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## COPYRIGHT ACT

[Enforcement Date 21. Mar, 2017.] [Act No.14634, 21. Mar, 2017., Partial  
Amendment]

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### CHAPTER I GENERAL PROVISIONS

#### Article 1 (Purpose)

The purpose of this Act is to protect the rights of authors and the rights neighboring on them and to promote fair use of works in order to contribute to the improvement and development of culture and related industries.<Amended by Act No. 9625, Apr. 22, 2009>

#### Article 2 (Definitions)

The terms used in this Act shall be defined as follows:<Amended by Act No. 9625, Apr. 22, 2009; Act No. 10807, Jun. 30, 2011; Act No. 11110, Dec. 2, 2011; Act No. 14083, Mar. 22, 2016>

1. The term “ work ” means a creative production that expresses human thoughts and emotions;
2. The term “ author ” means a person who creates a work;
3. The term “ public performance ” means to present to the public works, performances, phonograms or broadcasts by acting, musical playing, singing, narrating, reciting, screening, playback or other means, including transmission (excluding interactive transmission) made in the connected premises in the possession of one and the same person;
4. The term “ performer ” means a person who gives a stage performance by expressing works through acting, dancing, musical playing, singing, narrating, reciting or other artistic means or by expressing things other than works in a similar way, including a person who conducts, directs or supervises a stage performance;
5. The term “ phonogram ” means the medium in which the sound (referring to voice or sound; the same hereinafter) is fixed (including a digitalized sound): Provided, That excluding the sound fixed along with images;

6. The term “ phonogram producer ” means a person who makes an overall plan and takes charge of producing an original phonogram;
7. The term “ public transmission ” means transmitting works, stage performances, phonograms, broadcasts or database (hereinafter referred to as “ works, etc. ” ) by making such available to the public by wire or wireless means so that the public may receive them or have access to them;
8. The term “ broadcasting ” means, among the public transmission, transmitting sound or image, or sound and image so that the public may receive it at the same time;
- 8 - 2. The term "encrypted broadcasting signal" means electronically encrypted broadcasting signals originated by a broadcasting organization or a person who has obtained consent from a broadcasting organization for the purpose to prevent or hinder from receiving broadcasting (limited to broadcasting by means of radio or satellite communications) without authorization;
9. The term “ broadcast organization ” means a person who engages in broadcasting business;
10. The term “ interactive transmission ” means, among types of public transmission, to make works, etc. available for the public so that the members of the public may have access at the time and place of their own choice, including transmission to be done accordingly;
11. The term “ digital sound transmission ” means, among types of public transmission, the transmission of sound in the digital form initiated at the request of the members of the public for the purpose of having the public receive simultaneously among the public transmission, excluding interactive transmission;
12. The term “ digital sound transmission organizations ” means a person who engages in digital sound transmission business;
13. The term “ cinematographic work ” means a creative production in which a series of images (regardless of whether accompanied by sound) are recorded, and which may be played by mechanical or electronic devices to be seen, or seen and heard through a reproduction;
14. The term “ producer of cinematographic works ” means one who plans and takes responsibility for the whole in the production of cinematographic works;

15. The term “ works of applied art ” means the works of art that may be reproduced in the same shapes as article, and whose originality may be recognized apart from the articles used for reproduction. And designs, etc. are included;
16. The term “ computer program work ” means a creation expressed in a series of instructions or command which are directly or indirectly applied within devices having a capability of processing information, such as a computer (hereinafter referred to as “ computer ” ), in order to obtain certain results;
17. The term “ compilation ” means the collections of works, symbols, letters, sounds, images and other forms of data (hereinafter referred to as “ materials ” ), but shall include the database;
18. The term “ compilation works ” means the compilations which are of creative nature in terms of selection, arrangement or composition of their materials;
19. The term “ database ” means compilation whose materials are systematically arranged or composed, so that they may be individually accessed or retrieved;
20. The term “ producer of database ” means one who has made a substantial investment in human or material resource for the production of database, or for the renewal, verification or supplement of their materials (hereinafter referred to as “ renewal, etc. ” );
21. The term “ joint works ” means the works jointly created by two or more persons, and of which the part of their contributions may not be separately exploited;
22. The term “ reproduction ” means the temporary or permanent fixation of works in a tangible medium or a remaking of works by means of printing, photographing, copying, sound or visual recording, or other means; in cases of architectural structures, it includes carrying out construction of works in accordance with the models or plans for the relevant construction works;
23. The term “ distribution ” means a transfer by assignment or lending of the original or its reproduction etc. to the public for free or at charge;
24. The term “ publication ” means a reproduction and distribution of the works or phonograms to meet public demand;
25. The term “ making works public ” means to make the works open to the public by means of public performance, public transmission, or exhibit and by other means, and to publish the works;

26. The term “ copyright trust service ” means a business which continuously manages rights on behalf of the holder of economic rights of author, an exclusive publication right, publication right, or neighboring right or a person who has the right as a database producer, and which includes the case of a general agent regarding exploitation of works;
27. The term “ copyright agency or brokerage service ” means a business which acts as an agent or a broker on behalf of the holder of economic rights of author, an exclusive right of publication, publication right, or neighboring right or a person who has the right as a database producer, regarding exploitation of works;
28. The term “ technological protection measures ” means either of the following measures:
- (a) Technological measures taken by a right holder or a person who has obtained the said holder ’ s consent, in order to effectively prevent or control the access to works, etc. protected under this Act, in relation to the exercise of copyright or other rights protected pursuant to this Act;
  - (b) Technological measures taken by a right holder or a person who has obtained the said holder's consent in order to effectively prevent or restrict an act of infringing copyright or other rights protected pursuant to this Act;
29. The term “ rights management information ” means any of the following information or the numerals or symbols representing the said information, where each information is attached to the original or copies of the works, etc. protected by copyright or other rights protected pursuant to this Act, or is accompanied with public performance, implementation or public transmission thereof:
- (a) Information to identify the works, etc.;
  - (b) Information to identify a person who has copyright or other rights protected pursuant to this Act;
  - (c) Information relating to the methods and conditions of the use of works, etc.;
30. The term “ online service provider ” means either of the following persons:
- (a) A person who transmits, designates a route of, or provides connections to the works, etc. selected by users to deliver such works, etc. without any modification of their content through the information and communications networks (referring to the information and communications networks under Article 2 (1) 1 of the Act on Promotion of Information and Communications

Network Utilization and Information Protection, etc.; hereinafter the same shall apply) between the points designated by users;

(b) A person who provides the services to allow users to access the information and communications networks or reproduce or interactively transmit the works, etc. through the information and communications networks, or who provides or operates facilities therefor;

31. The term “ work made for hire ” means a work made by an employee of a legal person, organization or other employers (hereinafter referred to as “ juristic person, etc. ” ) during the course of his/her duties and on the initiative of legal person etc.;

32. The term “ public ” means a large number of unspecified persons (including a large number of specified persons);

33. The term “ authentication ” means to verify the justifiable holder of right for authorization of use of the works, etc.;

34. The term “ decompilation of program code ” means to reproduce or convert computer program work code in order to obtain information necessary for compatibility of independently created computer program works with other computer programs;

35. The term "label" means a sign to be attached, enclosed or added, or a sign devised for such purposes, to tangible copies, packages or documents of works, etc. in order to indicate that such copies have been produced with legitimate authority;

36. The term "movie theater, etc." means movie theaters, premier theaters or other places to screen cinematographic works to the public, the entrance to which is controlled by a person who screen such works.

**Article 2 - 2 (Formulation of Measures for Protection of Copyright)** (1) The Minister of Culture, Sports and Tourism may formulate and execute the following measures to achieve the purposes of this Act:

1. Matters concerning a basic policy for the protection of copyright and creation of an environment for fair use of works;
2. Matters concerning education and publicity for raising public awareness of copyright;

3. Matters concerning policies for the rights management information of works, etc. and for technological protection measures thereof.

(2) Matters necessary for formulation and enforcement of policies pursuant to paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 3 (Foreigners' Works)** (1) Foreigners' works shall be protected in accordance with the treaties which the Republic of Korea has acceded to or concluded.

(2) The works of foreigners who permanently reside in the Republic of Korea (including stateless persons and foreign legal persons whose principal offices are located in the Republic of Korea), or foreigners' works which are first made public in the Republic of Korea (including works made public in the Republic of Korea within 30 days after their making public in a foreign country) shall be protected under this Act.

(3) Even when foreigners' works are to be protected under paragraphs (1) and (2) (excluding foreigners who permanently reside in the Republic of Korea and stateless persons; hereinafter the same shall apply in this Article), if the relevant foreign country does not protect the works of the nationals of the Republic of Korea, their protection under treaties and this Act may be correspondingly restricted. <Amended by Act No. 10807, Jun. 30, 2011 >

(4) Even in cases of foreigners' works protected pursuant to paragraphs (1) and (2), where the period of protection has expired in the relevant foreign country, the period of protection under this Act shall not be recognized. <Newly Inserted by Act No. 10807, Jun. 30, 2011 >

## CHAPTER II COPYRIGHT

### SECTION 1 Works

**Article 4 (Examples of Works)** (1) The following shall be the examples of works referred to in this Act:

1. Novels, poems, theses, lectures, speeches, plays and other literary works;
2. Musical works;

3. Theatrical works including dramas, choreographies, pantomimes, etc.;
4. Paintings, calligraphic works, sculptures, printmaking, crafts, works of applied art, and other works of art;
5. Architectural works including buildings, architectural models and design drawings;
6. Photographic works (including those produced by similar methods);
7. Cinematographic works;
8. Maps, charts, design drawings, sketches, models and other diagrammatic works;
9. Computer program works.

