specific reaction if the work, etc. is exploited (this includes if an action is taken that constitutes an infringement of the moral rights of the author or performer when taken without the consent of the author or the performer), by recording such signals onto a recording medium along with the sounds or images of a work, performance, or phonogram, or by transmitting such signals along with the sounds or images of a broadcast or cablecast, or by converting the sounds or images of a work, performance, or phonogram upon recording them onto a recording medium, or converting the sounds or images of a broadcast or cablecast upon transmitting them so that a certain conversion process is required upon exploiting such work, etc;

(xxi) "technological exploitation restriction measures" means measures that use electronic or magnetic means to restrict the viewing and listening (in regard of a work of computer programming, executing such work on a computer shall be included; the same applies hereinafter in this item and Article 113, paragraph (3).) of work, etc. (excluding means of restricting viewing and listening that are not based on the intentions of the copyright owner, the owner of print rights, or the owner of neighboring rights (hereinafter referred to as "the owner of the copyright, etc.")), and that are taken using signals to which a machine that is used to view or listen to a work, etc. has a specific reaction if the work, etc. is viewed or listened to, by recording such signals onto a recording medium along with the sounds or images of a work, performance, or phonogram, or by transmitting such signals along with the sounds or images of a broadcast or cablecast, or by

converting the sounds or images of a work, performance, or phonogram upon recording them onto a recording medium, or converting the sounds or images of a broadcast or cablecast upon transmitting them so that a certain conversion process is required upon viewing or listening to such work, etc. using such machine.

(xxii) "rights management information" means information about a moral right or copyright provided for in Article 17, paragraph (1) or a right referred to in Article 89, paragraphs (1) to (4) (hereinafter referred to as a "copyright, etc." in this item) which falls under (a), (b), or (c), below, and which is recorded onto a recording medium along with the sounds or images of a work, performance, or phonogram, or transmitted along with the sounds or images of a broadcast or cablecast (excluding information not used for assessing how a work, etc. is exploited, for administrative handling related to authorization to exploit a work, etc., or for other management of a work, etc. (limited to management by computer)) by electronic or magnetic means:

(a) information that identifies the work, etc., the owner of the copyright, etc., and any other particulars that are specified by Cabinet Order;

(b) information on the terms and conditions of exploitation, if exploitation of the work, etc. is authorized;

(c) information that enables a person to identify the particulars referred to in (a) or (b) above by checking against other information.

(xxiii) "in Japan" means within the jurisdiction of this Act;

(xxiv) "abroad" means outside the jurisdiction of this Act.

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

(3) As used in this Act, a "cinematographic work" includes a work rendered in a manner that produces a visual or audio-visual effect analogous to that of cinematography, and that is fixed into a physical object.

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

(5) As used in this Act, "the public" includes exclusive groups made up of many persons.

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

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

the public).

- (8) In this Act, "renting out" a work includes any action that grants a person the authority for similar use, irrespective of the name given to it or the manner in which it is done.
- (9) In this Act, the roots of the terms defined in paragraph (1), items (vii)-2, (viii), (ix)-2, (ix)-4, (ix)-5, and (xiii) to (xix), and in the preceding two paragraphs are also used in variant grammatical forms.

(Publication of a work)

Article 3 (1) A work has been published if a person that owns the right set forth in Article 21, a person authorized thereby (meaning authorized to exploit a work pursuant to the provisions of Article 63, paragraph (1); the same applies hereinafter in this and the next Chapter, except this paragraph, Article 4, paragraph (1), Article 4-2 and Article 63), a person in favor of whom the print rights set forth in Article 79 have been established, or a person authorized thereby to reproduce such work (meaning authorized to reproduce a work pursuant to the provisions of Article 80, paragraph (3); the same applies in the proviso to Article 37, paragraph (3), and the proviso to Article 37-2) makes and distributes copies of the work in quantities that are reasonably sufficient for meeting public demand, commensurate with the nature of the work (limited to when the person does so without prejudice to the rights of the person that owns the rights set forth in Article 26, Article 26-2, paragraph (1), or Article 26-3).

(2) An original work is deemed to have been published if the person that, pursuant to the provisions of Article 28, owns the same right to the relevant work as the one prescribed in Article 21, or a person authorized thereby, makes and distributes copies of a translation of that original work which constitutes a derivative work, in the quantity provided for in the preceding paragraph (limited to when the person does so without prejudice to the rights of the person that, pursuant to the provisions of Article 28, owns the same right to the relevant work as a right set forth in Article 26, Article 26-2, paragraph (1), or Article 26-3).

(3) The person that would own a right referred to in either of the preceding two paragraphs if the work were protected under this Act, and the person authorized thereby to exploit the work are, respectively, deemed to be the person that owns that right and the person authorized thereby, and the provisions of those paragraphs apply accordingly.

(Making a work public)

Article 4 (1) A work has been made public if it is published or if a person that owns a right provided for in Articles 22 through 25, a person authorized thereby (meaning authorized to exploit a work pursuant to the provisions of

Article 63, paragraph (1)), a person in favor of whom the print rights set forth in Article 79 have been established, or a person authorized thereby to transmit such work to the public (meaning authorized to exploit a work pursuant to the provisions of Article 80, paragraph (3); the same applies in the next paragraph, the proviso to Article 37, paragraph (3), and the proviso to Article 37-2) presents the work to the public by means of a stage performance, musical performance, on-screen presentation, transmission to the public, recitation, or exhibition (if it is an architectural work, this includes when the person that owns the right set forth in Article 21 or the person authorized thereby (meaning authorized to exploit a work pursuant to the provisions of Article 63, paragraph (1)) constructs it).

- (2) A work is deemed to have been made public if the person that owns the right provided for in Article 23, paragraph (1), a person authorized thereby, a person in favor of whom the print rights set forth in Article 79 have been established, or a person authorized thereby to transmit such work to the public makes the work available for transmission.
- (3) An original work is deemed to have been made public if a person that, pursuant to the provisions of Article 28, owns the same right to the relevant work as one that is provided for in Articles 22 through 24 or a person authorized thereby, presents a translation of it to the public which constitutes a derivative work, by means of a stage performance, musical performance, on-screen presentation, transmission to the public, or recitation, or when a person that, pursuant to the provisions of Article 28, owns the same right with regard to the relevant work as the right provided for in Article 23, paragraph (1) or a person authorized thereby, makes that translation available for transmission.
- (4) An artistic work or a photographic work is deemed to have been made public if the person prescribed in Article 45, paragraph (1), exhibits it as provided for in that paragraph.
- (5) The person that would own a right provided for in paragraphs (1) to (3) of this Article if the work were protected under this Act and a person authorized thereby to exploit the work are, respectively, deemed to be the person that owns that right and the person authorized thereby, and the provisions of those paragraphs apply accordingly.

(Publication of a phonogram)

Article 4-2 A phonogram has been published if the person that owns the right set forth in Article 96 or a person authorized thereby (meaning authorized to exploit a phonogram pursuant to the provisions of Article 63, paragraph (1) as they apply *mutatis mutandis* pursuant to Article 103; the same applies in Chapter IV, Sections 2 and 3) makes and distributes copies of the phonogram in quantities that are reasonably sufficient for meeting public demand,



commensurate with the nature of the work (limited to when the person does so without prejudice to the rights of the person that owns the right set forth in Article 97-2, paragraph (1) or Article 97-3, paragraph (1)).

(Effect of international treaties)

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

## **Section 2 Scope of Application**

(Protected works)

Article 6 Only a work that falls under one of the following items is protected under this Act:

- (i) a work by a Japanese national (including a corporation established based on a Japanese law or regulation or a corporation with a principal office in Japan; the same applies hereinafter);
- (ii) a work that is first published in Japan (including one first published abroad and published in Japan within thirty days from the date of its first publication);
- (iii) a work other than one set forth in the preceding two items, which Japan is under the obligation to protect pursuant to an international treaty.

(Protected performances)

Article 7 Only a performance that falls under one of the following items is protected under this Act:

- (i) a performance that takes place in Japan;
- (ii) a performance fixed in a phonogram set forth in item (i) or (ii) of the next Article;
- (iii) a performance transmitted in a broadcast set forth in Article 9, item (i) or (ii) (excluding a performance whose in sound or visuals are recorded before the transmission with the authorization of the performer);
- (iv) a performance transmitted in a cablecast set forth in one of the items of Article 9-2 (excluding a performance whose sound or visuals are recorded before the transmission with the authorization of the performer);
- (v) any of the following performances, other than one also set forth in the preceding items:
  - (a) a performance that takes 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) a performance fixed in a phonogram set forth in item (iii) of the next

- Article;
- (c) a performance transmitted in a broadcast set forth in Article 9, item (iii) (excluding a performance whose sound or visuals are recorded before the transmission with the authorization of the performer).
  - (vi) any of the following performances, other than one also set forth in the preceding items:
    - (a) a performance that takes place in a Contracting Party to the WIPO Performances and Phonograms Treaty (hereinafter referred to as "the WPPT");
    - (b) a performance fixed in a phonogram set forth in item (iv) of the next Article.
  - (vii) any of the following performances, other than one also set forth in the preceding items:
    - (a) a performance that takes place in a World Trade Organization Member State;
    - (b) a performance fixed in a phonogram set forth in item (v) of the next Article;
    - (c) a performance transmitted in a broadcast set forth in Article 9, item (iv) (excluding a performance whose sound or visuals are recorded before the transmission with the authorization of the performer).

(Protected phonograms)

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

- (i) a phonogram whose producer is a Japanese national;
- (ii) a phonogram in which sounds are first fixed in Japan;
- (iii) any of the following phonograms, other than one also set forth in either of the preceding two items:
  - (a) a phonogram whose producer is the national of a Contracting State of the Convention for the Protection of Performers, etc. (the nationals of a Contracting State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State; the same applies hereinafter);
  - (b) a phonogram in which sounds are first fixed in a Contracting State of the Convention for the Protection of Performers, etc.
- (iv) any of the following phonograms, other than one also set forth in the preceding three items:
  - (a) a phonogram whose producer is the national of a Contracting Party to the WPPT (the nationals of a Contracting Party include corporations established based on the laws and regulations of that Party and corporations that have principal offices in that Party ; the same applies

hereinafter);

- (b) a phonogram in which sounds are first fixed in a Contracting Party to the WPPT.
- (v) any of the following phonograms, other than one also set forth in the preceding items:
  - (a) a phonogram whose producer is the national of a World Trade Organization Member State (the nationals of a Member State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State; the same applies hereinafter);
  - (b) a phonogram in which sounds are first fixed in a World Trade Organization Member State.
- (vi) a phonogram, other than one also set forth in the preceding items, that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as "the Convention for the Protection of Phonograms" in Article 121-2, item (ii)).

(Protected broadcasts)

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

- (i) the broadcast of a broadcaster that is a Japanese national;
- (ii) a broadcast made from a broadcasting facility in Japan;
- (iii) any of the following broadcasts, other than one also set forth in the preceding two items:
  - (a) the broadcast of a broadcaster that is the national of a Contracting State of the Convention for the Protection of Performers, etc.;
  - (b) a broadcast made from a broadcasting facility in a Contracting State of the Convention for the Protection of Performers, etc.
- (iv) any of the following broadcasts, other than one also set forth in the preceding three items:
  - (a) the broadcast of a broadcaster that is the national of a World Trade Organization Member State;
  - (b) a broadcast made from a broadcasting facility in a World Trade Organization Member State.

(Protected cablecasts)

Article 9-2 Only a cablecast that falls under one of the following items is protected under this Act:

- (i) a cablecast whose cablecaster is a Japanese national (excluding a cablecast that the cablecaster transmits based on the receipt of a broadcast; the same

- applies in the next item);
- (ii) a cablecast made from a cablecasting facility in Japan.

## **Chapter II Rights of Authors**

### **Section 1 Works**

(Examples of works)

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

- (i) novels, scenarios, articles, lectures, and other literary works;
  - (ii) musical works;
  - (iii) works of choreography and pantomime;
  - (iv) paintings, woodblock prints, sculptures, and other works of fine art;
  - (v) works of architecture;
  - (vi) maps and other diagrammatic works of an academic nature, such as plans, charts, and models;
  - (vii) cinematographic works;
  - (viii) photographic works;
  - (ix) works of computer programming.
- (2) News reports on current events and miscellaneous news articles that communicate nothing further than the facts, do not fall within the scope of works provided for in item (i) of the preceding paragraph.
- (3) Protection under this Act for a work set forth in paragraph (1), item (ix) does not extend to the programming language, coding conventions, or algorithms used to create the work. In this, each of these terms has the meaning provided for it in the following items:
- (i) "programming language" means letters and other symbols used as a means of expressing a computer program and the systems for their use;
  - (ii) "coding conventions" means special stipulations for the use of a programming language provided for in the preceding item in a specific computer program;
  - (iii) "algorithm" means a procedure in a computer program, which consists of a set of instructions for the computer.

(Derivative works)

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

(Compilations)

Article 12 (1) A compilation (except a compilation that constitutes a database; the same applies hereinafter) that, by reason of the selection or arrangement of

its contents, constitutes an intellectual creation, is protected as a work.

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

(Database works)

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

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

(Works not subject to copyright)

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

(i) the Constitution and other laws and regulations;

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

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

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

## **Section 2 Authors**

(Presumption of authorship)

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

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

(Authorship of a work made in the course of duty)

Article 15 (1) For a work (except a work of computer programming) that the employee of a corporation or other employer (hereinafter in this Article referred to as a "corporation, etc."), makes in the course of duty at the initiative of the corporation, etc., and which the corporation, etc. makes public as a work of its own authorship, the author is the corporation, etc., so long as it is not stipulated otherwise in a contract, in employment rules, or elsewhere at the time the work is made.

(2) For a work of computer programming that an employee makes at the initiative of a corporation, etc. in the course of duty, the author is the corporation, etc., so long as it is not stipulated otherwise in a contract, in employment rules, or elsewhere at the time the work is made.

(Authorship of a cinematographic work)

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

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

#### **Subsection 1 General Rules**

(Authors' rights)

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

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

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

(Right to make a work public)

Article 18 (1) The author of a work not yet made public (this includes a work made public without the author's consent; the same applies hereinafter in this Article) has the right to make available or present that work to the public. The

same applies to any derivative work derived from an original work that has not yet been made public.

- (2) In a case set forth in one of the following items, the author is presumed to consent to the action set forth in the relevant item:
  - (i) the author transfers the copyright to a work not yet made public: the making available or presentation of the work to the public through the exercise of the copyright to the work;
  - (ii) the author transfers an artistic or photographic work not yet made public: the presentation of the work to the public through the exhibition of the original;
  - (iii) the copyright to an author's cinematographic work belongs to the producer of the cinematographic work pursuant to the provisions of Article 29: the making available or presentation of the work to the public through the exercise of the copyright to the work.
- (3) In a case set forth in one of the following items, the author is presumed to consent to the action set forth in the relevant item:
  - (i) the author offers a work not yet made public to an administrative organ (meaning an administrative organ provided for in Article 2, paragraph (1) of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999; hereinafter referred to as "the Act on Access to Administrative Organs' Information")) (unless the author manifests an intention to the contrary by the time of the decision to disclose it under the provisions of Article 9, paragraph (1) of the Act on Access to Administrative Organs' Information): the making available or presentation of the work to the public by the head of the administrative organ, pursuant to the provisions of the Act on Access to Administrative Organs' Information (in the event the historical public records and archives (meaning historical public records and archives provided for in Article 2, paragraph (6) of the Public Records and Archives Management Act (Act No. 66 of 2009; hereinafter referred to as "the Public Records Management Act"); the same applies hereinafter) pertaining to such work are transferred from the head of an administrative organ to the National Archives of Japan, etc. (meaning the National Archives of Japan, etc. provided for in Article 2, paragraph (3) of the Public Records Management Act; the same applies hereinafter)) pursuant to the provisions of Article 8, paragraph (1) of the Public Records Management Act (unless the author of such work manifests an intention to the contrary by the time of the decision to permit the use of such work under the provisions of Article 16, paragraph (1) of the Public Records Management Act), the making available or presentation of the work to the public by the head of the National Archives of Japan, etc. (meaning the head of the National Archives of Japan, etc. provided for in Article 15, paragraph (1) of the Public Records Management

- Act; the same applies hereinafter), pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act, shall be included);
- (ii) the author offers a work not yet made public to an incorporated administrative agency, etc. (meaning an incorporated administrative agency, etc. provided for in Article 2, paragraph (1) of the Act on Access to Information Held by Incorporated Administrative Agencies (Act No. 140 of 2001; hereinafter referred to as "the Act on Access to Incorporated Administrative Agencies' Information"); the same applies hereinafter), (unless the author manifests an intention to the contrary by the time of the decision to disclose it under the provisions of Article 9, paragraph (1) of the Act on Access to Incorporated Administrative Agencies' Information): the making available or presentation of the work to the public by the incorporated administrative agency, etc., pursuant to the provisions of the Act on Access to Incorporated Administrative Agencies' Information (in the event the historical public records and archives pertaining to such work are transferred from such incorporated administrative agency, etc. to the National Archives of Japan, etc. pursuant to the provisions of Article 11, paragraph (4) of the Public Records Management Act (unless the author of such work manifests an intention to the contrary by the time of the decision to permit the use of such work under the provisions of Article 16, paragraph (1) of the Public Records Management Act), the making available or presentation of the work to the public by the head of the National Archives of Japan, etc., pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act, shall be included);
- (iii) the author offers a work not yet made public to a local government agency or local incorporated administrative agency (unless the author manifests an intention to the contrary by the time of a decision to make a disclosure): the making available or presentation of the work to the public by an organ of the relevant local government agency or the relevant local incorporated administrative agency, pursuant to the provisions of the Information Disclosure Ordinances (meaning the Prefectural or Municipal Ordinances of the relevant local government agency which provide for the right of a resident, etc. to request that local government agency or local incorporated administrative agency to disclose the information it holds; the same applies hereinafter) (in the event the historical public records and archives pertaining to such work are transferred from such local government agency or local incorporated administrative agency to the local archives, etc. (meaning facilities provided for in the Public Records Management Ordinances (defined below) as facilities striving towards the appropriate preservation and use of historical public records and archives; the same applies hereinafter) pursuant to the Public Records Management Ordinances



- (ordinances of such local government agency which provide for the appropriate preservation and use of historical public records held by local government agencies or local incorporated administrative agencies; the same applies hereinafter) (unless the author of such work manifests an intention to the contrary by the time of the decision to permit the use of such work under the provisions of the Public Records Management Ordinances (limited to provisions equivalent to the provisions of Article 16, paragraph (1) of the Public Records Management Act; the same applies hereinafter in this Article), the making available or presentation of the work to the public by the head of the local archives, etc. (meaning either the head of the local government agency which such local archives, etc. belongs to if such local archives, etc. is a facility of a local government agency or the local incorporated administrative agency by which such local archives, etc. was established if such local archives, etc. is a facility of a local incorporated administrative agency; the same applies hereinafter), pursuant to the provisions of the Public Records Management Ordinances, shall be included);
- (iv) the author offers a work not yet made public to the National Archives of Japan, etc. (unless the author manifests an intention to the contrary by the time of the decision to permit the use of such work under the provisions of Article 16, paragraph (1) of the Public Records Management Act): the making available or presentation of the work to the public by the head of the National Archives of Japan, etc. pursuant to the provisions of the relevant paragraph;
- (v) the author offers a work not yet made public to the local archives, etc. (unless the author manifests an intention to the contrary by the time of the decision to permit the use of such work under the provisions of the Public Records Management Ordinances): the making available or presentation of the work to the public by the head of the local archives, etc. pursuant to the provisions of the Public Records Management Ordinances.
- (4) The provisions of paragraph (1) do not apply in any of the following cases:
- (i) a work not yet made public in which information provided for in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information has been recorded, is made available or presented to the public by the head of an administrative organ pursuant to the provisions of that Article, or a work not yet made public is made available or presented to the public by the head of an administrative organ pursuant to the provisions of Article 7 of the Act on Access to Administrative Organs' Information;
- (ii) a work not yet made public in which information provided for in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Incorporated Administrative Agencies' Information has been recorded, is

- made available or presented to the public by an incorporated administrative agency, etc. pursuant to the provisions of that Article, or a work not yet made public is made available or presented to the public by an incorporated administrative agency, etc. pursuant to the provisions of Article 7 of the Act on Access to Incorporated Administrative Agencies' Information;
- (iii) a work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i) (b) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to the provisions of the Information Disclosure Ordinances (limited to those with provisions equivalent to Article 13, paragraphs (2) and (3) of the Act on Access to Administrative Organs' Information; the same applies in item (v));
- (iv) a work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i) (c) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to the provisions of the Information Disclosure Regulations;
- (v) a work not yet made public is made available or presented to the public by a local government agency or by a local incorporated administrative agency pursuant to provisions of the Information Disclosure Ordinances that are equivalent to the provisions of Article 7 of the Act on Access to Administrative Organs' Information;
- (vi) a work not yet made public in which information provided for in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information or information provided for in Article 5, item (i) (b) or (c) or the proviso to Article 5, item (ii) of the Act on Access to Incorporated Administrative Agencies' Information has been recorded is made available or presented to the public by the head of the National Archives of Japan, etc. pursuant to the provisions of Article 16, paragraph (1) the Public Records Management Act;
- (vii) a work not yet made public (limited to a work in which information equivalent to that provided for in Article 5, item (i) (b) or the proviso to Article 5, item (ii) of the Act on Access to Administrative Organs' Information has been recorded) is made available or presented to the public by the head of the local archives, etc. pursuant to the provisions of the Public Records Management Ordinances (limited to ordinances with provisions equivalent to Article 18, paragraphs (2) and (4) of the Public Records Management Act);

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

(Right of attribution)

Article 19 (1) The author of a work has the right to decide whether to use the author's true name or pseudonym to indicate the name of the author on the original work or in connection with the work at the time it is made available or presented to the public, or to decide that the author's name will not be indicated in connection with that work. The same applies with regard to how the name of the author of the original work appears at the time any derivative work derived from the original work is made available or presented to the public.

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

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

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

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

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

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

(Right to integrity)

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

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

- (i) the alteration of a written character or word, or any other modification that is found to be unavoidable from the perspective of school education purposes, when a work is exploited pursuant to the provisions of Article 33, paragraph (1) (including when these apply *mutatis mutandis* pursuant to paragraph (4) of the same Article), Article 33-2, paragraph (1), or Article 34, paragraph (1);
- (ii) the modification of an architectural work by means of extension, rebuilding, repair, or remodeling;
- (iii) a modification that is necessary for a work of computer programming that otherwise cannot be executed on a particular computer to be executable on that computer, or for a work of computer programming to be executed more effectively on a computer;
- (iv) a modification other than ones set forth in the preceding three items, which is found to be unavoidable in light of the nature of the work and the purpose and circumstances of its exploitation.

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

(Right of reproduction)

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

(Stage performance rights and musical performance rights)

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

(Right of on-screen presentation)

Article 22-2 The author of a work has the exclusive right to publicly present a

work via an on-screen presentation.

(Right to transmit to the public)

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

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

(Recitation rights)

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

(Exhibition rights)

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

(Distribution rights)

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

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

(Right of transfer)

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

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

- (i) an original work or a copy of a work that is transferred to the public by the person that owns the right provided for in the preceding paragraph or a person authorized thereby;
- (ii) a copy of a work that is transferred to the public based on a compulsory license under the provisions of Article 67, paragraph (1) or Article 69, or a license under the provisions of Article 5, paragraph (1) of the Act on Special

Provisions of the Copyright Act, Required in Consequence of the Enforcement of the Universal Copyright Convention (Act No. 86 of 1956);

- (iii) a copy of a work that is transferred to the public based on the application of the provisions of Article 67-2, paragraph (1);
- (iv) an original work or a copy of a work that is transferred to exclusive groups made up of few persons by the person that owns the right provided for in the preceding paragraph or by a person authorized thereby;
- (v) an original work or a copy of a work that is transferred abroad without prejudice to any right equivalent to the right set forth in the preceding paragraph, or that is transferred abroad by the person that owns any right equivalent to the right set forth in that paragraph or a person authorized thereby.

(Right to rent out)

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

(Translation rights, adaptation rights, etc.)

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

(Rights of the original author in connection with the exploitation of a derivative work)

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

#### **Subsection 4 Ownership of a Copyright to a Cinematographic Work**

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

(2) Among the rights in the copyright to a cinematographic work (excluding a

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

- (i) the right to broadcast the work, and the right to cablecast the broadcast work, transmit the broadcast work via automatic public transmission (this includes the automatic public transmission of a broadcast work that is made available for transmission by the data for it being input to an automatic public transmission server that is connected to a public telecommunications network), and publicly communicate the broadcast work through a receiver;
  - (ii) the right to reproduce the work and to distribute copies of it to other broadcasters.
- (3) Among the rights in the copyright to a cinematographic work (excluding a cinematographic work to which the provisions of Article 15, paragraph (1) apply) that a cablecaster produces solely as a practical means of cablecasting, the following rights belong to the cablecaster as the producer of the cinematographic work:
- (i) the right to cablecast the work and to publicly communicate the cablecast work through a receiver;
  - (ii) the right to reproduce the work and to distribute copies of it to other cablecasters.

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

(Reproduction for private use)

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

- (i) a user reproduces a work by means of an automated duplicator (meaning a device with a function for making reproductions, of which all or most of the instruments for making the reproductions are automated) that has been set up for use by the public;
- (ii) the reproduction of the work has become possible due to the circumvention of technological protection measures (meaning that the removal or alteration (excluding removal or alteration due to technological constraints accompanying the conversion of recording or transmission systems) of the signals provided for in Article 2, paragraph (1), item (xx) or the restoration of sounds or images of a work, performance, phonogram or broadcast or cablecast which are converted so that a certain conversion process is required upon exploiting such work, etc. (excluding restorations made based on the

intentions of the person that owns the copyright, etc.) makes it possible to take an action that the technological protection measures prevent or makes it so that a barrier no longer arises as a result of an action that the technological protection measures deter; the same applies in Article 120-2, items (i) and (ii)) or a barrier to reproduction of the work no longer arises as a result of that circumvention, and the user reproduces the work in the knowledge of this fact;

(iii) the work is received via an automatic public transmission that infringes a copyright (including an automatic public transmission that is transmitted abroad and that would constitute a copyright infringement if it were transmitted in Japan), and the user records the sounds or visuals of the work in digital format, in the knowledge of this fact.

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

(Exploitation of works concerning incidental subjects)

Article 30-2 (1) Upon creating works by taking photographs or recording sounds or visuals (hereinafter in this paragraph, such creation shall be referred to as "taking photographs, etc." and hereinafter in this Article, the works created by taking photographs, etc. shall be referred to as "photographic works, etc."), other works concerning any objects or sounds which incidentally become the subjects of such photographic works, etc. as such objects or sounds are difficult to separate from the intended subjects (hereinafter in this Article referred to as "works concerning incidental subjects", provided that they are limited to works which constitute a minor part of the photographic works, etc.) may be reproduced in connection with such creation; provided, however that this does not apply if the reproduction would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such works concerning incidental subjects, as well as the circumstances of such reproduction.

(2) Works concerning incidental subjects reproduced pursuant to the provisions of the preceding paragraph may be exploited, in any way, in connection with the exploitation of the photographic works, etc. defined in the same paragraph; provided, however that this does not apply if such exploitation would



unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such works concerning incidental subjects, as well as the circumstances of such exploitation.

(Exploiting work in the course of consideration)

Article 30-3 A person seeking to exploit a work with the authorization of its copyright owner or by obtaining a compulsory license under the provisions of Article 67, paragraph (1); Article 68, paragraph (1); or Article 69 may exploit such work, in any way and to the extent considered necessary, if the purpose of such exploitation is to consider the exploitation of such work (including the process of obtaining such authorization or compulsory license.); provided, however that this does not apply if such exploitation would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such works, as well as the circumstances of such exploitation.

