



Copyright Act

Act No. 3916, December 30, 1989

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CHAPTER 1 GENERAL PROVISIONS

Purpose

1. The purpose of this Act is to protect the rights of authors and the rights neighboring on them and to promote fair exploitation of works in order to contribute to the improvement and development of culture.

Definitions

2. The definitions of the terms used in this Act shall have the meaning as follows:
1. "Work" means a creative production which falls within the category of original literary, scientific or artistic works;
 2. "Author" means a person who creates works;
 3. "Public Performance" means the presentation of a work to the public by acting on the stage, musical playing, singing, reciting, screening or by other means, and include the



presentation of sound or visual recordings of performances, broadcasts or performances to the public;

4. "Performance" means the presentation of a work by acting, musical playing, singing, reciting, screening or by other artistic means, and include the presentation of something other than a work in a similar method;

5. "Performers" means the persons who make performances, and who conduct, direct, or supervise performances;

6. "Phonograms" means the media in which the sound is fixed (excluding those in which the sound is fixed together with some visual images);

7. "Phonogram producers" means the persons who initially fix the sound in phonograms;

8. "Broadcasting" means the transmission of sounds and images by wire or wireless communication intended for direct reception by the public (excluding the mere amplified transmission of sounds within the same unintercepted area);

9. "Broadcasting organizations" means those who engage in the broadcasting business;

10. "Cinematographic works" means creative works in which a series of images (regardless of whether or not accompanied by sound) are collected, and which can be seen or seen and heard by playing on mechanical or electronic devices;

11. "Producers of cinematographic works" means those who plan and take responsibility for the production of a cinematographic work;

12. "Computer programs" means an expression of a series of statements or instructions used directly or indirectly in a computer or other devices which have an information processing ability in order to obtain a certain result;

13. "Joint works" means works created jointly by two or more persons in which their respective contributions cannot be separately exploited;

14. "Reproduction" means the reproduction of works in a tangible form by means of printing, photographing, photocopying, sound or visual recording or other means; in the case of architectural works, it includes the construction of an architectural work according to its plan and model; and in the case of plays, musical scores or other similar works, it includes the sound and visual recording of a public performance, broadcast or performance of a work;

15. "Distribution" means the transfer and lending the original or reproduction of a work to the public with or without payment;

16. "Publication" means the reproduction and distribution of a work for the demand of the public;

17. "Make public of works" means to make works available to the public by means of public performance, broadcasting, exhibition or by other means, and to publish works.



Works of Foreigners

3.—(1) The works of foreigners shall be protected in accordance with the treaties to which the Republic of Korea has acceded or which it has ratified. (Amended by Act No. 5015, Dec. 6, 1995)

(2) Notwithstanding the provision of Paragraph (1), the works of foreigners who permanently reside in the Republic of Korea (including the foreign legal persons having their principal office in the Republic of Korea, hereinafter the same shall apply) or foreigners' works which are first published in the Republic of Korea (including works published in the Republic of Korea within thirty days after their publication in a foreign country) shall be protected under this Act. (Amended by Act No. 5015, Dec. 6, 1995)

(3) Even when foreigners' works are to be protected under Paragraphs (1) and (2), but if the foreign country concerned does not protect the works of the nationals of the Republic of Korea, the protection under treaties and this Act may be restricted correspondingly.

CHAPTER 2 RIGHTS OF AUTHORS

Section 1 Works

Classification of Works

- 4.—(1) As used in this Act, “works” shall include, in particular, the following
1. Novels, poems, articles, lectures, recitations, plays and other literary works;
 2. Musical works;
 3. Theatrical works including dramas, dances, pantomimes;
 4. Paintings, calligraphic works, designs, sculptures, crafts, works of applied art, and other artistic works;
 5. Architectural works including architectural models and plans;
 6. Photographic works including photographs and other works produced by similar methods;
 7. Cinematographic works;
 8. Maps, charts, design drawings, sketches, models and other diagrammatic works;
 9. Computer program works;
- (2) Matters necessary for the protection of computer program works under subparagraph 9 of Paragraph (1) shall be provided for in a separate Act.



Derivative Works

5.—(1) A creation produced by means of translation, arrangement, alteration, dramatization, cinematization, etc. of an original work (hereinafter referred to as “derivative work”) shall be protected as an independent work.

(2) The protection of a derivative work shall not prejudice the rights of the author of the original work.

Compilations

6.—(1) A compilation (including collections of treaties, numerical values, diagrams and other materials which are so systematically composed as to be retrieved by using information processing devices) which are, by reason of selection or arrangement of their contents, of a creative nature (hereinafter referred to as “compilation work”) shall be protected as an independent work. (Amended by Act No. 4717, Jan. 7, 1994)

(2) The protection of a compilation work shall not prejudice the rights of the authors in the works which form part of the compilation work.

Works Not Protected, etc.

7. The following shall not be protected under this Act:

1. Acts and regulations;
2. Notices, public notifications, instructions and others similar to them issued by the state or local public entities;
3. Judgments, decisions, orders, or rulings of courts, as well as rulings and decisions made by the administrative appeal procedures, or other similar procedures;
4. Compilations or translations of works as referred to in Subparagraphs 1 to 3 which are produced by the state or local public entities;
5. Current news reports which transmit simple facts;
6. Speeches delivered at an open session of courts, the National Assembly or Local Assemblies.

Section 2 **Authors**

Presumption of Authorship, etc.

8.—(1) Any person who falls under any of the following Subparagraphs shall be presumed to be an author:



1. A person whose name (hereinafter referred to as “real name”) or well-known pen-, stage-, or screen-name, pseudonym, abbreviation, etc. (hereinafter referred to as “pseudonym”) is indicated as the name of the author in the customary manner on the original or reproduction of a work;

2. A person whose real name or well-known pseudonym is indicated as the author in the performance or broadcast of a work;

(2) For a work on which the name of the author as prescribed under any of the Subparagraphs of Paragraph (1) is not indicated, the person who is indicated as publisher or public performer, shall be presumed to have the copyright (the authorship of work).

Authorship of a Work in the Name of an Organization

9. The authorship of a work which, on the initiative of a legal person, an organization, or other employer (hereinafter referred to as “legal person, etc.”), is made by his employee in the course of his duties and made public under the name of such a legal person, etc. as the author shall be attributed to that legal person, etc., unless otherwise stipulated in a contract, work regulation, etc. The work with the name of an author shall not fall under this article.

Copyright

10.—(1) The author shall enjoy the rights prescribed under Articles 11 to 13 (hereinafter referred to as “authors’ moral rights”) and the rights prescribed under Articles 16 to 21 (hereinafter referred to as “authors’ economic rights”).

(2) The copyright shall commence from the time of completing a work regardless of the fulfillment of any procedure or formality.

Section 3 Authors’ Moral Rights

Right of Making the Work Public

11.—(1) The author shall have the right to decide whether or not to make his work public.