(2) Deleted. <by Act No. 9625, Apr. 22, 2009 >

**Article 5 (Derivative Works)** (1) A creative work produced by means of translation, arrangement, alteration, dramatization, cinematization, etc. of an original work (hereinafter referred to as a “ derivative work ” ) shall be protected as an independent work.

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

**Article 6 (Compilation Works)** (1) Compilation works shall be protected as independent works.

(2) The protection of compilation works shall not affect the copyright of materials constituting such compilation work and other rights protected under this Act.

**Article 7 (Works Not Protected)**

No work which falls under any of the following subparagraphs shall be protected under this Act:

1. Constitution, Acts, treaties, decrees, and municipal ordinances and rules;
2. Bulletins, public notifications, directives and others similar thereto which are issued by the central or local government;
3. Judgments, decisions, orders, or adjudications of courts, as well as rulings and decisions made by the administrative appeals procedures, or other similar procedures;
4. Compilations or translations of works as referred to in subparagraphs 1 through 3 which are produced by the central or local government;



5. Current news reporting which delivers simple facts.

## SECTION 2 Authors

**Article 8 (Presumption of Authors, etc.)** (1) Any person who falls under any of the following subparagraphs shall be presumed to have the copyright for his/her works as an author: [<Amended by Act No. 10807, Jun. 30, 2011>](#)

1. A person whose real name or well - known pseudonym (referring to the stage name, pen name, abbreviated name, etc.; hereinafter the same shall apply) is indicated as the name of the author in a usual manner on the original or copies of a work;
2. A person whose real name or well - known pseudonym is indicated as the name of the author in the public performance or public transmission of a work.

(2) If the name of the author is not indicated as prescribed under any of the subparagraphs of paragraph (1), the person who is indicated as a publisher, public performer or a person making the work public shall be presumed to have the copyright. [<Amended by Act No. 9625, Apr. 22, 2009>](#)

### **Article 9 (Author of Works Made for Hire)**

The authorship of a work made for hire which is made by an employee of a legal person, etc. during the course of his duties and is 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 the contract or work regulation, etc.: Provided, That in cases of a computer program work (hereinafter referred to as “ program ” ), being made public is not required. [<Amended by Act No. 9625, Apr. 22, 2009>](#)

**Article 10 (Copyright)** (1) The author shall hold the rights under Articles 11 through 13 (hereinafter referred to as "author's moral right") and the rights falling under Articles 16 through 22 (hereinafter referred to as "author's economic right").

(2) A copyright shall commence from the time of its creation, and shall not require a fulfillment of any procedures or formalities.

### SECTION 3 Author ' s Moral Right

**Article 11 (Right to Make Public)** (1) The author shall have the right to decide whether or not to make his/her work public.

(2) If the author has transferred by assignment his/her economic right on a work which is not yet made public pursuant to Article 45, authorized its use pursuant to Article 46, or established the exclusive publication rights pursuant to Article 57 or publication rights pursuant to Article 63, he/she shall be presumed to have given the other party his/her consent to make it public. <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011 >

(3) If the author has transferred by assignment the original of his/her work of art, architectural work or photographic work (hereinafter referred to as “ work of art, etc. ” ) which has not been made public, he/she shall be presumed to have given the other party his/her consent to make it public in the manner of exhibition.

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

(5) Where the author donates his/her pieces of unpublished work, etc. to libraries, etc. under Article 31, it shall be presumed that he/she consents to making them public at the time of his/her donation unless otherwise expressly stated. <Newly Inserted by Act No. 11110, Dec. 2, 2011 >

**Article 12 (Right of Paternity)** (1) The author shall have the right to indicate his/her real name or pseudonym on the original or copy of his/her work, or on the medium of publication by which his/her work is made public.

(2) Unless otherwise expressly stated by the author, the person using his/her work shall indicate the author ' s name in accordance with the author ' s manner of indicating his/her real name or pseudonym: Provided, That the same shall not apply where deemed unavoidable in the light of the nature of a work as well as the purpose and manner of its use.

**Article 13 (Right of Integrity)** (1) The author shall have a right to maintain the integrity of the content, form and title of his/her work.

(2) No author shall raise an objection to a modification falling under any of the following subparagraphs: Provided, That the same shall not apply to the modifications

of substantial contents: <Amended by Act No. 9625, Apr. 22, 2009>

1. In cases of using a work pursuant to Article 25, the modification of expression within the limit as deemed unavoidable for the purpose of school education;
2. Extension, rebuilding or other modifications of an architectural structure;
3. Modification within the necessary limit to enable a program used only on a specific computer to be run on other computers;
4. Modification within the necessary limit to use a program more effectively for a specific computer than others;
5. 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 use.

**Article 14 (Inalienability of Author ' s Moral Right)** (1) Author ' s moral rights shall belong exclusively to the author.

(2) Even after the death of the author, no person who use his/her work shall commit an act which would be prejudicial to author ' s moral rights if he/she were alive: Provided, That if such act is deemed to have not defamed the honor of the author in the light of the nature and extent of the act, and in view of the prevailing social norms, the same shall not apply.

**Article 15 (Author ' s Moral Right to Joint Work)** (1) Author ' s moral right to a joint work may not be exercised without the unanimous agreement of all the authors concerned. In such cases, 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 under paragraph (2), if any, shall not be effective against a bona fide third person.

## **SECTION 4 Author ' s Economic Right**

### **SubSection 1 Types of Author ' s Economic Rights**

#### **Article 16 (Right of Reproduction)**

The author shall have the right to reproduce his/her work.

**Article 17 (Right of Public Performance)**

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

**Article 18 (Right of Public Transmission)**

The author shall have the right to transmit his/her work in public.

**Article 19 (Right of Exhibition)**

The author shall have the right to exhibit the original or copy of his/her work of art, etc.

**Article 20 (Right of Distribution)**

The author shall have the right to distribute the original or copy of his/her work: Provided, That if the original or reproduction of the work has been offered to a deal by means of sale, etc. with permission of the relevant holder of author ' s property right, the same shall not apply.<Amended by Act No. 9625, Apr. 22, 2009>

**Article 21 (Right of Rental)**

Notwithstanding the proviso to Article 20, the author shall have the right to authorize the commercial rental of phonograms made public (hereinafter referred to as commercial phonograms") or programs made public for pursuit of profit.<Amended by Act No. 9625, Apr. 22, 2009; Act No. 14083, Mar. 22, 2016>

**Article 22 (Right of Production of Derivative Works )**

The author shall have the right to produce and use a derivative work based on his/her original work.

**SubSection 2 Limitations on Author ' s Economic Rights**

**Article 23 (Reproduction for Judicial Proceedings, etc.)**

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 bodies: Provided, That the same shall not apply where such reproduction unreasonably prejudice the interests of the holder of author ' s economic rights in the light of the nature of a work as well as the number of copies and the nature of reproduction.

**Article 24 (Use of Political Speech, etc.)**

Political speeches delivered in public and statements made in public in the court, the National Assembly or local councils may be used in some way or other: Provided, That if the speeches and statements of the same author are used after compilation, the same shall not apply.

**Article 24 - 2 (Free Use of Public Works)** (1) A work produced as part of official duties and already made public by the State or a local government, or a work of which the author's economic right is owned in its entirety by the State or a local government under a contract, may be used without permission: Provided, That the same shall not apply when the work falls under any of the following cases:

1. Where it includes any information pertaining to national security;
2. Where it corresponds to an individual's privacy or confidential business information;
3. Where it includes any information of which disclosure is limited under other Acts;
4. Where it is registered with the Korea Copyright Commission under Article 112, and is managed as State - owned property under the State Property Act or as public property under the Public Property and Commodity Management Act.

(2) The State may establish and enforce policies to invigorate use of public works, as prescribed by Presidential Decree, in order to promote the use of works which are produced and made public by a public institution or of which the author's economic right is owned in its entirety under a contract by a public institution pursuant to Article 4 of the Act on the Management of Public Institutions.

(3) When it is acknowledged as necessary for free use, the State or a local government may permit the use of public works among those prescribed in paragraph (1) 4, as prescribed by Presidential Decree, notwithstanding the State Property Act or the Public Property and Commodity Management Act.

[\[This Article Newly Inserted by Act No. 12137, Dec. 30, 2013\]](#)

**Article 25 (Use for the Purpose of School Education)** (1) A work already 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) Schools established by special Acts, the Early Childhood Education Act, the Elementary and Secondary Education Act, or the Higher Education Act, educational

institutions which are operated by the State or local governments and education supporting institutions belonging to the State or local governments to support lessons of those educational institutions may reproduce, distribute, perform in public, display, or publicly transmit part of the works already made public where it is recognized as necessary for the lessons and for the purpose of support thereof: Provided, That it is inevitable to the whole work in view of the character of the work, the purpose, form, etc. of the work, they may use the work in whole. <Amended by Act No. 9625, Apr. 22, 2009; Act No. 12137, Dec. 30, 2013 >

(3) Those who receive education at an educational institution provided for in paragraph (2) may reproduce or interactively transmit the works made public within the extent of paragraph (2) where it is recognized as necessary for the purpose of education.

(4) Any person who intends to use a work pursuant to paragraphs (1) and (2) shall pay the relevant holder of author's economic right the remuneration according to the standards stipulated and announced by the Minister of Culture, Sports and Tourism: Provided, That the reproduction, distribution, public performance, broadcasting, or interactive transmission of a work under paragraph (2) is done at high schools, their equivalents or lower level schools, no remuneration thereof shall be paid. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009 >

(5) The right to receive remuneration under paragraph (4) shall be exercised through an organization meeting the following requirements, which has been designated by the Minister of Culture, Sports and Tourism. When the Minister of Culture, Sports and Tourism designates an organization, he/she shall obtain prior consent from the organization: <Amended by Act No. 8852, Feb. 29, 2008 >

1. Organization comprised of persons who have the right to receive remuneration within the Republic of Korea (hereinafter referred to as "holder of right to remuneration");
2. Organization not aiming at profit - making;
3. Organization fully capable of performing the duties of collection, distribution, etc. of remuneration.