(Exploitations not for enjoying the ideas or emotions expressed in a work)

Article 30-4 It is permissible to exploit work, in any way and to the extent considered necessary, in any of the following cases or other cases where such exploitation is not for enjoying or causing another person to enjoy the ideas or emotions expressed in such work; provided, however that this does not apply if the exploitation would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such work, as well as the circumstances of such exploitation:

- (i) exploitation for using the work in experiments for the development or practical realization of technologies concerning the recording of sounds and visuals or other exploitations of such work;
- (ii) exploitation for using the work in a data analysis (meaning the extraction, comparison, classification, or other statistical analysis of language, sound, or image data, or other elements of which a large number of works or a large volume of data is composed; the same applies in Article 47-5, paragraph (1), item (ii));
- (iii) in addition to the cases set forth in the preceding two items, exploitation for using the work in the course of computer data processing or otherwise that does not involve perceiving the expressions in such work through the human sense (in regard of works of computer programming, the execution of such work on a computer shall be excluded).

(Reproduction, etc. in libraries, etc.)

Article 31 (1) In the following cases and as part of non-commercial undertakings at the National Diet Library or at a library or other facility specified by Cabinet Order whose purpose is to offer books, records, and other materials for

the public to use (hereinafter referred to as a "library, etc." in this paragraph and paragraph (3)), it is permissible for a person to reproduce a work from a book, record, or other material of the library, etc. (hereinafter referred to in this Article as a "library material"):

- (i) when providing a single user of the library, etc. with a single copy of a part of a work that has been made public (or the whole of a work that has been made public, if it is an individual work that has been printed in a periodical and a considerable period of time has elapsed since its publication; the same applies in paragraph (3)) in response to the user's request and for the purpose of the user's research or studies;
  - (ii) when necessary for the purpose of preserving library materials;
  - (iii) when providing a copy of library materials that are rarely available through normal trade channels because the materials are out of print or for other similar reasons (hereinafter referred to as "materials out of print" in this Article), in response to a request from another library, etc.
- (2) In addition to the cases set forth in the items of the preceding paragraph, if, either in order to prevent the loss, damage, or defacement of the original copy of a library material that the National Diet Library offers to the public, or in order to use the works related to materials out of print for automatic public transmissions (including making works available for transmission; the same applies in the next paragraph) pursuant to the provisions of the next paragraph, electronic or magnetic records (meaning records created in an electronic format, magnetic format, or other format that is impossible to perceive through the human senses alone, and which are used in computer information processing; the same applies hereinafter) are created at the National Diet Library so that they can be offered for public use in place of the originals, it is permissible for a person to record a work that is among the library materials of the National Diet Library onto a recording medium, to the extent considered necessary.
- (3) The National Diet Library may transmit works related to materials out of print via automatic public transmission using their copies recorded onto a recording medium pursuant to the preceding paragraph if the purpose of such transmission is to present such work to the public in libraries, etc. or similar foreign facilities designated by Cabinet Orders. In such case, libraries, etc. may, as part of non-commercial undertakings, create a copy of a certain part of the work received through automatic public transmission to provide a single user of the library, etc. with a single copy of such copy in response to the user's request for the purpose of the user's research or studies.

(Quotation)

Article 32 (1) It is permissible to quote from and thereby exploit a work that has

been made public. In such a case, the work must be quoted consistent with fair practices and within a scope that is justified by the aim of the news report, critique, study, or other place in which the work is quoted.

- (2) It is permissible to reprint public relations materials, research or statistical materials, reports, and other works of a similar character which have been prepared by a national or local government agency, incorporated administrative agency, or local incorporated administrative agency with the goal of making them widely known to the general public, and which have been made public under the authorship of such agency, as explanatory materials in a newspaper, magazine, or other printed publication; provided, however, that this does not apply if it is expressly indicated that this is prohibited.

(Printing of works in textbooks, etc.)

Article 33 (1) It is permissible to print a work that has been made public in a textbook (meaning a textbook authorized by the Minister of Education, Culture, Sports, Science and Technology or a textbook under the authorship of the Ministry of Education, Culture, Sports, Science and Technology that is used to educate school-aged children or students in primary schools, secondary schools, schools for compulsory education, junior or senior high schools, or other similar schools; the same applies hereinafter), to the extent that this is found to be necessary for the purpose of school education.

- (2) A person that prints a work in a textbook pursuant to the provisions of the preceding paragraph must inform the author of this and pay compensation to the copyright owner in the amount established annually by the Commissioner of the Agency for Cultural Affairs in consideration of the purport of the provisions of the preceding paragraph, the nature and purpose of the work, the ordinary rate of royalties, and other conditions.

- (3) When the Commissioner of the Agency for Cultural Affairs has established the amount referred to in the preceding paragraph, the commissioner announces this in the Official Gazette.

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

(Reproduction in order to prepare a large-print textbook)

Article 33-2 (1) It is permissible to reproduce the works that have been printed in a textbook by enlarging the letters, illustrations, etc. used in that textbook, or by any other means necessary so that the works can be used by school-aged

children or students who have difficulty using the works printed in textbooks due to a visual impairment, developmental disorder, or other disability, in order to offer the works to such school-aged children or students, for use in their studies.

- (2) A person that seeks to prepare textbooks for use in school education or any other copies in which works are reproduced pursuant to the provisions of the preceding paragraph (excluding copies in which the works are reproduced in Braille, and limited to copies in which all of or a considerable part of such works printed in the relevant textbook are reproduced; hereinafter in this paragraph referred to as "large-print textbook, etc.") must inform the person that published the relevant textbook of this in advance, and if the large-print textbook, etc. is distributed commercially, the person seeking to prepare the copies must pay the owners of the copyright to the relevant works compensation in the amount decided annually by the Commissioner of the Agency for Cultural Affairs in proportion to the amount of compensation provided for in paragraph (2) of the preceding Article.
- (3) When the Commissioner of the Agency for Cultural Affairs has established the amount referred to in the preceding paragraph, the commissioner announces this in the Official Gazette.
- (4) A person that provides electronic or magnetic records of the works printed in a textbook, pursuant to the provisions of Article 5, paragraph (1) or (2) of the Act to Accelerate the Dissemination of School Textbooks, etc. for School-Aged Children and Students with Disabilities (Act No. 81 of 2008), may exploit such works, to the extent that is found to be necessary in order for the person to provide those electronic or magnetic records.

(Broadcasting, etc. of educational programming for schools)

Article 34 (1) It is permissible for a person to broadcast or cablecast a work that has been made public, in broadcast or cablecast programming for schools that conforms to the curriculum standards provided for in regulations on school education; to receive a broadcast transmission of such programming and simultaneously transmit it via automatic public transmission (this includes the automatic public transmission of programming that has been made available for transmission by the data for it being input to an automatic public transmission server that is connected with a public telecommunications network) with the objective of allowing an exclusive audience within the service area that the programming is intended for (meaning a service area as provided in Article 91, paragraph (2), item (ii) of the Broadcast Act (Act No. 132 of 1950) or, if a service area is not specified for the broadcast, meaning a broadcast area as provided in Article 14, paragraph (3), item (ii) of the Wireless Telegraphy Act (Act No. 131 of 1950); the same applies hereinafter) to

receive it; and to print such a work in teaching materials for use with that broadcast programming or cablecast programming, to the extent that this is found to be necessary for the purpose of school education.

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

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

Article 35 (1) A person in charge of teaching or a person taking classes at a school or other educational institution (except one founded for commercial purposes) may reproduce a work that has been made public if and to the extent that it is found to be necessary for the purpose of use in the course of classes; provided, however that this does not apply if the reproduction would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, as well as the number of copies and the circumstances of its reproduction.

- (2) If, in the course of classes at an educational institution referred to in the preceding paragraph, the original or copies of a work that has been made public are offered or presented to persons who directly attend a class and thus exploited, or if such a work is exploited through a stage performance, musical performance, on-screen presentation, or recitation for such persons pursuant to the provisions of Article 38, paragraph (1), it is permissible to transmit these to the public (and also to make them available for transmission, if they are to be transmitted to the public via automatic public transmission) for any persons who are taking that class simultaneously at a place other than that where the class is being held; provided, however, that this does not apply if transmitting these to the public would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, as well as the circumstances of the transmission.

(Reproduction, etc. as examination questions)

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

transmission.

- (2) A person that reproduces a work or transmits to the public a work for commercial purposes must pay the copyright owner compensation in an amount that corresponds to the ordinary rate of royalties.

(Reproduction, etc. for persons with visual impairments, etc.)

Article 37 (1) It is permissible to reproduce in Braille a work that has been made public.

- (2) It is permissible to use a computerized Braille processing system to record a work that has been made public onto a recording medium or transmit to the public such a work (except in a broadcast or cablecast; however, it is permissible to make the work available for transmission, if it is to be transmitted to the public via automatic public transmission; the same applies in the next paragraph).

- (3) A person set forth by Cabinet Order that engages in an undertaking related to the welfare of persons who have difficulties in the perception of visual renderings due to visual impairments or other impairments (hereinafter in this paragraph and in Article 102, paragraph (4) referred to as "persons with visual impairments, etc.") may reproduce a work that has been made public and that is offered or presented to the public in a rendered form that is perceived visually (including a work that has been made public and that is offered or presented to the public in a form that is perceived both visually and through other senses) (including a work other than the work in question which is reproduced therein or which is offered or presented to the public in a body united with the former work; hereinafter in this paragraph and in Article 102, paragraph (4) referred to as a "visual work"), and may transmit such a visual work to the public, with the writing in the visual work changed into sound, or in any other form that is necessary to allow the visual work to be used by persons with visual impairments, etc. who have difficulty in using that visual work in its visual form, within the limits that are found to be necessary in order to provide the visual work for their exclusive use; provided, however, that this does not apply if the visual work has already been offered or presented to the public in such a form by the copyright owner, a person authorized thereby, a person in favor of whom the print rights set forth in Article 79 have been established, a person authorized thereby to reproduce the visual work, or a person authorized thereby to transmit the visual work to the public.

(Reproduction, etc. for persons with hearing impairments, etc.)

Article 37-2 The person set forth by Cabinet Order for each type of exploitation set forth in the following items, that engages in an undertaking related to the

welfare of persons with hearing impairments and other persons whose perception of aural renderings is impaired (hereinafter in this Article and in paragraph (5) of next Article referred to as "persons with hearing impairments, etc.") may exploit a work that has been made public and that is offered or presented to the public in a rendered form that is perceived aurally (including a work that has been made public and that is offered or presented to the public in a form that is perceived both aurally and through other senses) (including a work other than the work in question which is reproduced therein, or which is offered or presented to the public in a body united with the former work; hereinafter in this Article referred to as an "aural work"), in the way set forth in the relevant item, within the limits that are found to be necessary in order to provide the aural work for exclusive use by persons with hearing impairments, etc. who have difficulty in using that aural work in its aural form; provided, however, that this does not apply if the aural work has already been offered or presented to the public in the necessary form for persons with hearing impairments, etc. to be able to use it, by the copyright owner, a person authorized thereby, a person in favor of whom the print rights set forth in Article 79 have been established, a person authorized thereby to reproduce the visual work, or a person authorized thereby to transmit the visual work to the public:

- (i) reproducing a visual work or transmitting it via automatic public transmission (this includes making it available for transmission), with the sounds in the aural work changed into writing or in any other form that is necessary to allow the work to be used by persons with hearing impairments, etc.;
- (ii) reproducing the work solely for the purpose of offering it for rental to persons with hearing impairments, etc. (limited to when this is done together with the sounds in the aural work being changed into writing or together with the reproduction of its sounds in any other form that is necessary to allow the aural work to be used by persons with hearing impairments, etc.).

(Stage performances, etc. for non-commercial purposes)

Article 38 (1) It is permissible to publicly give a stage performance or a musical performance, make an on-screen presentation, or give a recitation of a work that has been made public, if this is done for non-commercial purposes and without charging a fee to the listening or viewing audience (a fee meaning anything of value received in exchange for offering or presenting the work to the public, regardless of what it is called; the same applies hereinafter in this Article); provided, however, that this does not apply if a performer or reciter is paid any remuneration for the stage performance, musical performance, on-screen presentation, or recitation.

- (2) It is permissible to cablecast a broadcast work or to transmit such a work via automatic public transmission (this includes the automatic public transmission of a broadcast work that is made available for transmission by the data for it being input to an automatic public transmission server that is connected with a public telecommunications network) for non-commercial purposes and without charging a fee to the listening or viewing audience, with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive that broadcast.
- (3) It is permissible to publicly communicate a broadcast or cablecast work (including a broadcast work that is transmitted via automatic public transmission) through a receiver for non-commercial purposes and without charging a fee to the listening or viewing audience. The same applies if the work is communicated publicly through receivers of a kind commonly used in private homes.
- (4) It is permissible to offer a work that has been made public to the public (except a cinematographic work) by renting out copies of that work (if the work is one that has been reproduced in a cinematographic work, this excludes offering that work to the public by renting out copies of the cinematographic work), if this is done for non-commercial purposes and without charging a fee to persons renting copies of the work.
- (5) An audiovisual education facility or any other facility (excluding one set in place for commercial purposes), designated by Cabinet Order, that aims to offer cinematographic films and other audiovisual materials for public use, or a person provided for by Cabinet Order that is referred to in the preceding Article and that is engaged in an undertaking related to the welfare of persons with hearing impairments, etc. (limited to a person concerned with item (ii) of that Article, and excluding a person that engages in that undertaking for commercial purposes) may distribute a cinematographic work that has been made public, by renting out copies of it, if it does so without charging a fee to the persons renting copies of the work. In this, the person distributing the work must pay a reasonable amount of compensation to the owner of the right set forth in Article 26 (including paying such compensation to the person that, pursuant to the provisions of Article 28, owns the same right to the relevant work as the right set forth in Article 26) for the cinematographic work or the work reproduced in that cinematographic work.

(Reprinting, etc. of editorial commentary on current topics)

Article 39 (1) It is permissible for a person to reprint, in another newspaper or magazine, editorial commentary (excluding that of an academic nature) on current political, economic, or social topics that has been printed and published in a newspaper or magazine, to broadcast or cablecast such commentary, or to



receive a broadcast transmission of such commentary and simultaneously transmit it via automatic public transmission (this includes the automatic public transmission of a broadcast that is made available for transmission by the data for it being input to an automatic public transmission server that is connected with a public telecommunications network) with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive it; provided, however that this does not apply if it is expressly indicated that such use is prohibited.

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

(Exploitation of political speeches, etc.)

Article 40 (1) It is permissible to exploit a political speech or statement delivered in public or a public statement given in the course of judicial proceedings (including one given in the course of a hearing by an administrative agency or other proceedings equivalent to a trial; the same applies in Article 42, paragraph (1)), in any way, except for by making a compilation of speeches or statements by the same author.

- (2) If it is found to be justified from the perspective of an aim to report the news, it is permissible for a person to print in a newspaper or magazine or to broadcast or cablecast a speech or statement other than one under the provisions of the preceding paragraph, that is delivered in public by a national or local government agency, incorporated administrative agency, or local incorporated administrative agency, or to receive a broadcast transmission of such a speech or statement and simultaneously transmit it via automatic public transmission (this includes the automatic public transmission of a broadcast that is made available for transmission by the data for it being input to an automatic public transmission server that is connected with a public telecommunications network) with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive it.
- (3) It is permissible to publicly communicate a speech or statement that is broadcast, cablecast, or transmitted via automatic public transmission pursuant to the provisions of the preceding paragraph, through a receiver.

(Reporting of current events)

Article 41 To the extent that it is justified from the perspective of the aim to report the news, if current events are reported in the news by means of photography, cinematography, broadcasting, or other means, it is permissible to reproduce and exploit, in line with the reporting of that event, a work that comprises the event or a work seen or heard in the course of the event.

(Reproduction for judicial proceedings, etc.)

Article 42 (1) It is permissible to reproduce a work if and to the extent that this is found to be necessary for judicial proceedings or for internal use by a legislative or administrative organ; provided, however, that this does not apply if reproducing a work would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work as well as the number of copies and the circumstances of its reproduction.

(2) The provisions of the preceding paragraph also apply if and to the extent that the reproduction of a work is found to be necessary for the following proceedings:

(i) proceedings involved in a patent, industrial design, or trademark examination, the technical valuation of a utility model, or an international examination or preliminary examination for an international application (meaning international applications provided for in Article 2 of the Act on International Applications, etc. under the Patent Cooperation Treaty (Act No. 30 of 1978) by an administrative agency;

(ii) proceedings involved in an administrative agency's or incorporated administrative agency's examination or investigation of pharmaceutical affairs (including an examination of the particulars of medical equipment (meaning medical equipment as provided in Article 2, paragraph (4) of the Act on Securing Quality, Efficacy and Safety of Products Including Pharmaceuticals and Medical Devices (Act No. 145 of 1960)) and regenerative medicine products (meaning regenerative medicine products as provided in Article 2, paragraph (9) of the same Act); the same applies hereinafter in this item), or proceedings that involve a report about pharmaceutical affairs submitted to an administrative agency or incorporated administrative agency.

(Exploitation for disclosure pursuant to the Act on Access to Administrative Organs' Information, etc.)

Article 42-2 The head of an administrative organ or an incorporated administrative agency, etc., local government agency, or local incorporated administrative agency may exploit a work in order to offer or present the work to the public, to the extent that this is found to be necessary for disclosing the work by each of the means provided for in Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information (including the provisions of Cabinet Order based on the provisions of that paragraph), Article 15, paragraph (1) of the Act on Access to Incorporated Administrative Agencies' Information (including means decided by the relevant incorporated administrative agency, etc. based on the provisions of that paragraph

(excluding anything other than the means provided for by Cabinet Order based on the provisions of Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information)), or Information Disclosure Ordinances (excluding anything other than the means set forth in Article 14, paragraph (1) of the Act on Access to Administrative Organs' Information (including the provisions of Cabinet Order based on the provisions of that paragraph)).

(Exploitation for preservation, etc. pursuant to the Public Records Management Act)

- Article 42-3 (1) The head of the National Archives of Japan, etc. or the head of the local archives, etc. may, to the extent that this is found to be necessary, reproduce a work related to historical public records and archives in order to preserve the historical public records and archives pursuant to the provisions of Article 15, paragraph (1) of the Public Records Management Act or the provisions of the Public Records Management Ordinances (limited to provisions equivalent to the relevant paragraph of the Public Records Management Act).
- (2) The head of the National Archives of Japan, etc. or the head of the local archives, etc. may exploit a work in order to make it available to or present it to the public pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act or the provisions of the Public Records Management Ordinances (limited to provisions equivalent to the relevant paragraph of the Public Records Management Act), to the extent that this is found to be necessary for permitting the exploitation of the work by each of the means provided for in Article 19 of the Public Records Management Act (including provisions of Cabinet Orders based on the provisions of such Article; the same applies hereinafter in this paragraph) or the Public Records Management Ordinances (excluding anything other than the means set forth in the relevant Article of the Public Records Management Act).

(Reproduction for collecting Internet materials and online materials under the National Diet Library Act)

- Article 43 (1) The head librarian of the National Diet Library may record a work that is included in the Internet materials set forth in Article 25-3, paragraph (1) of the National Diet Library Act (Act No. 5 of 1948) (hereinafter in this Article referred to as "Internet materials") or the online materials set forth in Article 25-4, paragraph (3) of the same Act onto a recording medium used by the National Diet Library, to the extent that this is found to be necessary for collecting such Internet materials or online materials pursuant to the provisions of those paragraphs.
- (2) The following persons may reproduce works concerning the materials set forth in the following items, to the extent considered necessary to provide such

materials:

- (i) a person provided for in Article 24 and 24-2 of the National Diet Library Act: Internet materials provided in response to a request under the provisions of Article 25-3, paragraph (3) of that Act;
- (ii) a person that does not fall under Article 24 or 24-2 of the National Diet Library Act: Online materials set forth in Article 25-4, paragraph (1) of that Act provided pursuant to the provisions of the same paragraph.

(Ephemeral fixation by a broadcaster, etc.)

Article 44 (1) A broadcaster may make an ephemeral sound or visual recording of a work that it is able to broadcast without prejudice to the right set forth in Article 23, paragraph (1), for its own broadcasts and by means of its own facilities or those of another broadcaster that is permitted to broadcast the same work.

- (2) A cablecaster may make an ephemeral sound or visual recording of a work that it is permitted to cablecast without prejudice to the right set forth in Article 23, paragraph (1), for its own cablecasts (except a cablecast it transmits based on the receipt of a broadcast) and by means of its own facilities.
- (3) It is not permissible to preserve a sound or visual recording made pursuant to the provisions of the preceding two paragraphs for a period exceeding six months after the recording (or six months after the broadcast or cablecast, if the recording is broadcast or cablecast within the period of six months after the recording); provided, however, that this does not apply if a recording is preserved in official archives pursuant to Cabinet Order.

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

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

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

(Exploitation of an artistic work, etc. on public display)

Article 46 It is permissible to exploit an artistic work the original copy of which is permanently installed in an outdoor location as provided for in paragraph (2) of the preceding Article or an architectural work, in any way whatsoever except the following:

- (i) producing additional copies of a sculpture or offering such additional copies of the sculpture to the public by transferring them;
- (ii) reproducing an architectural work by means of construction, or offering

copies of an architectural work so reproduced to the public by transferring them;

- (iii) reproducing a work in order to permanently install it in an outdoor location as provided for in paragraph (2) of the preceding Article;
- (iv) reproducing an artistic work for the purpose of selling copies of it, or selling such copies.

(Reproduction, etc. in connection with the exhibition of an artistic work, etc.)

Article 47 (1) A person that, without prejudice to the right provided for in Article 25, publicly exhibits the original copy of an artistic work or photographic work (hereinafter in this Article such person shall be referred to as an "original copy exhibitor", and hereinafter in this Article and Article 47-6, paragraph (2), item (i) such work shall be referred to as an "exhibited work"), may print the exhibited work in pamphlets for the purpose of explaining or introducing the exhibited work to persons viewing it, or reproduce such exhibited work to the extent necessary to present them via an on-screen presentation or perform an automatic public transmission (including making them available for transmission; the same applies in Article 47-6, paragraph (2), item (i)) concerning such exhibited work pursuant to the provisions of the next paragraph; provided, however that this does not apply if such acts would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such exhibited work, as well as the number of copies and the circumstances of its reproduction.

(2) The original copy exhibitor may, for the purpose of explaining or introducing the exhibited work to persons viewing it and to the extent considered as necessary, present the exhibited work via an on-screen presentation or perform an automatic public transmission concerning such exhibited work; provided, however that this does not apply if such on-screen presentations or automatic public transmissions would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such exhibited work, as well as the circumstances of its on-screen presentations or automatic public transmissions.

(3) An original copy exhibitor or a person designated by a Cabinet Order may, to the extent considered as necessary to provide information on the location of a certain exhibited work to the public, reproduce such exhibited work or make a transmission to the public (or make the relevant work available for transmission, if such transmission is being made via an automatic public transmission) concerning such exhibited work; provided, however that this does not apply if such reproductions or public transmissions would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such exhibited work, as well as the circumstances of

its reproductions or public transmissions.

(Reproduction, etc. in connection with an offer to transfer, etc. an artistic work, etc.)

Article 47-2 If, without prejudice to the rights set forth in Article 26-2, paragraph (1) and Article 26-3, the owner of the original or a copy of an artistic work or photographic work or any other person with the authority to transfer or rent out the original or a copy thereof seeks to transfer or rent out the original or copy of the work, the person with that authority or a person commissioned thereby may, for use in making the offer to transfer or rent out the original or copy of the work, reproduce or transmit to the public the work (and may make the work available for transmission, if it is to be transmitted to the public via automatic public transmission) (but the person may do so only if that person takes measures to prevent or deter the copy that is made when the work is reproduced for the offer, from being used to reproduce the work; measures to prevent or deter a person from reproducing the work after receiving it in a transmission to the public; or any other measure designated by Cabinet Order as one that stops the interests of the copyright owner from being unfairly prejudiced).

(Reproduction, etc. by the owner of a copy of a work of computer programming)

Article 47-3 (1) The owner of a copy of a work of computer programming may reproduce that work to the extent that this is found to be necessary in order for the person to execute the work on that person's own computer; provided, however, that this is not the case when the provisions of Article 113, paragraph (2) apply to the use that is made of such copies in connection with such execution.

(2) After the owner of a copy referred to in the preceding paragraph (including copies made pursuant to the provisions of that paragraph) ceases to own one of the copies of the work for reasons other than the destruction thereof, the owner may not preserve other copies of the work if the copyright owner has not specifically manifested the intention to permit this.

(Exploitation etc. of works associated with the exploitation of works on a computer)

Article 47-4 (1) Works provided to be exploited on computers (including exploitations using IT technologies; the same applies hereinafter in this Article) may be exploited in any way to the extent considered as necessary in the cases described below or in similar cases where works are intended to be exploited collaterally in order to smoothly or efficiently exploit such work on a computer; provided, however that this does not apply if such exploitation would

unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such work, as well as the circumstances of its exploitations:

- (i) upon exploiting a work on a computer by using its copy or by exploiting a work that is received through transmissions of wireless communications or wired telecommunications, recording such work on the recording medium of such computer in the course of such computer's data processing for the exploitation of such work in order to smoothly and efficiently perform such data processing;
  - (ii) in the event a person that, in the course of trade, makes available an automatic public transmission server for other persons to use for automatic public transmissions records a work that has been made available for automatic public transmission on a recording medium in order to prevent delays or failures of such other person's automatic public transmissions or to efficiently transmit a work available for transmissions in order to relay automatic public transmissions of that work;
  - (iii) upon providing information by using IT technologies, recording or adapting work on a recording medium in order to perform the data processing on a computer necessary to prepare for a smooth and efficient provision.
- (2) Works exploited to be used on computers may be exploited in any way to the extent considered as necessary in the cases described below or in similar cases where works are intended to be exploited in order to maintain the works' exploitability on computers or recover such exploitability; provided, however that this does not apply if such exploitation would unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such work, as well as the circumstances of its exploitations:
- (i) upon performing a maintenance or repair on a device with a built-in recording medium, recording works recorded on such built-in recording medium (hereinafter in this item and the next item referred to as a "built-in recording medium") temporarily on a recording medium other than that built-in recording medium, and then re-recording such works on the built-in recording medium after the maintenance or repair.
  - (ii) upon exchanging a device with a built-in recording medium for another device with same functions, recording works recorded on the built-in recording medium temporarily on a recording medium other than the built-in recording medium, and then re-recording such works on the built-in recording medium of the other device with same functions.
  - (iii) in the event a person that, in the course of trade, makes available an automatic public transmission server for other persons to use for automatic public transmissions records a work on a recording medium in order to recover a lost or damaged copy of a work that has been made available for

automatic public transmission by such automatic public transmission server.

(Minor exploitation, etc. associated with data processing on a computer and provisions of such results)

Article 47-5 (1) A person who performs acts set forth in the following items which contribute to the promotion of exploiting works by creating new knowledge or information through data processing using computers (including persons who perform a part of such acts and limited to those who perform such acts in accordance with the standards stipulated in Cabinet Orders) may, in any way and to the extent considered as necessary in relation to the purposes of the acts set forth in each following item, exploit works provided or presented to the public (including works made available for transmissions; the same applies in this Article) (hereinafter in this Article and Article 47-6, paragraph (2), item (ii) referred to as "work provided or presented to the public") (limited to publicized works or works made available for transmissions) in association with such act (provided that such exploitation shall be limited to minor exploitations in light of the proportion and amount of the work provided or presented to the public for exploitation, the granularity upon exploiting it and other elements; hereinafter in this Article referred to as "minor exploitations"); provided, however that this does not apply if such person performs such minor exploitation knowing that publicly providing or presenting such work provided or presented to the public would infringe copyrights (or if such provision or presentation is made abroad, this proviso shall apply to cases where such provision or presentation would infringe copyrights if it was made in Japan) or such minor exploitation would otherwise unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such work provided or presented to the public, as well as the circumstances of its minor exploitations:

- (i) to retrieve the title or author of a work that records the information being searched for (hereinafter in this item referred to as "searched information"), the transmitter identification codes (meaning the letters, numbers, symbols, or other codes by which the transmitter of an automatic public transmission is identified) for the searched information that has been made available for transmission, or other relevant information concerning the identification or location of such searched information by using a computer and to furnish the results of the retrieval;
- (ii) to perform data analyses by using a computer and to furnish the results of such analyses;
- (iii) in addition to acts described in the preceding two items, any act designated in Cabinet Orders that contributes to improving the convenience of the Japanese peoples' lives by creating new knowledge or information through



data processing using computers and furnishing its results.