(2) If an author has transferred his property rights in a work which has not yet been made public under Article 41, or authorized to exploit under Article 42, he shall be presumed to have granted the other party his consent to make it public.

(3) If an author has transferred the original of his work of art, architectural work or photographic work (hereinafter referred to as “work of art, etc.”), he shall be presumed to have granted the other party his consent to make it public by exhibiting its original.

(4) If a derivative work or compilation work has been made public with the consent of the author, its original shall also be considered to have been made public.

Right of Claiming Authorship of the Work

12.—(1) The author shall have the right to determine whether or not his real name or pseudonym should be indicated on the original or reproduction of his work, or in case of making his work public.

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

Right of Preserving the Integrity

13.—(1) The author shall have the right to preserve the integrity of the content, form and title of his work.

(2) The author shall not make an objection to a modification falling under any of the following Subparagraphs; provided that the substantial modification has not been made.

1. the modification of expression within the limit as deemed unavoidable for the purpose of school education in the case of the exploitation of works under Article 23;
2. modification of architectural work by means of extension, rebuilding and so on;
3. other modifications within the limit as deemed unavoidable in the light of the nature of a work as well as the purpose and manner of its exploitation.

Section 4

Nature, Exercise, etc. of Authors' Moral Rights

Inalienability of Authors' Moral Rights

14.—(1) Authors' moral rights shall be exclusively personal to the author.

(2) Even after the death of the author, no person who exploits his work shall commit an act which would be prejudicial to authors' moral rights if he were alive; except in a case which is not deemed to be prejudicial to his honor or reputation of the author in light of the nature and extent of the act and in view of the prevailing social standard.

Authors' Moral Rights in Joint Works

15.—(1) Authors' moral rights in a joint work may not be exercised without the unanimous agreement of all the co-authors. In this case, each of the authors may not, in bad faith, prevent the agreement from being reached.

(2) Authors of a joint work may designate one of them as a representative in the exercise of their moral rights.

(3) Limitations imposed on the representation mentioned in the preceding Paragraph (2) shall not be effective against a bona fide third person.

Section 5 Authors' Property Rights

Right of Reproduction

16. The author shall have the right to reproduce his work.

Right of Public Performance

17. The author shall have the right to perform his work publicly.

Right of Broadcasting

18. The author shall have the right to broadcast his work.

Right of Exhibition

19. The author shall have the right to exhibit the original or reproduction of his work of art, etc.

Right of Distribution

20. The author shall have the right to distribute the original or reproduction of his work.

Right of the Production of Derivative Works, etc.

21. The author shall have the right to produce and exploit a derivative work based on his original work, or a compilation work which is composed of his work.

Section 6 Limitations to Authors' Economic Rights

Reproduction for Judicial Proceedings, etc.

22. It shall be permissible to reproduce a work if and to the extent deemed necessary for the purpose of judicial proceedings and of internal use in the legislative or administrative organs; provided that such reproduction does not unreasonably prejudice the interests of the owner of authors' economic rights in the light of the nature of the work as well as the number of copies and the character of reproduction.

Reproduction for the Purpose of School Education, etc

- 23.—(1) A work already being made public may be reproduced in textbooks to the extent deemed necessary for the purpose of education at high schools, their equivalents or lower level schools.

(2) Educational institutions established by special Acts, or the Education Act, or operated by the state or local government may broadcast or reproduce a work already being made public to the extent deemed necessary for the purpose of education.

(3) A person who intends to exploit a work under Paragraphs (1) and (2) shall pay compensation to the owner of authors' economic rights as determined and announced officially by the Minister of Culture and Tourism according to the criteria for compensation prescribed under subparagraph 1 of Article 82, or shall deposit the same as prescribed by the Presidential Decree. Broadcasting or reproduction of a work done at high schools, their equivalents or lower level schools as prescribed under Paragraph (2) is not obliged to pay a compensation. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4268, Dec. 27, 1990; Act No. 4541, Mar. 6, 1993; Act No. 4717, Jan. 7, 1994)

Use for Current News Report

24. In the case of reporting current events by means of broadcasting, films, newspapers or by other means, it shall be permissible to reproduce, distribute, perform publicly or broadcast a work seen or heard in the course of the report, to the extent justified by the information purpose.

Quotations from Works Made Public

25. It shall be permissible to make quotations from a work already made public; provided that they are within a reasonable limit for news reporting, criticism, education and research, etc. and compatible with fair practice.

Public Performance and Broadcasting for Non-profit Purposes

26.—(1) It shall be permissible to perform publicly or broadcast a work already made public for non-profit purposes and without charging any fees to audience, spectators or third persons; provided that the performers concerned are not paid any remuneration for such performances.

(2) Commercial phonograms or cinematographic works may be performed publicly for the public, if no admission fee is charged to audience or spectators, except the cases as prescribed by the Presidential Decree.

Reproduction for Private Use

27. It shall be permissible for a user to reproduce by himself without commercial purposes a work already made public for the purpose of his personal use, family use or other similar uses within a limited circle.

Reproduction in Libraries, etc.

28. It shall be permissible to reproduce a work included in materials held by libraries as prescribed by the Library and Book Reading Promotion Act and other facilities prescribed by



the Presidential Decree which provide books, documents (hereinafter referred to as libraries, etc.”), records and other materials for the public, in the following cases: (Amended by Act No. 4352, Mar. 8, 1991; Act No. 4746, Mar. 24, 1994)

1. Where, at the request of a user and for the purpose of his own research and study, a single copy of a part of a work already made public is provided for him;
2. Where it is necessary for libraries, etc. to reproduce for the purpose of preserving their materials;
3. Where, at the request of other libraries, etc., a reproduction of a work out of print or unavailable due to other similar reasons is made and provided to libraries, etc. for the purpose of their collection.

Reproduction for Examination Questions

29. It shall be permissible to reproduce a work already made public in questions of entrance examinations or other examinations of knowledge or skill, to the extent deemed necessary for that purpose; provided that it is for non-profit purposes.

Reproduction in Braille

30.—(1) It shall be permissible to reproduce in Braille for the blind a work already made public.

(2) It shall be permissible to make sound recordings of a work already made public, exclusively for the purpose of providing such recordings for the use of the blind at the facilities established for the promotion of the welfare of the blind as prescribed by the Presidential Decree.

Ephemeral Sound or Visual Recordings by Broadcasting Organizations

31.—(1) Broadcasting organizations may make ephemeral sound or visual recordings of a work for the purpose of their own broadcasting and by the means of their own facilities; provided that it is not against the intention of the owner of the right of broadcasting.

(2) Sound or visual recordings made under Paragraph (1) may not be kept for a period exceeding one year from the date of sound or visual recording, unless they are kept as materials for public records at places as prescribed by the Presidential Decree.

Exhibition or Reproduction of Artistic Works, etc.

32.—(1) The original of an artistic work may be publicly exhibited by its owner or with his authorization. If the artistic work is to be permanently exhibited in an open places accessible to the public such as streets or parks, outer walls of a buildings, the consent of the copyright owner shall be obtained.