(6) When there is an application from the holder of a right to remuneration who is not a member of the organization, the organization under paragraph (5) shall not refuse to exercise the right for him/her. In such cases, the organization shall have

the authority to perform an act in its own name in court or out of court regarding the right.

(7) Where an organization under paragraph (5) falls under any of the following cases, the Minister of Culture, Sports and Tourism may revoke the designation thereof: <Amended by Act No. 8852, Feb. 29, 2008 >

1. When it fails to meet the requirements under paragraph (5);
2. When it violates regulations defining the duties on remuneration;
3. When it is possible to harm the interest of the holder of right to remuneration as it has suspended the duties on remuneration for a considerable period.

(8) Any organization under paragraph (5) may use the remuneration that has been left undistributed for three years from the date of public announcement of remuneration distribution for the purpose of public interest with approval by the Minister of Culture, Sports and Tourism. <Amended by Act No. 8852, Feb. 29, 2008 >

(9) Matters necessary for the designation and revocation of an organization, work regulations, public announcement of remuneration distribution, approval for use of undistributed remuneration for the purpose of public interest, etc. under paragraphs (5), (7), and (8) shall be prescribed by Presidential Decree.

(10) Where an educational institution performs interactive transmission pursuant to the provisions of paragraph (2), it shall take necessary measures prescribed by Presidential Decree, such as the measures to prevent reproduction, in order to prevent infringement of copyright or other rights protected pursuant to this Act.

#### **Article 26 (Use for News Reporting)**

In cases of reporting current events by means of broadcasts or newspapers, or by other means, it shall be permissible to reproduce, distribute, perform publicly, transmit publicly a work seen or heard in the relevant courses, to the extent justified by the reporting purpose.

#### **Article 27 (Reproduction, etc. of News Articles or Editorials)**

News articles or editorials inserted in the newspapers and online newspapers under Article 2 of the Act on the Promotion of Newspapers, etc. or the news agencies under Article 2 of the Act on the Promotion of News Communications may be reproduced, distributed or broadcasted by other media organizations: Provided, That if there is an indication prohibiting the use thereof, the same shall not apply.

<Amended by Act No. 9785, Jul. 31, 2009>

#### **Article 28 (Quotation from Works Made Public)**

Works already made public may be quoted for news report, criticism, education, research, etc., in compliance with the fair practices within the reasonable extent.

#### **Article 29 (Public Performance and Broadcasting for Non - Profit Purposes) (1)**

It shall be permissible to perform publicly (excluding cases where any commercial phonograms or cinematographic works made public for commercial purposes are played) or broadcast a cinematographic work already made public for non - profit purposes and without receiving any benefit in return from audience, spectators or third persons: Provided, That the same shall not apply to cases where performers are paid any normal remuneration. <Amended by Act No. 14083, Mar. 22, 2016>

(2) It shall be permissible to play and perform publicly any commercial phonograms or cinematographic works made public for commercial purposes for the general public if no benefit in return for the relevant public performance is received from audience or spectators: Provided, That the same shall not apply to the cases as prescribed by Presidential Decree.<Amended by Act No. 14083, Mar. 22, 2016>

#### **Article 30 (Reproduction for Private Use)**

It shall be permissible for a user to reproduce in private, without any commercial purposes, a work already made public, within the limit of personal, family or the equivalent use: Provided, That this shall not apply to the case of reproductions by a photocopier installed for the use by the general public.

#### **Article 31 (Reproductions, etc. in Libraries, etc.) (1)**

Libraries under the Libraries Act and the facilities prescribed by Presidential Decree (including the heads of relevant facilities; hereinafter referred to as "libraries, etc.") among facilities which provide books, documents, records and other materials (hereinafter referred to as "books, etc.") designed for public access, may reproduce the works by using books, etc. held by the relevant libraries, etc. (including the books, etc. reproduced by or transmitted to the relevant libraries, etc. under the provisions of paragraph (3), in cases of subparagraph 1) when it falls under any of the following subparagraphs: Provided, That they shall not reproduce the works in digital format in the cases of subparagraphs 1 and 3:



1. Where a copy of a part of the books, etc. already made public is provided to one per person at the request of a user with the purpose of research and study;
2. Where it is necessary to make a self preservation of books, etc.;
3. Where copies of books, etc., which are hard to obtain due to out of print or other equivalent causes, are made and provided to other libraries, etc., at their request, for their preservation purposes.

(2) The libraries, etc. may reproduce or interactively transmit the books, etc. held thereby so as to have the users peruse them within the relevant libraries, etc. by using computers. In such cases, the number of users allowed to peruse simultaneously shall not exceed the number of copies of the books, etc. held by said libraries, etc. or authorized to be used by the person holding copyright or other rights protected under this Act. <Amended by Act No. 9625, Apr. 22, 2009 >

(3) The libraries, etc. may reproduce or interactively transmit the books, etc. held by them so as to have the users peruse them inside other libraries, etc. by using computers: Provided, That the same shall not apply where the whole or part of books, etc. are published for commercial purposes, and five years have not passed from the date of their publication. <Amended by Act No. 9625, Apr. 22, 2009 >

(4) In making any reproductions of the books, etc. under paragraph (1) 2 and those of the books, etc. under paragraphs (2) and (3), if the said books, etc. are sold in digital format, the libraries, etc., shall be prohibited from reproducing them in digital format.

(5) Where the libraries, etc. reproduce the books, etc. in digital format under paragraph (1) 1, and where they reproduce or interactively transmit the books, etc. pursuant to paragraph (3) so as to make them available for perusal inside other libraries, etc., they shall pay the remuneration to the holder of author's economic right under the standards determined and published by the Minister of Culture, Sports and Tourism: Provided, That the same shall not apply to the case of books, etc. for which the holders of author's economic right are the State, local governments or schools under Article 2 of the Higher Education Act (excluding the whole or part of books, etc. which have been published for commercial purposes). <Amended by Act No. 8852, Feb. 29, 2008 >

(6) The provisions of Article 25 (5) through (9) shall apply mutatis mutandis to the payment, etc. of remuneration under paragraph (5).

(7) Where the libraries, etc. reproduce or interactively transmit the books, etc. in digital format pursuant to paragraphs (1) through (3), they shall take necessary measures prescribed by Presidential Decree, such as those to prevent any reproduction, in order to prevent any infringements on copyright and other rights protected under this Act.

(8) Where the National Library of Korea collects online materials to preserve pursuant to Article 20 - 2 of the Libraries Act, it may reproduce the relevant materials.<Newly Inserted by Act No. 9529, Mar. 25, 2009 >

### **Article 32 (Reproduction for Examination Questions)**

It shall be permissible to reproduce or distribute a work already made public in questions of entrance examinations or other examinations of knowledge and skills, within the reasonable extent deemed necessary for that purpose: Provided, That where it is for profit - making purposes, the same shall not apply.<Amended by Act No. 9625, Apr. 22, 2009 >

**Article 33 (Reproduction, etc. for the Visually Impaired, etc.)** (1) It shall be permissible to reproduce the works already made public in braille, and distribute them for the visually impaired, etc.

(2) It shall be permissible for the facilities prescribed by Presidential Decree (including the heads of relevant facilities) from among those for the promotion of welfare of the visually impaired, etc. to make a sound recording of the literary works already made public, for the purpose of offering it for the use by the visually impaired, etc., but not for the profit - making purpose, or to reproduce, distribute or interactively transmit them by an exclusive recording method for the visually impaired, etc. prescribed by Presidential Decree.<Amended by Act No. 9529, Mar. 25, 2009 >

(3) The scope of the visually impaired, etc. under paragraphs (1) and (2) shall be prescribed by Presidential Decree.

**Article 33 - 2 (Reproduction, etc. for the Hearing Impaired, etc.)** (1) It shall be permissible for anyone to convert the works already made public into Korean sign language, and reproduce, distribute, perform in public, or publicly transmit such Korean sign language for the hearing impaired, etc. <Amended by Act No. 13978, Feb. 3,

[2016 >](#)

(2) It shall be permissible for facilities prescribed by Presidential Decree (including the heads of relevant facilities) from among those for the promotion of welfare of the hearing impaired, etc. to convert the voice, sound, etc. contained in the works, etc. which have already been made public to any format that the hearing impaired can recognize, such as captions, for the purpose of offering it for the use by the hearing impaired, etc. but not for the profit - making purpose; or to reproduce, distribute, perform in public, or publicly transmit them for the hearing impaired, etc.

(3) The scope of the hearing impaired, etc. under paragraphs (1) and (2) shall be prescribed by Presidential Decree.

[\[This Article Newly Inserted by Act No. 11903, Jul. 16, 2013\]](#)

**Article 34 (Ephemeral Sound or Visual Recordings by Broadcasting Organization) (1)**

Broadcasting organizations who have the authority to broadcast works may make ephemeral sound or visual recordings of a work for the purpose of their own broadcasting and by means of their own facilities.

(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: Provided, That if they are kept as materials for public records at places prescribed by Presidential Decree, the same shall not apply.

**Article 35 (Exhibition or Reproduction of Works of Art, etc.) (1)**

The holder of the original of a work of art, etc., or a person who has obtained the holder ' s consent, may exhibit the work in its original form: Provided, That where the work of art is to be permanently exhibited on the street, in the park, on the exterior of a building, or other places open to the public, the same shall not apply.