- (2) A person who prepares for the acts set forth in the items of the preceding paragraph (limited to persons who collect, organize and provide information for the preparation of such acts in accordance with the standards stipulated in Cabinet Orders) may, to the extent considered as necessary for the preparation of minor exploitations defined in the preceding paragraph and in relation with the work provided or presented to the public, perform reproductions or public transmissions (or make the relevant work available for transmission, if such transmission is being made via an automatic public transmission; the same applies in this paragraph and Article 47-6, paragraph (2), item (ii)) or distribute its copies; provided, however that this does not apply if such reproduction, public transmission or distribution would otherwise unreasonably prejudice the interests of the copyright owner in light of the natures and purposes of such work provided or presented to the public, the number of copies to be reproduced or distributed, as well as the circumstances of such reproduction, public transmission or distribution.

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

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

- (i) Article 30, paragraph (1); Article 33, paragraph (1) (including as applied *mutatis mutandis* pursuant to paragraph (4) of Article 33); Article 34, paragraph (1); and Article 35: translation, musical arrangement, reformulation, and adaptation;
  - (ii) Article 30-2, paragraph (1) or Article 47-3, paragraph (1): adaptation;
  - (iii) Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 32; Article 36, paragraph (1); Article 37, paragraph (1) or (2); Article 39, paragraph (1); Article 40, paragraph (2); Article 41; or Article 42: translation;
  - (iv) Article 33-2, paragraph (1) or Article 47: reformulation and adaptation;
  - (v) Article 37, paragraph (3): translation, reformulation, and adaptation
  - (vi) Article 37-2: translation and adaptation.
- (2) With respect to the derivative work created pursuant to the preceding paragraph, if it is permissible to exploit the original work of the derivative work pursuant to the items set forth in the preceding paragraph (and the provisions of the following items with respect to the derivative work as set forth in the following items; the same applies in this paragraph and Article 48, paragraph (3), item (ii)), the derivative work is deemed to fall within the work as defined in the provisions set forth in the items of the preceding paragraph in

terms of the relationship with the author of the original work or other person who has the rights provided in Article 28 with respect to the exploitation of the derivative work, and it is permissible to use the derivative work as provided in the items:

- (i) a derivative work created pursuant to the preceding paragraph to conduct an on-screen presentation or automatic public transmission of an exhibited work based on the provision of Article 47, paragraph (2) in the case that the provisions of Article 47, paragraph (1) permits the reproduction of the exhibited work: Article 47, paragraph (2);
- (ii) a derivative work created pursuant to the preceding paragraph in the case that paragraph (2) of the preceding Article permits the reproduction, automatic public transmission or distribution of the copy of a work provided or presented to the public: Article 47-5, paragraph (1).

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

Article 37, paragraph (3); Article 37-2; Articles 41 through 42-2; Article 42-3, paragraph (2); Article 47, paragraph (1) or (3); Article 47-2; Article 47-4 or 47-5, or if the copy of that work that is made based on the application of the provisions of Article 30-4 is transferred to the public to enjoy or to have other person(s) enjoy the thoughts or sentiments expressed in the work (excluding a copy of a cinematographic work in a case under the provisions of Article 31, paragraph (1) or the second sentence of paragraph (3); or Article 42).

(Indication of source)

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

- (i) a work is reproduced pursuant to the provisions of Article 32; Article 33, paragraph (1) (including when application *mutatis mutandis* is provided for pursuant to the provisions of paragraph (4) of the same Article); Article 33-2, paragraph (1); Article 37, paragraph (1); or Article 42 or Article 47, paragraph (1);
  - (ii) a work is exploited pursuant to the provisions of Article 34, paragraph (1); Article 37, paragraph (3); Article 37-2; Article 39, paragraph (1); Article 40, paragraph (1) or (2); Article 47, paragraph (2) or (3); or Article 47-2;
  - (iii) a work is exploited other than by its reproduction pursuant to the provisions of Article 32 or is exploited pursuant to the provisions of Article 35; Article 36, paragraph (1); Article 38, paragraph (1); Article 41; Article 46; or Article 47-5, paragraph (1), and it is common practice to indicate the source.
- (2) In a source indication as referred to in the preceding paragraph, the name of the author that appears on the work must be cited, except if the author's name is clear from the source indication or if the work is anonymous.
- (3) If a work is exploited as provided in the following items, the source of the original work of a derivative work as provided in the items must be indicated pursuant to the provisions of the preceding two paragraphs:
- (i) a derivative work created pursuant to the provision of Article 40, paragraph (1); Article 46; or Article 47-5, paragraph (1) is exploited pursuant to these provisions;
  - (ii) a derivative work created pursuant to the provision of Article 47-6, paragraph (1) is exploited based on the application of the provisions set forth in paragraph (2) of the same Article pursuant to the items of paragraph (1) of the same Article.

(Use, etc. of a copy other than for its intended purpose)

Article 49 (1) The following persons are deemed to have reproduced a work as referred to in Article 21:

- (i) a person that distributes a copy of the work which has been made based on the application of the provisions of Article 30, paragraph (1); Article 30-3; Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 33-2, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); the first sentence of Article 37-2 (or item (ii) of that Article, in a case referred to in that item; the same applies in item (i) of the next paragraph); Articles 41 through 42-3; Article 43, paragraph (2); Article 44, paragraph (1) or (2); Article 47, paragraph (1) or (3); Article 47-2, or Article 47-5, paragraph (1) (excluding a copy falling under the category set forth in item (i) or (ii) of the next paragraph), or presents the work to the public by means of such a copy (this includes making the derivative work available for transmission; the same applies hereinafter), for a purpose other than what is stipulated in those provisions;
  - (ii) a person that exploits a work created based on the application of the provisions of Article 30-4 to enjoy or to have other person(s) enjoy the thoughts or sentiments expressed in the work, irrespective of the manner in which it is exploited, by means of a copy of the work (excluding a copy falling under the category set forth in the items of the next paragraph);
  - (iii) a broadcaster or cablecaster that preserves an ephemeral recording in violation of the provisions of Article 44, paragraph (3);
  - (iv) a person that distributes a copy of the work which has been made based on the application of the provisions of Article 47-3, paragraph (1) (excluding a copy falling under the category set forth in item (iv) of the next paragraph), or a person that presents the work to the public by means of such a copy;
  - (v) a person that preserves a copy set forth in Article 47-3, paragraph (2) (excluding a copy falling under the category set forth in item (iv) of the next paragraph) in violation of the provisions of that paragraph;
  - (vi) a person that uses a copy of the work which has been made based on the application of the provisions of Article 47-4; or Article 47-5, paragraph (2) (excluding a copy falling under the category set forth in item (vi) or (vii) of the next paragraph), irrespective of the manner in which it is used, to exploit the work for a purpose other than what is provided for in those provisions;
- (2) The following persons are deemed to have translated, musically arranged, reformulated an original work of the derivative work as under Article 27, or made a copy of the derivative work as under Article 21:
- (i) a person that distributes a copy of the derivative work which has been made based on the application of Article 47-6, paragraph (2) and in accordance with what is set forth in the items of Article 47-6, paragraph (1) ; or that presents the derivative work to the public by means of such a copy;

- for a purpose other than what is provided for in Article 30, paragraph (1); Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 33-2, paragraph (1); Article 35; Article 37, paragraph (3); the first sentence of Article 37-2; Article 41; Article 42; or Article 47, paragraph (1) or (3);
- (ii) a person that distributes a copy of the derivative work which has been made based on the application of Article 30-3; or Article 47-5, paragraph (1); or that presents the derivative work to the public by means of such a copy; for a purpose other than what is provided for in those provisions;
  - (iii) a person that uses a derivative work of a work created based on the application of the provisions of Article 30-4 to enjoy or to have other person(s) enjoy the thoughts or sentiments expressed in the work, irrespective of the manner in which it is exploited, by means of a copy of the derivative work;
  - (iv) a person that distributes a copy of the derivative work which has been made based on the application of the provisions of Article 47-6, paragraph (2), and pursuant to the provisions of Article 47-3, paragraph (1), or presents the derivative work to the public by means of such a copy;
  - (v) a person that preserves the copy referred to in the preceding item, in violation of the provisions of Article 47-3, paragraph (2);
  - (vi) a person that uses a copy of the derivative work which has been made based on the application of Article 47-4, to exploit the derivative work for a purpose other than what is provided for in that Article, irrespective of the manner in which it is used;
  - (vii) a person that uses a derivative work of a work created based on the application of Article 47-6, paragraph (2), irrespective of the manner in which it is exploited, by means of a copy of the derivative work created pursuant to the provisions of Article 47-5, paragraph (2); for a purpose other than what is provided for in Article 47-5, paragraph (2).

(Relationship with the moral rights of authors)

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

#### **Section 4 Term of Protection**

(The term of protection, in general)

Article 51 (1) The duration of copyright begins at the time the work is created.  
(2) Unless otherwise specified in this Section, a copyright subsists for a period of seventy years after the death of the author (or the death of the last surviving co-author, for a joint work; the same applies in paragraph (1) of next Article).

(The term of protection for an anonymous or pseudonymous work)

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

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

- (i) the pseudonym adopted by the author of a pseudonymous work is commonly known to be that author's pseudonym;
- (ii) the author's true name is registered pursuant to Article 75, paragraph (1), within the period referred to in the preceding paragraph;
- (iii) the author makes the work public using the author's true name or the pseudonym by which the author is commonly known to indicate the name of the author, within the period referred to in the preceding paragraph.

(The term of protection for works attributed to an organization)

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

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

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

(The term of protection for cinematographic works)

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

- (2) When the copyright to a cinematographic work expires at the expiration of the duration of copyright, the copyright to original work connected with that cinematographic work also expires as regards the exploitation of the cinematographic work.
- (3) The provisions of the preceding two Articles do not apply to the copyright to a cinematographic work.

Article 55 [Deleted]

(The time at which a serial publication, etc. is made public)

Article 56 (1) The time at which a work is made public as referred to in Article 52, paragraph (1); Article 53, paragraph (1); or Article 54, paragraph (1) is the time at which each volume, issue, or installment is made public, for works that are made public successively in volumes, issues, or installments, or the time at which the last part of the work is made public, for works that are made public sequentially in parts.

- (2) If the subsequent part of a work that is completed after being made public sequentially in parts, has not been made public even though three years have passed since the most recent part was made public, the last of the parts of the work that has been made public is deemed to be the last part of the work for the purposes of the preceding paragraph.

(Calculation of the term of protection)

Article 57 In calculating the end of the seventy-year period following the death of the author; or the seventy-year period after a work is made public or created, in a case referred to in Article 51, paragraph (2); Article 52, paragraph (1); Article 53, paragraph (1); or Article 54, paragraph (1), the starting point for the calculation is the year after the year in which the author dies or the work is made public or created.

(Special provisions on the term of protection)

Article 58 If, pursuant to the provisions of the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty, or the Marrakesh Agreement Establishing the World Trade Organization, the country of origin of a work (except a work falling under Article 6, item (i)) is a foreign country that is a member of the International Union established by the Berne Convention, a contracting party to the WIPO Copyright Treaty, or a member of the World Trade Organization, and if that country of origin has established a shorter duration of copyright for such a work than what is provided for in Articles 51 through 54, the duration of copyright for that work is the duration established by the country of origin.

## **Section 5 The Exclusivity, etc. of an Author's Moral Rights**

(The exclusivity of an author's moral rights)

Article 59 An author's moral rights are exclusive to that author, and are inalienable.

(Protection of moral interests after the author's death)

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

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

(Transfer of a copyright)

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

(2) If a contract for the transfer of a copyright makes no particular reference to the rights set forth in Articles 27 and 28, these rights are presumed to be retained by the transferor.

(Expiration of a copyright when there are no heirs, etc.)

Article 62 (1) A copyright expires in the following cases:

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

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

(2) The provisions of Article 54, paragraph (2) apply mutatis mutandis when the copyright to a cinematographic work has expired pursuant to provisions of the preceding paragraph.

## **Section 7 Exercise of Rights**

(Authorization to exploit works)

Article 63 (1) The copyright owner may grant another person authorization to



exploit the work.

- (2) A person that obtains the authorization referred to in the preceding paragraph is entitled to exploit the work to which that authorization pertains within the scope of the manner and conditions of exploitation under the authorization.
- (3) A right to exploit a work under the authorization referred to in paragraph (1) may not be transferred without the consent of the copyright owner.
- (4) Unless otherwise stipulated in a contract, the authorization referred to paragraph (1) in connection with the broadcasting or cablecasting of a work, does not include authorization to record the sound or visuals of the work.
- (5) The provisions of Article 23, paragraph (1) do not apply to a person that has obtained the authorization referred to in paragraph (1) to make a work available for transmission, making the work available for transmission repeatedly or using another automatic public transmission server to make the work available for transmission within the scope of the manner and conditions of exploitation under authorization (other than those that concern the number of times the work may be made available for transmission or the automatic public transmission server that may be used to make the work available for transmission).

(Exercise of the moral rights of co-authors)

Article 64 (1) The moral rights of co-authors of a joint work may not be exercised without the unanimous agreement of all the co-authors.

- (2) A co-author may not prevent the agreement referred to in the preceding paragraph from being reached against good faith.
- (3) Co-authors may choose one co-author from among themselves to represent them in the exercise of their moral rights.
- (4) Limitations on the representative authority of the person representing the co-authors in the exercise of the rights referred to in the preceding paragraph may not be duly asserted against a third party that is without knowledge of those limitations.

(Exercise of a joint copyright)

Article 65 (1) The owner of a copyright to a joint work or any other jointly owned copyright (hereinafter in this Article referred to as a "joint copyright") is not entitled to transfer or pledge that share of the joint copyright without the consent of the other co-owners.

- (2) A joint copyright may not be exercised without the unanimous agreement of all the co-owners.
- (3) In a case referred to in the preceding two paragraphs, a co-owner may not, without justifiable grounds, refuse the consent referred to in paragraph (1) or

prevent the agreement referred to in the preceding paragraph from being reached.

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

(Copyright that have become subject to a pledge)

Article 66 (1) The copyright owner is entitled to exercise a copyright even if a pledge has been established with the copyright as its subject, unless otherwise stipulated in the act of establishing the pledge.

- (2) A pledge may be exercised with respect to money or any other thing the copyright owner would receive from the transfer of the copyright or the exploitation of the work (including consideration for the establishment of a print right); provided, however, that the attachment of the right to receive such things is required before their payment or transfer to the pledgee.

### **Section 8 Exploitation of Works Pursuant to a Compulsory License**

(Exploitation of a work if the copyright owner is unknown)

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

- (2) Notwithstanding the provisions of the preceding paragraph, if the Japanese government, local government agency or other similar entity as designated by Cabinet Order (hereinafter referred to as "State, etc." in this paragraph and the next Article) seeks to use a work pursuant to the provision of the preceding paragraph, the deposit of the preceding paragraph shall not be required. In such cases, if the State, etc. succeeded in contacting the copyright owner, the State, etc. shall pay compensation to the copyright owner in the amount established by the Commissioner of the Agency for Cultural Affairs in accordance with the provisions of the preceding paragraph.
- (3) A person that seeks to be issued the compulsory license referred to in paragraph (1) must submit to the Commissioner of the Agency for Cultural Affairs an application detailing the manner in which that person seeks to exploit the work and other particulars designated by Cabinet Order, and attaching materials to support a *prima facie* showing that the copyright owner

cannot be contacted and the materials designated by Cabinet Order.

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

(Exploitation of a work while an application for a compulsory license is pending)

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

- (2) Notwithstanding the provisions of the preceding paragraph, if the State, etc. seeks to use a work pursuant to the provision of the preceding paragraph, the deposit of the preceding paragraph shall not be required.

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

- (4) Notwithstanding the provisions of paragraph (1) of the preceding Article, if the person exploiting the work pursuant to the provisions of paragraph (1) (hereinafter referred to as a "user with a pending application"; this does not include State, etc.; the same applies hereinafter in the following paragraphs) is issued the compulsory license, the user is not required to make a deposit under the provisions of paragraph (1) of the previous Article with regard to the portion of the compensation referred to in that paragraph which is equivalent to the amount of collateral already deposited under the provisions of paragraph (1) of this Article (and if the amount of the collateral exceeds that of the compensation, the user is not required to deposit compensation).

- (5) If a user with a pending application is issued a disposition denying the compulsory license (unless the user has been able to contact the copyright owner in the time leading up to the disposition), the user must deposit the

compensation for the copyright owner in the amount that has been fixed by the Commissioner of the Agency for Cultural Affairs as equivalent to the amount of royalties for having exploited the work pursuant to the provisions of paragraph (1) in the time leading up to when the user was issued the disposition. In this, the portion of the collateral deposited pursuant to the provisions of that paragraph which is equivalent to the amount of compensation (or if the amount of compensation exceeds the amount of collateral, the collateral) is deemed to have been deposited as compensation.

- (6) If the user with a pending application (limited to a State, etc.) succeeded in contacting the copyright owner after the disposition denying the compulsory license, the user with a pending application shall pay compensation to the copyright owner in the amount equivalent to the royalties for having exploited the work pursuant to the provision of paragraph (1) for the period preceding the disposition as established by the Commissioner of the Agency for Cultural Affairs.
- (7) If a user with a pending application becomes able to contact the copyright owner in the time leading up to the disposition granting or denying the compulsory license, the user must pay the copyright owner compensation equivalent to the amount of royalties for having exploited the work pursuant to the provisions of paragraph (1) in the time leading up to when the user was able to contact the copyright owner.
- (8) In a case referred to in paragraphs (4), (5) or (7), the copyright owner is entitled to receive repayment from collateral deposited pursuant to the provisions of paragraph (1) in connection with the right to receive the compensation referred to in paragraph (5) or (7) of this Article.
- (9) A person that deposits collateral pursuant to the provisions of paragraph (1) is entitled to recover, pursuant to Cabinet Order, all or a part of the portion of collateral that exceeds the amount of collateral from which the copyright owner is entitled to receive repayment pursuant to the provisions of the preceding paragraph.

(Broadcasting of works)

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

- (2) A work that is broadcast pursuant to the provisions of the preceding paragraph may also be cablecast, transmitted via automatic public

transmission (this includes the automatic public transmission of a broadcast work that is made available for transmission by the data for it being input to an automatic public transmission server that is connected with a public telecommunications network) with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive the transmission, or communicated publicly through a receiver. In this, except in a case to which the provisions of Article 38, paragraphs (2) and (3) apply, the person that makes that cablecast, transmits the automatic public transmission, or sends the communication must pay the copyright owner compensation in an amount equivalent to the ordinary rate of royalties.

(Recording sounds onto commercial phonograms)

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

(Procedures and standards involved in a compulsory license)

- Article 70 (1) An applicant for a compulsory license referred to in Article 67, paragraph (1); Article 68, paragraph (1); or the preceding Article must pay an application fee in the amount that has been fixed by Cabinet Order in consideration of actual costs.
- (2) The provisions of the preceding paragraph do not apply if the person that would be required to pay the application fee pursuant to the provisions of that paragraph is the State or an incorporated administrative agency that has been designated by Cabinet Order in consideration of the contents of its business or other circumstances (referred to as "the State, etc." in Article 78, paragraph (6) and Article 107, paragraph (2)).
- (3) Upon receipt of an application for the compulsory license referred to in Article 68, paragraph (1) or the preceding Article, the Commissioner of the Agency for Cultural Affairs must notify the copyright owner affected by the application of this, and must afford the copyright owner an opportunity to express an opinion,

specifying an adequate period of time for this.

- (4) If the Commissioner of the Agency for Cultural Affairs has received an application for a compulsory license referred to in Article 67, paragraph (1), Article 68, paragraph (1) or the preceding Article but finds the circumstances to fall under either of the following items, the commissioner must not issue the compulsory license:
  - (i) the author clearly intends to discontinue the printing or other exploitation of the work; or
  - (ii) there are unavoidable circumstances for the copyright owner's inability to authorize the broadcast of the work to which the application for a compulsory license referred to in Article 68, paragraph (1) pertains.
- (5) When seeking to issue a disposition denying an applicant the compulsory license referred to in the preceding paragraph (unless the disposition denying the applicant the compulsory license is issued pursuant to the provisions of paragraph (7)) the Commissioner of the Agency for Cultural Affairs must notify the applicant of the reasons for this in advance and afford the applicant an opportunity to explain the applicant's position and furnish evidence in the applicant's favor, and if the commissioner issues the disposition denying the applicant that compulsory license, the commissioner must notify the applicant of this in writing, accompanied by the reasons for this.
- (6) Upon issuing the compulsory license referred to in Article 67, paragraph (1), the Commissioner of the Agency for Cultural Affairs must issue a public notice of this in the Official Gazette as well as notifying the applicant, and upon issuing the compulsory license referred to in Article 68, paragraph (1) or the preceding Article, the Commissioner must notify the relevant parties of this.
- (7) If there has been a petition from a user with a pending application to withdraw that user's application for the compulsory license referred to in Article 67, paragraph (1), the Commissioner of the Agency for Cultural Affairs is to issue a disposition denying the applicant the compulsory license.
- (8) Beyond what is provided for in the preceding paragraphs, any necessary particulars involved in the compulsory licenses referred to in this Section are provided by Cabinet Order.

### **Section 9 Compensation, etc.**

(Consultation with the Culture Council)

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

Council.

(Legal action concerning amounts of compensation)

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

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

(Limitations on requests for reviews concerning the amount of compensation)

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

(Depositing of compensation, etc.)

Article 74 (1) In the following cases, a person that is required to pay the compensation referred to in Article 33, paragraph (2) (including as applied *mutatis mutandis* pursuant to the provisions of paragraph (4) of the same Article); Article 33-2, paragraph (2); Article 68, paragraph (1); or Article 69 must deposit the compensation instead of paying it:

- (i) the copyright owner refuses or is unable to receive the compensation;
- (ii) through no fault of the person required to pay, the copyright owner cannot be identified;
- (iii) the person required to pay brings an action as referred to in Article 72, paragraph (1) with respect to the amount of compensation;
- (iv) a pledge has been established on the copyright (this excludes when authorization has been obtained from the pledgee).

- (2) If the copyright owner so requests, in the case referred to in item (iii) of the preceding paragraph, the person that is required to pay compensation must pay the sum that accords with the person's own calculations and deposit the difference between sum that person calculates and the amount of compensation as per the compulsory license.
- (3) A deposit of compensation under the provisions of Article 67, paragraph (1); Article 67-2, paragraph (5); or the preceding two paragraphs or a deposit of collateral under the provisions of Article 67-2, paragraph (1) is to be made at the deposit office nearest to the known domicile or residence of the copyright owner, if the copyright owner is domiciled or resides in Japan, or at the deposit office nearest to the domicile or residence of the depositor in any other case.
- (4) A person that makes a deposit referred to in the preceding paragraph must notify the copyright owner of that deposit; provided, however, that this does not apply if the copyright owner cannot be notified due to reasons such as the copyright owner being unknown.

## **Section 10 Registration**

(Registration of true names)

- Article 75 (1) The author of an anonymous or pseudonymous work that has been made public, may have the author's true name registered to that work, regardless of whether the author currently owns the copyright.
- (2) An author may have the registration referred to in the preceding paragraph made after the author's death by the person designated in the author's will.
  - (3) A person whose true name has been registered is presumed to be the author of the work to which the registration pertains.

(Registration of the date of first publication, etc.)

- Article 76 (1) The copyright owner or the publisher of an anonymous or pseudonymous work may have the date of first publication or the date first made public registered for that work.
- (2) A work whose date of first publication or date first made public is registered is presumed to have been first published or first made public on the registered date.

(Registration of the date of creation)

- Article 76-2 (1) The author of a work of computer programming may have the date of creation of the work registered; provided, however, that this does not apply after six months have passed since the creation of that work.
- (2) A work of computer programming that has been registered as referred to in the preceding paragraph is presumed to have been created on the registered



date.

(Registration of a copyright)

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

- (i) the transfer of a copyright (except a transfer by inheritance or by any other general succession; the same applies in the next item), its alteration as a result of a trust, or a restriction on its disposal;
- (ii) the establishment, transfer, alteration, or expiration of a pledge on a copyright (except when due to comingling or to the expiration of the copyright or the claim it secures), or a restriction on its disposal.

(Registration process)

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

- (2) The copyright register may be prepared in whole or in part using magnetic discs (this includes any object on which it is possible to reliably record a fixed set of data using equivalent means; the same applies in paragraph (4)), pursuant to Cabinet Order.
- (3) Upon making a registration referred to in Article 75, paragraph (1), the Commissioner of the Agency for Cultural Affairs must issue a public notice of this in the Official Gazette.
- (4) Any person may enter a request with the Commissioner of the Agency for Cultural Affairs to be delivered a certified copy or a certified abstract of entries in the copyright register or a copy of its annexed documents, to inspect the register or its annexed documents, or to be delivered documents detailing information recorded in a portion of the copyright register that has been prepared using magnetic discs.
- (5) A person entering a request referred to in the preceding paragraph must pay the fee that has been fixed by Cabinet Order in consideration of actual costs.
- (6) The provisions of the preceding paragraph do not apply if the person that would be required to pay the fee pursuant to the provisions of that paragraph is the State, etc.
- (7) The provisions of Chapters II and III of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to measures taken in connection with registrations referred to in paragraph (1).
- (8) The provisions of the Act on Access to Administrative Organs' Information do not apply to the copyright register and its annexed documents.
- (9) The provisions of Chapter IV of the Act on the Protection of Personal

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

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

(Special provisions on the registration of works of computer programming)

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

### **Chapter III Print Rights**

(Establishment of print rights)

Article 79 (1) The owner of the right set forth in Article 21 or Article 23, paragraph (1) (hereinafter in this Chapter referred to as "the owner of reproduction rights, etc.") may establish a print right in favor of a person that undertakes to either print the work as a piece of writing or as a picture (including the distribution of a copy of such work recorded on a recording medium which has been recorded on such medium through means of using a computer and displaying the piece of writing or picture on its screen; referred to as "printing acts" in Article 80, paragraph (2) and Article 81, item (i)) or transmit the work to the public by using a copy of the work recorded on a recording medium through such means (excluding broadcasts and cablecasts and including acts to make the work available for transmission, if the work is to be transmitted via automatic public transmission; same applies hereinafter in this Chapter) (referred to as "public transmission acts" in Article 80, paragraph (2) and Article 81, item (ii)).

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

(The substance of print rights)

Article 80 (1) The owner of print rights has the exclusive rights to all or part of the following rights pertaining to the work subject to the print rights, pursuant to the act of establishment:

(i) the right to reproduce the unaltered original work for the purpose of distribution, as a piece of writing or as a picture, by printing it or by other mechanical or chemical means (including the right to reproduce the

- unaltered work as an electronic or magnetic record recorded on a recording medium through means provided for in Article 79, paragraph (1));
- (ii) the right to transmit the unaltered work to the public by using a copy of the work recorded on a recording medium through means provided for in Article 79, paragraph (1).
- (2) Notwithstanding the provisions of the preceding paragraph, if the author of a work dies during the life of the print rights, or, unless otherwise stipulated in the act of establishment, after three years have passed since the first printing act or public transmission act (referred to as "printing acts, etc." in Article 83, paragraph (2) and Article 84, paragraph (3)) following the establishment of the print rights, the owner of the reproduction rights, etc. may reproduce such work or transmit such work to the public by compiling the relevant work in a complete collection of works or other compilation (limited to one in which only the works of that author are compiled).
- (3) The owner of print rights may authorize another person to reproduce the work that is the subject of those print rights or transmit such work to the public only when it obtains the consent of the owner of reproduction rights, etc.
- (4) The provisions of Article 63, paragraphs (2), (3) and (5) apply mutatis mutandis to cases provided for in the preceding paragraph. In this case, the term "the copyright owner" in paragraph (3) of the said Article is deemed to be replaced with "the owner of reproduction rights, etc. and the owner of print rights provided in Article 79, paragraph (1)" and the phrase "Article 23, paragraph (1)" in paragraph (5) of the said Article is deemed to be replaced with "Article 80, paragraph (1) (limited to provisions pertaining to item (ii))".