(2) An artistic work, etc. exhibited permanently at open places as referred to in the proviso of Paragraph (1) may be reproduced by any means, except those falling under any of the following cases:

1. where an architectural work is reproduced into another architectural work;
2. where a sculpture or a painting is reproduced into another sculpture or painting;
3. where reproduction is made for the purpose of exhibiting it permanently in an open places, as prescribed under proviso of Paragraph (1);
4. where reproduction is made for the purpose of selling its copies.

(3) A person who exhibits the originals of artistic works, etc. under Paragraph (1), or who intends to sell originals of works of art, etc. may reproduce and distribute them in pamphlets for the purpose of explaining and introducing them.

(4) A portrait or a similar photographic work produced by entrust may not be exhibited or reproduced without the consent of the person who entrusted.

Exploitation by Means of Translation, etc.

33.—(1) If a work is exploited under Articles 23, 26, or 27, the work may be exploited by means of translation, arrangement, or adaptation.

(2) If a work is used under Articles 22, 24, 25, 29, or 30, the work may be used by means of translation.

Indication of Sources

34.—(1) A person who exploits a work under this section shall indicate its sources, except the cases as prescribed under Articles 26 to 29, or 31.

(2) The indication of the sources shall be made clearly in the manner and to the extent deemed reasonable by the situation in which the work is exploited, and shall be made of the real name or pseudonym of the author if it appears on a work.

Relationship with Authors' Moral Rights

35. No provisions of this section may be construed as affecting the protection of the authors' moral rights.

Section 7
Duration of Authors' Economic Rights

Principles of Protection Period

36.—(1) Authors' economic rights in a work shall continue to subsist during the life time of an author and until the end of a period of fifty years after the death of an author,

unless otherwise provided in this Section. Authors' economic rights in a work which is first made public in more than forty years and not exceeding fifty years after his death, shall continue to subsist for a period of ten years after it is made public.

(2) Authors' economic rights in a joint work shall continue to subsist for a period of fifty years after the death of the last surviving author.

Protection Period of Anonymous and Pseudonymous Works

37.—(1) Authors' economic rights in an anonymous or the pseudonymous work, unless the pseudonym is widely known, shall continue to subsist for a period of fifty years after it has been made public; provided that within such period, if there are reasonable grounds that the author has been dead for fifty years, such economic rights shall be deemed to have expired as of the time dated from when the author is presumed to have died. (Amended by Act No. 5015, Dec. 6, 1995)

(2) The provision in Paragraph (1) shall not apply to any of the following cases:

1. Where the real name or the well-known pseudonym of an author is revealed during the period as referred to in Paragraph (1);

2. Where the real name of an author is registered under Paragraph (1) of Article 51 during the period as referred to in Paragraph (1).

Protection Period of Works in the Name of Organization

38. Authors' economic rights in any work made public in the name of an organization shall continue to subsist for a period of fifty years after it has been made public; provided that if it has not been made public within fifty years after its creation, authors' economic rights shall continue to subsist for a period of fifty years after its creation. (Amended by Act No. 5015, Dec. 6, 1995)

The Time When Serial Publications, etc. Have Been Made Public

39.—(1) The time when a work has been made public under the proviso of Paragraph (1) of Article 36, Paragraph (1) of Article 37, or Article 38, shall be determined by making public of each volume, issue or installment in the case of works which are made public in the form of volumes, issues, or installments, or by making public of the last part in the case of works which are made public in parts in a successive manner.

(2) In the case of works to be completed by making public in parts in a successive manner, the last part already made public shall be considered to be the last one under the Paragraph (1) if the next part is not made public before the expiration of a period of three years following the making public of the preceding part.

Calculation of the Term of Protection

40. The term of the protection of authors' economic rights prescribed in this Section and Article 77, shall be calculated from the beginning of the year following the date when the author died, the work is created, or is made public.

Section 8
Transfer, Exercise and Expiry of Authors' Economic Rights

Transfer of Authors' Economic Rights

41.—(1) Authors' economic rights may be transferred in whole or in part.

(2) Where authors' economic rights are transferred in whole, the right of the production of a derivative work or compilations as prescribed under Article 21 shall be presumed not to be included in the transfer, unless otherwise stipulated.

Authorization to Exploit Works

42.—(1) The owner of authors' economic rights may grant another person authorization to exploit the work.

(2) The person who obtained such authorization under Paragraph 1 shall be entitled to exploit the work in a manner and to the extent so authorized.

(3) The right of exploitation thus authorized under Paragraph 1 may not be transferred to the third party without the consent of the owner of authors' economic rights.

Offer of Works for Transaction and Authorization of Rental of Phonograms

43.—(1) The original or reproduction of a work offered for transaction by means of selling with the authorization of the owner of the right of distribution may be distributed continuously.

(2) The owner of the right of distribution shall have the right, notwithstanding the provision of the Paragraph (1), to authorize the lending of commercial phonograms for profit-making purposes. (Newly Inserted by Act No. 4717, Jan. 7, 1994)

Authors' Economic Rights on Which the Right of Pledge is Established

44. The right of pledge may be exercised with respect to money or the like accruing from the transfer of authors' economic rights or the exploitation of the work (including remuneration for the establishment of the right of publication); provided that payment or delivery is preceded by the seizure of the right to receive money or the like mentioned above.

Exercise of Authors' Economic Rights in Joint Works

45.—(1) Authors' economic rights in a joint work may not be exercised without the unanimous agreement of all the owners of authors' economic rights. Each owner of authors' economic rights shall not be entitled to transfer or pledge his share of authors' economic rights without the consent of the other authors. Each owner may not, without reasonable justification, prevent the agreement from being reached or refuse the consent in bad faith.

(2) The profit accruing from the exploitation of a joint work may be apportioned among authors according to the degrees of contribution by each author, unless otherwise stipulated. If the degree of each contribution is not clear, the profit may be equally apportioned to all the authors.

(3) The owner of authors' economic rights in a joint work may renounce his share. In the case of renunciation or death of the owner of authors' economic rights without heir, his share may be apportioned among other authors according to the ratio of their holding shares.

(4) The provisions of Paragraphs (1) and (2) of Article 15 shall apply *mutatis mutandis* to the exercise of authors' economic rights in a joint work. In this case, "authors' moral rights" are considered the same as "authors' economic rights".

Expiry of Author's Economic Rights

46. Authors' economic rights shall expire in any of the following cases:

1. Where, after the author's death without heir, authors' economic rights are to belong to the state according to provisions of the Civil Act and other Acts;

2. Where, after the dissolution of a legal person or an organization who is the owner of authors' economic rights, authors' economic rights are to belong to the state according to the provisions of the Civil Act and others Acts.