(2) Works of art, etc. exhibited at all times at an open place as referred to in the proviso to paragraph (1) may be reproduced and used by any means: Provided, That in any of the following cases, the same shall not apply:

1. Where a building is reproduced into another building;
2. Where a sculpture or painting is reproduced into another sculpture or painting;
3. Where the reproduction is made in order to exhibit permanently at an open place under the proviso to paragraph (1);

4. Where the reproduction is made for the purpose of selling its copies.

(3) A person who exhibits works of art, etc. pursuant to paragraph (1), or who intends to sell originals of works of art, etc., may reproduce and distribute them in a pamphlet for the purpose of explaining or introducing them.

(4) No portrait nor a similar photographic work produced by commission shall be used without the consent of the commissioner.

**Article 35 - 2 (Temporary Reproduction in Course of Using Works, etc.)**

Where a person uses works, etc. on a computer, he/she may temporarily reproduce such works, etc. in that computer to the extent deemed necessary for the purpose of smooth and efficient information processing: Provided, That this shall not apply where the use of such works, etc. infringes on copyright.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 35 - 3 (Fair Use of Works, etc.)** (1) Except as provided in Articles 23 through 35 - 2 and 101 - 3 through 101 - 5, where a person does not unreasonably prejudice an author's legitimate interest without conflicting with the normal exploitation of works, he/she may use such works. <Amended by Act No. 14083, Mar. 22, 2016>

(2) In determining whether an act of using works, etc. falls under paragraph (1), the following shall be considered:<Amended by Act No. 14083, Mar. 22, 2016>

1. Purposes and characters of use including whether such use is for or not - for nonprofit;
2. Types and natures of works, etc.;
3. Amount and substantiality of portion used in relation to the whole works, etc.;
4. Effect of the use of works, etc. on the current or potential market for or value of such work etc.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 36 (Use by Means of Translation, etc.)** (1) If a work is used under Article 24 - 2, 25, 29, 30 or 35 - 3, the work may be used by means of translation, arrangement, or adaptation. <Amended by Act No. 11110, Dec. 2, 2011; Act No. 12137, Dec. 30, 2013>

(2) If a work is used under Article 23, 24, 26, 27, 28, 32, 33, or 33 - 2, the work may be used by means of translation.<Amended by Act No. 11110, Dec. 2, 2011; Act No. 11903, Jul. 16, 2013>

**Article 37 (Indication of Sources)** (1) A person who uses a work under this subsection shall indicate its sources: Provided, That the same shall not apply to the cases of Articles 26, 29 through 32, 34 and 35 - 2. <Amended by Act No. 11110, Dec. 2, 2011 >

(2) The sources shall be clearly indicated in the manner and to the extent deemed reasonable by the situation in which the work is used, and in cases of a work which bears the author ' s real name or pseudonym, such real name or pseudonym shall be indicated.

**Article 37 - 2 (Exclusion from Application)**

@Articles 23, 25, 30 and 32 shall not apply to programs.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 38 (Relationship with Author ' s Moral Rights)**

No provisions of each Article of this Sub - section may be interpreted as affecting author ' s moral rights.

**SubSection 3 Duration of Protection of Author ' s Economic Right**

**Article 39 (Principles of Copyright Term)** (1) The author ' s economic right to a work shall continue to subsist during the lifetime of an author and until the end of a period of 70 years after the death of the author, unless otherwise provided in this Sub - section. <Amended by Act No. 10807, Jun. 30, 2011 >

(2) The author ' s economic right to a joint work shall continue to subsist for a period of 70 years after the death of the last surviving co - author.<Amended by Act No. 10807, Jun. 30, 2011 >

**Article 40 (Copyright Term of Anonymous and Pseudonymous Works)** (1) The author ' s economic right to a work that is anonymous or bears the pseudonym which is not widely known shall continue to subsist for a period of 70 years after it has been made public: Provided, That within such period, if there are reasonable grounds for recognizing that 70 years have lapsed after the death of the author, such economic right shall be deemed to be extinguished at the time when it deems that 70 years have lapsed after the death of the author. <Amended by Act No. 10807, Jun. 30, 2011 >

(2) The provisions of 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 referred to in paragraph (1);
2. Where the real name of an author is registered under Article 53 (1) during the period referred to in paragraph (1).

#### **Article 41 (Copyright Term of Works Made for Hire)**

The author's economic right to a work made for hire shall continue to subsist for a period of 70 years after it has been made public: Provided, That if it has not been made public within 50 years after its creation, the author's economic right shall continue to exist for a period of 70 years after its creation. <Amended by Act No. 10807, Jun. 30, 2011 >

#### **Article 42 (Copyright Term of Cinematographic Works)**

Notwithstanding the provisions of Articles 39 and 40, the author's economic right to cinematographic works shall continue to subsist for 70 years from the time of being made public: Provided, That if they have not been made public within 50 years from the time of their creation, the said right shall continue to subsist for 70 years from the time of creation. <Amended by Act No. 10807, Jun. 30, 2011 >

#### **Article 43 (Time when Serial Publications, etc. Have Been Made Public) (1)**

In cases of works which are made public in the form of volumes, issues, or installments or in cases of works which are completed by making public in parts in a successive manner, the time when a work has been made public pursuant to Article 40 (1) or 41 shall be determined by making public of each volume, issue or installment or by making public of the last part. <Amended by Act No. 10807, Jun. 30, 2011 >

(2) In cases 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 paragraph (1) if the part supposed to follow next is not made public after three years following the preceding part made public.

#### **Article 44 (Commencement of Copyright Term)**

The protection period of author's economic right prescribed under this subsection shall commence from the next year of the death of the author, or the creation of the work, or is the making public of the work.

#### **SubSection 4 Transfer, Exercise and Expiry of Author ' s Economic Right**

**Article 45 (Transfer of Author ' s Economic Right)** (1) Author ' s economic right may be transferred by assignment in whole or in part.

(2) Where author ' s economic right is transferred by assignment in whole, the right of the production and use of a derivative work under Article 22 shall be presumed not to be included in the transfer, unless otherwise stipulated: Provided, That in cases of a program, the right of production of a derivative work shall be presumed to have been transferred together unless otherwise stipulated. <Amended by Act No. 9625, Apr. 22, 2009 >

**Article 46 (Authorization to Use Works)** (1) The holder of author ' s economic right may grant another person authorization to use the work.

(2) The person who obtained such authorization pursuant to paragraph (1) shall be entitled to exploit the work in such a manner and within the limit of such conditions so authorized.

(3) The right of exploitation as authorized under paragraph (1) may not be transferred by assignment to the third party without the consent of the holder of author ' s economic right.

**Article 47 (Exercise, etc. of Pledge Rights on Author ' s Economic Right)** (1) The pledge right on the author ' s economic right may be exercised with respect to money or other goods to be received by the holder of author ' s economic right as a result of a transfer of the author ' s economic right or exploitation of the work (including remuneration for the establishment of the right of exclusive publication under Article 57 and the right of publication under Article 63): Provided, That the money or other goods shall be seized before payment or delivery. <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011 >

(2) The author ' s economic right which has become the object of the pledge rights shall be exercised by the holder of author ' s economic right unless otherwise stipulated in the contract of establishment of the pledge rights. <Newly Inserted by Act No. 9625, Apr. 22, 2009 >

**Article 48 (Exercise of Author ' s Economic Right to Joint Works)** (1) Author ' s economic right to a joint work may not be exercised without the unanimous agreement of all the holders of author ' s economic right, and no holder of author ' s economic right shall be entitled to transfer by assignment or pledge his/her share of author ' s economic right without the consent of the other authors. In such cases, each holder may not 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. In such cases, if the degree of each contribution is not clear, the profit may be equally apportioned to all the authors.

(3) The holder of author ' s economic right to a joint work may renounce his/her share. In cases of renunciation or death of a holder of author ' s economic right without heir, his/her share may be apportioned among other authors according to the ratio of their holding shares.

(4) The provisions of Article 15 (2) and (3) shall apply mutatis mutandis to the exercise of author ' s economic right to a joint work.

**Article 49 (Expiry of Author ' s Economic Rights)**

Author ' s economic right shall expire in any of the following cases:

1. Where, after the author ' s death without heir, author ' s economic right are attributed 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 holder of author ' s economic right, author ' s economic right are attributed to the State according to the provisions of the Civil Act and other Acts.

**SECTION 5 Exploitation of Works Under Statutory License**

**Article 50 (Exploitation of Works Whose Holder of Author ' s Economic Right is**

**Unknown)** (1) Where any person fails, despite his/her considerable efforts to meet the standards prescribed by Presidential Decree, to identify the holder of author ' s economic right to a work (excluding foreigners ' works) made public, or his/her place of residence, and therefore is unable to obtain any authorization for its



- exploitation, he/she may exploit the work by depositing a remuneration as determined by the Minister of Culture, Sports and Tourism after obtaining his/her approval as prescribed by Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008>
- (2) The person who exploits a work pursuant to paragraph (1) shall indicate the intention to use and the approval date.
- (3) When the work legally licensed pursuant to the provisions of paragraph (1) becomes the object of statutory license again, the procedures of considerable endeavors corresponding to the standards prescribed by Presidential Decree pursuant to the provisions of paragraph (1) may be omitted: Provided, That if the holder of author ' s economic right raises an objection according to the procedures prescribed by Presidential Decree before approval on statutory license to the work, the same shall not apply.
- (4) The Minister of Culture, Sports and Tourism shall post the content of statutory license on the information and communication network as prescribed by Presidential Decree.<Amended by Act No. 8852, Feb. 29, 2008>

#### **Article 51 (Broadcasting of Works Made Public)**

Where a broadcasting organization which intends to broadcast a work already made public for the sake of the public benefit has negotiated with the holder of author ' s economic rights but failed to reach an agreement, it may broadcast the work with approval of the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and by paying to the holder of author ' s economic right or depositing remuneration as determined by the Minister of Culture, Sports and Tourism. <Amended by Act No. 8852, Feb. 29, 2008>

#### **Article 52 (Production of Commercial Phonogram)**

If three years have passed after the date of the first sale of a commercial phonogram in the Republic of Korea, and if any person who intends to produce a commercial phonogram by recording works already recorded on such phonogram has negotiated with the holder of author ' s economic right but failed to reach an agreement, he/she may produce the phonogram with approval of the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and by paying to the holder of author ' s economic right or depositing remuneration under the standards determined by the Minister of Culture, Sports and Tourism. <Amended by Act No. 8852, Feb.