(Obligation to print)

Article 81 The owner of print rights has the obligations set forth in each of the following items in connection with the work subject to the print right according to the categories of particulars listed in each of the items; provided, however that this does not apply if otherwise stipulated in the act of establishment:

- (i) The owner of print rights pertaining to the rights provided for in Article 80, paragraph (1), item (i) (referred to as "the owner of item (i) print rights" in the next Article) has the following obligations:
- (a) the obligation to conduct printing acts for a certain work within a period of six months after the date on which the owner of print rights has been transferred the manuscript or other original copies or anything else equivalent thereto or has been provided the electronic or magnetic record of the work each necessary for reproducing the work, by the owner of the reproduction rights, etc.;
- (b) the obligation to continually conduct printing acts for the work in conformity with business practices.

- (ii) The owner of print rights pertaining to the rights provided for in Article 80, paragraph (1), item (ii) (referred to as "the owner of item (ii) print rights" in paragraph (1), item (ii) of the next Article) has the following obligations:
  - (a) the obligation to conduct public transmission acts for a certain work within a period of six months after the date on which the owner of print rights has been transferred the manuscript or other original copies or anything else equivalent thereto or has been provided the electronic or magnetic record of the work each necessary for transmitting the work to the public, by the owner of the reproduction rights, etc.;
  - (b) the obligation to continually conduct public transmission acts for the work in conformity with business practices.

(Adjustments, additions, and deletions in a work)

Article 82 (1) In any of the following cases, the author may make adjustments, additions, or deletions in that work to the extent that these are justified.

- (i) The owner of item (i) print rights reproduces the work again;
  - (ii) The owner of item (ii) print rights transmits the work to the public
- (2) Each time the owner of item (i) print rights seeks to reproduce a work subject to the print rights the owner owns again, the owner must notify the author of this in advance.

(Duration of print rights)

Article 83 (1) The duration of print rights is as stipulated in the act of establishment.

- (2) Unless otherwise stipulated in the act of establishment, print rights expire on the day on which three years have elapsed following the first printing acts, etc. are conducted after the establishment of those rights.

(Claim to the extinguishment of print rights)

Article 84 (1) If the owner of print rights breaches the obligation referred to in Article 81, item (i) (limited to the provisions in (a)) or item (ii) (limited to the provisions in (a)), the owner of reproduction rights, etc. may extinguish the print rights pertaining to the rights provided in Article 80, paragraph (1), items (i) or (2), respectively, by notifying the owner of print rights of this.

- (2) If the owner of print rights breaches the obligation referred to in Article 81, item (i) (limited to the provisions in (b)) or item (ii) (limited to the provisions in (b)), and, notwithstanding that the owner of reproduction rights, etc. has specified a period of at least three months and called upon the owner of print rights to perform the obligation within that period, the owner of the print rights does not perform that obligation within that period, the owner of reproduction rights, etc. may extinguish the print rights pertaining to the

rights provided in Article 80, paragraph (1), items (i) or (2), respectively, by notifying the owner of print rights of this.

- (3) If the convictions of an author that is the owner of reproduction rights, etc. come to differ from the content of the author's own work, the author may extinguish the print rights to that work by notifying the owner of the print rights of this, in order to stop the printing acts, etc. related to such work; provided, however, that this does not apply if the author does not compensate the owner of print rights in advance for the damages that would usually arise from such stoppage.

#### Article 85 [Deleted]

(Limitations on print rights)

Article 86 (1) The provisions of Article 30, paragraph (1) (except item (iii); the same applies in next paragraph); Article 30-2, paragraph (2); Article 30-3; Article 30-4; Article 31, paragraph (1) and the second sentence of paragraph (3); Article 32; Article 33, paragraph (1) (including as applied mutatis mutandis pursuant to the provisions of paragraph (4) of the same Article); Article 33-2, paragraphs (1) and (4); Article 34, paragraph (1); Article 35, paragraph (1); Article 36, paragraph (1); Article 37; Article 37-2; Article 39, paragraph (1); Article 40, paragraphs (1) and (2); Articles 41 through 42-2; Article 42-3, paragraph (2) Article 46; Article 47, paragraphs (1) and (3); Article 47-2; Articles 47-4 and 47-5 apply mutatis mutandis to the reproduction of works subject to print rights. In this case, the term "copyright owner" in the proviso to Article 30-2, paragraph (2); Article 30-3; the proviso to Article 30-4; the proviso to Article 35, paragraph (1); the proviso to Article 42, paragraph (1); the provisos to Article 47, paragraphs (1) and (3); Article 47-2; the provisos to Article 47-4, paragraphs (1) and (2); and the provisos to Article 47-5, paragraphs (1) and (2) is deemed to be replaced with "owner of print rights", and the term "copyright" in the proviso to Article 47-5, paragraph (1) is deemed to be replaced with "print rights".

- (2) A person that falls within the categories set forth in the following items is deemed to have reproduced a work pursuant to Article 80, paragraph (1), item (i):

(i) A person distributes a copy of a work which has been made based on the application of the provisions of Article 30, paragraph (1); Article 30-3; Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 33-2, paragraph (1) or (4); Article 35, paragraph (1); Article 37, paragraph (3); the first sentence of Article 37-2 (or item (ii) of that Article, in a case referred to in that item); Articles 41 through 42-2; Article 42-3, paragraph (2); Article 47, paragraph (1) or (3); Article 47-2; or Article 47-5, paragraph

- (1) as applied mutatis mutandis pursuant to the preceding paragraph, or presents a copy of that work to the public by means of such a copy, for a purpose other than what is provided for in those provisions;
  - (ii) a person that exploits a work created based on the application of the provisions of Article 30-4 as applied mutatis mutandis pursuant to the preceding paragraph to enjoy or to have other person(s) enjoy the thoughts or sentiments expressed in the work, irrespective of the manner in which it is exploited, by means of a copy of the work;
  - (iii) a person that exploits a work created based on the application of the provisions of Article 47-4 or Article 47-5, paragraph (2) as applied mutatis mutandis pursuant to the preceding paragraph, for a purpose other than what is provided for in these provisions, irrespective of the manner in which it is exploited, by means of a copy of the work.
- (3) The provisions of Article 30-2, paragraph (2); Article 30-3; Article 30-4; Article 31, the first sentence of paragraph (3); Article 32 paragraph (1); Article 33-2, paragraph (4); Article 35, paragraph (2); Article 36, paragraph (1); Article 37, paragraph (2) and (3); Article 37-2 (except item (i)); Article 40, paragraphs (1); Articles 41; Article 42-2, Article 42-3, paragraph (2); Article 46; Article 47, paragraphs (2) and (3); Article 47-2; Article 47-4; and Article 47-5 apply mutatis mutandis to the public transmission of works subject to print rights. In this case, the term "copyright owner" in the proviso to Article 30-2, paragraph (2); Article 30-3; the proviso to Article 30-4; Article 35, paragraph (2); the proviso to Article 36, paragraph (1); the provisos to Article 47, paragraphs (2) and (3); Article 47-2; the provisos to Article 47-4, paragraphs (1) and (2); and the provisos to Article 47-5, paragraphs (1) and (2) is deemed to be replaced with "print rights", and the term "copyright" in the proviso to Article 47-5, paragraph (1) is deemed to be replaced with "print rights".

(Transfer, etc. of print rights)

Article 87 All or part of the print rights may be transferred or pledged only with the authorization of the owner of reproduction rights, etc.

(Registration of print rights)

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

- (i) the establishment of a print right, its transfer (except a transfer by inheritance or other general succession; the same applies in the next item), alteration, extinguishment (except when due to comingling, or because of the extinguishment of the right of reproduction or public transmission), or a restriction on its disposal;
- (ii) the establishment, transfer, alteration, or termination of a right of pledge

established on a print right (except when due to a merger of the right of pledge, or because of the termination of the print rights or the claim they secure), or a restriction on its disposal.

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

## **Chapter IV Neighboring Rights**

### **Section 1 General Rules**

(Neighboring rights)

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

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

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

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

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

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

(Connection between the rights of authors and neighboring rights)

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

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

(Right of attribution)

Article 90-2 (1) A performer has the right to decide whether to use the performer's name, stage name, or any other name to indicate the name of the performer in connection with the performance at the time it is offered or

presented to the public, or to decide that the performer's name will not be indicated in connection with that performance.

- (2) Unless the performer has manifested a different intention, a person exploiting a performance may indicate the name of the performer in accordance with how the performer has already done so in connection with that performance.
- (3) The name of the performer may be omitted if it is found that that doing so is unlikely to harm the interests of the performer in a claim to being the performer in that performance, in light of the purpose and circumstances of its exploitation, or if the omission is found to be compatible with fair practices.
- (4) The provisions of paragraph (1) do not apply in any of the following cases:
  - (i) the performance is offered or presented to the public by the head of an administrative organ or by an incorporated administrative agency, etc., a local government agency, or a local incorporated administrative agency pursuant to the provisions of the Act on Access to Administrative Organs' Information, the Act on Access to Incorporated Administrative Agencies' Information, or Information Disclosure Ordinances, and the name of the performer is indicated in accordance with how the performer has already done so for that performance;
  - (ii) the performance is offered or presented to the public by the head of an administrative organ or by an incorporated administrative agency, etc., a local government agency, or a local incorporated administrative agency pursuant to the provisions of Article 6, paragraph (2) of the Act on Access to Administrative Organs' Information, the provisions of Article 6, paragraph (2) of the Act on Access to Incorporated Administrative Agencies' Information, or the provisions of Information Disclosure Ordinances and it is a case in which the name of the performer is to be omitted.
  - (iii) the performance is made available or presented to the public by the head of the National Archives of Japan, etc. or the head of the local archives, etc. pursuant to the provisions of Article 16, paragraph (1) of the Public Records Management Act or the provisions of the Public Records Management Ordinances (limited to provisions equivalent to the relevant paragraph of the Public Records Management Act) and the name of the performer is indicated in accordance with how the performer has already done so on that performance.

(Right to integrity)

- Article 90-3 (1) A performer has the right to preserve the integrity of the performance, and is not to be made to suffer any alteration, cut, or other modification to it that would damage the performer's honor or reputation.
- (2) The provisions of the preceding paragraph do not apply to modifications that are found to be unavoidable in light of the nature of the performance as well as



the purpose and circumstances of its exploitation, nor to modifications that are found to be compatible with fair practices.

(Sound recording rights and visual recording rights)

Article 91 (1) A performer has the exclusive right to record the sound and visuals of that performer's performance.

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

(Broadcasting and cablecasting rights)

Article 92 (1) A performer has the exclusive right to broadcast and cablecast that performer's performance.

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

(i) the cablecast is of a broadcast performance;

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

(a) a performance whose sound or visuals have been recorded with the authorization of the owner of the right provided for in paragraph (1) of the preceding Article;

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

(Right to make available for transmission)

Article 92-2 (1) A performer has the exclusive right to make that performer's performance available for transmission.

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

(i) a performance whose visuals have been recorded with the authorization of the owner of the right provided for in Article 91, paragraph (1);

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

(Fixation for broadcasting purposes)

Article 93 (1) A broadcaster that obtains the authorization to broadcast a

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

- (2) The following persons are deemed to have recorded the sound or visuals as referred to in Article 91, paragraph (1):
- (i) a person that uses or offers a sound or visual recording made pursuant to the provisions of the preceding paragraph, for a purpose other than broadcasting or for the purpose referred to in the proviso to the same paragraph;
  - (ii) a broadcaster that receives a sound or visual recording being offered which has been made pursuant to the provisions of the preceding paragraph, and that further offers it for the broadcast of another broadcaster.

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

Article 94 (1) Unless otherwise stipulated in the contract, if the owner of the right provided for in Article 92, paragraph (1) authorizes the broadcast of a performance, in addition to it being permissible to make the broadcast under that authorization, it is also permissible to make the following broadcasts:

- (i) a broadcast using the sound and visual recordings that the authorized broadcaster makes pursuant to the provisions of paragraph (1) of the preceding Article;
  - (ii) a broadcast made based on the reception of a sound or visual recording offered by the authorized broadcaster that has made that sound or visual recording pursuant to the provisions of paragraph (1) of the preceding Article;
  - (iii) a broadcast made based on the reception of an authorized broadcast program supplied by the authorized broadcaster (other than a broadcast under the preceding item).
- (2) If a performance is broadcast in a broadcast set forth in one of the items of the preceding paragraph, the broadcaster provided for in that item must pay a reasonable amount of remuneration to the owner of the right provided for in Article 92, paragraph (1).

(Cablecasts of broadcast performances)

Article 94-2 If a cablecaster cablecasts a broadcast performance (unless the cablecast is made for non-commercial purposes and without charging a fee (meaning anything of value received in exchange for presenting the performance, regardless of what it is called; the same applies in paragraph (1)

of the next Article) to the listening or viewing audience), it must pay a reasonable amount of remuneration to the performer whose performance it is (but only during the lifetime of the neighboring rights, and not for a performance set forth in Article 92, paragraph (2), item (ii)).

(Secondary use of commercial phonograms)

- Article 95 (1) If a broadcaster or cablecaster (hereinafter in this Article and Article 97, paragraph (1) referred to as a "broadcaster, etc.") makes a broadcast or cablecast using a commercial phonogram (including phonograms made available for transmissions; same applies in Article 97, paragraphs (1) and (3)) onto which the sound of a performance has been recorded with the authorization of the owner of the right provided for in Article 91, paragraph (1) (unless it receives a broadcast transmission and makes a cablecast simultaneously, for non-commercial purposes and without charging a fee to the listening or viewing audience), it must pay a secondary use fee to the performer whose performance it is (but only a for a performance referred to in Article 7, items (i) to (v) and during the lifetime of the neighboring rights; the same applies in the next paragraph to paragraph (4)).
- (2) The provisions of the preceding paragraph apply to a performer whose performance has been fixed in phonogram whose producer is a national of a country other than a Contracting State of the Convention for the Protection of Performers, etc. which has chosen not to apply the provisions of Article 12 of that Convention, pursuant to the provisions of Article 16 (1) (a) (i) of the Convention.
- (3) If the term of the protection under the provisions of Article 12 of the Convention for the Protection of Performers, etc. which a Contracting State of the Convention grants for phonograms set forth in Article 8, item (i), is shorter than the term of protection that performers receive pursuant to the provisions of paragraph (1), the term of protection granted to a performer whose performance has been fixed in a phonogram whose producer is a national of that Contracting State, is the term of protection that the Contracting State grants to performers for the phonograms set forth in Article 8, item (i).
- (4) The provisions of paragraph (1) apply to a performer whose performance has been fixed in a phonogram whose producer is the national of a Contracting State of the WPPT (but not a Contracting State of the Convention for the Protection of Performers, etc.) which has set a reservation pursuant to the provisions of Article 15 (3) of the WPPT, within the limits of that reservation.
- (5) If an association is in existence (including a federation of associations) that has as its members a considerable number of persons who perform professionally in Japan, whose consent has been obtained and which has been designated by the Commissioner of the Agency for Cultural Affairs, it is

permissible for the right to secondary use fees under paragraph (1) to be exercised exclusively through that association.

- (6) The Commissioner of the Agency for Cultural Affairs may not make the designation referred to in the preceding paragraph unless the association satisfies the following conditions:
  - (i) it is not-for-profit;
  - (ii) its members are able to freely join and leave;
  - (iii) its members have an equal right to vote on resolutions and in elections;
  - (iv) it has sufficient capacity to personally and properly perform functions involved in exercising the right to receive the secondary use fees referred to in paragraph (1) on behalf of the persons that own those rights (hereinafter in this Article referred to as "right holders").
- (7) An association as referred to in paragraph (5) must not refuse to exercise a right on behalf of a right holder if the right holder has so requested.
- (8) Once an association as referred to in paragraph (5) has had a request under the preceding paragraph, the association has the authority to act in and out of court on behalf of the right holder, in its own name, in connection with that right.
- (9) The Commissioner of the Agency for Cultural Affairs, as provided by Cabinet Order, may ask an association as referred to in paragraph (5) to report on functions related to the secondary use fees referred to in paragraph (1) or to submit account books, documents, and other data, and may make the necessary recommendations for improving the way the association's business is executed.
- (10) The amount of secondary use fees that an association as referred to in paragraph (5) may demand on behalf of a right holder pursuant to the provisions of paragraph (4) is to be fixed each year by mutual agreement between the association and the broadcaster, etc. or association of broadcasters, etc.
- (11) If the agreement referred to in the preceding paragraph is not reached, the relevant parties, as provided by Cabinet Order, may request the Commissioner of the Agency for Cultural Affairs to issue a compulsory license fixing the amount of secondary use fees.
- (12) The provisions of Article 70, paragraphs (3), (6), and (8) and Articles 71 through 74 apply mutatis mutandis to the compulsory license and secondary use fees referred to in the preceding paragraph. In this case, in Article 70, paragraph (3), the term "copyright owner" is deemed to be replaced with "relevant parties"; in Article 72, paragraph (2), the term "user of the work" is deemed to be replaced with "broadcaster, etc. referred to in Article 95, paragraph (1)" and the term "copyright owner" is deemed to be replaced with "association referred to in paragraph (4) of the same Article"; and in Article 74, the term "copyright owner" is deemed to be replaced with "association referred

to in Article 95, paragraph (5)".

- (13) The provisions of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947) do not apply to the mutual agreement referred to in paragraph (10) nor to actions taken under it; provided, however, that this does not apply if unfair trade practices are used or if it would unreasonably harm the interests of the enterprises concerned.
- (14) Beyond what is provided for in paragraphs (5) to (13), necessary particulars involving the payment of the secondary use fees referred to in paragraph (1) and concerning the associations under paragraph (5) are provided for by Cabinet Order.

(Right of transfer)

Article 95-2 (1) A performer has the exclusive right to offer that performer's performance to the public through the transfer of a sound or visual recording of it.

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

(i) a performance whose visuals have been recorded with the authorization of the owner of the right provided for in Article 91, paragraph (1);

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

(3) The provisions of paragraph (1) do not apply if a performance is offered to the public through the transfer of a sound or visual recording (except those referred to in items (i) and (ii) of the preceding paragraph; the same applies hereinafter in this Article) that falls under a category provided for in one of the following items:

(i) a sound or visual recording of a performance that is transferred to the public by the owner of the right set forth in paragraph (1) or a person authorized thereby;

(ii) a sound or visual recording of a performance that is transferred to the public based on the compulsory license referred to in Article 67, paragraph (1), as applied mutatis mutandis pursuant to Article 103;

(iii) a sound or visual recording of a performance that is transferred to the public based on the application of the provisions of Article 67-2, paragraph (1), as applied mutatis mutandis pursuant to Article 103;

(iv) a sound or visual recording of a performance that is transferred to exclusive groups made up of few persons by the owner of the right set forth in paragraph (1) or a person authorized thereby;

(v) a sound or visual recording of a performance that is transferred abroad without prejudice to any right equivalent to the right set forth in paragraph

(1), or by the owner of any right equivalent to the right set forth in that paragraph or a person authorized thereby.

(Right to rent out, etc.)

Article 95-3 (1) A performer has the exclusive right to offer that performer's performance to the public by renting out commercial phonograms onto which the sound of the performance has been recorded.

(2) The provisions of the preceding paragraph do not apply if the performance is offered to the public by the renting out of commercial phonograms that have passed beyond the Cabinet-Order-specified period of at least one month and no more than twelve months counting from the date of their first sale (including the renting out of any phonogram of which reproductions that are entirely the same as such commercial phonograms are being made; hereinafter referred to as "post-term commercial phonograms").

(3) If a person engaged in the business of renting out commercial phonograms to the public (hereinafter referred to as a "rental phonogram dealer") offers a performance to the public by renting out a post-term commercial phonogram, it must pay a reasonable amount of remuneration to the performer whose performance it is (but only during the lifetime of the neighboring rights).

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

(5) The right to receive royalties in connection with the authorization of the owner of the right provided for in paragraph (1) may be exercised through an association referred to in Article 95, paragraph (5), as applied mutatis mutandis pursuant to the preceding paragraph.

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

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

(Right of reproduction)

Article 96 The producer of a phonogram has the exclusive right to reproduce its phonograms.

(Right to make available for transmission)

Article 96-2 The producer of a phonogram has the exclusive right to make its

phonograms available for transmission.

(Secondary use of commercial phonograms)

- Article 97 (1) If a broadcaster, etc. broadcasts or cablecasts a commercial phonogram (unless it receives a broadcast transmission and makes a cablecast simultaneously, for non-commercial purposes and without charging a fee (meaning anything of value received in exchange for presenting the sound from the commercial phonogram, regardless of what it is called) to the listening or viewing audience), it must pay secondary use fees to the producer whose phonogram it is (but only for a phonogram provided for in Article 8, items (i) to (iv) and only during the lifetime of the neighboring rights).
- (2) The provisions of paragraphs (2) and (4) of Article 95 apply *mutatis mutandis* to the producer of a phonogram under the preceding paragraph, and the provisions of paragraph (3) of the same Article apply *mutatis mutandis* to the term of protection provided for in the preceding paragraph. In this case, in paragraphs (2) to (4) of that Article, the phrase "performer whose performance has been fixed in a phonogram whose producer is the national" is deemed to be replaced with "producer of a phonogram that is the national"; and in paragraph (3) of that Article, the phrase "term of protection that performers are granted" is deemed to be replaced with "term of protection that producers of phonograms are granted".
- (3) If an association is in existence (including a federation of associations) that has as its members a considerable number of persons that produce phonograms professionally in Japan, whose consent has been obtained and which has been designated by the Commissioner of the Agency for Cultural Affairs, it is permissible for the right to secondary use fees under paragraph (1) to be exercised exclusively through such association.
- (4) The provisions of Article 95, paragraphs (6) to (14) apply *mutatis mutandis* to the secondary use fees referred to in paragraph (1) and to an association as referred to in the preceding paragraph.

(Right of transfer)

- Article 97-2 (1) The producer of a phonogram has the exclusive right to offer that phonogram to the public through the transfer of copies thereof.
- (2) The provisions of the preceding paragraph do not apply if a phonogram is offered to the public through the transfer of copies that fall under a category provided for in one of the following items:
- (i) copies of a phonogram that are transferred to the public by the owner of the right provided for in the preceding paragraph or a person authorized thereby;
  - (ii) copies of a phonogram that are transferred to the public based on a compulsory license referred to in Article 67, paragraph (1), as applied

- mutatis mutandis pursuant to Article 103;
- (iii) copies of a phonogram that are transferred to the public based on the application of the provisions of Article 67-2, paragraph (1), as applied mutatis mutandis pursuant to Article 103;
  - (iv) copies of a phonogram that are transferred to exclusive groups made up of few persons by the owner of the right provided for in the preceding paragraph or a person authorized thereby;
  - (v) copies of a phonogram that are transferred abroad, without prejudice to any right equivalent to the right provided for in the preceding paragraph, or by the owner of any right equivalent to the right provided for in that paragraph or a person authorized thereby.

(Right to rent out, etc.)

Article 97-3 (1) The producer of a phonogram has the exclusive right to offer the phonogram to the public by renting out commercial phonograms in which the phonogram has been reproduced.

- (2) The provisions of the preceding paragraph do not apply if the phonogram is offered to the public through the rental of post-term commercial phonograms.
- (3) When a rental phonogram dealer offers a phonogram to the public by renting out post-term commercial phonograms, it must pay a reasonable amount of remuneration to the producer whose phonogram it is (but only during the lifetime of the neighboring rights).
- (4) The provisions of Article 97, paragraph (3) apply mutatis mutandis to the exercise of the right to receive the remuneration referred to in the preceding paragraph.
- (5) The provisions of Article 95, paragraphs (6) to (14) apply mutatis mutandis to the remuneration referred to in paragraph (3) of this Article and to associations referred to in Article 97, paragraph (3) as applied mutatis mutandis pursuant to the preceding paragraph. In this, the provisions of the first sentence of Article 95-3, paragraph (4) apply mutatis mutandis.
- (6) The right to receive royalties in connection with the authorization of the owner of the right provided for in paragraph (1) of this Article may be exercised through an association referred to in Article 97, paragraph (3) as applied mutatis mutandis pursuant to paragraph (4) of this Article.
- (7) The provisions of paragraph (5) of this Article apply mutatis mutandis to the preceding paragraph. In this case, in paragraph (5), the phrase "Article 95, paragraph (6)" is deemed to be replaced with "Article 95, paragraph (7)".

#### **Section 4 Rights of Broadcasters**

(Right of reproduction)



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

(Rebroadcasting rights and cablecasting rights)

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

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

(Right to make available for transmission)

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

(2) The provisions of the preceding paragraph shall not be applied when a person who makes automatic public transmissions by receiving broadcast transmissions makes transmissions available for automatic public transmissions pursuant to provisions of laws.

(Right to communicate television broadcasts)

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

## **Section 5 Rights of Cablecasters**

(Right of reproduction)

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

(Broadcasting rights and re-cablecasting rights)

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

(Right to make available for transmission)

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

(Right to communicate cable television broadcasts)

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

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

(The term of protection for performances, phonograms, broadcasts, and cablecasts)

Article 101 (1) The duration of neighboring rights begins at the following times:

- (i) for a performance, the time that the performance takes place;
- (ii) for a phonogram, the time that the first fixation of sounds is made;
- (iii) for a broadcast, the time that the broadcast takes place;
- (iv) for a cablecast, the time that the cablecast takes place.

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

- (i) for a performance, once seventy years have passed, counting from the year after that in which the performance takes place;
- (ii) for a phonogram, once seventy years have passed, counting from the year after that in which the phonogram is published (or once seventy years have passed counting from the year after that in which the sounds are first fixed in a phonogram, if the work is not published within seventy years counting from the year after that in which the sounds are first fixed in a phonogram);
- (iii) for a broadcast, once fifty years have passed, counting from the year after that in which the broadcast takes place;
- (iv) for a cablecast, once fifty years have passed, counting from the year after that in which the cablecast takes place.

### **Section 7 The Exclusive Nature, etc. of a Performer's Moral Rights**

(The exclusive nature of a performer's moral rights)

Article 101-2 A performer's moral rights are exclusive to that performer, and are inalienable.

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

Article 101-3 Even after the death of the performer, it is prohibited for person that offers or presents that performer's performance to the public to engage in

conduct that would be prejudicial to the moral rights of the performer if the performer were alive; provided, however, that this does not apply if such conduct is found not to contravene the will of the performer in light of the nature and extent of the conduct as well as changes in social circumstances and other conditions.

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

(Limitations on neighboring rights)

- Article 102 (1) The provisions of Article 30, paragraph (1); Articles 30-2 through 32, Articles 35, and 36; Article 37, paragraph (3); Article 37-2 (except item (i); the same applies in the next paragraph); Article 38, paragraphs (2) and (4); Articles 41 through 43; Article 44 (except paragraph (2)); Articles 46 through 47-2; and Articles 47-4 to 47-5 apply mutatis mutandis to the exploitation of a performance, phonogram, broadcast, or cablecast that is the subject of neighboring rights; the provisions of Article 30, paragraph (2) and Article 47-7 apply mutatis mutandis to the exploitation of a performance or phonogram that is the subject of neighboring rights; and the provisions of Article 44, paragraph (2) apply mutatis mutandis to the exploitation of a performance, phonogram, or cablecast that is the subject of neighboring rights. In this case, in Article 44, paragraph (1), the phrase "Article 23, paragraph (1)" is deemed to be replaced with "Article 92, paragraph (1); Article 99, paragraph (1); or Article 100-3", and in Article 44, paragraph (2), the phrase "Article 23, paragraph (1)" is deemed to be replaced with "Article 92, paragraph (1) or Article 100-3".
- (2) If a performance or phonogram or sounds or images from a broadcast or cablecast (hereinafter referred to as a "performance, etc.") are reproduced pursuant to the provisions of Article 32, Article 37, paragraph (3), Article 37-2; Article 42; or Article 47, as applied mutatis mutandis pursuant to the preceding paragraph, or are reproduced pursuant to the provisions of the following paragraph or paragraph (4), and it is common practice to indicate the source, the source must be clearly indicated in the manner and to the extent considered reasonable for the circumstances of the reproduction.
- (3) If it is permissible to reproduce a work that has been printed in a school textbook pursuant to the provisions of Article 33-2, paragraph (1), it is also permissible to reproduce any performance whose sound has been recorded in a sound recording made based on the application of the provisions of that paragraph, to reproduce any phonogram associated with such sound recording, and to present the performance or phonogram to the public through the transfer of copies thereof, for the purpose referred to in that paragraph.
- (4) If a person set forth by Cabinet Order which is as referred to in Article 37, paragraph (3) and which engages in an undertaking related to the welfare of

persons with visual impairments, etc. is permitted to reproduce a visual work pursuant to the provisions of that paragraph, that person may also reproduce any performance whose sound has been recorded in a sound recording made based on the application of the provisions of that paragraph, may reproduce any phonogram associated with such sound recording, may make the performance or phonogram available for transmission, and may present the performance or phonogram to the public through the transfer of copies thereof, for the purpose referred to in that paragraph.