Section 9

Exploitation of Works Under Statutory License

Exploitation of Works in the Case where the Owner of Author's Economic Rights is Not Known

47.—(1) Where a person, despite his considerable effort, could not identify the owner of authors' economic rights in a work made public, or his place of residence and therefore is unable to obtain the authorization of the author for its exploitation, he may exploit the work with the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree, and by depositing a sum of compensation money fixed by the Minister of Culture and Tourism according to the criteria for compensation as prescribed under subparagraph 1 of Article 82. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

(2) The person who exploits a work under the provision of Paragraph (1) shall indicate the fact that the exploitation is made with the approval and the date when the approval is issued.

Broadcasting of Works Made Public

48. Where a broadcasting organization which intends to broadcast a work already made public for the sake of the public benefit has negotiated with the owner of authors' economic rights and failed to reach an agreement, it may broadcast the work with the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree and by paying to the owner of authors' economic rights or depositing a sum of compensation money fixed by the Minister of Culture and Tourism according to the criteria for compensation as prescribed under subparagraph 1 of Article 82. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

[Without title]

49. Deleted (by Act No. 5015, Dec. 6, 1995)

Production of Commercial Phonograms

50. When commercial phonograms have been sold for the first time in this country and after the expiration of a period of three years from the date of the first sale, a person who intends to produce a commercial phonogram by recording works already recorded on such phonogram has negotiated with the owner of authors' economic rights and failed to reach an agreement, he may produce the phonogram with the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree and by paying to the owner of authors' economic rights or depositing a sum of compensation money fixed by the Minister of Culture and Tourism according to the criteria for compensation as prescribed under subparagraph 1 of Article 82. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

Section 10 Registration

Registration

51.—(1) The author of an anonymous or pseudonymous work may have his real name registered with respect to that work, regardless of whether he actually owns authors' economic rights.

(2) In the absence of any declaration of intention of the author to the contrary, the person designated by the author in his will or his heir may have such a name registered after the death of the author as prescribed under Paragraph (1).

(3) The owner of authors' economic rights may have the date of the first publication or of the first making public of his work registered.

(4) The person whose real name is registered according to the provisions of Paragraphs (1) and (2) shall be presumed to be the author of the registered work. The work as to which the date of the first publication or the date of the first made public is registered shall be presumed to have been first published or first made public on the date registered.

Effect of Registration

52. The following matters shall not be effective against any third party without the registration:

1. Transfer of authors' economic rights (except that by inheritance or other successions in general) or the restriction on the disposal of authors' economic rights;
2. Establishment, transfer, alteration, or expiry, or the restriction on the disposal, of the right of pledge on authors' economic rights.

Procedures, etc. for Registration

53. The registrations as prescribed under Articles 51 and 52 shall be made on the Copyright Register by the Minister of Culture and Tourism as prescribed by the Presidential Decree. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

CHAPTER 3 RIGHT OF PUBLICATION

Establishment of the Right of Publication

54.—(1) The owner who has the right to reproduce and distribute a work (hereinafter referred to as “owner of the right of reproduction”) may establish a right of publication (hereinafter referred to as “right of publication”) for a person who intends to publish the work in writing or drawing.

(2) The person for whom the right of publication (hereinafter referred to as “owner of the right of publication”) is established under preceding Paragraph shall have the right to publish the original text of the work according to the terms of the contract of establishment.

(3) If the right of pledge is established on the right of reproduction of a work, the owner of the right of reproduction may establish the right of publication only with the authorization of the owner of the right of pledge.

Obligations of the Owner of the Right of Publication

55.—(1) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication shall have the obligation to publish the work within the period of nine months after the date when he received, from the owner of the reproduction right, manuscripts or other similar materials which are necessary for the reproduction of the work.

(2) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication has the obligation to continue to publish the work in its original form in accordance with customary practice.

(3) Unless otherwise stipulated, the owner of the right of publication has the obligation to indicate a notice of the owner of the right of reproduction in each copy as stipulated in the Presidential Decree.

Alteration, Addition or Deletion in a Work

56.—(1) When the owner of the right of publication publishes a new edition of the work which is the object of its right, the author may alter, add or delete the contents of his work to the extent justified.

(2) When the owner of the right of reproduction intends to make a new edition of the work which is the object his right, he shall notify the author of his intention in advance.

Duration of the Right of Publication

57.—(1) The duration of the right of publication shall be a period of three years from the date of its first publication, unless otherwise stipulated in the contract of establishment.

(2) If the author of the work which is the object of the right of publication dies within the duration of the right of publication, the owner of the right of reproduction, notwithstanding the provision of Paragraph (1), may reproduce the work in a complete collection of works or other compilation, or publish the work by separating it from a complete collection of works or other compilation.

Notification of the Termination of the Right of Publication

58.—(1) When the owner of the right of publication has not discharged his obligation prescribed under Paragraph (1) or (2) of Article 55, the owner of the right of reproduction may call on him to discharge his obligation within a period of exceeding six months. If the owner of the right of publication fails to discharge his obligation within that period, the owner of the right of reproduction notify him of the termination of his right of publication.

(2) Notwithstanding the provision of Paragraph (1), the owner of the right of reproduction may immediately notify the owner of the right of publication of the termination of the right of publication, when it is apparent that the owner of the right of publication is unable to publish the work, or that he has no intention to do so.

(3) When the termination of the right of publication is notified as prescribed under the provision of Paragraph (1) or (2), the right of publication is presumed to have been terminated on the date the owner of the right of publication has received the notification.

(4) In the case of Paragraph (3), the owner of the right of reproduction may at any time claim to the owner of the right of publication for restitution or for compensation of damages accruing from the suspension of publication of the work.



Distribution of Copies of a Work after the Termination of the Right of Publication

59. After the termination of the right of publication on account of the expiration of the duration of the right or for other reasons, the owner of the right of publication may not distribute copies of a work reproduced within the duration of the right, except in the following cases:

1. Where otherwise stipulated in the contract of establishment;
2. Where he has already paid any remuneration to the owner of the right of reproduction for publication within the duration of the right of publication, and he distributes copies corresponding to such payment.

Transfer of, and Limitations to, the Right of Publication, etc.

60.—(1) The right of publication may not be transferred or pledged without the consent of the owner of the right of reproduction.

(2) The provisions of Article 22, Paragraphs (1) and (2) of Article 23, Articles 24, 25, 27 to 30, Paragraphs (2) and (3) of Article 32 shall apply *mutatis mutandis* to the reproduction of works which are the object of the right of publication. In such cases, the term “owner of authors’ economic rights” in Article 22 shall be considered as “owner of the right of publication.”

(3) The provisions of Articles 52 and 53 shall apply *mutatis mutandis* to the registration of the right of publication. In such cases, the term “authors’ economic rights” in Article 52 shall be considered as “right of publication,” and “copyright register” as “register of the right of publication,” respectively.