29, 2008; Act No. 14083, Mar. 22, 2016 >

## SECTION 6 Registration and Authentication

**Article 53 (Registration of Copyright)** (1) An author may register any of the following:

1. Real name, pseudonym (limited to the case where pseudonym is used at the time of making it public), nationality, domicile or residence of an author;
2. Title, types or date of creation of a work;
3. Whether a work has been made public, and the country and date/month/year in which the work was first made public;
4. Other matters prescribed by Presidential Decree.

(2) In the absence of any special intention of the author at his/her death, the person designated by the will of the author or his/her heir may register the items falling under any of the subparagraphs of paragraph (1).

(3) The person whose real name is registered as the author pursuant to paragraphs (1) and (2) shall be presumed to be the author of the registered work, and the work whose date of creation or the date on which it has been made public for the first time is registered shall be presumed to have been created or made public for the first time on the date it has been registered: Provided, That where the date, month and year of creation has been registered after one year passed from the time when a work had been created, it shall not be presumed to have been created on the date, month and year registered. <Amended by Act No. 9625, Apr. 22, 2009 >

**Article 54 (Registration and Effect of Changes in Rights, etc.)**

The following may be registered, and shall not bind third parties without their registration: <Amended by Act No. 11110, Dec. 2, 2011 >

1. Transfer by assignment of author ' s economic right (excluding that by inheritance or other successions in general), or limitation on the disposal of author ' s economic right;
2. Establishment, transfer, alteration, extinction or limitation on the disposal of the right of exclusive publication under Article 57 or the right of publication under Article 63;

3. Establishment, transfer, alteration, or expiry, or the limitation on the disposal of the right of pledge on author's property rights, exclusive rights of publication pursuant to Article 57, and publication rights pursuant to Article 63.

**Article 55 (Procedures, etc. for Registration)** (1) The registration under Articles 53 and 54 shall be made by the Minister of Culture, Sports and Tourism by making an entry in the copyright register (in cases of programs, referring to a program register; hereafter the same shall apply in this Article). <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>

(2) Where it falls under any of the following subparagraphs, the Minister of Culture, Sports and Tourism may return the application: Provided, That if the deficiency in the application can be corrected and the applicant corrects it on the day, the same shall not apply:<Amended by Act No. 8852, Feb. 29, 2008>

1. Where the matters that have been applied for registration are not fit for registration;
2. Where the application for registration does not conform to the form stipulated by Ordinance of the Ministry of Culture, Sports and Tourism, or is not accompanied with other necessary materials or documents.

(3) The Minister of Culture, Sports and Tourism shall publish a registration gazette or post on the information and communications network regarding the registration stated on the copyright register pursuant to the provisions of paragraph (1), and where there is an applicant, he/she shall have him/her peruse the copyright register or deliver copies thereof.<Amended by Act No. 8852, Feb. 29, 2008>

(4) Matters necessary for registration under paragraphs (1) through (3), return of application for registration, publication of registration gazette or posting, perusal of the copyright register and issuance of copies thereof, etc. shall be prescribed by Presidential Decree.

**Article 55 - 2 (Confidentiality Obligation)**

Any person who conducts registration business pursuant to Articles 53 through 55 and who was in that position shall not divulge any secret he/she obtained on his/her duty to others.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 56 (Authentication of Holder of Right, etc.)** (1) The Minister of Culture, Sports and Tourism may designate an authentication organization for the security of transaction of works, etc. and protection of confidence. <Amended by Act No. 8852, Feb. 29, 2008>

(2) Matters necessary for the designation and revocation of the designation of authentication organization, authentication procedures, etc. pursuant to paragraph (1) shall be prescribed by Presidential Decree.<Amended by Act No. 9625, Apr. 22, 2009>

(3) The authentication organization under paragraph (1) may collect fees for authentication and the amount thereof shall be determined by the Minister of Culture, Sports and Tourism.<Amended by Act No. 8852, Feb. 29, 2008>

## SECTION 7 Exclusive Publication Right

**Article 57 (Establishment of Exclusive Publication Right)** (1) A person who holds the right to publish or reproduce and interactively transmit (hereinafter referred to as "publication, etc.") works, etc. may establish an exclusive right (hereinafter referred to as "exclusive publication right" and excluding the right of publication under Article 63; hereinafter the same shall apply) for a person who intends to use such works, etc. for publication, etc. <Amended by Act No. 11110, Dec. 2, 2011>

(2) The holder of author's economic right may establish a new exclusive publication right to the extent that the methods and conditions of publication, etc. of relevant works, etc. do not overlap.<Newly Inserted by Act No. 11110, Dec. 2, 2011>

(3) The person for whom the exclusive publication right (hereinafter referred to as "holder of the exclusive publication right") has been established under paragraph (1) shall have the right to use the work that is the object of such exclusive publication right by means of publication, etc., according to the terms of the contract of establishment.<Amended by Act No. 11110, Dec. 2, 2011>

(4) If the right of pledge is established on the right of reproduction, distribution or interactive transmission of a work, the holder of author's economic right may establish the exclusive publication right only with the authorization of the pledgee.<Amended by Act No. 11110, Dec. 2, 2011>

**Article 58 (Obligations of Holder of Exclusive Publication Right)** (1) Unless otherwise stipulated in the contract of establishment, the holder of the exclusive publication right shall use the work by means of publication, etc. within the period of nine months from the date when he/she received manuscripts or other similar materials which are necessary for the reproduction of the work. <Amended by Act No. 11110, Dec. 2, 2011 >

(2) Unless otherwise stipulated in the contract of establishment, the holder of the exclusive publication right shall continue to use the work by means of publication, etc. in accordance with customary practice.<Amended by Act No. 11110, Dec. 2, 2011 >

(3) Unless otherwise stipulated in the contract, the holder of the exclusive publication right shall put a mark of holder of author's economic right on each reproduction, as stipulated by Presidential Decree.<Amended by Act No. 11110, Dec. 2, 2011 >

**Article 58 - 2 (Revision, Addition or Reduction of Work)** (1) If the holder of the exclusive publication right reuses a work that is the object of its right by means of publication, etc., the author may revise, add or reduce the contents of the work to the extent that it is justified. <Amended by Act No. 11110, Dec. 2, 2011 >

(2) Whenever the holder of the exclusive publication right intends to reuse a work that is the object of its right by means of publication, etc., unless otherwise stipulated in the contract, he/she shall notify the author of his/her intention in advance.<Amended by Act No. 11110, Dec. 2, 2011 >

**Article 59 (Duration, etc. of Exclusive Publication Right)** (1) The duration of the exclusive publication right shall be three years from the date of its first publication, etc., unless otherwise stipulated in the contract of establishment: Provided, That the duration shall be five years where the exclusive publication right is established to cinematize such work. <Amended by Act No. 11110, Dec. 2, 2011 >

(2) If the author of the work which is the object of the exclusive publication right dies within the duration of the exclusive publication right, the holder of author's economic right, notwithstanding the provisions of paragraph (1), may reproduce the work in a complete collection of works or other compilation work, or use the work by means of publication, etc. by separating it from a complete collection of works or other compilation work.<Amended by Act No. 11110, Dec. 2, 2011 >

**Article 60 (Notification of Termination of Exclusive Publication Right)** (1) If the holder of the exclusive publication right has violated Article 58 (1) or (2), the holder of author's economic right may call on him/her to fulfill his/her obligation for a prescribed period of not shorter than six months. If the holder of the exclusive publication right fails to do so during such period, the holder of author's economic right may notify him/her of the termination of his/her exclusive publication right.

[<Amended by Act No. 11110, Dec. 2, 2011>](#)

(2) The holder of author's economic right may immediately notify the holder of the exclusive right of publication of its termination, notwithstanding the provisions of paragraph (1), when it is obvious that it is impossible for the holder of the exclusive publication right to use the work by means of publication, etc., or that he/she has no intention to do so. [<Amended by Act No. 11110, Dec. 2, 2011>](#)

(3) When the termination of the exclusive publication right is notified under the provisions of paragraph (1) or (2), the exclusive publication right is presumed to have been terminated on the date the holder of the exclusive publication right has received such notification. [<Amended by Act No. 11110, Dec. 2, 2011>](#)

(4) In cases of paragraph (3), the holder of author's economic right may, at any time, claim to the holder of the exclusive publication right for restitution or compensation for damages accruing from the suspension of publication, etc. of the work. [<Amended by Act No. 11110, Dec. 2, 2011>](#)

**Article 61 (Distribution of Reproductions after Termination of Exclusive Publication Right)**

After the termination of the exclusive publication right on account of the expiration of the duration of the right or other reasons, the holder of the exclusive publication right shall not distribute copies reproduced within the duration of the right, except in any of the following cases: [<Amended by Act No. 11110, Dec. 2, 2011>](#)

1. Where otherwise stipulated in the contract of establishment;
2. Where he/she has already paid any remuneration to the holder of author's economic right for publication, etc. within the duration of the exclusive publication right, and he/she distributes the number of copies equivalent to such payment.