- (5) A broadcast performance that is the subject of neighboring rights may be made available for transmission (but only by the relevant data being input to an automatic public transmission server that is connected with a public telecommunications network), with the objective of allowing an exclusive audience within the service area that the broadcast is intended for (meaning a service area as provided in Article 2-2, paragraph (2), item (ii) of the Broadcast Act (Act No. 132 of 1950) or, if a service area is not specified for the broadcast, meaning a broadcast area as provided in Article 14, paragraph (3), item (iii) of the Wireless Telegraphy Act (Act No. 131 of 1950)) to receive that broadcast; provided, however, that this does not apply if doing so would prejudice the rights of the person that owns the rights provided for in Article 99-2, paragraph (1) with respect to that broadcast.
- (6) Unless the provisions of Article 38, paragraph (2) as applied *mutatis mutandis* pursuant to paragraph (1) of this Article, are applicable, a person that makes a performance available for transmission pursuant to the provisions of the preceding paragraph must pay a reasonable amount of remuneration to the owner of the right set forth in Article 92-2, paragraph (1) with respect to that performance.
- (7) The provisions of the preceding two paragraphs apply *mutatis mutandis* to the exploitation of a phonogram that is the subject of neighboring rights. In this case, in the preceding paragraph, the phrase "Article 92-2, paragraph (1)" is deemed to be replaced with "Article 96-2".
- (8) If it is permissible for a person to broadcast or cablecast a work pursuant to the provisions of Article 39, paragraph (1) or Article 40, paragraph (1) or (2), it is also permissible for the person to cablecast the work or use a special instrument that enlarges images to communicate the work to the public based on the receipt of that broadcast or cablecast transmission, and to receive such a broadcast transmission and simultaneously make the work available for transmission (but only by inputting the data in an automatic public transmission server that is connected with a public telecommunications network) with the objective of allowing an exclusive audience within the service area that the broadcast is intended for to receive it.
- (9) The persons set forth in the following are deemed to have recorded the sound

or visuals of a performance, etc. or to have reproduced a performance, etc.

pursuant to Article 91, paragraph (1), Article 96, Article 98 or Article 100-2:

- (i) a person that distributes a copy of a performance, etc. which has been made based on the application of the provisions of Article 30, paragraph (1); Article 30-3; Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 35, paragraph (1); Article 37, paragraph (3); Article 37-2, item (ii); Article 41 through 42-3; Article 43, paragraph (2); Article 44, paragraph (1) or (2); Article 47, paragraph (1) or (3); Article 47-2; or Article 47-5, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of this Article, or that presents a performance, sounds from a phonogram, or sounds or images from a broadcast or cablecast to the public by means of such a copy, for a purpose other than what is provided for in those provisions;
- (ii) a person that exploits a performance, etc. made based on the application of the provisions of Article 30-4 as applied mutatis mutandis pursuant to paragraph (1) of this Article to enjoy or to have other person(s) enjoy the performance, etc., irrespective of the manner in which it is exploited, by means of a copy of the performance, etc.;
- (iii) a broadcaster or cablecaster that preserves a sound or visual recording provided for in Article 44, paragraph (3) as applied mutatis mutandis pursuant to paragraph (1) of this Article, in violation of the provisions of that paragraph;
- (iv) a person that uses a copy of a performance, etc. which has been made based on the application of the provisions of Article 47-4; or Article 47-5, paragraph (2) as applied mutatis mutandis pursuant to paragraph (1), to exploit that performance, etc., irrespective of the manner in which it is exploited, for a purpose other than what is provided for in those provisions;
- (v) a person that distributes a copy of a performance or phonogram which has been made based on the application of the provisions of paragraph (3) or (4), or that presents the sounds from the performance or phonogram to the public by means of such a copy, for a purpose other than what is provided for in Article 33-2, paragraph (1) or Article 37, paragraph (3).

(Relationship with the moral rights of performers)

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

(Transfer, exercise, etc. of neighboring rights)

Article 103 The provisions of Article 61, paragraph (1) apply mutatis mutandis to the transfer of neighboring rights, the provisions of Article 62, paragraph (1)

to the expiry of those rights, the provisions of Article 63 to the authorization to exploit a performance, phonogram, broadcast, or cablecast, the provisions of Article 65 to the joint authorship of those rights, the provisions of Article 66 to the establishment of a pledge on those rights, and the provisions of Article 67; Article 67-2 (except the proviso to paragraph (1)); Article 70 (except paragraphs (3) and (4)); Articles 71 through 73; and Article 74, paragraphs (3) and (4) to the exploitation of a performance, phonogram, broadcast, or cablecast if the owners of neighboring rights can not be found. In this case, in Article 63, paragraph (5), the phrase "Article 23, paragraph (1)" is deemed to be replaced with "Article 92-2, paragraph (1), Article 96-2; Article 99-2, paragraph (1); or Article 100-4", and in Article 70, paragraph (5), the phrase "the preceding paragraph" is deemed to be replaced with "Article 67, paragraph (1), as applied mutatis mutandis pursuant to Article 103".

(Registration of neighboring rights)

Article 104 The provisions of Article 77 and Article 78 (except paragraph (3)) apply mutatis mutandis to the registration of neighboring rights. In this case, in paragraphs (1), (2), (4), (8), and (9) of the latter Article, the phrase "the copyright register" is deemed to be replaced with "the register of neighboring rights".

## **Chapter V Compensation for Private Sound and Visual Recording**

(Exercise of the right to receive compensation for private sound and visual recording)

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

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

exclusively for use with recorded visuals; hereinafter in this Chapter referred to as "private sound recording");

(ii) compensation for private sound and visual recording in connection with visuals recorded for the purpose of private use (including visuals recorded along with recorded sounds used exclusively therewith; hereinafter in this Chapter referred to as "private visual recording").

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

(Designation criteria)

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

(i) it is a general incorporated association;

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

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

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

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

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

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

- (a) they are not-for-profit;
- (b) their members may freely join and leave;
- (c) their members have an equal right to vote on resolutions and in elections.
- (iv) they have sufficient capacity to personally and properly perform functions involved in exercising the right to receive compensation for private sound and visual recording (including functions involved in the undertaking referred to in Article 104-8, paragraph (1); hereinafter in this Chapter referred to as "functions connected with compensation") on behalf of the right holders.

(Special provisions on the payment of compensation for private sound and visual recording)

- Article 104-4 (1) A person that purchases a machine or recording medium specified by Cabinet Order which is as referred to in Article 30, paragraph (2) (hereinafter in this Chapter referred to as a "specified machine" and a "specified recording medium", respectively) (limited to persons that make the initial purchase of a specified machine or specified recording medium after it is retailed), if so requested by the designated association, must pay compensation for private sound and visual recording at the time of the purchase, in an amount established for the relevant specified machine or specified recording medium pursuant to the provisions of Article 104-6, paragraph (1), as a lump-sum payment representing compensation for private sound and visual recording, for the private sound recording or private visual recording that will be done using that specified machine or specified recording medium.
- (2) A person that pays compensation for private sound and visual recording pursuant to the preceding paragraph may claim a refund of that compensation for private sound and visual recording from the designated association, by proving that the person uses the specified machine or specified recording medium for which the person has paid that compensation exclusively for purposes other than private sound recording and private visual recording.
  - (3) Notwithstanding the provisions of Article 30, paragraph (2), a person that uses a specified machine for which compensation for private sound and visual recording has been paid as per a request for payment under the provisions of paragraph (1) of this Article to do private sound recording or private visual recording on a specified recording medium for which compensation for private sound and visual recording has been paid as per a request for payment under that paragraph is not required to pay compensation for private sound and visual recording at the time of doing such private sound recording or private video recording; provided, however, that this does not apply if compensation for private sound and visual recording has been refunded for the relevant specified machine or specified recording medium pursuant to the provisions of the



preceding paragraph.

(Cooperation by manufacturers, etc.)

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

(Amount of compensation for private sound and visual recording)

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

- (2) Notwithstanding the provisions of Article 30, paragraph (2), if the approval referred to in the preceding paragraph has been given, the amount of compensation for private sound and visual recording is the amount for which such approval has been received.
- (3) Before applying for the approval referred to in paragraph (1) in connection with compensation for private sound and visual recording the payment of which is requested pursuant to the provisions of Article 104, paragraph (1), a designated association must hear the opinions of associations of manufacturers, etc. that are recognized as representing the opinions of manufacturers, etc.
- (4) The Commissioner of the Agency for Cultural Affairs must not approve the amount of compensation for private sound and visual recording to which an application for permission under paragraph (1) pertains, unless it is found to be an appropriate amount in consideration of the purport of the provisions of Article 30, paragraph (1) (including as applied *mutatis mutandis* pursuant to the provisions of Article 102, paragraph (1)) and Article 104-4, paragraph (1), the ordinary rate of royalties for sound or visual recording, and any other circumstances.
- (5) Before granting the approval referred to in paragraph (1), the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.

(Rules on the execution of functions connected with compensation)

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

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

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

(Expenditures for undertakings related to the protection of copyright, etc.)

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

- (2) Before establishing the Cabinet Order referred to in the preceding paragraph or drafting an amendment to it, the Commissioner of the Agency for Cultural Affairs must consult the Culture Council.
- (3) If the Commissioner of the Agency for Cultural Affairs finds it to be necessary in order to ensure the proper operation of functions related to an undertaking referred to in paragraph (1), the Commissioner may issue any order that is necessary for supervising the relevant functions.

(Collection of reports, etc.)

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

(Delegation to Cabinet Order)

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

## Chapter VI Dispute Resolution

(Mediators in copyright dispute resolution)

Article 105 (1) In order for disputes concerning the rights provided for in this Act to be resolved through mediation, mediators for copyright dispute resolution (hereinafter in this Chapter referred to as "mediators") are placed on staff at the Agency for Cultural Affairs.

(2) The Commissioner of the Agency for Cultural Affairs delegates up to three mediators for each case, from among persons of learning and experience in matters related to copyright or neighboring rights.

(Application for mediation)

Article 106 If a dispute arises in connection with a right provided for in this Act, a party to the dispute may file an application for mediation with the Commissioner of the Agency for Cultural Affairs.

(Application fee)

Article 107 (1) A person that applies for mediation must pay the application fee that has been fixed by Cabinet Order in consideration of actual costs.

(2) The provisions of the preceding paragraph do not apply if the person that would be required to pay an application fee pursuant to the provisions of that paragraph is the State, etc.

(Referral to mediation)

Article 108 (1) If the Commissioner of the Agency for Cultural Affairs receives an application based on the provisions of Article 106 from both parties, or, if the Commissioner receives an application from one of the parties and the other party consents, the commissioner is to refer the matter to mediation by the mediators.

(2) The Commissioner of the Agency for Cultural Affairs may refrain from referring a matter to mediation if the commissioner finds that the nature of the case renders it inappropriate for mediation, or if the commissioner finds that a party has applied for mediation without due cause and in pursuit of an unjustifiable end.

(Mediation)

Article 109 (1) A mediator must endeavor to resolve a case by mediating between the parties and ascertaining the salient points of both parties' assertions in line with actual circumstances.

(2) A mediator may cut the mediation short if the mediator finds there to be no prospect of settling the case.

(Reports, etc.)

Article 110 (1) When a mediation ends, a mediator must report this to the Commissioner of the Agency for Cultural Affairs.

(2) If a mediator cuts a mediation short pursuant to the provisions of the preceding Article, the mediator must inform the parties of this and of the reason for doing so, as well as reporting this to the Commissioner of the Agency for Cultural Affairs.

(Delegation to Cabinet Order)

Article 111 Beyond what is provided for in this Chapter, the necessary particulars of the procedures for mediation and mediators are provided for by Cabinet Order.

## **Chapter VII Infringement of Rights**

(Right to demand an injunction)

Article 112 (1) The author, copyright owner, owner of print rights, performer, or owner of neighboring rights, may file a claim against a person who is infringing or who is likely to infringe the moral rights of the author, the copyright, the print rights, the moral rights of the performer, or the neighboring rights, for the cessation or prevention of such infringement.

(2) When filing the demand under the preceding paragraph, the author, copyright owner, owner of print rights, performer, or owner of neighboring rights may demand the destruction of objects that give rise to an act of infringement, objects made through an act of infringement, or machines or tools used solely for an act of infringement, or demand that any other measures necessary to effect the cessation or prevention of infringement be taken.

(Acts deemed to constitute infringement)

Article 113 (1) The following acts are deemed to constitute infringement of the moral rights of the author, the copyright, the print rights, the moral rights of the performer, or the neighboring rights:

(i) the importation, for the purpose of distribution in Japan, of an object that is made through an act that, were the object to be made in Japan at the time of its import, would constitute infringement of the moral rights of the author, the copyright, the print rights, the moral rights of the performer, or the neighboring rights;

(ii) the distribution, possession for the purpose of distribution, offering for distribution, exportation in the course of trade, or possession for the purpose of exportation in the course of trade, of an object made through an act that

- infringes the moral rights of the author, the copyright, the print rights, or the neighboring rights (including an object imported as referred to in the preceding item), with knowledge of such infringement.
- (2) The use of a copy made through an act that infringes the copyright to a work of computer programming (including copies made by the owner of such copies pursuant to the provisions of Article 47-3, paragraph (1) as well as copies of a work of computer programming imported as referred to in item (i) of the preceding paragraph and copies made by the owner of such imported copies pursuant to the provisions of Article 47-2, paragraph (1)) on a computer in the course of business is deemed to constitute an infringement of the copyright, but only if the person using such copy had knowledge of such infringement at the time that the person acquired the title to use the copy.
- (3) Circumventions of technological exploitation restriction measures (meaning making the viewing and listening of works, etc. restricted by technological exploitation restriction measures possible by hindering the effects of such technological exploitation restriction measures (excluding cases where such circumventions are conducted based on the intent of the owner of the copyright, etc.); the same applies in Article 120-2, items (i) and (ii)) are deemed to constitute infringements of copyrights, print rights, or the neighboring rights pertaining to such technological exploitation restriction measures unless they are conducted to the extent justified for the purpose of performing researches or developing technologies in relation to technological exploitation restriction measures or otherwise do not harm the interests of the owner of the copyright, etc.
- (4) The following acts are deemed to constitute infringement of the moral rights of the author, the copyright, the moral rights of the performer, or the neighboring rights to which the relevant rights management information pertains:
- (i) the intentional addition of false information as rights management information;
  - (ii) the intentional removal or alteration of rights management information (excluding when this is due to technological constraints involved in the conversion of recording or transmission methods and any other case in which this is found to be unavoidable in light of the purpose and circumstances of the exploitation of the work or performance, etc.);
  - (iii) the distribution, importation, or possession for the purpose of distribution, of copies of a work or performance, etc. with the knowledge that an act referred to in one of the preceding two items has been carried out on such work or performance, etc., or the transmission to the public or making available for transmission of such work or performance, etc. with knowledge of such an act.

- (5) With regard to the application of the provisions of the preceding paragraph, the right to receive the remuneration provided for in Article 94-2; Article 95-3, paragraph (3); and Article 97-3, paragraph (3) and the right to receive the secondary use fees provided for in Article 95, paragraph (1) and Article 97, paragraph (1) are deemed to be neighboring rights. In this case, in the preceding Article, the phrase "owner of neighboring rights" is deemed to be replaced with "owner of neighboring rights (including the owner of rights deemed to be neighboring rights pursuant to the provisions of paragraph (5) of the following Article)", and in paragraph (1) of the preceding Article, the phrase "neighboring rights" is deemed to be replaced with "neighboring rights (including the rights deemed to be neighboring rights pursuant to the provisions of paragraph (5) of the following Article)".
- (6) If the owner of a copyright or neighboring rights which personally publishes or allows another person to publish a commercial phonogram intended for distribution in Japan (hereinafter in this paragraph referred to as a "commercial phonogram for domestic distribution"), personally publishes or allows another person to publish, abroad, a commercial phonogram that is the same as the commercial phonogram for domestic distribution but that is intended exclusively for distribution abroad (hereinafter in this paragraph referred to as a "commercial phonogram for foreign distribution"), the knowing importation of the commercial phonogram for foreign distribution for the purpose of distribution in Japan; the knowing distribution in Japan of the commercial phonogram for foreign distribution; or the knowing possession of the commercial phonogram for foreign distribution for the purpose of distribution in Japan, is only deemed to constitute an act that infringes the copyright or neighboring rights of the copyright owner or the owner of neighboring rights if the profits that these persons would foreseeably obtain through the publication of the commercial phonogram for domestic distribution are unreasonably adversely affected by the distribution in Japan of the commercial phonogram for foreign distribution; provided, however, that this does not apply with regard to the importation, distribution in Japan, or possession for the purpose of distribution in Japan, of a commercial phonogram for foreign distribution that is the same as a commercial phonogram for domestic distribution which has passed beyond the Cabinet-Order-specified period of not more than seven years counting from the day on which said phonogram is first published in Japan.
- (7) The exploitation of a work in a way that is prejudicial to the honor or reputation of the author is deemed to constitute an infringement of the author's moral rights.

(Special provisions on the right of transfer of a bona fide third party)

Article 113-2 If, at the time a person is transferred the original or a copy of a work (excluding a copy of a cinematographic work (if the work is one that has been reproduced in a cinematographic work, this includes copies of the cinematographic work); the same applies hereinafter in this Article), a sound or visual recording of a performance, or a copy of a phonogram, the person does not know that the original or copy of the work, sound or visual recording of the performance, or copy of the phonogram does not fall under any of the items of Article 26-2, paragraph (2); Article 95-2, paragraph (3); or Article 97-2, paragraph (2), respectively, and is not negligent in having failed to learn this, such person's transfer of the original or copy of the work, the sound or visual recording of the performance, or the copy of the phonogram to the public is deemed not to constitute an infringement of the rights set forth in Article 26-2, paragraph (1); Article 95-2, paragraph (1); or Article 97-2, paragraph (1).

(Presumption of the amount of damage)

Article 114 (1) If the owner of the copyright, etc. claims compensation for damage incurred due to infringement, against a person that, intentionally or due to negligence, infringes the owner's copyright, print rights, or neighboring rights, and the infringer has transferred an object that was made through the relevant act of infringement or has made a transmission to the public (or has made the relevant work or performance available for transmission, if the object has been transmitted to the public via automatic public transmission) that constitutes an act of infringement, the amount calculated by multiplying the number of objects so transferred or the number of copies of the work or performance, etc. that have been made as a result of the public's receipt of that transmission to the public (hereinafter in this paragraph, copies so received are referred to as "copies transmitted and received" and the number of objects so transferred or of copies transmitted and received is referred to as the "number transferred, etc."), by the amount of profit per unit from objects (including copies transmitted and received) that the owner of the copyright, etc. could have sold if there had been no act of infringement, may be fixed as the amount of damage that the owner of the copyright, etc. has incurred, within the limits of an amount proportionate to the ability of the owner of the copyright, etc. to sell said objects or engage in other related acts; provided, however, that if there are circumstances due to which the owner of the copyright, etc. would have been unable to sell a number of objects equivalent to all or part of the number transferred, etc., an amount proportionate to the number of objects corresponding to such circumstances is deducted from the amount of damage thus calculated.

(2) If a copyright owner, the owner of print rights, or the owner of neighboring rights claims compensation for damage incurred due to infringement, against a

person that, intentionally or due to negligence, infringes the owner's copyright, print rights, or neighboring rights, and the infringer has made a profit from the act of infringement, the amount of that profit is presumed to be the amount of damage that the copyright owner, the owner of print rights, or the owner of neighboring rights has incurred.

- (3) The copyright owner, the owner of print rights, or owner of neighboring rights may fix the amount of damages incurred as being equivalent to the amount of money that the owner should have received in connection with the exercise of the copyright, print right or neighboring right, and may claim compensation therefor against a person that, intentionally or due to negligence, infringes the owner's copyright, print rights or neighboring right.
- (4) If the copyright owner or owner of neighboring rights claim compensation for damage against a person that infringes the owner's copyright or neighboring rights pursuant to the provisions of the preceding paragraph and such copyright or neighboring rights are managed by a copyright manager provided for in Article 2, paragraph (3) of the Copyright Management Business Act (Act No. 131 of 2000) under a management entrustment agreement provided for in Article 2, paragraph (1) of the said Act, the copyright owner or owner of neighboring rights may fix the amount provided for in the preceding paragraph by calculating the amount of royalties of the works, etc. related to such copyright or neighboring right based on the provision applicable to the circumstances of exploitation of the works, etc. concerning the infringement act set forth in the royalty rules determined by the copyright manager pursuant to Article 13, paragraph (1) of the Copyright Management Business Act (in cases where there are several methods to calculate such amount, the largest amount among the amounts calculated in accordance with the methods shall be applied).
- (5) The provisions of paragraph (3) do not preclude any claim to compensation for damage in excess of the amount referred to therein. In such a case, the court may consider the absence of intent or gross negligence by the person that infringed the copyright, print right or neighboring rights, in fixing the amount of compensation for the damage.

(Duty to clarify specific circumstances)

Article 114-2 In litigation involving infringement of the moral rights of an author, a copyright, print rights, the moral rights of a performer, or neighboring rights, if the adverse party denies the specific circumstances of the thing that is being asserted, by the author, copyright owner, owner of print rights, performer, or owner of neighboring rights, to constitute an act of infringement or to have been made through an act of infringement, the adverse party must clarify the specific circumstances of the adverse party's own



actions; provided, however, that this does not apply if there are reasonable grounds for the adverse party not being able to clarify these.

(Submission of documents, etc.)

Article 114-3 (1) In litigation involving infringement of the moral rights of an author, a copyright, print rights, the moral rights of a performer, or neighboring rights, the court, at the petition of a party, may order a party to submit documents that are needed to prove the relevant act of infringement or to calculate the damage caused by the relevant act of infringement; provided, however, that this does not apply if the person in possession of such documents has just cause for refusing to submit them.

(2) If the court finds it to be necessary in order to judge whether the just cause set forth in the proviso to the preceding paragraph is present, the court may have the person in possession of documents present such documents. In such a case, no person may request the disclosure of any document so presented.

(3) In a case referred to in the preceding paragraph, if the court finds that it is necessary to disclose a document referred to in the second sentence of the preceding paragraph and hear opinions with regard to whether the just cause provided for in the proviso to paragraph (1) is present, the court may disclose said documents to the parties, etc. (meaning the parties (or if a party is a corporation, its representative), or the parties' agents (other than litigation representatives and assistants in court), employees, or any other worker; the same applies in Article 114-6, paragraph (1)), their litigation representatives, or their assistants in court.

(4) The provisions of the preceding three paragraphs apply mutatis mutandis to the presentation of the object of any inspection that is necessary for proving the relevant act of infringement in litigation involving infringement of the moral rights of an author, a copyright, print rights, the moral rights of a performer, or neighboring rights.

(Duty of the parties to explain to an appraiser)

Article 114-4 In litigation involving infringement of a copyright, print rights, or neighboring rights, if, at the petition of a party, the court orders an appraisal of particulars that are necessary for calculating the damage caused by the relevant act of infringement, the parties must explain the particulars necessary for such appraisal to be made to the appraiser.

(Approval of a reasonable amount of damage)

Article 114-5 When damage is found to have been incurred in litigation involving infringement of a copyright, print rights, or neighboring rights, if, due to the nature of the relevant facts, it is extremely difficult to prove the facts that are

necessary for proving the amount of damage, the court may approve a reasonable amount of damage based on the overall gist of oral proceedings and the results of the examination of evidence.

(Confidentiality protective orders)

Article 114-6 (1) In litigation involving infringement of the moral rights of an author, a copyright, print rights, the moral rights of a performer, or neighboring rights, if a prima facie showing of circumstances that fall under both of following is made with regard to a trade secret kept by a party (meaning a trade secret as provided in Article 2, paragraph (6) of the Unfair Competition Prevention Act (Act No. 47 of 1993); the same applies hereinafter), the court, at the petition of the party, may issue a compulsory license ordering a party, etc., litigation representative, or assistant in court not to use the trade secret for purposes other than those of pursuing the relevant litigation, or not to disclose the trade secret to persons other than those that are subject to an order under the provisions of this paragraph that involves said trade secret; provided, however, that this does not apply if the party, etc., litigation representative, or assistant in court has acquired or gained possession of the relevant trade secret before the petition is filed, by means other than the perusal of the brief referred to in item (i) or the examination of evidence or disclosure referred to in that item:

(i) a trade secret kept by a party is detailed in a brief that has already been submitted or that must be submitted, or a trade secret is included in the content of evidence that has already been examined or that must be examined (including documents disclosed pursuant to the provisions of Article 114 -3, paragraph (3));

(ii) the use of the trade secret referred to in the preceding item for a purpose other than pursuing litigation or the disclosure of such trade secret would be likely to hinder the business activities of the party that are based on said trade secret, and it is necessary to restrict such use or disclosure in order to prevent such hindrance.

(2) A petition for an order under the provisions of the preceding paragraph (hereinafter referred to as a "confidentiality protective order") must be filed in writing and detail the following particulars:

(i) the person that would be subject to the confidentiality protective order;

(ii) facts sufficient to identify the trade secret that would be made the subject of the confidentiality protective order;

(iii) facts falling under the category of circumstances set forth in the items of the preceding paragraph.

(3) If a confidentiality protective order has been issued, the written compulsory license must be served on the person against which the confidentiality

protective order has been issued.

- (4) A confidentiality protective order comes into force as from the time at which a written compulsory license is served on the person that has become subject to the confidentiality protective order.
- (5) An immediate appeal against a compulsory license may be filed against a judicial decision denying a petition for a confidentiality protective order.

(Cancellation of a confidentiality protective order)

Article 114-7 (1) A person that petitions for a confidentiality protective order or a person that becomes subject to a confidentiality protective order may file a petition with the court that has the case record on file (if there is no such court, with the court that issued the order) to cancel the confidentiality protective order, on the grounds that any of the conditions referred to in paragraph (1) of the preceding Article are lacking or have come to be lacking.

- (2) Once the judicial decision is reached on a petition to cancel a confidentiality protective order, the written compulsory license must be served on the person that has filed the petition and on the adverse party.
- (3) An immediate appeal against a compulsory license may be filed against a judicial decision on a petition to cancel a confidentiality protective order.
- (4) A judicial decision canceling a confidentiality protective order does not take effect until it becomes final and binding.
- (5) If the court reaches a judicial decision to cancel a confidentiality protective order, and any person other than the person that has filed the petition to cancel the confidentiality protective order or the adverse party is subject to a confidentiality protective order involving the relevant trade secret in the litigation in which such confidentiality protective order was issued, the court must immediately notify such person that it has reached a judicial decision to cancel the confidentiality protective order.

(Notice, etc. of a request to inspect, etc. case records)

Article 114-8 (1) In the event that the compulsory license provided for in Article 92, paragraph (1) of the Code of Civil Procedure (Act No. 109 of 1996) is reached with regard to the case record in connection with litigation in which a confidentiality protective order has been issued (excluding litigation with regard to which all confidentiality protective orders have been cancelled), if a party to the case requests to inspect, etc. a portion of the case record in which a secret provided for in that paragraph is entered, and the person filing such request is not subject to the confidentiality protective order in the relevant litigation, the court clerk, immediately after such request is filed, must notify the party that filed the petition referred to in that paragraph (unless the person filing that petition is the person filing the request; the same applies in

paragraph (3)) that the request has been filed.