CHAPTER 4
NEIGHBORING RIGHTS

Section 1
General Rules

Neighboring Rights

61. Performances, phonograms and broadcasts falling under any of the following Subparagraphs shall be protected as neighboring rights under this Act: (Amended by Act No. 5015, Dec. 6, 1995)

1. Performances

(a) Performances conducted by nationals of the Republic of Korea (including legal persons established under the Acts and regulations of the Republic of Korea, and foreign legal persons maintaining their principal offices in the Republic of Korea; hereinafter the same shall apply),

- (b) Performances protected under the international treaties to which the Republic of Korea has acceded or which it has ratified;
- (c) Performances fixed in phonograms as referred to in subparagraph (2);
- (d) Performances transmitted by broadcasts as referred to in subparagraph (3) (except those included in sound or visual recordings before transmission).
2. Phonograms
- (a) Phonograms manufactured by nationals of the Republic of Korea;
- (b) Phonograms in which sounds have been fixed for the first time in the Republic of Korea;
- (c) Phonograms in which sounds have been fixed for the first time in a foreign country party to the treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties.
3. Broadcasts
- (a) Broadcasts made by broadcasting organizations which are nationals of the Republic of Korea;
- (b) Broadcasts made from broadcasting facilities located in the Republic of Korea;
- (c) Broadcasts made by broadcastings organization which are nationals of a foreign country, from broadcasting facilities located in a country party to the treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties.
(Newly Inserted, Dec. 6, 1995)

Relationship with Copyright

- 62.** Any provisions in this Chapter may not be construed as affecting copyrights.

Section 2 Rights of Performers

Right of Reproduction

- 63.** Performers shall have the right to reproduce their performances. (Amended by Act No. 5015, Dec. 6, 1995)

Right of Broadcasting of Performances

- 64.** Performers shall have the right to broadcast their performances, except those recorded with the authorization of performers.

Compensation by Broadcasting Organizations to Performers

65.—(1) When a broadcasting organization makes a broadcast by using commercial phonograms in which performances are recorded, it shall pay reasonable compensation to the performers, except in the case that performers are foreigners. (Amended by Act No. 5015, Dec. 6, 1995)

(2) Those who are entitled to exercise the right to receive compensation as prescribed under Paragraph (1) shall be an organization composed of persons who engage themselves in the performance business in the Republic of Korea, and designated by the Minister of Culture and Tourism. In designating such an organization, the Minister of Culture and Tourism shall obtain in advance the consent of the organization. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

(3) The association referred to in Paragraph (2) may not refuse the request of a person who has the right to compensation (hereinafter referred to “right holder”) for the exercise of the right on his behalf, by reason of his non-membership to the association, and in acting on behalf of the right holder, the organization has the authority to exercise all the judicial or non judicial powers.

(4) The amount of compensation which the association as referred to in Paragraph (2) may claim on behalf of the right holder shall be determined each year by the agreement between the association and the broadcasting organization.

(5) If the agreement mentioned in Paragraph(4) is not reached, the association or the broadcasting organization may request for a conciliation to the Copyright Deliberation and Conciliation Committee in accordance with the Presidential Decree.

(6) Necessary matters in connection with the designation of the association as prescribed under Paragraph (2), etc shall be provided by the Presidential Decree.

Authorization by Performers of Lending of Phonograms

65-2.—(1) Performers shall have the right to authorize lending of commercial phonograms for profit-making purpose in which performances are recorded.

(2) The provisions of Paragraphs (2), (3) and (6) of Article 65 shall apply *mutatis mutandis* to the exercise of the rights of performers, etc. under Paragraph (1). (Newly Inserted by Act No. 4717, Jan. 7, 1994)

Joint Performers

66.—(1) If more than two performers perform jointly in a chorus, concert, or drama, etc., the rights of performers as prescribed under this Section shall be exercised by a representative elected by the joint performers; if such a representative is not elected, the conductor or director shall exercise the rights.

(2) In exercising the rights of performers under Paragraph (1), if a solo vocalist or a solo instrument player participated in the performance, the consent of such vocalist or instrument player shall be obtained.

Section 3 Rights of Producers of Phonograms

Right of Reproduction and Distribution

67. Producers of phonograms shall have the right to reproduce and distribute their phonograms.

Offer for Transaction and Authorization of Rental of Phonograms

67-2.—(1) The provisions of Article 43 shall apply *mutatis mutandis* to the distribution and authorization of lending of commercial phonograms by the producers of phonograms.

(2) The provisions of Paragraphs (2), (3) and (6) of Article 65 shall apply *mutatis mutandis* to the exercise, etc. of the rights of producers of phonograms under Paragraph (1). (Newly Inserted by Act No. 4717, Jan. 7, 1994)

Compensation by Broadcasting Organizations to Producers of Phonograms

68.—(1) When a broadcasting organization broadcasts using commercial phonograms, it shall pay reasonable compensation to the producers of the phonograms; except in the case that performers are foreigners. (Amended by Act No. 5015, Dec. 6, 1995)

(2) The provisions of Paragraphs (2) to (6) of Article 65 shall apply *mutatis mutandis* to the amount of compensation and the claim procedures as prescribed under Paragraph (1). In such cases, the term “performance” in Paragraphs (2) of Article 65 shall be considered as “production of phonograms”.

Section 4 Rights of Broadcasting Organizations

Right of Reproduction and Simultaneous Relay

69. Broadcasting organizations shall have the right to reproduce their broadcasts by means of sound or visual recording, photographing or other similar means, and to relay them simultaneously.

Section 5 Term of Protection

Term of Protection

70. The duration of neighboring rights shall begin with the following date, and continue to subsist for a period of 50 years from the beginning of the year following the date:
(Amended by Act No. 4717, Jan. 7, 1994)

1. when the performance took place, for performances;
2. when the first fixation of sounds was made, for phonograms;
3. when the broadcast was took place, for broadcasts.

Section 6 Limitations, Transfers, Exercise, etc. of Rights

Limitations to Neighboring Rights

71. The provisions of Article 22, Paragraph (2) of Article 23, Articles 24 to 29, Paragraph (2) of Article 30, Articles 31, 33 and 34 shall apply *mutatis mutandis* to the exploitation of performances, phonograms or broadcasts which are the subject matter of neighboring rights.

Transfers, Exercise, etc. of Neighboring Rights

72. The provision of Paragraph (1) of Article 41 shall apply *mutatis mutandis* to the transfer of neighboring rights; the provisions of Article 42 to the authorization to exploit performances, phonograms and broadcasts; the provision of Article 43 to the distribution of phonograms; the provision of Article 44 to the right of pledge established on neighboring rights; and the provision of Article 46 to the expiry of neighboring rights, respectively.
(Amended by Act No. 4717, Jan. 7, 1994)

Registration of Neighboring Rights

73. The provisions of Articles 52 and 53 shall apply *mutatis mutandis* to the registration of neighboring rights. In this case, the term “copyright register” as prescribed under Article 53 shall read as “register of neighboring rights.”