**Article 62 (Transfer by Assignment of, and Limitations on, Exclusive Publication Right, etc.)** (1) No holder of the exclusive publication right shall transfer or pledge such

right without the consent of the holder of author's economic right.

(2) Articles 23, 24, 25 (1) through (3), 26 through 28, 30 through 33, 35 (2) and (3), 35 - 2, 35 - 3, 36 and 37 shall apply mutatis mutandis to the reproduction, etc. of works, etc. that are the object of the exclusive publication right.

[This Article Wholly Amended by Act No. 11110, Dec. 2, 2011]

## SECTION 7 - 2 Special Provisions Concerning Publication

**Article 63 (Establishment of Publication Right)** (1) A person who holds the right to reproduce or distribute a work (hereinafter referred to as "holder of the right of reproduction") may establish the right to publish such work (hereinafter referred to as "publication right") for a person who intends to publish such work in documents or pictures by printing them or by other method similar thereto.

(2) A person for whom the publication right is established pursuant to paragraph (1) (hereinafter referred to as "holder of the publication right") may hold the right to publish the original copy of the work that is the object of the publication right as prescribed by the act of establishment.

(3) Where the pledge has been established for the right of reproduction of relevant work, the holder of the right of reproduction may establish the publication right therefor only with the pledgee ' s permit.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

### Article 63 - 2 (Mutatis Mutandis Application)

@Articles 58 through 62 shall apply mutatis mutandis to the publication right. In such cases, "exclusive publication right" shall be construed as "publication right" and "holder of author's economic right" as "holder of the right of reproduction."

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

## CHAPTER III NEIGHBORING RIGHTS

### SECTION 1 General Provisions

**Article 64 (Protected Performance, Phonogram and Broadcast)** (1) The following performances, phonogram and broadcasts shall be protected pursuant to this Act:

<Amended by Act No. 11110, Dec. 2, 2011>

1. Performances:

- (a) Performances conducted by nationals of the Republic of Korea (including legal persons established under the Acts 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 any item of subparagraph 2;
- (d) Performances transmitted by broadcasts as referred to in any item of subparagraph 3 (excluding those included in sound or visual recordings before transmission);

2. Phonograms:

- (a) Phonograms produced 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 and thus protected under such treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties;
- (d) Phonograms which are protected according to treaties in which the Republic of Korea has acceded to or concluded, and whose producers are nationals (including any legal person established pursuant to the Acts of the relevant contracting country and any legal person whose main office is located in the relevant contracting country) of the contracting country;

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 broadcasting organizations who are nationals of a foreign country party, from broadcasting facilities located in the 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.

(2) Even in cases of performances, phonogram and broadcasts of foreigners protected pursuant to paragraph (1), where the period of protection has expired in the relevant foreign country, the period of protection under this Act shall not be recognized. <Newly Inserted by Act No. 11110, Dec. 2, 2011 >

#### **Article 64 - 2 (Presumption of Performers, etc.)**

A person whose real name or widely known pseudonym as a performer, phonogram producer, or broadcasting organizations is indicated in a general manner in relation to performance, phonogram or broadcasting protected pursuant to this Act shall be presumed to have the right for such performance, phonogram or broadcasts as a performer, phonogram producer or broadcasting organizations, respectively.

[This Article Newly Inserted by Act No. 10807, Jun. 30, 2011]

#### **Article 65 (Relationship with Copyright)**

The provisions of each Article in this Chapter shall not be construed as affecting copyright.

### **SECTION 2 Performers Right**

**Article 66 (Right of Paternity)** (1) A performer shall have the right to indicate his/her real name or pseudonym on his/her performance or the copy of his/her performance.  
(2) Those who intend to exploit a performance shall indicate the real name or pseudonym of the performer as he/she has indicated insofar as there is no special declaration of intention by the performer: Provided, That if it is recognized as unavoidable in view of the character of the performance, the purpose and form of exploitation, etc., the same shall not apply.

#### **Article 67 (Right of Integrity)**

A performer shall have the right to maintain the identity of the content and form of his/her performance: Provided, That if it is recognized as unavoidable in view of the nature, or the purpose and manner of exploitation, etc., the same shall not apply.

#### **Article 68 (Inalienability of Performer ' s Moral Rights)**

The rights prescribed in Articles 66 and 67 (hereinafter referred to as “ moral rights of performer ” ) shall belong exclusively to the performer.

**Article 69 (Right of Reproduction)**

A Performer shall have the right to reproduce his/her performances.

**Article 70 (Right of Distribution)**

Performers shall have the right to distribute the copies of his/her performance: Provided, That if the copies of performance have been offered to transactions by means of sale, etc. with authorization of the performer, the same shall not apply.

**Article 71 (Right of Rental)**

Performers shall have the right to lend the commercial phonogram, in which his/her performance is recorded, for profit - making purpose notwithstanding the provisions of the proviso to Article 70. <Amended by Act No. 14083, Mar. 22, 2016 >

**Article 72 (Right of Public Performance)**

Performers shall have the right to perform his/her performance publicly which has not been fixed: Provided, That if the performance is for broadcasting, the same shall not apply.

**Article 73 (Right of Broadcasting)**

Performers shall have the right to broadcast their stage performances: Provided, That the same shall not apply to the performance which has been recorded with authorization of the performer.

**Article 74 (Right of Interactive Transmission)**

Performers shall have the right to interactively transmit their performances.

**Article 75 (Remuneration by Broadcasting Organizations to Performers) (1)** When a

broadcasting organizations sends out a broadcast by using commercial phonograms in which performances are recorded, it shall pay reasonable remuneration to the performers: Provided, That when the performer is a foreigner and the relevant foreign country does not recognize remuneration pursuant to the provisions of this paragraph to the performer who is a national of the Republic of Korea, the same shall not apply. <Amended by Act No. 14083, Mar. 22, 2016 >

(2) The provisions of Article 25 (5) through (9) shall apply mutatis mutandis to the payment, etc. of remuneration under paragraph (1).

(3) The amount of remuneration which the organization referred to in paragraph (2) may claim on behalf of the holder of right to remuneration shall be determined each year by an agreement between the relevant organization and the broadcasting organizations.

(4) If the organization and the broadcasting organization fails to reach an agreement pursuant to paragraph (3), the organization or the broadcasting organization may request for conciliation to the Korea Copyright Commission under Article 112 as prescribed by Presidential Decree. <Amended by Act No. 9625, Apr. 22, 2009>

#### **Article 76 (Remuneration by Digital Audio Transmission Organizations to Performers)**

(1) When a digital audio transmission organization transmits by using phonogram in which stage performances are recorded, it shall pay reasonable remuneration to the performer.

(2) The provisions of Article 25 (5) through (9) shall apply mutatis mutandis to payment of remuneration, etc. under paragraph (1).

(3) The amount of remuneration which the organization referred to in paragraph (2) may claim on behalf of the holder of right to remuneration shall be determined every year by an agreement between the organization and the digital audio transmission organization within the period prescribed by Presidential Decree.

(4) If an agreement referred to in paragraph (3) is not reached, the amount fixed and announced in public by the Minister of Culture, Sports and Tourism shall be paid. <Amended by Act No. 8852, Feb. 29, 2008>

#### **Article 76 - 2 (Remuneration to Performers by Persons Doing Public Performance Using Commercial Phonograms)**

(1) Any person doing a public performance using commercial phonogram on which the performance is recorded shall pay a reasonable remuneration to the relevant performer: Provided, That where a performer is a foreigner, the same shall not apply when the performer's country does not recognize a remuneration under this paragraph to a performer who is a national of the Republic of Korea. <Amended by Act No. 14083, Mar. 22, 2016>

(2) Articles 25 (5) through (9) and 76 (3) and (4) shall apply mutatis mutandis to the payment, amount, etc. of a remuneration under paragraph (1).

[This Article Newly Inserted by Act No. 9529, Mar 25, 2009]

**Article 77 (Joint Performers)** (1) If two or more performers perform jointly in a chorus, concert, or drama, etc., the rights of performers (excluding the performer 's moral right) prescribed under this Section shall be exercised by a representative elected by the joint performers: Provided, That where 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 participates in the performance, the consent of such vocalist or instrument player shall be obtained.

(3) The provisions of Article 15 shall apply mutatis mutandis to the exercise of the moral rights of joint performers.

### **SECTION 3 Rights of Phonogram Producers**

#### **Article 78 (Right of Reproduction)**

Phonogram producers shall have the right to reproduce their phonogram.

#### **Article 79 (Right of Distribution)**

Phonogram producers shall have the right to distribute their phonogram: Provided, That the copies of phonogram have been offered to transactions by means of sale, etc. with authorization of the phonogram producers, the same shall not apply.

#### **Article 80 (Right of Rental)**

Notwithstanding the provisions of the proviso to Article 79, phonogram producers shall have the right to authorize commercial rental of phonogram for the purpose of making profits. <Amended by Act No. 14083, Mar. 22, 2016 >

#### **Article 81 (Right of Interactive Transmission)**

Phonogram producers shall have the right to interactively transmit their phonograms.

#### **Article 82 (Remuneration to Phonogram Producers by Broadcasting Organization) (1)**

Where a broadcasting organization sends out broadcasts by using commercial phonograms, it shall pay reasonable remuneration to the phonograms producer: Provided, That when the phonograms producer is a foreigner and the foreign country

concerned does not recognize remuneration under this paragraph to the phonograms producer who is a national of the Republic of Korea, the same shall not apply.