- (2) In a case referred to in the preceding paragraph, the court clerk must not allow the person filing the request to inspect, etc. a portion of the case record in which a secret as referred to in that paragraph is entered, until two weeks have passed since the day the court clerk receives the request (or if, during those two weeks, a petition for a confidentiality protective order is filed against the person filing the request, the court clerk must not allow the person filing the request to inspect, etc. such a portion of the case record until the judicial decision on the petition becomes final and binding).
- (3) The provisions of the preceding two paragraphs do not apply if all parties concerned that have filed a petition as referred to in Article 92, paragraph (1) of the Code of Civil Procedure agree to allow the person filing the request referred to in paragraph (1) to inspect, etc. the portions of the case record in which the secrets referred to in that paragraph are entered.

(Measures to restore the author's or performer's honor)

Article 115 An author or performer may file a claim against a person that, intentionally or due to negligence, has infringed said author's or performer's moral rights, demanding that such a person take the appropriate measures to ensure that the author or performer is identified as the author or performer, to correct modifications to the work or performance, or to restore the author's or performer's honor or reputation, either in lieu of or in addition to claiming damages.

(Measures to protect the author's or performer's moral interests posthumously)

Article 116 (1) After the death of an author or performer, a surviving family member (meaning a surviving spouse, child, parent, grandchild, grandparent, or sibling of the deceased author or performer; the same applies hereinafter in this Article) may file the claim referred to in Article 112 against a person that violates or is likely to violate the provisions of Article 60 or Article 101-3 with respect to the relevant author or the performer, and may file the claim referred to in the preceding Article against a person that, intentionally or due to negligence, infringes the moral rights of the author or performer or violates the provisions of Article 60 or Article 101-3.

- (2) The order in which surviving family members are permitted to file the claim referred to in the preceding paragraph is the order in which they are listed in that paragraph; provided, however, that if the author or performer leaves a will stipulating a different order, the order given in the will applies.
- (3) An author or performer, in a will, may designate the person that is permitted to file the claim referred to in paragraph (1) on behalf of the surviving family members. In this case, the designated person may not file such a claim once

seventy years have passed, counting from the year after that in which the author or performer dies (or, if surviving family members are still alive at such a time, the designated person may not file such a claim once there are no longer any surviving family members).

(Infringement with respect to a joint work, etc.)

Article 117 (1) Any one co-author or copyright owner in a joint work may file the claim referred to in Article 112, claim that co-author's or co-owner's personal share of compensation for damage due to copyright infringement, or claim the return of the benefit of any unjust enrichment in accordance with that co-author's or co-owner's personal share, without the consent of the other co-authors or co-owners of the copyright.

(2) The provisions of the preceding paragraph apply *mutatis mutandis* in connection with infringement of a copyright or neighboring rights in co-ownership.

(Preservation of rights to anonymous and pseudonymous works)

Article 118 (1) The publisher of an anonymous or pseudonymous work may file the claim referred to in Article 112, Article 115, or Article 116, paragraph (1) or may claim damages or the return of the benefit of any unjust enrichment in that person's own name, on behalf of the author or the owner of the copyright to the work; provided, however, that this does not apply if the pseudonym is the name by which the author is commonly known or if the true name of the author has been registered as referred to in Article 75, paragraph (1).

(2) A person whose true name or the pseudonym by which the person is commonly known is indicated in the customary manner on copies of an anonymous or pseudonymous work as the name of the publisher of the work, is presumed to be the publisher of that work.

## **Chapter VIII Offences**

Article 119 (1) A person that infringes a copyright, print rights, or neighboring rights (other than one that personally reproduces a work or performance, etc. for the purpose of private use as referred to in Article 30, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 102, paragraph (1); same applies in paragraph (3)); one whose action is deemed to constitute infringement of a copyright, print rights, or neighboring rights pursuant to the provisions of Article 113, paragraph (3); one whose action is deemed to constitute infringement of a copyright or neighboring rights (including rights deemed to be neighboring rights pursuant to the provisions of Article 113, paragraph (5); the same applies in Article 120-2, item (iii)) pursuant to the

provisions of Article 113, paragraph (4); one whose action is deemed to constitute infringement of a copyright or neighboring rights pursuant to the provisions of Article 113, paragraph (6); or a person set forth in item (iii) or (iv) of the following paragraph) is subject to imprisonment for a term of up to ten years, a fine of up to ten million yen, or both.

- (2) A person falling under any of the following items is subject to imprisonment for a term of up to five years, a fine of up to five million yen, or both:
- (i) a person that infringes the moral rights of an author or the moral rights of a performer (other than one whose action is deemed to constitute infringement of an author's moral rights or a performer's moral rights pursuant to the provisions of Article 113, paragraph (4));
  - (ii) a person that, for commercial purposes, causes an automated duplicator referred to in Article 30, paragraph (1), item (i) to be used to reproduce a work or performance, etc. as constitutes an infringement of a copyright, print rights, or neighboring rights;
  - (iii) a person that engages in an action that is deemed to constitute infringement of a copyright, print rights, or neighboring rights pursuant to the provisions of Article 113, paragraph (1);
  - (iv) a person that engages in an action that is deemed to constitute infringement of a copyright pursuant to the provisions of Article 113, paragraph (2).
- (3) A person that infringes a copyright or neighboring rights by digitally recording sounds or visuals for the purpose of private use as referred to in Article 30, paragraph (1) of fee-based recorded works, etc. (sound or visual recordings of works or performances, etc. (limited to those that are the subject of copyrights or neighboring rights) offered or presented to the public for value (limited to those that are offered or presented to the public without infringing any copyrights or neighboring rights)) that are transmitted to the public via automatic public transmissions which infringe copyrights or neighboring rights (including automatic public transmissions conducted abroad that shall infringe copyrights or neighboring rights if conducted in Japan), knowing that such automatic public transmission constitutes such infringement, is subject to imprisonment for a term of up to two years, a fine of up to two million yen, or both.

Article 120 A person that violates the provisions of Article 60 or Article 101-3 is subject to a fine of up to five million yen.

Article 120-2 A person falling under one of the following items is subject to imprisonment for a term of up to three years, a fine of up to three million yen, or both:

- (i) a person that transfers or rents to the public, that manufactures, imports, or possesses for the purpose of transferring or renting to the public, or that offers for public use, a device with a function that circumvents technological protection measures or technological exploitation restriction measures (including an easily assemblable set of parts for such a device) or copies of a computer program with a function that circumvents technological protection measures or technological exploitation restriction measures, or a person that transmits to the public or makes available for transmission such a computer program (if the device or program has functions other than such circumvention functions, this item shall be applicable only when the device or program is used to enable infringements of copyrights, etc. through the circumvention of technological protection measures or to enable acts deemed to constitute infringements of copyrights, print rights, or the neighboring rights prescribed in the provisions of Article 113, paragraph (3) through the circumvention of technological exploitation restriction measures);
- (ii) a person that, in the course of trade, circumvents technological protection measures or technological exploitation restriction measures at the request of the public;
- (iii) a person that, for commercial purposes, engages in an action that is deemed to constitute infringement of an author's moral rights, a copyright, a performer's moral rights, or neighboring rights pursuant to the provisions of Article 113, paragraph (4);
- (iv) a person that, for commercial purposes, engages in an action that is deemed to constitute an infringement of a copyright or neighboring rights pursuant to the provisions of Article 113, paragraph (6).

Article 121 A person that distributes copies of a work that use the true name of a person other than the author or the pseudonym by which a person other than the author is commonly known, to indicate the name of the author (including copies of derivative works that use the true name of a person other than the author of the original work or the pseudonym by which a person other than the author of the original work is commonly known, to indicate the name of the original author) is subject to imprisonment for a term of up to one year, a fine of up to one million yen, or both.

Article 121-2 A person that reproduces, as a commercial phonogram, a commercial phonogram as set forth in either of the following items (or a copy of such a commercial phonogram (this includes a copy that is two or more intervening reproductions out of the commercial phonogram)), distributes copies of a commercial phonogram so reproduced, possesses such copies for the purpose of distribution, or offers to distribute such copies (except for a person

that engages in the relevant reproduction, distribution, possession, or offer after seventy years have passed, counting from the year after that in which the sound is first fixed into the master referred to in the relevant item) is subject to imprisonment for a term of up to one year, a fine of up to one million yen, or both:

- (i) a commercial phonogram that a person in the business of producing commercial phonograms in Japan, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that it is offered by and receives from the producer of that phonogram;
- (ii) a commercial phonogram that a person in the business of producing commercial phonograms abroad, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that it is offered by and receives from the national of a Contracting State of the Convention for the Protection of Performers, etc., the national of a World Trade Organization Member State, or the national of a Contracting State of the Convention for the Protection of Phonograms (the nationals of a Contracting State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State) that is the producer of that phonogram.

Article 122 A person that violates the provisions of Article 48 or Article 102, paragraph (2) is subject to a fine of up to five hundred thousand yen.

Article 122-2 (1) A person that violates a confidentiality protective order is subject to imprisonment for a term of up to five years, a fine of up to five million yen, or both.

(2) The offence referred to in the preceding paragraph is also applicable if a person commits the offence referred to in that paragraph abroad.

Article 123 (1) Prosecution may not be instituted for the offence referred to in Article 119; Article 120-2, item (iii) or (iv); Article 121-2; and paragraph (1) of the preceding Article, unless an accusation is filed by the injured party.

(2) The provisions of the preceding paragraph shall not be applicable to offences referred to in Article 119, paragraph (1) committed by conducting any of the acts prescribed in the following items for the purpose of gaining financial benefits in consideration of the following acts or damaging the interests which the owner of the copyright, etc. is expected to gain by offering or presenting its fee-based works, etc.:

- (i) transferring copies of unaltered original fee-based works, etc. to the public or transmitting unaltered original fee-based works, etc. to the public (including making such work available for transmission, if it is to be



- transmitted to the public via automatic public transmission; the same applies in the next item) (limited to cases where the interests which the owner of the copyright, etc. is expected to gain by offering or presenting its fee-based works, etc. shall be unreasonably damaged in light of the natures and purposes of such fee-based works, etc., number of the fee-based works, etc. transferred, the circumstances of such transfer or public transmission and other conditions); or
- (ii) reproducing fee-based works, etc. for the purpose of transferring copies of unaltered original fee-based works, etc. to the public or transmitting unaltered original fee-based works, etc. to the public (limited to cases where the interests which the owner of the copyright, etc. is expected to gain by offering or presenting its fee-based works, etc. shall be unreasonably damaged in light of the natures and purposes of such fee-based works, etc., number of the fee-based works, etc. reproduced, the circumstances of such reproduction and other conditions);
- (3) Fee-based works, etc. provided for in the preceding paragraph means works or performances, etc. (limited to those that are the subject of copyrights, print rights or neighboring rights) offered or presented to the public for value (excluding offerings or presentations that infringe copyrights, print rights or neighboring rights (as for offerings or presentations conducted abroad, those which shall infringe these rights if conducted in Japan)).
- (4) The publisher of an anonymous or a pseudonymous work may file an accusation in connection with an offense referred to in paragraph (1) involving such a work; provided, however that this does not apply in the case specified in the proviso to Article 118, paragraph (1), or if the accusation is contrary to the express will of the author.

Article 124 (1) If the representative of a corporation (including the administrator of an association or foundation without legal personality) or the agent, employee, or other worker of a corporation or person violates the provisions set forth in one of the following items in connection with the business of that corporation or person, in addition to the offender being subject to punishment, the corporation is subject to punishment by the fine prescribed in the relevant item and the person is subject to punishment by the fine prescribed in the provisions referred to in the relevant item:

- (i) Article 119, paragraph (1); Article 119, paragraph (2), item (iii) or (iv); or Article 122-2, paragraph (1): a fine of up to three hundred million yen;
  - (ii) Article 119, paragraph (2), item (i) or (ii) or Article 120 through Article 122: the fine referred to in the relevant of these provisions.
- (2) If the provisions of the preceding paragraph are applicable to an association or foundation without legal personality, its representative or administrator

represents the association or foundation in any procedural acts and the provisions of the Code of Criminal Procedure that are applicable when a corporation is the accused or the suspect, apply mutatis mutandis.

- (3) In the case referred to in paragraph (1), an accusation lodged against the offender or the withdrawal of such an accusation is also effective against the corporation or the person concerned, and an accusation lodged against a corporation or the person concerned or the withdrawal of such an accusation is also effective against the offender.
- (4) The period of prescription if a corporation or person is subject to a fine, pursuant to the provisions of paragraph (1) of this Article, in connection with a violation referred to in Article 119, paragraph (1) or (2) or Article 122-2, paragraph (1), is the period of prescription for the offense referred to in the relevant of those provisions.

### **Supplementary Provisions [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 1971.

(Transitional measures with regard to the scope of application)

Article 2 (1) Provisions of the post-revision Copyright Act (hereinafter referred to as "the new Act") that concern copyright do not apply to a work for which the entirety of the copyright under the pre-revision Copyright Act (hereinafter referred to as "the former Act") has expired as of the time this Act comes into effect.

- (2) If part of the copyright to a work under the former Act has expired as of the time this Act comes into effect, the corresponding provisions of the new Act that concern the expired part of the copyright do not apply to that work.
- (3) Notwithstanding the provisions of Articles 7 and 8 of the new Act, provisions of the Copyright Act that concern neighboring rights (including the provisions of Articles 94-2 and 95; Article 95-3, paragraphs (3) and (4); Article 97; and Article 97-3, paragraphs (3) to (5)) apply to a performance that takes place before this Act comes into effect (excluding a performance falling under one of the items of Article 7 of the new Act) and to a phonogram in which sounds are first fixed before this Act comes into effect (excluding a phonogram falling under one of the items of Article 8 of the new Act) for which a copyright under the former Act exists at the time this Act comes into effect.

(Transitional measures for translations made by the State, etc.)

Article 3 The provisions of Article 13, item (iv) of the new Act do not apply to a work that falls under that item on which print rights under the former Act

have been established as of the time this Act comes into effect, but only within the lifetime of those print rights.

(Transitional measures for the author of a work attributed to a corporation, etc.)

Article 4 The provisions of Articles 15 and 16 of the new Act do not apply to a work created before this Act comes into effect.

(Transitional measures for the ownership of copyright to cinematographic works, etc.)

Article 5 (1) The ownership of a copyright to a cinematographic work which is provided for in Article 29 of the new Act and which is created before this Act comes into effect continues to be governed by the provisions previously in force.

(2) The provisions of the new Act do not preclude the validity, pursuant to the provisions of Article 24 or 25 of the former Act, of the ownership of a copyright to a photographic work that is included in another work before this Act comes into effect, or the ownership of a copyright to a work of photographic portraiture created on commission before this Act comes into effect from becoming valid pursuant to the provisions of Article 24 or 25 of the former Act.

(Transitional measures for automated duplicators)

Article 5-2 With regard to the application of the provisions of Article 30, paragraph (1), item (i) and Article 119, paragraph (2), item (ii) of the Copyright Act, until otherwise provided for by law, the automated duplicators prescribed in these provisions do not include those exclusively used for copying documents or pictures.

(Transitional measures for artistic works on public display)

Article 6 The owner of a copyright to an artistic work the original of which is permanently installed in the outdoor location provided for in Article 45, paragraph (2) of the new Act as of the time this Act comes into effect, is deemed to have authorized the exhibition of that work through its installation.

(Transitional measures for the term of protection)

Article 7 If the duration of copyright under the former Act for a work made public before this Act comes into effect is longer than the period under Chapter II, Section 4 of the new Act, the duration of copyright for that work continues to be governed by the provisions previously in force.

(Transitional measures for the duration of the right of translation)

Article 8 The provisions of Articles 7 and 9 of the former Act remain in force for

a work published before this Act comes into effect.

(Transitional measures for the disposal of a copyright)

Article 9 Except in a case falling under the provisions of Article 15, paragraph (1) of the Supplementary Provisions, a transfer or other disposal of a copyright as referred to the former Act, which is carried out before this Act comes into effect, is deemed to be the corresponding transfer or other disposal of a copyright as referred to in the new Act.

(Transitional measures for joint works)

Article 10 (1) The provisions of Article 13, paragraphs (1) and (3) of the former Act remain in force for a work created before this Act comes into effect by two or more persons whose contributions to the work can be separated so as to allow each part of the work to be used independently.

(2) With regard to the application of the provisions of Article 51, paragraph (2) and Article 52, paragraph (1) of the new Act, the work referred to in the preceding paragraph is deemed to be a joint work.

(Transitional measures for the exploitation of a work based on a compulsory license)

Article 11 (1) The provisions of Article 69 of the new Act do not apply to a sound recording for producing another commercial phonogram of a musical work whose sound has been recorded onto a commercial phonogram that is sold in Japan before this Act comes into effect.

(2) The person that was to be entitled to exploit a work pursuant to the provisions of Article 22-5, paragraph (2) or Article 27, paragraph (1) or (2) of the former Act is entitled to exploit that work pursuant to continued governance by the provisions previously in force.

(3) The amount of compensation fixed by the Commissioner of the Agency for Cultural Affairs pursuant to the provisions of Article 22-5, paragraph (2) or Article 27, paragraph (2) of the former Act is deemed to be the amount of compensation fixed pursuant to the provisions of Article 68, paragraph (1) or Article 67, paragraph (1) of the new Act, and the provisions of Articles 72 and 73 of the new Act apply.

(4) In a case referred to in the preceding paragraph, if a party that is dissatisfied with the relevant amount of compensation learns of the issuance of a compulsory license before this Act comes into effect, the period provided for in Article 72, paragraph (1) of the new Act is calculated as from the date on which this Act comes into effect.

(Transitional measures for registrations)

Article 12 (1) Except in a case falling under the provisions of Article 15, paragraph (3) of the Supplementary Provisions, a disposition or process connected with the registration of a copyright, registration of the author's true name, or registration of the date of first publication as referred to in Article 15 of the former Act, is deemed to be the disposition or process connected with the corresponding registration as referred to in Article 75 to Article 77 of the new Act.

(2) The provisions of Article 35, paragraph (5) of the former Act remain in force for a work whose date of authorship is registered as referred to in Article 15, paragraph (3) of the former Act as of the time this Act comes into effect.

(Transitional measures for print rights)

Article 13 (1) Print rights under the former Act that are established before this Act comes into effect and that exist as of the time this Act comes into effect, are deemed to be print rights under the new Act.

(2) A disposition or process connected with the registration of print rights as referred to in Article 28-10 of the former Act that is done before this Act comes into effect, is deemed to be the corresponding disposition or process connected with the registration as referred to in Article 88 of the new Act.

(3) Notwithstanding the provisions of Articles 80 through 85 of the new Act, the provisions of Articles 28-3 to 28-8 of the former Act remain in force for the print rights referred to in paragraph (1) of this Article.

Article 14 [Deleted]

(Transitional measures for neighboring rights)

Article 15 (1) A transfer or other disposal of a copyright referred to in the former Act, which is carried out before this Act comes into effect, and which is connected with a performance that takes place before this Act comes into effect or a phonogram in which sounds are first fixed before this Act comes into effect and to which provisions of the new Act that concern neighboring rights begin to apply from the date on which this Act comes into effect, is deemed to be a transfer or other disposal of the corresponding neighboring rights referred to in the new Act.

(2) Notwithstanding the provisions of Article 101 of the new Act, if the day on which the duration of copyright expires under the former Act is after the day on which the duration expires under the provisions of Article 101 of the new Act, the duration of neighboring rights linked to a performance or phonogram which is provided for in the preceding paragraph and for which a copyright under the former Act exists at the time this Act comes into effect, is until the day on which the duration of copyright expires under the former Act (or, if this

falls after the day that marks the passage of seventy years counting from the day on which this Act comes into effect, the duration of such neighboring rights is until the day that marks the passage of those seventy years).

- (3) A disposition or other process connected with the registration of a copyright as referred to Article 15, paragraph (1) of the former Act, which is made for a performance or phonogram provided for in paragraph (1) of this Article before this Act comes into effect, is deemed to be the disposition or other process connected with the corresponding registration of neighboring rights as referred to in Article 104 of the new Act.
- (4) The provisions of Article 10, paragraph (1) and Article 12, paragraph (2) of the Supplementary Provisions apply *mutatis mutandis* to the performance or phonograms provided for in paragraph (1) of this Article.

(Transitional measures for the distribution, etc. of copies)

Article 16 Copies of a work, performance, or phonogram which have been made before this Act comes into effect and which would be lawful if the provisions of Chapter II, Section 3, Subsection 5 of the new Act (including as applied *mutatis mutandis* pursuant to Article 102, paragraph (1) of the new Act) were to be applied, may be used or distributed within the scope of the purposes of reproduction set forth in those provisions. In such a case, the provisions of Article 113, paragraph (1), item (ii) of the new Act do not apply.

(Transitional measures for infringement)

Article 17 Notwithstanding the provisions of Article 14 and Chapter VII of the new Act, the provisions of Article 12; Article 28-11; Article 29; Article 33; Article 34; Article 35, paragraphs (1) to (4); Articles 36; and Article 36-2 of the former Act remain applicable to an act in violation of the provisions of Article 18, paragraph (1) or (2) of the former Act or falling under the category of piracy provided for in Chapter III of the former Act (including an act that infringes on print rights), that is performed before this Act comes into effect.

(Transitional measures for Offences)

Article 18 The application of Offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

### **Supplementary Provisions [Act No. 49 of May 18, 1978]**

(Effective date)

- (1) This Act comes into effect as of the day on which the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms comes into force with respect to Japan.

(Transitional measures)

- (2) Provisions of the post-amendment Copyright Act that concern neighboring rights do not apply to a phonogram set forth in Article 8, item (vi) of the Copyright Act in which sounds are first fixed before this Act comes into effect.

**Supplementary Provisions [Act No. 154 of May 19, 1981] [Extract]**

(Effective date)

- (1) This Act comes into effect on the date of its promulgation.

**Supplementary Provisions [Act No. 78 of December 2, 1983] [Extract]**

- (1) This Act (except Article 1) comes into effect on July 1, 1984.
- (2) Transitional measures required in relation to Institutions, etc. existing under provisions of laws as of the day preceding the day of enforcement of this Act which will be founded under the provisions of the National Government Organization Act or the cabinet orders set in accordance with the provisions of the relevant laws as amended by this Act (hereinafter referred to as "Relevant Cabinet Orders") from the day this Act comes into effect or other transitional measures required in relation to the establishment, amendment or abolishment of Relevant Cabinet Orders due to the enforcement of this Act are provided for by Cabinet Order.

**Supplementary Provisions [Act No. 23 May 1, of 1984] [Extract]**

(Effective date)

- (1) This Act comes into effect twenty days after the date of its promulgation.

**Supplementary Provisions [Act No. 46 of May 25, 1984]**

(Effective date)

- (1) This Act comes into effect on January 1, 1985.

(Repeal of the Interim Measures Act)

- (2) The Interim Measures Act on the Rights of Authors, etc. in the Renting of Commercial Phonograms to the Public (Act No. 76 of 1983; hereinafter referred to as "the Interim Measure Act") is hereby repealed.

(Transitional measures accompanying the repeal of the Interim Measures Act)

- (3) Notwithstanding the provisions of Article 26-3, Article 95-3, and Article 97-3

of the post-revision Copyright Act, a person that obtains authorization to rent out a commercial phonogram to the public pursuant to the provisions of the Interim Measures Act before this Act comes into effect, may offer the work, performance, or phonogram reproduced in the commercial phonogram to the public by renting out that commercial phonogram, within the scope of the conditions under authorization.

- (4) The provisions of the Interim Measures Act (including any Cabinet Order based on it) remain in force with respect to an act in violation of the provisions of Article 4, paragraph (1) of the Interim Measures Act which takes place before this Act comes into effect.

### **Supplementary Provisions [Act No. 62 of June 14, 1985] [Extract]**

(Effective date)

- (1) This Act comes into effect on January 1, 1986; provided, however, that the provisions that add Article 76-2 after Article 76 and the provisions revising Article 78, paragraph (1), as well as the provisions of paragraph (6) of the Supplementary Provisions, come into effect on the date on which the law provided for in Article 78-2 of the post-revision Copyright Act comes into effect. #[effective date: April 1, 1987].#

(Transitional measures for works made in the course of duty)

- (2) The provisions of Article 15 of the post-revision Copyright Act apply to a work created after this Act comes into effect; and a work created before this Act comes into effect continues to be governed by the provisions previously in force.

(Transitional measures for the registration of the date of creation)

- (3) The proviso to Article 76-2, paragraph (1) does not apply to the registration of a copyright as referred to in that paragraph, for a work of computer programming created within the six months before the date on which the law provided for in Article 78-2 of the post-revision Copyright Act comes into effect, until the day that marks the passage of three months after the date on which that law comes into effect.

(Transitional measures for the use of copies of a work of computer programming)

- (4) The provisions of Article 113, paragraph (2) of the post-revision Copyright Act do not apply to a copy of a work of computer programming created before this Act comes into effect which would be lawful and could be preserved if the provisions of Article 47-2 of the post-revision Copyright Act were to be applied.



(Transitional measures for Offences)

- (5) The application of Offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

**Supplementary Provisions [Act No. 64 of May 23, 1986]**

(Effective date)

- (1) This Act comes into effect on January 1, 1987.

(Transitional measures for the ownership of a copyright to a work of cinematography for cablecasting purposes)

- (2) The ownership of a copyright to a cinematographic work which is provided for in Article 29, paragraph (3) of the post-revision Copyright Act and which is created before this Act comes into effect, continues to be governed by the provisions then in force.

(Transitional measures for the neighboring rights of cablecasters and performers)

- (3) Provisions of the Copyright Act that concern the neighboring rights of a cablecaster or performer (including the provisions of Article 95 and Article 95-3, paragraph (3) and (4)) do not apply to a cablecast that takes place before this Act comes into effect, nor to a performance transmitted in such a cablecast (excluding a performance that falls under a category provided for in Article 7, item (i) to (iii) of the Copyright Act).

(Transitional measures for offences)

- (4) The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

**Supplementary Provisions [Act No. 65 of May 23, 1986] [Extract]**

(Effective date)

- (1) This Act comes into effect on April 1, 1987.

**Supplementary Provisions [Act No. 87 of November 1, 1988]**

(Effective date)

- (1) This Act comes into effect twenty days after the date of its promulgation.

(Transitional measures)

- (2) The provisions of Article 121, item (ii) of the post-revision Copyright Act do

not apply to the following acts that take place after this Act comes into effect:

- (i) the reproduction, as a commercial phonogram, of copies of a commercial phonogram that a person in the business of producing commercial phonograms in Japan, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that it is offered by and receives from the producer of that phonogram (referred to as a "commercial phonogram produced from a master from a specified foreign country" in the next item), and for which the day that marks the passage of twenty years, counting from the year following that in which the sounds are first fixed into the master (referred to as the "day marking the end the pre-revision prohibition" in the next item), is before this Act comes into effect; or the distribution, as a commercial phonogram, of copies of a commercial phonogram so reproduced;
- (ii) the distribution of a commercial phonogram in which a commercial phonogram produced from a master from a specified foreign country has been reproduced on or before the day marking the end the pre-revision prohibition, and for which the day marking the end the pre-revision prohibition is before this Act comes into effect.

#### **Supplementary Provisions [Act No. 43 of June 28,1989]**

(Effective date)

- (1) This Act comes into effect as of the day on which the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations comes into force with respect to Japan.

(Transitional measures for performances, etc. that Japan is under the obligation to protect pursuant to treaty)

- (2) Provisions of the post-revision Copyright Act (hereinafter referred to as "the new Act") that concern neighboring rights (including the provisions of Articles 95 and 97) do not apply to the following:
  - (i) a performance as set forth in Article 7, item (v) of the new Act, which takes place before this Act comes into effect;
  - (ii) a phonogram as set forth in Article 8, item (iii) of the new Act, in which sounds are first fixed before this Act comes into effect, and which is other than as provided in the next paragraph;
  - (iii) a broadcast as set forth in Article 9, item (iii) of the new Act, which takes place before this Act comes into effect.
- (3) A phonogram as set forth in Article 8, item (iii) of the new Act, in which sounds are first fixed before this Act comes into effect, and which Japan is under the obligation to protect pursuant to the Convention for the Protection of

Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, continues to be governed by the provisions previously in force.

(Transitional measures for performers who are foreign nationals without a habitual residence in Japan)

- (4) Provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)) do not apply to a performer involved in a performance that takes place before this Act comes into effect, who is a foreign national without a habitual residence in Japan at the time the performance takes place; provided, however, that this does not apply to a performer involved in a performance that takes place before the Copyright Act comes into effect and for which a copyright under the former Copyright Act (Act No. 39 of 1899) exists at the time the Copyright Act comes into effect.