CHAPTER 5
SPECIAL PROVISIONS CONCERNING CINEMATOGRAPHIC WORKS

Cinematization of Works

74.—(1) When the owner of authors' economic rights authorizes a person to exploit his works by means of cinematization, unless otherwise stipulated, this authorization shall be considered to include the following rights:

1. to dramatize a work for the production of a cinematographic work;
2. to reproduce and distribute the cinematographic work;
3. to present publicly the cinematographic work;
4. to broadcast a cinematographic work for broadcasting;
5. to use the translation of the cinematographic work in the same way as the cinematographic work.

(2) When the owner of authors' economic rights authorizes a person to exploit his work by means of cinematization, unless otherwise stipulated, he may authorize a cinematization of the work in another form of cinematographic work after the lapse of five years from the date of his authorization.

Rights in Cinematographic Works

75.—(1) When a person who agrees to cooperate in the production of a cinematographic work obtains copyright in a cinematographic work, the rights necessary for the exploitation of such cinematographic work shall be considered to be transferred to the producer of the cinematographic work.

(2) The authors' economic right in a novel, play, work of art or musical work used for the production of the cinematographic work shall not be affected by the provision of Paragraph (1).

(3) The right of reproduction under Article 63 and the right of broadcasting of performances under Article 64 of a performer who agrees to cooperate in the production of a cinematographic work shall be considered to be transferred to the producer of the cinematographic work, unless otherwise stipulated. (Amended by Act No. 4717, Jan. 7, 1994; Act No. 5015, Dec. 6, 1995)

Rights of Producers of Cinematographic Works

76. A producer of a cinematographic work shall have the right to reproduce, distribute, present publicly or broadcast a visual recording in which the cinematographic work is included, and to transfer or establish the right of pledge on such rights.

Duration of Cinematographic Works

77. The duration of authors' economic rights in a cinematographic work shall continue to subsist for a period of fifty years after it is made public; provided that it has not been made public within fifty years after its creation, it shall continue to subsist for a period of fifty years from the date of its creation. (Amended by Act No. 5015, Dec. 6, 1995)

CHAPTER 6
COPYRIGHT MANAGEMENT SERVICES

License for Copyright Management Services

78.—(1) A person shall obtain a license from the Minister of Culture and Tourism as prescribed by the Presidential Decree in order to engage in a business as an agent, intermediary, or trustee (hereinafter referred to as “copyright management services”) on behalf of the owner of the rights protected under this Act. A person shall report to the Minister of Culture and Tourism as prescribed by the Presidential Decree in order to engage in copyright management services only as an agent or intermediary. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993; Act No. 4717, Jan. 7, 1994)

(2) A person falling under any of the following categories may not be eligible for the copyright management services prescribed under Paragraph 1: (Amended by Act No. 4717, Jan. 7, 1994)

1. A person who has been declared by the court that he has no competence or who has limited competence;
2. A person whose legal capacity has not been rehabilitated following the declaration of bankruptcy;
3. Any person who is within one-year period following of the execution of criminal penalties of a fine or more severe punishment, or the final decision to suspend the execution of a sentence for violation of this Act, or who is in the probation period following a suspended sentence;
4. Any person who has no domicile in the Republic of Korea;
5. Any legal person or organization in which a person falling under Subparagraphs 1 to 4 is the representative or a member of the board.

(3) Any person who has obtained a license for copyright management services under Paragraph (1) (hereinafter referred to as “copyright management service provider”) may collect fees for his services from the owner of authors' economic rights or other interested persons. (Amended by Act No. 4717, Jan. 7, 1994)

(4) The rate and amount of fees as prescribed under Paragraph (3) shall be determined by the copyright management service provider subject to the approval of the Minister of Culture and Tourism; except that copyright management services are limited to agency or

intermediary. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993; Act No. 5015, Dec. 6, 1995)

Supervision

79.—(1) The Minister of Culture and Tourism may demand a copyright management service provider to submit a report on his business concerning copyright management services. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

(2) In order to promote the protection of rights and interests of authors and the convenient exploitation of works, the Minister of Culture and Tourism may issue necessary orders concerning copyright management services. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

Cancellation, etc. of Permit

80.—(1) The Minister of Culture and Tourism may order the suspension of business for a specified period of not longer than six months, if a copyright management service provider commits any of the following acts: (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993)

1. it receives fees in excess of the approved amount in violation of the provision of Paragraph (3) of Article 78;

2. it fails to submit a report as prescribed under Paragraph (1) of Article 79 without any justifiable reason or it has made a false report; or

3. it fails to fulfill the order without any justifiable reason after it receives an order as prescribed under Paragraph (2) of Article 79,

(2) The Minister of Culture and Tourism may cancel the license for copyright management services or order the closing of the business if a copyright management service provider commits any of the followings: (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4541, Mar. 6, 1993; Act No. 4717, Jan. 7, 1994)

1. it obtains the license by fraudulent or unActful means;

2. it continues to do business after an order of suspension under Paragraph (1).

(3) Deleted (by Act No. 5453, Dec.13, 1997)

Hearing

80-2. When the Minister of Culture and Tourism intends to take measures under Paragraph (1) of Article 80, it shall hold a hearing prior to those measures. (Newly Inserted Dec 13, 1997)



CHAPTER 7
DELIBERATION ON COPYRIGHT AND CONCILIATION OF DISPUTES

Copyright Deliberation and Conciliation Committee

81.—(1) In order to deliberate matters concerning copyright and conciliate disputes concerning the rights protected under this Act (hereinafter referred to as “disputes”), the Copyright Deliberation and Conciliation Committee (hereinafter referred to as “the Committee”) shall be established.

(2) The Committee shall consist of more than fifteen and fewer than twenty deliberation and conciliation members (hereinafter referred to as “members”) including one chairman and two vice chairmen.

(3) Members shall be nominated by the Minister of Culture and Tourism among those who have knowledge and experience in copyright matters and renowned for their virtues, and the chairman and vice chairmen shall be elected from among the members. (Amended by Act No. 4183, Dec. 30, 1989; Act No. 4.541, Mar. 6, 1993)

(4) The term of members shall be a period of three years and the members may serve for more than one term.

(5) If a vacancy has occurred in the members of the Committee, the substitute shall be nominated in the same manner as prescribed under Paragraph (3) who is to serve for the remaining period of his predecessor’s term. The substitute may not be nominated, if the total number of the incumbent members exceeds fifteen.

Functions

82. The Committee shall deliberate on the following matters, in addition to the conciliation of disputes: (Amended by Act No. 4183, Dec 30, 1989; Act No. 4541, Mar. 6, 1993; Act No. 5015, Dec. 6, 1995)

1. Matters concerning the criteria for compensation prescribed under Paragraph (3) text of Article 28, Paragraph (1) of Article 47, Articles 48 and 50;

2. Matters concerning the rate or amount of compensation for the copyright management service provider prescribed under Paragraph (3) of Article 78;

3. Matters referred to the Committee by the Minister of Culture and Tourism or by three or more members jointly.

Conciliation Division

83. In order to effectively carry out the affairs of dispute conciliation of the Committee, a conciliation division consisting of three members, including one qualified as a Actyer, shall be established in the Committee.