[<Amended by Act No. 14083, Mar. 22, 2016>](#)

(2) The provisions of Articles 25 (5) through (9) and 75 (3) and (4) shall apply mutatis mutandis to the payment, amount, etc. of remuneration under paragraph (1).

#### **Article 83 (Remuneration to Phonogram Producers by Digital Audio Transmission**

**Organization)** (1) Where a digital audio transmission organization transmits by using commercial phonogram, it shall pay reasonable remuneration to the phonogram producer.

(2) The provisions of Articles 25 (5) through (9) and 76 (3) and (4) shall apply mutatis mutandis to the payment, amount, etc. of remuneration under paragraph (1).

#### **Article 83 - 2 (Remuneration to Phonogram Producers by Persons Performing in Public Using Commercial Phonogram)**

(1) Any person doing a public performance using a commercial phonogram shall pay a reasonable remuneration to the relevant phonogram producer: Provided, That where a phonogram producer is a foreigner, the same shall not apply when the producer's country does not recognize remuneration under this paragraph to a phonogram producer who is a national of the Republic of Korea. [<Amended by Act No. 14083, Mar. 22, 2016>](#)

(2) Articles 25 (5) through (9) and 76 (3) and (4) shall apply mutatis mutandis to the payment, amount, etc. of a remuneration under paragraph (1).

[\[This Article Newly Inserted by Act No. 9529, Mar 25, 2009\]](#)

### **SECTION 4 Rights of Broadcasting Organization**

#### **Article 84 (Right of Reproduction)**

Broadcasting organizations shall have the right to reproduce their broadcasts.

#### **Article 85 (Right of Simultaneous Broadcasting)**

Broadcasting organizations shall have the right to authorize their broadcasts to rebroadcast simultaneously.

#### **Article 85 - 2 (Right of Public Performance)**

A broadcasting organization has the right to publicly perform its broadcasts, when the public performance is made in place accessible to the general public charging an entrance fee with regard to watching the broadcast.

[This Article Newly Inserted by Act No. 10807, Jun. 30, 2011]

## SECTION 5 Term of Protection for Neighboring Right

**Article 86 (Term of Protection)** (1) Neighboring rights shall commence from the time that falls under the following and shall not require any procedures or formalities:

<Amended by Act No. 11110, Dec. 2, 2011>

1. For performances, when the performance took place;
2. For phonograms, when the first fixation of sound was done;
3. For broadcasts, when the broadcasts was sent out.

(2) Neighboring rights (excluding moral rights of performers; hereinafter the same shall apply) shall continue to remain for 70 years (50 years in cases of broadcasts) counting from the year following the year falling under any of the following: <Amended by Act No. 11110, Dec. 2, 2011>

1. For performances, when the performance took place: Provided, That if a phonogram on which the performance is fixed is published within 50 years from the time such performance took place, when the phonogram is published;
2. For phonogram, when the phonogram was released: Provided, That phonograms have not been released until after 50 years have passed counting from the year after the year when the sound was first fixed on the phonogram, the time when the sound was first fixed on the phonogram;
3. For broadcasts, when the broadcast was sent out.

## SECTION 6 Limitations on, Transfers of Ownership, Exercise, etc. of Neighboring Rights

**Article 87 (Limitations on Neighboring Rights)** (1) Articles 23, 24, 25 (1) through (3), 26 through 32, 33 (2), 34, 35 - 2, 35 - 3, 36 and 37 shall apply mutatis mutandis to the use of performances, phonograms or broadcasts that are the objects of neighboring rights. <Amended by Act No. 11110, Dec. 2, 2011>

(2) Where a digital audio transmission organization transmits by making use of a phonogram on which performance is recorded pursuant to Articles 76 (1) and 83 (1), he/she may temporarily reproduce a phonogram on which performance is recorded by his/her own means. In such cases, Article 34 (2) shall apply mutatis mutandis to the period of keeping such copy. <Newly Inserted by Act No. 9625, Apr. 22, 2009>

#### **Article 88 (Transfers by Assignment, Exercise, etc. of Neighboring Rights)**

@Article 45 (1) shall apply mutatis mutandis to the transfer by assignment of neighboring rights; Article 46 to authorization to exploit performance, phonogram or broadcast; Article 47 to the exercise of the right of pledge established on neighboring rights; Article 49 to the termination of neighboring rights; and Articles 57 through 62 to the establishment, etc. of the exclusive publication right of performance, phonogram or broadcast, respectively.

[This Article Wholly Amended by Act No. 11110, Dec. 2, 2011]

#### **Article 89 (Statutory License for Use of Performance, Phonogram and Broadcast)**

The provisions of Articles 50 through 52 shall apply mutatis mutandis to the use of performances, phonograms and broadcasts.

#### **Article 90 (Registration of Neighboring Rights)**

@Articles 53 through 55 and 55 - 2 shall apply mutatis mutandis to the registration of neighboring rights or the right of exclusive publication of neighboring rights. In such cases, the term "copyright register" in Article 55 shall be construed as "register of neighboring rights". <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011>

### **CHAPTER IV PROTECTION OF DATABASE PRODUCERS**

**Article 91 (Database Under Protection)** (1) The database of persons falling under any of the following subparagraphs shall be protected under this Act:

1. Nationals of the Republic of Korea;
2. Foreign nationals protected by the treaties to which the Republic of Korea has acceded or which it has concluded in relation with the protection of database.

(2) Even for a foreign national database protected under paragraph (1), if the foreigner ' s country does not protect the database of nationals of the Republic of

Korea, the protection under the treaties and this Act may be limited proportionately therewith.

**Article 92 (Exception from Application)**

The provisions of this Chapter shall not be applicable to the database falling under either of the following subparagraphs:

1. Computer programs which are used for the production, renewal, etc. or operation of the database;
2. Database which are produced or renewed, etc. in order to have wireless or wire communications technically possible.

**Article 93 (Rights of Database Producers)** (1) Database producers shall hold the rights to reproduce, distribute, broadcast, or interactively transmit (hereafter referred to as the “reproduction, etc.” in this Article) the whole or considerable parts of relevant database.

(2) Individual materials of the database shall not be considered as the considerable parts of relevant database under the provisions of paragraph (1): Provided, That even for the reproductions, etc. of individual materials of database or of the portions falling short of their considerable parts, if the said reproductions conflict with the normal exploitation of relevant database, or infringe unduly on the interests of database producers, by making them repeatedly or systematically for specific purposes, they shall be considered as the reproductions, etc. of the considerable parts of relevant database.

(3) Protections under this Chapter shall not affect the copyright of materials forming constituent parts of the database, and other rights protected under this Act.

(4) Protections under this Chapter shall not extend to the materials themselves forming constituent parts of the database.

**Article 94 (Limitations on Rights of Database Producers)** (1) Articles 23, 28 through 34, 35 - 2, 35 - 3, 36 and 37 shall apply mutatis mutandis to the use of database which is the object of the rights of database producers. [<Amended by Act No. 11110, Dec. 2, 2011 >](#)

(2) In either of the following cases, a person may reproduce, distribute, broadcast or interactively transmit the whole or considerable parts of database: Provided, That



the same shall not apply where it is in conflict with the normal exploitation of relevant database:

1. Where being used for education, scholarship or research: Provided, That the same shall not apply to the case aiming at profit - making;
2. Where being used for the news reporting.

**Article 95 (Period of Protection)** (1) The rights of database producers shall commence from the time of completing a production of database, and shall continue to exist for five years counting from the next year of the completion.

(2) Where a considerable investment in human or material resources has been made for the renewal, etc. of database, the rights of database producers for the relevant parts shall commence from the time of making relevant renewal, etc., and shall remain effective for five years counting from the next year of the renewal.

**Article 96 (Transfer, Exercise, etc. of Rights of Database Producers)**

The proviso to Article 20 shall apply mutatis mutandis to the offer of database for transaction, Article 45 (1) to the transfer of rights of database producers, Article 46 to the authorization of the use of database, Article 47 to the exercise of the right of pledge established on the rights of database producers, Article 48 to the exercise of rights by the database producers of joint databases, Article 49 to the termination of rights of database producers, and Articles 57 through 62 to the establishment, etc. of the exclusive publication right of database, respectively.

[This Article Wholly Amended by Act No. 11110, Dec. 2, 2011]

**Article 97 (Statutory License for Use of Database)**

The provisions of Articles 50 and 51 shall apply mutatis mutandis to the use of database.

**Article 98 (Registration of Rights of Database Producers)**

@Articles 53 through 55 and 55 - 2 shall apply mutatis mutandis to the registration of rights of database producers and the exclusive publication right of database producer ' s right. In such cases, the term "copyright register" in Article 55 shall be construed as "database producer's right register". <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011 >

**CHAPTER V SPECIAL CASES CONCERNING CINEMATOGRAPHIC WORKS**

**Article 99 (Cinematization of Works)** (1) If the holder of author ' s economic right authorizes another person to exploit his/her work by means of cinematization, such authorization shall be presumed to include the following rights, unless otherwise expressly stipulated:

1. To dramatize a work for the production of a cinematographic work;
2. To publicly screen a cinematographic work aiming at a public screening;
3. To broadcast a cinematographic work aiming at broadcasting;
4. To interactively transmit a cinematographic work aiming at a interactive transmission;
5. To reproduce and distribute a cinematographic work for its original purpose;
6. To exploit the translation of a cinematographic work in the same manner as the cinematographic work.

(2) If the holder of author ' s economic right authorizes a person to exploit his/her work by means of cinematization, unless otherwise stipulated, he/she may authorize, after the lapse of five years from the date of his/her authorization, the cinematization of the work in another form of cinematographic work.