#### **Supplementary Provisions [Act No. 63 of May 2, 1991]**

(Effective date)

- (1) This Act comes into effect on January 1, 1992.

(Transitional measures)

- (2) The provisions of Article 95-3 of the Copyright Act do not apply to a performance as set forth in Article 7, item (v) of the Copyright Act, which takes place before the Act Partially Revising the Copyright Act (Act No. 43 of 1989; referred to as "the Revising Act of 1989" in item (ii) of the next paragraph) comes into effect.
- (3) The provisions of Article 97-3 of the Copyright Act do not apply to the following phonograms:
- (i) a phonogram (excluding one set forth in Article 8, item (i) or (ii) of the Copyright Act) that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as "the Convention for the Protection of Phonograms" in the next item and paragraph 5, item (iii) of the Supplementary Provisions), and in which sounds are first fixed before the Act Partially Revising the Copyright Act (Act No. 49 of 1978) comes into effect;
  - (ii) a phonogram set forth in Article 8, item (iii) of the Copyright Act (excluding one that Japan is under the obligation to protect pursuant to the Convention for the Protection of Phonograms) in which sounds are first fixed before the Revising Act of 1989 comes into effect.
- (4) The first day of calculation in the period for a post-term commercial

phonogram provided for in Article 95-3, paragraph (2), in connection with the right of the performer or producer of a phonogram to offer a commercial phonogram first sold on a day before this Act comes into effect to the public by renting it out (limited to a commercial phonogram in which the sound of a performance set forth in Article 7, items (i) to (iv) has been recorded or one in which a phonogram set forth in Article 8, item (i) or (ii) has been reproduced), continues to be governed by the provisions previously in force.

(5) The post-revision provisions of Article 121-2 do not apply to the following acts that take place after this Act comes into effect:

- (i) the reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram (this includes a copy that is two or more intervening reproductions removed from the commercial phonogram)) that a person in the business of producing commercial phonograms in Japan, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that it is offered by and receives from the producer of that phonogram (referred to as a "commercial phonogram produced from a master from a specified foreign country" in the next item), and for which the day that marks the passage of twenty years, counting from the year following that in which the sounds are first fixed into the master (referred to as the "day marking the end of the twenty-year prohibition" in the next item) is before the Act Partially Amending the Copyright Act (Act No. 87 of 1988; referred to as "the Revising Act of 1988" in the next item and item (iii)) comes into effect; the distribution of copies of such a commercial phonogram as a commercial phonogram; or the possession of such copies for the purpose of distribution as a commercial phonogram;
- (ii) the distribution, or the possession for the purpose of distribution, of a commercial phonogram in which a commercial phonogram produced from a master from a specified foreign country has been reproduced on or before the day marking the end of the twenty-year prohibition, and for which the day marking the end of the twenty-year prohibition is before the Revising Act of 1988 comes into effect;
- (iii) the reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram (this includes a copy that is two or more intervening reproductions removed from the commercial phonogram)) that a person in the business of producing commercial phonograms in a place outside the jurisdiction of the Copyright Act, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8) that it is offered by and receives from the national of a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Convention for the Protection of Phonograms (the nationals of a Contracting State include

corporations established based on the laws and regulations of that State and corporations that have principal offices in that State ) that is the producer of that phonogram, and for which the day that marks the passage of twenty years, counting from the year following that in which the sounds are first fixed into the master, is before the Revising Act of 1988 comes into effect; the distribution of copies of such a commercial phonogram as a commercial phonogram; or the possession of such copies for the purpose of distribution as a commercial phonogram.

- (6) The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

### **Supplementary Provisions [Act No. 106 of December 16, 1992]**

(Effective date)

- (1) This Act comes into effect on the date fixed by Cabinet Order within six months from the date of its promulgation; provided, however, that the provisions revising the Table of Contents; the provisions renumbering Chapter VII as Chapter VIII, Chapter VI as Chapter VII, and Chapter V as Chapter VI, and adding a new chapter after Chapter IV (except the parts that pertain to Article 104-4, Article 104-5, and Article 104-8, paragraphs (1) and (3)); and the provisions amending Article 17 of the Supplementary Provisions, come into effect on the date of promulgation of this Act. #[effective date: June 1, 1993]#

(Transitional measures)

- (2) The provisions of the post-revision Copyright Act (hereinafter referred to as "the new Act") do not apply to private sound recording referred to in Article 104-2, paragraph (1), item (i) of the new Act nor to private visual recording referred to in item (ii) of the same paragraph, which is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased (limited to the initial purchase after the machine is retailed) before the day on which this Act comes into effect (hereinafter referred to as "the effective date") , on a specified recording medium referred to in the same paragraph that is purchased before the effective date.
- (3) If the private sound recording referred to in Article 104-2, paragraph (1), item (i) of the new Act or the private visual recording referred to in item (ii) of the same paragraph is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased before the effective date, on a specified recording medium referred to in the same paragraph which is purchased after the effective date, compensation for private sound and visual recording is deemed to have been paid for the specified machine pursuant to the provisions of Article 104-4, paragraph (1) of the new Act. If the private

sound recording referred to in Article 104-2, paragraph (1), item (i) of the new Act or the private visual recording referred to in item (ii) of the same paragraph is done by means of a specified machine referred to in Article 104-4, paragraph (1) of the new Act which is purchased after the effective date, on a specified recording medium referred to in the same paragraph which is purchased before the effective date, the same applies with regard to the specified recording medium.

#### **Supplementary Provisions [Act No. 89 of November 12, 1993] [Extract]**

(Effective date)

Article 1 This Act comes into effect as of the date on which the Administrative Procedure Act comes into effect (Act No. 88 of 1993).

(Delegation to Cabinet Order)

Article 15 Beyond what is prescribed between Article 2 to the preceding Article of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

#### **Supplementary Provisions [Act No. 112 of December 14, 1994]**

(Effective date)

(1) This Act comes into effect on the date fixed by Cabinet Order within one year of the day following that on which the Marrakesh Agreement Establishing the World Trade Organization comes into force with respect to Japan.

(Application of provisions that concern neighboring rights)

(2) In the application of provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 95-3, paragraph (3) and (4)) to a performance set forth in the following that is also set forth in Article 7, item (iv) of the Copyright Act as revised under the provisions of Article 1 (hereinafter referred to as "the new Act") (other than a performance that also falls under a category set forth in item (i) to item (iii) of that Article), and in the application of such provisions to a performance set forth in the following that is also set forth in Article 7, item (v) of the new Act, the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 64 of 1986); paragraph (2) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 43 of 1989; hereinafter referred to as "the Revising Act of 1989"); and paragraph (2) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 63 of 1991; referred to as "the Revising Act of 1991" in paragraph (4) of

these Supplementary Provisions) do not apply:

- (i) a performance that takes place in a World Trade Organization Member State;
  - (ii) a performance fixed in one of the following phonograms:
    - (a) a phonogram whose producer is the national of a World Trade Organization Member State (the nationals of a Member State include corporations established based on the laws and regulations of that State and corporations that have principal offices in that State; the same applies hereinafter);
    - (b) a phonogram in which sounds are first fixed in a World Trade Organization Member State.
  - (iii) a performance transmitted in one of the following broadcasts (excluding a performance whose sound or visuals are recorded before the transmission with the authorization of the performer):
    - (a) the broadcast of a broadcaster that is the national of a World Trade Organization Member State;
    - (b) a broadcast made from a broadcasting facility in a World Trade Organization Member State.
- (3) In the application of provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 95-3, paragraph (3) and (4)) to a performer involved in a performance set forth in one of the items of the preceding paragraph, who is a foreign national without a habitual residence in Japan at the time the performance takes place, the provisions of paragraph (4) of the Supplementary Provisions of the Revising Act of 1989 do not apply.
- (4) In the application of provisions of the Copyright Act that concern neighboring rights (including the provisions of Article 97-3, paragraph (3) to (5)) to the following phonograms, the provisions of paragraph (2) and (3) of the Supplementary Provisions of the Revising Act of 1989, and paragraph (3) of the Supplementary Provisions of the Revising Act of 1991 do not apply:
- (i) a phonogram that is set forth in Article 8, item (iii) of the new Act, and that is also set forth in one of the following:
    - (a) a phonogram whose producer is the national of a World Trade Organization Member State;
    - (b) a phonogram in which sounds are first fixed in a World Trade Organization Member State.
  - (ii) a phonogram set forth in Article 8, item (v) of the Copyright Act, that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (referred to as "the Convention for the Protection of Phonograms" in paragraph (6) of these Supplementary Provisions).
- (5) In the application of provisions of the Copyright Act that concern neighboring

rights, to a broadcast set forth in the following that is also set forth in Article 9, item (iii) of the new Act, the provisions of paragraph (2) of the Supplementary Provisions of the Revising Act of 1989 do not apply:

- (i) the broadcast of a broadcaster that is the national of a World Trade Organization Member State;
- (ii) a broadcast made from a broadcasting facility in a World Trade Organization Member State.

(Transitional measures for the reproduction, etc. of a commercial phonogram produced from a master from a specified foreign country)

- (6) The provisions of the Article 121-2 of the new Act do not apply to an act that takes place after this Act comes into effect and that constitutes the reproduction, as a commercial phonogram, of a commercial phonogram (or of a copy of a commercial phonogram (this includes a copy that is two or more intervening reproductions removed from the commercial phonogram)) that a person in the business of producing commercial phonograms in a place outside the jurisdiction of the Copyright Act, produces from the master of a phonogram (other than a phonogram falling under one of the items of Article 8 of the new Act) that it is offered by and receives from the national of a World Trade Organization Member State (other than one that is also the national of a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations or of the Convention for the Protection of Phonograms (the nationals of these Contracting States include corporations established based on the laws and regulations of these States and corporations that have principal offices in these States)) that is the producer of that phonogram, and for which the day that marks the passage of twenty years, counting from the year following that in which the sounds are first fixed into the master, is before the enforcement of the Act Partially Revising the Copyright Act (Act No. 87 of 1988); nor do the provisions of the Article 121-2 of the new Act apply to an act that takes place after this Act comes into effect and that constitutes the distribution of copies of such a commercial phonogram as a commercial phonogram, or the possession of such copies for the purpose of distribution as a commercial phonogram.

#### **Supplementary Provisions [Act No. 91 of May 12, 1995] [Extract]**

(Effective date)

Article 1 This Act comes into effect twenty days after the date of its promulgation.

#### **Supplementary Provisions [Act No. 117 of December 26, 1996] [Extract]**



(Effective date)

- (1) This Act comes into effect on the date fixed by Cabinet Order within three months after the date of its promulgation.

(Transitional measures for the term of protection for photographic works)

- (2) Provisions of the post-revision Copyright Act that concern the term of protection for a work (referred to as "the new Act" in the next paragraph) apply to a photographic work for which a copyright under the pre-revision Copyright Act exists at the time this Act comes into effect; and a photographic work for which the copyright under the pre-revision Copyright Act has expired as of the time this Act comes into effect continues to be governed by the provisions previously in force.
- (3) Notwithstanding the new Act, if the day on which the duration expires under the provisions of the pre-revision Copyright Act that concern the term of protection (hereinafter referred to as "the former Act") for a photographic work created before this Act comes into effect, is after the day on which the duration expires under the new Act, the duration of copyright for such a photographic work is until the day on which the duration expires under the former Act.

#### **Supplementary Provisions [Act No. 86 of June 18, 1997]**

(Effective date)

- (1) This Act comes into effect on January 1, 1998.

(Transitional measures for works, etc. put into a form that allows them to be transmitted via automatic public transmission)

- (2) The provisions of Article 23, paragraph (1); Article 92-2, paragraph (1); and Article 96-2 of the post-revision Copyright Act (hereinafter referred to as "the new Act") do not apply if the person that has made available for transmission via automatic public transmission, a work, performance (limited to one set forth in Article 92, paragraph (2) item (ii) of the pre-revision Copyright Act (hereinafter referred to as "the former Act")) or phonogram that has been put into a form that allows it to be transmitted via automatic public transmission as of the time this Act comes into effect (if the person that makes a work, performance, or phonogram available for transmission and the person that, as of the time this Act comes into effect, has used the automatic public transmission server referred to in Article 2, paragraph (1), item (ix)-5 of the new Act in connection with the relevant work, performance, or phonogram, to put it into a form that allows it to be transmitted via automatic public transmission, are different persons, this means the person that has put the

work, performance, or phonogram into a form that allows it to be transmitted via automatic public transmission), uses the relevant automatic public transmission server to make the work, performance, or phonogram available for transmission.

- (3) The provisions of Article 92, paragraph (1) of the former Act remain in force even after this Act comes into effect, with respect to a performance (other than one set forth in Article 92, paragraph (2), item (ii)) that has been put into a form that allows it to be transmitted via automatic public transmission as of the time this Act comes into effect.

(Transitional measures for offences)

- (4) The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

#### **Supplementary Provisions [Act No. 101 of June 12, 1998] [Extract]**

(Effective date)

Article 1 This Act comes into effect on April 1, 1999.

#### **Supplementary Provisions [Act No. 43 of May 14, 1999] [Extract]**

(Effective date)

Article 1 This Act comes into effect as of the effective date of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999; hereinafter referred to as "the Act on Access to Information").

(Transitional measures accompanying the partial revision of the Copyright Act)

Article 2 The provisions of Article 18, paragraph (3) of the Copyright Act as revised under the provisions of Article 11 do not apply to a work not yet made public (which includes a work made public without the consent of the author) that the author offers, before this Act comes into effect, to an administrative organ or local public entity provided for in Article 2, paragraph (1) of the Act on Access to Information.

#### **Supplementary Provisions [Act No. 77 of June 23, 1999] [Extract]**

(Effective date)

- (1) This Act comes into effect on January 1, 2000; provided, however, that the provisions that add two items after Article 2, paragraph (1), item (xix); the provisions revising Article 30, paragraph (1); the provisions revising Article 113; the provisions revising Article 119; the provisions that add an Article

after Article 120; the provisions revising Article 123, paragraph (1); the provisions revising Article 5-2 of the Supplementary Provisions [Act No. 49 of 1970]; and the provisions of paragraph 5 of the Supplementary Provisions [Act No. 77 of 1999] come into effect on October 1, 1999.

(Transitional measures)

- (2) The provisions of Article 26-2, paragraph (1); Article 95-2, paragraph (1); and Article 97-2, paragraph (1) of the post-revision Copyright Act do not apply in a case that involves the transfer of the original or copy of a work, the transfer of the sound or visual recording of a performance, or the transfer of a copy of a phonogram, that exists as of the time this Act comes into effect (but only one made without prejudice to the rights of the person who owns the right set forth in Article 21, Article 91, paragraph (1) or Article 96 of the Copyright Act; excluding copies made by the owner of print rights).
- (3) The provisions of Article 26-2, paragraph (1) of the post-revision Copyright Act do not apply to the distribution, by a person that holds a print right established before this Act comes into effect and in existence at the time this Act comes into effect, of copies of the work that is subject to that print right, during the duration of the print right.
- (4) The distribution, after the expiration of a print right (limited to one established before this Act comes into effect) and by the person that formerly held that print right, of copies of a work made during the duration of that print right, continues to be governed by the provisions previously in force.
- (5) During the period from October 1, 1999, to the day before that on which this Act comes into effect, the phrases "Article 95-3, paragraph (3)" and "Article 97-3, paragraph (3)" in Article 113, paragraph (4) of the post-revision Copyright Act are deemed to be replaced with "Article 95-2, paragraph (3)" and "Article 97-2, paragraph (3)", respectively.
- (6) If the effective date of the Act to Update Related Acts Upon the Coming into Force of the Act on Access to Information Held by Administrative Organs (Act No. 43 of 1999; hereinafter referred to as "the Update Act" falls after the date on which this Act comes into effect, in Article 47-3 of the post-revision Copyright Act the phrase "Article 42, Article 42-2" is deemed to be replaced with "Article 42" and the phrase "Article 42 or 42-2" is deemed to be replaced with "or Article 42", until the day before the effective date of the Update Act.
- (7) The application of offences to an act that takes place before this Act comes into effect, or to an act that takes place after this Act comes into effect but that is to continue to be governed by the provisions previously in force pursuant to the provisions of paragraph 4 of the Supplementary Provisions, continues to be governed by the provisions previously in force.

**Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]**

(Effective date)

Article 1 This Act (except Articles 2 and 3) comes into effect on January 6, 2001; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i), (ii) : [omitted]

**Supplementary Provisions [Act No. 220 of December 22, 1999] [Extract]**

(Effective date)

Article 1 This Act (except Article 1) comes into effect on January 6, 2001; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) to (iii) [omitted]

(Delegation to Cabinet Order)

Article 4 Beyond what is prescribed in the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

**Supplementary Provisions [Act No. 56 of May 8, 2000] [Extract]**

(Effective date)

(1) This Act comes into effect on January 1, 2001; provided, however, that the provisions of Article 1 revising Article 58 of the Copyright Act and the provisions of Article 2 come into effect as of the day on which the WIPO Copyright Treaty comes into force with respect to Japan. #[effective date: March 6, 2002]#

(Transitional measures for the approval of an amount of damage)

(2) The provisions of Article 114-4 of the Copyright Act as revised under the provisions of Article 1 do not apply to a case for which oral arguments before the high court or district court that constitutes the court of second instance have finished before this Act comes into effect, nor do such provisions apply to a case for which a party, before this Act comes into effect, reserves the right to a final appeal but agrees not to appeal to the court of second instance against a summary court decision or a decision that the district court has reached as the court of first instance.

(Transitional measures for offences)

- (3) The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

**Supplementary Provisions [Act No. 131 of November 29, 2000] [Extract]**

(Effective date)

Article 1 This Act comes into effect on October 1, 2001; provided, however, that the provisions of Article 9 of the Supplementary Provisions come into effect on the date of this Act's promulgation.

**Supplementary Provisions [Act No. 140 of December 5, 2001] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

(Transitional measures accompanying the partial amendment of the Copyright Act)

Article 7 The provisions of Article 18, paragraph (3) (limited to parts related to item (ii)) of the Copyright Act as amended under the provisions of the preceding Article do not apply to works not yet made public (including works made public without the consent of their authors) which are offered to incorporated administrative agencies, etc. by their authors before the provisions of such preceding article come into effect.

**Supplementary Provisions [Act No. 72 of June 19, 2002] [Extract]**

(Effective date)

- (1) The provisions of this Act come into effect as of the day specified in each of the following items, in accordance with the categories set forth in those items:
- (i) the provisions revising Article 7; the provisions revising Article 8; the provisions revising Article 95; the provisions revising Article 95-3; the provisions revising Article 97; and the provisions revising Article 97-3, 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") comes into force with respect to Japan;
  - (ii) the provisions revising the Table of Contents (limited to the parts renumbering Article 100-4 as Article 100-5) ; the provisions revising Article 89, paragraph (4); the provisions that add an Article after Article 99; the provisions of Chapter IV, Section 5 renumbering Article 100-4 as Article 100-

5 and adding an Article after Article 100-3; and the provisions revising Article 103: January 1, 2003;

(iii) provisions other than those referred to in the preceding two paragraphs: the day on which the WPPT comes into force with respect to Japan or January 1, 2003, whichever is earlier.

(Application of provisions that concern neighboring rights)

(2) In the application of provisions of the post-revision Copyright Act (referred to hereinafter as "the new Act") that concern neighboring rights (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)) to a performance set forth in the following that is also set forth in Article 7, item (iv) of the new Act (excluding a performance that also falls under a category set forth in Article 7, items (i) to (iii)), and in the application of such provisions to a performance set forth in the following that is also set forth in Article 7, item (v) of the new Act, the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 64 of 1986); paragraph (2) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 43 of 1989; hereinafter referred to as "the Revising Act of 1989"); and paragraph (2) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 63 of 1991; hereinafter referred to as "the Revising Act of 1991") do not apply:

(i) a performance that takes place in a Contracting Party to the WPPT;

(ii) a performance fixed in one of the following phonograms:

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

(b) a phonogram in which sounds were first fixed in a Contracting Party to the WPPT.

(3) In the application of provisions of the new Act that concern neighboring rights (including the provisions of Article 95 and Article 95-3, paragraphs (3) and (4)), to a performer involved in a performance set forth in one of the items of the preceding paragraph, who is a foreign national without a habitual residence in Japan at the time the performance takes place, the provisions of paragraph (4) of the Supplementary Provisions of the Revising Act of 1989 do not apply.

(4) In the application of provisions of the new Act that concern neighboring rights (including the provisions of Article 97 and Article 97-3, paragraphs (3) to (5)), to the following phonograms, the provisions of paragraphs (2) and (3) of the Supplementary Provisions of the Revising Act of 1989 and paragraph (3) of the Supplementary Provisions of the Revising Act of 1991 do not apply:

- (i) a phonogram set forth in the following that is also set forth in Article 8, item (ii) of the new Act:
  - (a) a phonogram whose producer is the national of a Contracting Party to the WPPT;
  - (b) a phonogram in which sounds were first fixed in a Contracting Party to the WPPT.
- (ii) a phonogram set forth in Article 8, item (iv) of the new Act, that Japan is under the obligation to protect pursuant to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

(Transitional measures for the moral rights of performers)

- (5) The provisions of Article 90-2, paragraph (1) and Article 90-3, paragraph (1) of the new Act do not apply to a performance fixed in a sound or visual recording that is made with the authorization of the performer before this Act comes into effect; provided, however, that this does not apply if the indication of the name of the performer involved in that performance which is indicated for that performance is deleted or altered after this Act comes into effect, if the name of the performer is newly indicated for the performance after this Act comes into effect, or if the performance is altered after this Act comes into effect.

(Transitional measures for the secondary use of commercial phonograms)

- (6) Notwithstanding the provisions of Article 95, paragraph (2) of the new Act, the application of the provisions of paragraph (1) of the new Act is governed by the provisions of paragraph (4) of that Article, for a performer involved in a performance that is fixed in a phonogram whose producer is the national of a country that is a Contracting State of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (referred to as "the Convention for the Protection of Performers, etc." in this and the next paragraph) as well as being a Contracting Party to the WPPT, and which is fixed in that phonogram before the day on which the Convention for the Protection of Performers, etc. comes into force with respect to Japan.
- (7) Notwithstanding the provisions of Article 95, paragraph (2) of the new Act as applied mutatis mutandis pursuant to the provisions of Article 97, paragraph (2) of the new Act, the application of the provisions of Article 97, paragraph (2) of the new Act is governed by the provisions of Article 95, paragraph (4) of the new Act as applied mutatis mutandis pursuant to the provisions of Article 97, paragraph (2) of the new Act, for the producer of a phonogram that is the national of a country that is a Contracting State of the Convention for the

Protection of Performers, etc. as well as being a Contracting Party to the WPPT, and in whose phonogram sounds are first fixed before the day on which the Convention for the Protection of Performers, etc. comes into force with respect to Japan.

(Transitional measures for the term of protection for phonograms)

(8) The provisions of Article 101, paragraph (2), item (ii) of the new Act apply to a phonogram for which neighboring rights under the pre-revision Copyright Act exist at the time this Act comes into effect; and a phonogram for which the neighboring rights under the pre-revision Copyright Act have expired as of the time this Act comes into effect continues to be governed by the provisions previously in force.

#### **Supplementary Provisions [Act No. 61 of May 30, 2003] [Extract]**

(Effective date)

Article 1 This Act comes into effect as of the effective date of the Act on the Protection of Personal Information Held by Administrative Organs.

(Delegation of other transitional measures to Cabinet Order)

Article 4 Beyond what is prescribed in the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

#### **Supplementary Provisions [Act No. 85 of June 18, 2003] [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2004.

(Transitional measures for the term of protection for cinematographic works)

Article 2 The provisions of Article 54, paragraph (1) of the post-revision Copyright Act (referred to as "the new Act" in the next Article) apply to a cinematographic work for which a copyright under the pre-revision Copyright Act exists at the time this Act comes into effect; and a cinematographic work for which the copyright under the pre-revision Copyright Act has expired as of the time this Act comes into effect continues to be governed by the provisions previously in force.

Article 3 Notwithstanding the provisions of Article 54, paragraph (1) of the new Act, if the day on which the duration of copyright expires under the former Copyright Act (Act No. 39 of 1899), is after the day on which the duration



expires under the provisions of Article 54, paragraph (1) of the new Act, the duration of copyright for a cinematographic work that is created before the Copyright Act comes into effect and that is to continue to be governed by the provisions previously in force pursuant to the provisions of Article 7 of the Supplementary Provisions of the same Act, is until the day on which the duration of copyright expires under the former Copyright Act.

(Transitional measure for offences)

Article 4 The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

#### **Supplementary Provisions [Act No. 119 of July 16, 2003] [Extract]**

(Effective date)

Article 1 This Act comes into effect as of the effective date of the Local Independent Administrative Agencies Act (Act No. 118 of 2003).

(Delegation of other transitional measures to Cabinet Order)

Article 6 Beyond what is prescribed in these Supplementary Provisions, transitional measures that are necessary in connection with the coming into effect of this Act are provided for by Cabinet Order.

#### **Supplementary Provisions [Act No. 84 of June 9, 2004] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

#### **Supplementary Provisions [Act No. 92 of June 9, 2004] [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2005.

(Transitional measures for the importation of commercial phonograms)

Article 2 The provisions of Article 113, paragraph (5) of the post-revision Copyright Act do not apply to a commercial phonogram for foreign distribution provided for in that paragraph which is imported before this Act comes into effect and which a person possesses for the purpose of distribution at the time this Act comes into effect.

Article 3 In the application of the provisions of Article 113, paragraph (5) of the

post-revision Copyright Act to a commercial phonogram for domestic distribution provided for in that paragraph which has been published as of the time this Act comes into effect, in the proviso to that paragraph, the phrase "day on which said phonogram is first published in Japan" is deemed to be replaced with "effective date of the Act Partially Revising the Copyright Act (Act No. 92 of 2004), if said commercial phonogram for domestic distribution has been published as of the day on which it comes into effect", and the phrase "that has passed beyond" is deemed to be replaced with "after it has passed beyond".

(Transitional measures for the renting out of books, etc.)

Article 4 The provisions of Article 4-2 of the Supplementary Provisions of the pre-revision Copyright Act remain in force even after this Act comes into effect, with respect to the renting out of books or magazines (excluding those consisting mainly of sheet music) that a person possesses for the purpose of renting them out to the public as of the first day of the month two months after the month that includes the day of promulgation of this Act.

#### **Supplementary Provisions [Act No. 120 of June 18, 2004] [Extract]**

(Effective date)

Article 1 This Act comes into effect on April 1, 2005.

(Principles of transitional measures)

Article 2 Unless otherwise stipulated in these Supplementary Provisions, the provisions (except offences) of the Courts Act, the Code of Civil Procedure, the Act on the Costs of Civil Proceedings, the Patent Act, the Utility Model Act, the Design Act, the Trademarks Act, the Prevention of Unfair Competition Act, and the Copyright Act, as revised under this Act, also apply to things that take place before this Act comes into effect; provided, however, that this does not preclude validity arising pursuant to the provisions of these Acts prior to their revision under this Act.

(Transitional measures accompanying the partial amendment of the Patent Act, etc.)

Article 3 The following provisions do not apply to a case for which litigation is completed before this Act comes into effect; nor to a case for which oral arguments before the high court or district court that constitutes the court of second instance are finished before this Act comes into effect; nor to a case for which a party, before this Act comes into effect, reserves the right to a final appeal but agrees not to appeal to the court of second instance against a

summary court decision or a decision that the district court has reached as the court of first instance:

(i) to (iv) : [omitted]

(v) the provisions of Articles 114-6 to 114-8 of the Copyright Act, following the revision under the provisions of Article 9.

**Supplementary Provisions [Act No. 147 of December 1, 2004] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within six months from the date of its promulgation.

**Supplementary Provisions [Act No. 75 of 2005] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation.

(Delegation to Cabinet Order)

Article 5 Beyond what is prescribed in Article 2 of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

**Supplementary Provisions [Act No. 50 of June 2, 2006] [Extract]**

(Effective date)

(1) This Act comes into effect as of the effective date of the General Incorporated Associations and Foundations Act (Act No. 48 of 2006).