Application for Conciliation

84.—(1) Any person who intends to have a dispute conciliated may make an application to the Committee for conciliation of a dispute by stating clearly the tenor and cause of application.

(2) The conciliation of the disputes under Paragraph (1) shall be carried out by the Conciliation Division prescribed under Article 83.

(3) The Committee shall reach a conciliation on the dispute within three months from the date of the application for conciliation, and if no conciliation has been reached during the said period, the conciliation shall be considered to have failed.

Demand for Attendance

85.—(1) If it is deemed necessary for the conciliation of a dispute, the Committee may demand the attendance of the person concerned, his agent or an interested person, or the submission of relevant documents.

(2) If the person concerned failed to comply with the demand for attendance prescribed under Paragraph (1) without any justifiable reason, the conciliation shall be considered to have failed.

Conclusion of a Conciliation

86.—(1) The conciliation shall be concluded by writing the terms of agreement between the parties on a protocol.

(2) The protocol as referred to in Paragraph (1) shall have the same effect as a judicial conciliation, as long as it is concerned with matters within the parties' disposal.

Failure of Conciliation

87. If no agreement has been reached between the parties in a conciliation, or if the conciliation is considered to have failed under Paragraph (3) of Article 84 or Paragraph (2) of Article 85, such facts shall be stated in the protocol.

Expenses of Conciliation

88.—(1) The expenses of conciliation shall be borne by the requesting party; provided that if the conciliation is reached, the expenses shall be borne by both parties in equal share, unless otherwise stipulated.

(2) The amount of conciliation expenses as referred to in Paragraph (1) shall be determined by the Committee.

*Organization, etc. of the Committee*

89. The organization and administration of the Committee, procedures of conciliation, method of payment of conciliation expenses and other matters necessary for the operation of the Committee shall be determined by the Presidential Decree.

Subsidy for Expenses

90. The state may subsidize the expenses necessary for the operation of the Committee within the limit of its budget.

CHAPTER 8
REMEDIES FOR INFRINGEMENT OF RIGHTS

Right of Demanding Suspension of Infringement, etc.

91.—(1) Any person who has the copyright or other rights protected under this Act (excluding the rights to be compensated under Articles 65 and 68, hereinafter the same shall apply to this Article) may demand a person infringing his rights to suspend such act or demand a person likely to infringe his rights to take preventive measures or to provide a security for compensation for damages.

(2) If a person who has the copyright or other rights protected under this Act makes a demand under Paragraph (1), he may demand the abandonment of the objects made by the act of infringement or other necessary measures.

(3) In the cases of Paragraphs (1) and (2), or in the case where a criminal indictment under this Act has been filed, on request of a plaintiff or accuser, the court may, with or without imposing a security, issue an order to temporarily suspend the act of infringement, or seize the objects made by the act of infringement, or to take other necessary measures.

(4) In the case of Paragraph (3) where a judicial decision was made that no infringement of copyright and other rights protected under this Act has been made, the applicant shall pay compensation for the damages caused by his request.

Acts Considered as to be Infringements

92.—(1) Any act falling under the following Subparagraphs shall be considered to be an infringement of copyright or other rights protected under this Act: (Amended by Act No. 4717, Jan. 7, 1994)

1. The importation into the Republic of Korea, for distribution, of objects made by an act which would constitute infringement of copyright or other rights protected under this Act, if they were made in the Republic of Korea at the time of such importation;

2. The distribution or the possession for distribution, of objects by an act infringing copyright or other rights protected under this Act (including those imported as referred to in subparagraph 1) by a person who is aware of such infringement.

(2) An act of exploiting a work in a manner prejudicial to the honor or reputation of the author shall be considered to be an infringement of his moral rights.

Claim for Damages

93.—(1) The owner of authors' economic right or other rights protected under this Act (excluding authors' moral rights) (hereinafter referred to as "owner of authors' economic rights, etc.") may claim compensation for damages from a person who has infringed his rights intentionally or negligently.

(2) If the owner of authors' economic rights, etc. claims compensation under Paragraph (1), the amount of profits obtained by the infringer from his infringement shall be presumed to be the amount of damages suffered by the owner of authors' economic rights, etc.

(3) The owner of authors' property rights, etc. may claim an amount of compensation for damages as referred to in Paragraph (2), or an amount, of compensation for damages corresponding to the ordinary amount of money which would be received through the exercise of these rights.

Presumed Number of Illegal Copies

94. If a work is reproduced without the consent of the owner of authors' economic rights, and if it is difficult to calculate the number of illegal copies, it shall be presumed as follows:

1. 5,000 copies in the case of a book;
2. 10,000 copies in the case of a phonogram.

Right of Demanding Recovery of Honor, etc.

95. The author may demand that the person who has infringed his moral rights intentionally or negligently take measures necessary for the recovery of his honor or reputation in place of or together with compensation for damages.

Protection of Authors' Moral Rights after the Death of an Author

96. After the death of an author, his surviving family (the surviving spouse, children, parents, grand children, grand parents, brothers and sisters of the dead author) or the executor of his will may, under Article 91, demand a person who violates or is likely to violate the provision of Paragraph (2) of Article 14 in respect of the work concerned, or, under Article 95, demand a person who infringes authors' moral rights intentionally or negligently, or who violates the provision of Article 14 for recovery of his honor or reputation.

*Infringement in Respect of a Joint Work*

97. Each co-author of, or each co-owner of authors' economic rights in, a joint work shall be entitled to make, without the consent of the other co-authors or owners of author's economic rights, the demand prescribed under Article 91, or demand for compensation for damages under Article 93 to his share in a joint work.

CHAPTER 9
PENAL PROVISIONS

Infringement of Rights

98. The following shall be punishable by imprisonment for not more than three years or a fine not more than thirty million won, or shall be punishable by both imprisonment and a fine: (Amended by Act No. 4717, Jan. 7, 1994)

1. Any person who infringes authors' economic rights or other economic rights protected under this Act by means of reproduction, performance, broadcasting or exhibition, etc.;
2. Any person who commits acts prejudicial to the honor and reputation of an author by infringing author's moral rights;
3. Any person who registers by fraudulent means under Article 51 or 52(including the case where these provisions applies *mutatis mutandis* under Paragraph (3) of Article 60 or Article 73).

Illegal Publications, etc.

99. The following shall be punishable by imprisonment for not more than one year or a fine not more than ten million won: (Amended by Act No. 4717, Jan. 7, 1994).

1. Any person who has make a work public under the real name or pseudonym of a person other than the author;
2. Any person who violates the provision of Paragraph (2) of Article 14;
3. Any person who operates copyright management services without obtaining a license as prescribed under Paragraph (1) of Article 78 (except the case where the copyright management service provider is an agent or intermediary);
4. Any person who commits an act considered to be an infringement under the provisions of Article 92.

Failure to Indicate Sources

100. The following shall be punishable by a fine not more than five million won:



1. Any person who doesn't indicate the sources under Article 34 (including the case where the provisions of Article 71 applies *mutatis mutandis*);

2. Any person who doesn't indicate the notice of the owner of the right of reproduction in violation of the provisions of Paragraph (3) of Article 55;

3. Any person who engages in copyright management services as an agent or intermediary without reporting as prescribed under the proviso of Paragraph (1) of Article 78, or who continues the services after being ordered to close the services under the provision of Paragraph (2) of Article 80. (Amended by Act No. 4717, Jan. 7, 1994)

Confiscation

101. Reproductions made in violation of copyright or other rights protected under this Act which are owned by the infringer, printer, distributor or performer shall be confiscated.

Accusation

102. In the case of offenses, the prosecution take place only upon the complaint of the injured person, except for the cases prescribed under Paragraph (3) of Article 89, or Paragraphs (1) to (3) of Article 99, or Paragraph (3) of Article 100. (Amended by Act No. 4717, Jan. 7, 1994)

Punishment of Both Parties

103. Where a representative of a legal person, or an agent, employee or any worker of a legal person or a person violates this Section in connection With the business of such legal person or such person, the fine under each Article shall be imposed upon such legal person or a person in addition to the punishment of the offender.

Addendum

Date of Enforcement

1. This Act shall come into force on and after July 1, 1987.

Interim Measures Concerning Scope of Application

2.—(1) This Act shall not apply to those works or parts of such works in which copyright has been expired in whole or in part, and which have not been protected by the provisions of the former Act before the enforcement of this Act.

(2) Any work being made public under the provisions of the former Act before the enforcement of this Act and falling under any of the following Subparagraphs shall be protected under the provisions of the former Act:



1. Musical playing, singing, conducting, phonograms or sound recorded films under Article 2 of the former Act;
2. Attribution and exploitation of copyright in a joint work as prescribed under Article 12 of the former Act;
3. Attribution of copyright in a commissioned work as prescribed under Article 13 of the former Act;
4. Attribution of copyright in a photographic work as prescribed under Article 36 of the former Act;
5. Attribution of copyright in a cinematographic work as prescribed under Article 38 of the former Act.

Interim Measures Concerning Protection Period of Works

3. The protection period of a work which was made public before the enforcement of this Act and which does not fall under Article 2 (1) of Addendum is as follows:

1. If the protection period under the former Act is longer than that of this Act, the provisions of the former Act shall apply;
2. If the protection period under the former Act is shorter than that of this Act, the provisions of this Act shall apply.

Interim Measures Concerning Alteration of Rights, etc.

4. The copyright (including the established right of publication) which was created, transferred by assignment or otherwise disposed of under the provisions of the former Act shall be considered to have been created, transferred or otherwise disposed of under the provisions of this Act.

Interim Measures Concerning Registration of Copyright

5. The registration of copyright which was made under the provisions of the former Act shall be considered to have been done under this Act.

Interim Measures Concerning Indication of Sources

6. If a person intends to exploit a work under the provisions of Paragraph (1) of Article 23, he is not obliged to indicate the sources within five years from the date of enforcement of this Act, notwithstanding the provisions of Paragraph (1) of Article 34.

Interim Measures Concerning Infringement of Rights

7. Any act constituting an infringement of copyright (including that of the established right of publication) under Chapter 4 of the former Act shall be redressed under the provisions of the former Act.



Interim Measures Concerning Penal Provisions

8. The penal provisions of the former Act shall apply to the acts committed before the enforcement of this Act.

**Addenda
(December 30, 1989)**

Date of Enforcement

1. This Act shall come into force on and after the date of its promulgation. (The proviso omitted)

[Without Title]

2 to 6. Omitted.

**Addenda
(December 27, 1990)**

Date of Enforcement

1. This Act shall come into force on and after the date of its promulgation. (The proviso omitted)

[Without Title]

2 to 10. Omitted.

**Addenda
(March 8, 1991)**

Date of Enforcement

1. This Act shall come into force on and after the lapse of one month from the date of its promulgation.

[Without Title]

2 to 6. Omitted.



**Addenda
(March 6, 1993)**

Date of Enforcement

1. This Act shall come into force on and after the date of its promulgation. (The proviso omitted)

[Without Title]

2 to 5. omitted

**Addenda
(January 7, 1994)**

Date of Enforcement

1. This Act shall come into force on and after July 1, 1994.

Interim Measures Concerning Right of Lending

2. The provisions of the former Act shall apply to the rental of commercial phonograms in which a work has been included before the enforcement of this Act.

Interim Measures Concerning Protection Period of Neighboring Rights

3. The provisions of the protection period of neighboring rights under the former Act shall apply to the neighboring rights which have been created before the enforcement of this Act.

Interim Measures Concerning Compensation with Respect to Textbooks

4. If a work being made public is to be reproduced in a textbook in which copyright is attributed to the Minister of Education or which is approved and sanctioned by the Minister of Education, the provisions of compensation or deposit shall not apply for a period of five years from the enforcement of this Act, notwithstanding the provisions of Paragraph (3) of Article 23.

Interim Measures Concerning Rights in Cinematographic Work

5. The amended provisions of Paragraph (3) of Article 75 shall not be applied for a period of five years from the enforcement of this Act.



Addenda
(March 24, 1994)

Date of Enforcement

1. This Act shall come into force on and after the lapse of four months after its promulgation.

[Without Title]

2 to 7. Omitted

Addenda
(December 6, 1995)

Date of Enforcement

1. This Act shall come into force on and after July 1, 1996.

Interim Measures Concerning Scope of Application

2. This Act shall not apply to a whole or a part of a work in which copyright, etc. has been expired in whole or in part to the expiry of the protection period under the provisions of the former Act before the enforcement of this Act.

Special Provisions Concerning Protection Period

3. Copyright in works of foreigners and rights of foreign performers and producers of phonograms in phonograms which have been newly protected under the provisions of Paragraph (1) of Article 3 and Article 61 respectively and which have been made public before the enforcement of this Act (hereinafter referred to as “restored works, etc.”) shall continue to subsist for the remaining protection period which would have been recognized if the restored works, etc. had been protected in the Republic of Korea.

Interim Measures Concerning Exploitation of Restored Works, etc.

4.—(1) Exploitation of a restored work, etc. before the enforcement of this Act shall not be considered to be an act of infringement of the rights prescribed under this Act.

(2) Reproductions of a restored work, etc. which were made before January 1, 1995 may be continuously distributed by December 31, 1996.

(3) Derivative works which are based on a restored work, etc. and made before January 1, 1995 may be continuously distributed after the enforcement of this Act; provided that the right holder of the original work may demand a reasonable compensation for exploitation made after December 31, 1999.



(4) If a person has acquired, before the enforcement of this Act, a phonogram on sale in which a restored work, etc. is fixed, the provisions of Paragraph (2) of Article 43, Paragraph (2) of Article 65 and Paragraph (2) of Article 67 shall not apply.