**Supplementary Provisions [Act No. 121 of December 22, 2006] [Extract]**

(Effective date)

Article 1 This Act comes into effect on July 1, 2007; provided, however, that the provisions of Article 1 and Article 4 of the Supplementary Provisions come into effect twenty days after the date of promulgation of this Act. #[effective date: January 11, 2007]#

(Transitional measures for ownership of a copyright to a cinematographic work created for broadcasting purposes)

Article 2 The ownership of a copyright to a cinematographic work which is provided for in Article 29, paragraph (2) of the Copyright Act as revised under

this Act (referred to as "the new Act" in the next Article), and which is created before this Act comes into effect, continues to be governed by the provisions previously in force.

(Transitional measures for the cablecasting of a broadcast performance)

Article 3 The provisions of Article 94-2 of the new Act do not apply to a performance to which, based on the provisions of paragraph (3) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 64 of 1986) or paragraph (2) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 43 of 1989; hereinafter in this Article referred to as "the Revising Act of 1989"), the provisions of the new Act that concern neighboring rights do not apply, nor do the provisions of Article 94-2 of the new Act apply to the performance of a performer to whom, based on the provisions of paragraph (4) of the Supplementary Provisions of the Amendment Act of 1989, the provisions of the new Act that concern neighboring rights do not apply.

(Transitional measures for offences)

Article 4 The application of offences to an act that takes place before this Act (or the provisions stipulated in the proviso to Article 1 of the Supplementary Provisions) comes into effect continues to be governed by the provisions previously in force.

#### **Supplementary Provisions [Act No. 81 of June 18, 2008] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within three months from the date of its promulgation, and applies from the authorized textbooks, etc. and specified textbooks, etc. used in 2009.

(Transitional measures for offences)

Article 5 The application of offences to an act that takes place before the provisions referred to in the preceding Article come into effect continues to be governed by the provisions previously in force.

#### **Supplementary Provisions [Act No. 53 of June 19, 2009]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2010; provided, however, that the provisions revising Article 70, paragraph (2); Article 78; Article 88, paragraph (2); and Article 104; as well as the provisions of Article 6 of the

Supplementary Provisions, come into effect on the date fixed by Cabinet Order within two years from the date of the promulgation of this Act.

(Transitional measures for the use of sound recordings for persons with visual impairments)

Article 2 Notwithstanding the provisions of Article 37, paragraph (3) and Article 47-9 of the Copyright Act as revised under this Act (hereinafter referred to as "the new Act") (including as these provisions are applied mutatis mutandis pursuant to Article 102, paragraph (1) of the new Act), the use of a sound recording that is made before this Act comes into effect based on the application of the provisions of Article 37, paragraph (3) of the Copyright Act prior to its revision under this Act (hereinafter referred to as "the former Act") (including as applied mutatis mutandis pursuant to Article 102, paragraph (1) of the former Act) (excluding a sound recording connected to a work, performance, phonogram, broadcast, or cablecast that it is permissible to reproduce or transmit via automatic public transmission (including one that it is permissible to make available for transmission) pursuant to the provisions of Article 37, paragraph (3) of the new Act), continues to be governed by the provisions previously in force.

(Transitional measures for the exploitation, etc. of works pursuant to a compulsory license)

Article 3 The provisions of Articles 67 and 67-2 of the new Act (including as these provisions are applied mutatis mutandis pursuant to Article 103 of the new Act) apply to a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of the new Act (including as applied mutatis mutandis pursuant to Article 103 of the new Act) on or after the day on which this Act comes into effect; and a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of the former Act before the day on which this Act comes into effect continues to be governed by the provisions previously in force.

(Transitional measures for an offer to distribute copies of a commercial phonogram)

Article 4 The provisions of Article 121-2 of the new Act do not apply to the act of offering to distribute a commercial phonogram after this Act comes into effect if, pursuant to the provisions of paragraph (5) of the Supplementary Provisions of the Act Partially Revising the Copyright Act (Act No. 63 of 1991) or paragraph (6) of the Supplementary Provisions of the Act Partially Revising the Copyright Act and the Act on Special Provisions of the Copyright Act, in Consequence of the Enforcement of the Universal Copyright Convention (Act

No. 112 of 1994), the provisions of that Article are not to apply to its distribution or possession for the purpose of distribution.

(Transitory measures for offences)

Article 5 The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

**Supplementary Provisions [Act No. 73 of July 10, 2009] [Extract]**

(Effective date)

Article 1 This Act comes into effect on April 1, 2010.

**Supplementary Provisions [Act No. 65 of December 3, 2010] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within nine months from the date of its promulgation (hereinafter referred to as "the effective date").

**Supplementary Provisions [Act No. 74 of June 24, 2011] [Extract]**

(Effective date)

Article 1 This Act comes into effect twenty days after the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) to (iv) [omitted]

(v) The provisions of Article 62 of these Supplementary Provisions: the date of promulgation of the Act Partially Amending the Unfair Competition Prevention Act (Act No. 62 of 2011; referred to as the "Act Partially Amending Unfair Competition Prevention Act" in the said Article and Article 63 of these Supplementary Provisions) or the effective date, whichever comes later.

**Supplementary Provisions [Act No. 32 of June 22, 2012] [Extract]**

(Effective date)

Article 1 This Act comes into effect on July 1, 2013.

(Adjustment Provision)

Article 5 In the event this Act comes into effect before the enforcement date of the provision of the Act Partially Amending the Copyright Act (Act No. 43 of

2012) that renames Article 42-3 to Article 42-4 and adds a new Article after Article 42-2, "Article 42-2" included in the provision that amends the heading for Article 42-4 of the Copyright Act set forth in the preceding Article is deemed to be replaced with "Article 42-3".

### **Supplementary Provisions [Act No. 43 of June 27, 2012] [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2013; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

- (i) The provisions of Article 7; Article 8; and Article 10 of these Supplementary Provisions: the date of promulgation;
- (v) The provisions which amend Article 2, paragraph (1), item (xx) and Article 18, paragraphs (3) and (4); the provision which adds an item to Article 19, paragraph (4); the provision which amends Article 30, paragraph (1), item (ii); the provision that renames Article 42-3 to Article 42-4 and adds a new Article after Article 42-2; the provision which amends Article 47-9 (limited to the part that replaces "or Article 46" with ", Article 42-3, paragraph (2) or Article 46"); the provision which amends the proviso to Article 47-9 (limited to the part that adds ", Article 42-3, paragraph (2)" under "to Article 42-2"); the provision which amends Article 49, paragraph (1), item (i) (limited to the part that renames "Article 42-2" to "Article 42-3" and "Article 42-3, paragraph (2)" to "Article 42-4, paragraph (2)"); the provision which amends Article 86, paragraphs (1) and (2) (limited to the part that adds ", Article 42-3, paragraph (2)" under "to Article 42-2"); the provision which adds an item to Article 90-2, paragraph (4); the provision which amends Article 102, paragraph (1) (limited to the part that renames "Article 42-3" to "Article 42-4") the provision which amends Article 102, paragraph (9), item (i) (limited to the part that renames "Article 42-2" to "Article 42-3" and "Article 42-3, paragraph (2)" to "Article 42-4, paragraph (2)"); the provision which amends Article 119, paragraph (1); the provision which adds a paragraph to Article 119; the provision which amends Article 120-2, item (i); and the provisions of the following Article, Article 4 to 6 and Article 9 of these Supplementary Provisions: October 1, 2012.

(Transitional Measures)

Article 2 (1) Provisions of Article 18, paragraph (3), items (i) to (iii) of the Copyright Act as amended by this Act (hereinafter referred to as "the new Act") do not apply to a work not yet made public (which includes a work made public without the consent of the author) that the author offers, before the provisions

of item (ii) of the preceding Article come into effect, to an administrative organ (meaning an Administrative Organ prescribed in Article 2, paragraph (1) of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999)), an incorporated administrative agency, etc. (meaning an Incorporated Administrative Agency, etc. prescribed in Article 2, paragraph (1) of the Act on Access to Information Held by Incorporated Administrative Agencies, etc. (Act No. 140 of 2001)), or a local government agency or local incorporated administrative agency (meaning a Local Incorporated Administrative Agency prescribed in Article 2, paragraph (1) of the Act on Local Incorporated Administrative Agencies (Act No. 118 of 2003); the same applies hereinafter in this paragraph) and is transferred to the National Archives of Japan, etc. (meaning the National Archives of Japan, etc. provided for in Article 2, paragraph (3) of the Public Records and Archives Management Act (Act No. 66 of 2009; hereinafter referred to as the "Public Records Management Act" in this paragraph); the same applies in the following paragraph) pursuant to the provisions of Article 8, paragraph (1) or Article 11, paragraph (4) of the Public Records Management Act or transferred to the local archives, etc. (meaning facilities provided for in the Public Records Management Ordinances (ordinances of such local government agency which provide for the appropriate preservation and use of historical public records and archives (meaning historical public records and archives provided for in Article 2, paragraph (6) of the Public Records Management Act; the same applies in this paragraph) held by local government agencies or local incorporated administrative agencies; the same applies in this paragraph) as facilities striving towards the appropriate preservation and use of historical public records and archives; the same applies in the following paragraph) pursuant to the Public Records Management Ordinances.

(2) Provisions of Article 18, paragraph (3), items (iv) and (v) of the new Act do not apply to work not yet made public (which includes a work made public without the consent of the author) that the author offers, before the provisions of item (ii) of the preceding Article come into effect, to the National Archives of Japan or the local archives, etc.

Article 3 A work that is actually recorded on a recording medium as of the enforcement date of this Act pursuant to the provisions of Article 31, paragraph (2) of the Copyright Act prior to the amendment by this Act and pertaining to materials out of print (meaning "out of print materials" prescribed in Article 31, paragraph (1), item (3) of the new Act) may be transmitted via automatic public transmission (including making works available for transmission) using its copy pursuant to the provisions of Article 31, paragraph (3) of the new Act.



(Transitional measures concerning the application of offences)

Article 4 The application of offences to an act that takes place before this Act comes into effect (as for the provisions of Article 1, item (ii) of these Supplementary Provisions, such provisions come into effect) continues to be governed by the provisions previously in force.

(Delegation to Cabinet Order)

Article 5 Beyond what is prescribed in the preceding three Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

(Raising the citizens' awareness)

Article 7 (1) In order to enable citizens to deepen their understandings on the importance of preventing acts that infringe a copyright or neighboring rights through, for the purpose of private use as referred to in Article 30, paragraph (1) of the new Act (including cases where it is applied mutatis mutandis pursuant to Article 102, paragraph (1) of the new Act), digitally recording sounds or visuals of fee-based works, etc. (meaning fee-based works, etc. prescribed in Article 119, paragraph (3) of the new Act; the same applies hereinafter) that are transmitted to the public via automatic public transmissions which infringe copyrights or neighboring rights (including automatic public transmissions conducted abroad that shall infringe copyrights or neighboring rights if conducted in Japan), knowing that such automatic public transmission constitutes such infringement (hereinafter referred to as "specified infringement acts"), the national government and local government agencies must raise the public awareness and take other necessary measures in relation to the prevention of specified infringement acts.

(2) In order to enable minors to deepen their understandings on the importance of preventing specified infringement acts through various opportunities, the national government and local government agencies must enhance education in schools and other various scenes concerning the prevention of specified infringement acts.

(3) Upon applying the provisions of paragraph (1) before the date of enforcement of the provisions prescribed in Article 1, item (ii) of these Supplementary Provisions, the term "Article 30, paragraph (1) of the new Act (including cases where it is applied mutatis mutandis pursuant to Article 102, paragraph (1) of the new Act)" included in such paragraph is deemed to be replaced with "Article 30, paragraph (1) of the Copyright Act (including cases where it is applied mutatis mutandis pursuant to Article 102, paragraph (1) of the Copyright Act)" and "fee-based works, etc. prescribed in Article 119, paragraph

(3) of the new Act" is deemed to be replaced with "sounds or images of sound or visual recordings of works, performances, phonograms, broadcasts or cablecasts etc. (limited to those that are the subject of copyrights or neighboring rights) offered or presented to the public for value (limited to those that are offered or presented to the public without infringing any copyrights or neighboring rights)".

(Measures to be taken by relevant enterprises)

Article 8 Enterprises that offer or present fee-based works, etc. to the public must endeavor to take measures to prevent specified infringement acts.

(Considerations to operations)

Article 9 Upon operating the provisions of Article 119, paragraph (3) of the new Act, due considerations shall be given so that collecting information using the internet or other acts conducted using the internet are not unreasonably restricted.

(Review)

Article 10 With regard to the provisions of Article 119, paragraph (3) of the new Act and Article 8 of these Supplementary Provisions, in approximately one year after their enforcement a review is to be conducted by taking into consideration the status of their enforcement and necessary measures are to be taken based on the results of the review.

### **Supplementary Provisions [Act No. 84 of November 27, 2013] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year from the date of its promulgation; provided, however, that the provisions set forth in Article 64, Article 66 and Article 102 of these Supplementary Provisions shall come into effect on the date of promulgation.

(Effectiveness of dispositions, etc.)

Article 100 Any dispositions, procedures or other acts conducted prior to the enforcement of this Act pursuant to the provisions of the respective Acts prior to amendment (including orders issued thereunder; hereinafter the same applies in this Article) shall, if the respective amended Acts contain provisions corresponding to such provisions, be deemed to have been conducted under the relevant provisions of the respective amended Acts, except those otherwise provided by these Supplementary Provisions.

(Transitional measures for offences)

Article 101 The application of offences to an act that takes place before this Act comes into effect, or to an act that takes place after this Act comes into effect but that is to continue to be governed by the provisions previously in force pursuant to the provisions of this Act, continues to be governed by the provisions previously in force.

(Delegation to Cabinet Order)

Article 102 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures (including transitional measures for offences) connected with the coming into effect of this Act are provided for by Cabinet Order.

### **Supplementary Provisions [Act No. 103 of December 13, 2013] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within six months from the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) [omitted]

(ii) The provisions of Article 17 of these Supplementary Provisions: the date of promulgation of the Act Partially Amending the Pharmaceutical Affairs Act, etc. (Act No. 84 of 2013) or the date of promulgation of this Act, whichever comes later.

### **Supplementary Provisions [Act No. 35 of May 14, 2014] [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2015; provided, however, that the provisions revising Article 7 and the provisions of the following Article shall come into effect on the date the Beijing Treaty on Audiovisual Performances (referred to as the "Audiovisual Performances Treaty" in the said Articles) becomes effective in Japan.

(Transitional measures for print rights)

Article 3 Print rights that are established before this Act comes into effect under the Copyright Act prior to its amendment under this Act and that exist as of the time this Act comes into effect, continues to be governed by the provisions previously in force.

(Delegation to Cabinet Order)

Article 4 Beyond what is prescribed in the provisions of the preceding two Articles, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

### **Supplementary Provisions [Act No. 69 of June 13, 2014] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date the Administrative Complaint Review Act (Act No. 68 of 2014) comes into effect.

(Principles concerning transitional measures)

Article 5 Unless otherwise provided for in these Supplementary Provisions, provisions previously in force continue to govern administrative appeals on dispositions or other acts or inactions of administrative agencies regarding dispositions or other acts of administrative agencies made before this Act comes into effect or to inactions of administrative agencies based on applications made before this Act comes into effect.

(Transitional measures for litigations)

Article 6 (1) Provisions previously in force continue to govern the filing of an action that concerns a matter that shall not be filed until a determination, decision or any other act is made by an administrative agency in response to an appeal pursuant to the provisions of acts prior to their amendments under this Act if the period such appeal may be filed elapses without such appeal being filed before the enforcement of this Act (in the event such appeal may not be filed until a determination, decision or any other act is made by an administrative agency in response to another appeal, cases where the period the another appeal may be filed elapses without such appeal being filed before the enforcement of this Act shall be included).

(2) Provisions previously in force continue to govern actions for revocations that concern dispositions or other acts subject to objections made under the provisions of acts prior to their amendments under the provisions of this Act (including cases where provisions previously in force continue to govern filings of actions pursuant to the provisions of the preceding Article) notwithstanding even if the provisions of acts amended by the provisions of this Act which prescribe that such actions for revocations may not be filed until a determination is made in response to a request for an administrative review.

(3) Provisions previously in force continue to govern actions filed before the enforcement of this Act if such action is for the revocation of determinations, decisions or any other acts made by an administrative agency in response to an

appeal.

(Transitional measures for offences)

Article 9 The application of offences to an act that takes place before this Act comes into effect, or to an act that takes place after this Act comes into effect but that is to continue to be governed by the provisions previously in force pursuant to the provisions of Article 5 or the preceding two Articles of these Supplementary Provisions, continues to be governed by the provisions previously in force.

(Other transitional measures delegated to Cabinet Order)

Article 10 Beyond what is prescribed in the provisions between Article 5 and the preceding Article of these Supplementary Provisions, necessary transitional measures (including transitional measures for offences) connected with the coming into effect of this Act are provided for by Cabinet Order.

**Supplementary Provisions [Act No. 46 of June 24, 2015] [Extract]**

(Effective date)

Article 1 This Act comes into effect on April 1, 2016.

**Supplementary Provisions [Act No. 51 of May 27, 2016] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within one year and six months from the date of its promulgation.

**Supplementary Provisions [Act No. 108 of December 16, 2016] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date the Trans-Pacific Partnership Agreement becomes effective in Japan (referred to as the "Effective Date" in item (iii)); provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) The provisions of Article 9 of these Supplementary Provisions: the date of promulgation

(Delegation to Cabinet Order)

Article 9 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures (including transitional measures for offences) connected with the coming into effect of this Act are provided for by Cabinet

Order.

**Act on the Arrangement of Related Acts that Accompany the Enforcement of the Act Partially Amending the Civil Code [Act No. 45 of June 2, 2017] [Extract]**

(Delegation to Cabinet Order)

Article 362 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

**Supplementary Provisions [Act No. 45 of June 2, 2017] [Extract]**

This Act comes into effect on the date the Act Partially Amending of the Civil Code comes into effect; provided, however, that the provisions set forth in Article 103-2; Article 103-3; Article 267-2; Article 267-3 and Article 362 shall come into effect on the date of promulgation.

**Supplementary Provisions [Act No. 30 of May 25, 2018] [Extract]**

(Effective date)

Article 1 This Act comes into effect on January 1, 2019; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

- (i) The provisions revising Article 113, paragraph (4) and the provisions of Article 4 and Articles 7 to 10 of these Supplementary Provisions: the date of promulgation;
- (ii) The provisions revising the Contents; the provisions revising Article 35; the provisions revising Article 48, paragraph (1), item (iii) (limited to the part that replaces the term "Article 35" with "Article 35, paragraph (1)"); the provisions revising the first sentence of Article 86, paragraph (3) (limited to the part that replaces the term "Article 35, paragraph (2)" with "Article 35, paragraph (1)"); the provisions revising the second sentence of Article 86, paragraph (3) (limited to the part that replaces the term "Article 35, paragraph (2)" with "the proviso to Article 35, paragraph (1)"); and the provisions revising Chapter V: the date fixed by Cabinet Order within three years from the date of promulgation

(Transitional measures for the use of copies)

Article 2 (1) Notwithstanding the provisions of Article 49 of the Copyright Act as

amended under this Act (hereinafter referred to as "the New Act"), the use of copies of works created based on the application of the provisions of Article 30-4 or Articles 47-4 to 47-9 of the Copyright Act prior to its amendment under this Act (hereinafter referred to as "the Former Act"), copies of derivative works created in accordance with the provisions of Article 30, paragraph (1); Article 31, paragraph (1), item (i) or the second sentence of paragraph (3); Article 33-2, paragraph (1); Article 35, paragraph (1); Article 37, paragraph (3); the main clause of Article 37-2; Article 41; or Article 42 of the Former Act based on the application of the provisions of Article 43 of the Former Act, or copies of derivative works created in accordance with the provisions of Article 30-3 or Article 47-3, paragraph (1) of the Former Act each created before the date this Act comes into effect (hereinafter referred to as the "Effective Date"), continues to be governed by the provisions previously in force. In such a case, the term "presented to the public" in Article 49, paragraph (1), item (i) of the Former Act and "presented to the public" in Article 49, paragraph (1), item (iii) and paragraph (2), items (i) and (ii) of the Former Act are deemed to be replaced with "conducted a presentation to the public (including making it available for transmission; the same applies hereinafter in this Article)" and "conducted a presentation to the public", respectively.

(2) Notwithstanding the provisions of Article 102, paragraph (9) of the New Act, the use of copies of sounds or images pertaining to performances, phonograms, broadcasts or cablecasts created before the Effective Date based on the application of the provisions of Article 30-4 or Articles 47-4 to 47-9 of the Former Act applied mutatis mutandis pursuant to Article 102, paragraph (1) of the Former Act, continues to be governed by the provisions previously in force. In such a case, the term "presented to the public" in Article 102, paragraph (9), item (i) of the Former Act and "presented to the public" in Article 102, paragraph (9), item (viii) of the Former Act are deemed to be replaced with "conducted a presentation to the public (including making it available for transmission; the same applies in item (viii))" and "conducted a presentation to the public", respectively.

(Transitional measures for the exploitation, etc. of works pursuant to a compulsory license)

Article 3 The provisions of Articles 67 and 67-2 of the New Act (including cases where these provisions are applied mutatis mutandis pursuant to Article 103 of the Copyright Act) apply to a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of the New Act (including as applied mutatis mutandis pursuant to Article 103 of the Copyright Act) on or after the Effective Date; and a person that files an application for the compulsory license referred to in Article 67, paragraph (1) of

the Former Act (including as applied mutatis mutandis pursuant to Article 103 of the Copyright Act) before the Effective Date continues to be governed by the provisions previously in force.

(Preparative acts)

Article 4 Designations pursuant to the provisions of Article 104-11, paragraph (1) of the New Act, approvals pursuant to the provisions of Article 104-13, paragraph (1) of the New Act, consultations pursuant to the provisions of Article 104-13, paragraph (5) of the New Act, notifications pursuant to the provisions of Article 104-14, paragraph (1) of the New Act, consultations pursuant to the provisions of Article 104-15, paragraph (2) of the New Act, and procedures and other acts necessary for them may be conducted in accordance with the provisions of Chapter V, Section 2 of the New Act prior to the date the provisions specified in Article 1, item (ii) of these Supplementary Provisions come into effect (hereinafter referred to as "Item (ii) Effective Date").

(Replacements until the day preceding the Item (ii) Effective Date)

Article 5 Upon the application of the provisions of Article 47-6, paragraph (1), item (i) and Article 47-7 of the New Act during the period between the Effective Date and the day preceding the Item (ii) Effective Date, the terms "Article 35, paragraph (1)" in Article 47-6, paragraph (1), item (i) and "(Article 31, paragraph (1) or the second sentence of paragraph (3))" in Article 47-7 are deemed to be replaced with "Article 35" and "(Article 31, paragraph (1) or the second sentence of paragraph (3), Article 35, paragraph (1))", respectively.

(Transitional measures for offences)

Article 6 The application of offences to an act that takes place before this Act comes into effect (as for provisions specified in Article 1, item (ii) of these Supplementary Provisions, before each provision comes into effect) continues to be governed by the provisions previously in force.

(Delegation to Cabinet Order)

Article 7 Beyond what is prescribed in the provisions between Article 2 and the preceding Article of these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

(Adjustment provision)

Article 8 In the event the enforcement date of the provisions specified in Article 1, item (i) of these Supplementary Provisions falls before the enforcement date of the Act on the Arrangement of Related Acts that Accompany the Conclusion



of the Trans-Pacific Partnership Agreement (Act No. 108 of 2016; hereinafter referred to as the "Arrangement Act"), the term "Article 113, paragraph (5)" in the provision revising Article 113, paragraph (5) and the provisions of Article 1, paragraph (1), item (i) of these Supplementary Provisions is deemed to be replaced with "Article 113, paragraph (4)".

Article 9 (1) In the event the Effective Date falls before the enforcement date of the Arrangement Act, the term "shall be deleted and the term "exploit" in item (xxi) of the said paragraph shall be replaced with "execute"" in the provision revising Article 2, paragraph (1) is deemed to be replaced with "shall be deleted".

(2) In the case prescribed in the preceding paragraph, the term "exploit" in the provisions of Article 8 of the Arrangement Act which replace item (xxiii) with item (xxiv), item (xxii) with item (xxiii), item (xxi) with item (xxii) and add an item after item (xx), each of Article 2, paragraph (1) of the Copyright Act, is deemed to be replaced with "execute".

Article 10 In the event the Item (ii) Effective Date falls before the enforcement date of the Arrangement Act, the term "cablecast ([...] in the following item)" in the provisions of Article 2, paragraph (1), item (xx) of the Copyright Act is deemed to be replaced with "cablecast ([...] in the following item and Article 104-15, paragraph (1))" upon its application during the period between the Item (ii) Effective Date and the enforcement date of the Arrangement Act.

#### **Supplementary Provisions [Act No. 39 of June 1, 2018] [Extract]**

(Effective date)

Article 1 This Act comes into effect on April 1, 2019.

(Transitional measures for offences)

Article 2 The application of offences to an act that takes place before this Act comes into effect continues to be governed by the provisions previously in force.

(Delegation to Cabinet Order)

Article 3 Beyond what is prescribed in the preceding Article, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.

#### **Supplementary Provisions [Act No. 70 of July 6, 2018] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date of promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

(i) [omitted]

(ii) The provisions of Article 4 and Article 5 of these Supplementary Provisions: the date of promulgation of this Act or the date of promulgation of the Act Partially Amending the Copyright Act (Act No. 30 of 2018), whichever comes later.

(Adjustments due to the partial amendment to the Amended Copyright Act)

Article 5 (1) In the event the Effective Date falls on or after the enforcement date of the provisions specified in Article 1, item (i) of the Supplementary Provisions of the Amended Copyright Act, the terms "; hereinafter referred to as the "Arrangement Act")" in Article 8 of the Supplementary Provisions of the Amended Copyright Act and "Arrangement Act" in Article 9, paragraph (1) of the Supplementary Provisions of the Amended Copyright Act are deemed to be replaced with ")" and "the Act on the Arrangement of Related Acts that Accompany the Conclusion of the Trans-Pacific Partnership Agreement and the Conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Act No. 108 of 2016; hereinafter referred to as the "Arrangement Act")", respectively and the provisions of the preceding Article shall not be applicable.

(2) In the event the Effective Date falls on or after the enforcement date of the Amended Copyright Act, the terms "the Arrangement Act" and "between [...] the Arrangement Act" in Article 10 of the Supplementary Provisions of the Amended Copyright Act are deemed to be replaced with "the Act on the Arrangement of Related Acts that Accompany the Conclusion of the Trans-Pacific Partnership Agreement and the Conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Act No. 108 of 2016)" and "between [...] the said act", respectively and the provisions of the preceding Article and the preceding paragraph shall not be applicable.

(2) In the event the Effective Date falls on or after the enforcement date of the provisions specified in Article 1, item (ii) of the Supplementary Provisions of the Amended Copyright Act, the provisions of the preceding Article and the preceding two paragraphs shall not be applicable.

**Supplementary Provisions [Act Partially Amending the Civil Code and the Domestic Relations Case Procedure Act ] [Extract]**

(Effective date)

Article 1 This Act comes into effect on the date fixed by Cabinet Order within

one year from the date of its promulgation; provided, however, that the provisions set forth in each of the following items come into effect as of the day specified in the relevant item:

- (i) The provisions of Article 30 and Article 31 of these Supplementary Provisions: the date of promulgation

(Transitional measures for the partial amendment to the Copyright Act)

Article 20 The provisions of Article 77 (including as applied mutatis mutandis pursuant to Article 104 of the same Act) and Article 88, paragraph (1) of the Copyright Act as amended under the provisions of the preceding Article shall be applied to transfers of copyrights, print rights, neighboring rights or pledges on any of these rights (hereinafter referred to as "Copyrights, etc." in this Article) conducted on or after the Effective Date and as for transfers of Copyrights, etc. conducted before the Effective Date shall continue to be governed by provisions previously in force.

(Delegation to Cabinet Order)

Article 31 Beyond what is prescribed in these Supplementary Provisions, necessary transitional measures connected with the coming into effect of this Act are provided for by Cabinet Order.