**Article 100 (Rights to Cinematographic Works)** (1) Where a producer of a cinematographic work and a person who agreed to cooperate in the production of a cinematographic work have obtained a copyright to the said cinematographic work, the rights necessary for the exploitation of such cinematographic work shall be presumed to have been transferred to the producer of the cinematographic work unless otherwise expressly stipulated.

(2) The copyright to a novel, play, work of art or musical work used for the production of a cinematographic work shall not be affected by the provision of paragraph (1).

(3) The right to reproduce under Article 69, the right to distribute under Article 70, the right to broadcast under Article 73, and the right to interactively transmit under Article 74 with regard to the use of a cinematographic work of a performer who agreed with the producer of a cinematographic work to cooperate in the production of

a cinematographic work shall be presumed to have been transferred to the producer of cinematographic works, unless otherwise expressly stipulated.

**Article 101 (Rights of Producers of Cinematographic Works)** (1) Rights necessary for the exploitation of a cinematographic work to be transferred by a person, who agreed to cooperate in the production of a cinematographic work, to a producer of a cinematographic work shall be the right to exploit the cinematographic work by means of reproduction, distribution, public presentation, broadcasting, interactive transmission, and others, and the said producer may transfer the rights, or establish the pledge thereon.

(2) The right to be transferred from a performer to a producer of a cinematographic work shall be the right to reproduce, distribute, broadcast or interactive transmit the said cinematographic work, and it may be interactively transferred or a pledge may be established thereon.

## CHAPTER V - 2 SPECIAL RULES CONCERNING CINEMATOGRAPHIC WORKS

### **Article 101 - 2 (Objects of Protection)**

This Act shall not apply to the following subparagraphs used to prepare programs:

1. Programming language: Characters, symbols and their systems as means expressing programs;
2. Protocol: A special agreement on how to use programming language in a specific program;
3. Algorithm: Combination methods of instructions and commands in a program.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 101 - 3 (Limitations on Author's Economic Right of Program)** (1) In any of the following cases, a program released may be reproduced or distributed to the extent necessary for that purpose: Provided, That where it unreasonably prejudices the interest of the holder of author's economic right in the light of types and purposes of programs, relative importance of a reproduced part in a program and the number of copies of reproduction or such, the same shall not apply:

1. Where a program is reproduced for a trial or investigation;

2. Where a program is reproduced or distributed for the purpose of providing it to a course of lessons by any person who is responsible for education at schools under the Early Childhood Education Act, the Elementary and Secondary Education Act and the Higher Education Act, and in educational institutions (limited to educational institutions by which educational attainments for entrance into a school of higher level are authorized or which confer an academic degree) established pursuant to other Acts;
3. Where a program is reproduced to be published in textbooks for the educational purpose of schools under the Elementary and Secondary Education Act and schools equivalent thereto;
4. Where a program is reproduced for personal purposes (excluding cases for the purpose of profit - making) in the confined place like home;
5. Where a program is reproduced or distributed for the purpose (excluding cases for the purpose of profit - making) of entrance examinations of schools under the Elementary and Secondary Education Act and the Higher Education Act and of schools equivalent thereto, or of other examinations or official approval for scholarship or skill;
6. Where a program is reproduced for the purpose of research, study, test of functions of a program to confirm ideas and principles which form the foundation of a program (only when any person who uses a program with legitimate authority is using the relevant program).

(2) Programs (limited to cases in which they are legitimately acquired) may be temporarily reproduced during the course of using a computer for the maintenance and repair of such computer. <Newly Inserted by Act No. 11110, Dec. 2, 2011 >

(3) Any person who intends to publish a program in textbooks pursuant to paragraph (1) 3 shall pay a remuneration under the standards determined and announced by the Minister of Culture, Sports and Tourism to the relevant holder of author's economic right. The provisions of Article 25 (5) through (9) shall apply mutatis mutandis to payment of a remuneration.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 101 - 4 (Decompilation of Program Codes)** (1) Where any person who uses a program with legitimate authority or any person who has obtained his/her permission

cannot easily obtain necessary information for compatibility and it is inevitable for him/her to obtain the information, he/she may perform decompilation of program codes without obtaining permission of the holder of author ' s economic right of the program limited to necessary part for compatibility of the relevant program.

(2) Where information obtained through decompilation of program codes under paragraph (1) falls under any of the following subparagraphs, it shall not be used:

1. Where information is exploited for the purpose other than the purpose of compatibility or is provided to a third party;
2. Where a program or expression subject to a reverse engineering of program code is exploited in development, production and sale of substantially similar programs or in infringement of copyright of the program.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 101 - 5 (Reproduction for Storage by Legitimate Users)** (1) Any person who possesses and uses a copy of program with legitimate authority may reproduce the relevant copy to the extent necessary to provide against destruction, damage or deterioration or such of the copy.

(2) When any person who possesses or uses a copy of program has lost the right to possess and use a copy of the relevant program, he/she shall destroy the copy made pursuant to paragraph (1) unless the holder of author ' s economic right of the program specially expresses his/her intention: Provided, That where he/she has lost the right to possess and use a copy of program because the relevant copy of program has been destroyed, the same shall not apply.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 101 - 6 Deleted.** <by Act No. 11110, Dec. 2, 2011 >

**Article 101 - 7 (Bailment of Program)** (1) The holder of author ' s economic right of a program and any person who has been authorized to use the program may bail the source code and technical information or such of the program to a person prescribed by Presidential Decree (hereafter referred to as " bailee " in this Article) by mutual consent.

(2) Any person who has been authorized to use a program may, when a reason stipulated in the consent obtained pursuant to paragraph (1) has arisen, request the

bailee to provide him/her the source code and technical information or such of the program.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

## CHAPTER VI LIMITATION ON LIABILITY OF ONLINE SERVICE PROVIDERS

**Article 102 (Limitation on Liability of Online Service Providers)** (1) Even if copyright or other rights protected pursuant to this Act are infringed in relation to any of the following subparagraphs, an online service provider shall not be responsible for such infringement, where he/she meets all of the following requirements in the items pursuant to each subparagraph: <Amended by Act No. 10807, Jun. 30, 2011; Act No. 11110, Dec. 2, 2011 >

1. An act of transmitting, routing or providing connections for works etc. without modifying their contents, or automatic, intermediate or temporary storage of such works etc. in the course thereof within a reasonably necessary period for such transmission:
  - (a) Where an online service provider has not initiate the transmission of works, etc.;
  - (b) Where an online service provider has not selected works, etc. or the recipients thereof;
  - (c) Where an online service provider has adopted and reasonably implemented a policy that provides for termination of the accounts (referring to the accounts with the right to use relevant services, used by an online service provider to identify and manage users; hereafter the same shall apply in this Article and Articles 103 - 2, 133 - 2 and 133 - 3) of persons who repeatedly infringe on copyright or other rights protected pursuant to this Act;
  - (d) Where the online service provider has accommodated and has not interfered with standard technical measures used by the holder of right that are designed to identify and protect works, etc. and meet the conditions under Presidential Decree;
2. An act of storing works, etc. transmitted at the request of service users in an automatic, mediating or temporary manner so that subsequent users can efficiently access or receive such works, etc.:

- (a) Where the requirements under the items of subparagraph 1 are all met;
  - (b) Where an online service provider has not modified such works, etc.;
  - (c) If any condition exists to access such works, etc. provided, where the access to temporarily stored works, etc. is permitted to users who have complied with such condition;
  - (d) Where an online service provider has complied with the rules on updating works, etc. that are determined by a person who reproduces or interactively transmits works, etc. (hereinafter referred to as "interactive transmitter or reproducer") under data communications protocol for computers or information and communications networks generally recognized in the industry: Provided, That this shall not apply where an interactive transmitter or reproducer has determined rules on updating for the purposes of unreasonably restricting such storage;
  - (e) Where an online service provider has not interfered with the use of technologies generally recognized within such industry, which are applied to obtain information on the use of works, etc. at the originating site of the works, etc.;
  - (f) Where an online service provider immediately removed or disabled access to the works etc., when an online service provider is required to suspend reproduction or interactive transmission under Article 103 (1), where such works, etc. are removed or made inaccessible at the original website, or where he/she actually becomes aware of the fact that the court or the head of a central administrative agency has issued an order to delete such works, etc. or make them inaccessible;
3. An act of storing works, etc. in the computer of an online service provider at the request of a reproducer or interactive transmitter:
- (a) Where the requirements under the items of subparagraph 1 are all met;
  - (b) When an online service provider has the right and ability to control the infringing activity, where he/she has not obtained any financial benefit directly attributable to the infringing activity;
  - (c) When an online service provider actually becomes aware of infringement or obtains actual knowledge of the fact or circumstance that infringement is evident through the request, etc. to suspend reproduction or interactive transmission

under Article 103 (1), where he/she has immediately suspended the reproduction or interactive transmission of such works, etc.;

(d) Where an online service provider has designated and announced a person to receive demand to suspend reproduction or interactive transmission pursuant to Article 103 (4);

4. An act of allowing users to know the location of works, etc. on information and communications networks or connecting them thereto through information search tools:

(a) Where the requirements under subparagraph 1 (a) are met;

(b) Where the requirements under subparagraph 3 (b) through (d) are met.

(2) Notwithstanding the provisions of paragraph (1), where it is technologically impossible for an online service provider to take measures under paragraph (1), he/she shall not be responsible for the infringement of copyright or other rights protected pursuant to this Act due to the reproduction or interactive transmission of works, etc. by other persons. <Amended by Act No. 10807, Jun. 30, 2011 >

(3) In relation to the limitation on liability under paragraph (1), an online service provider shall not be obligated to monitor any infringement within his/her services or actively investigating such infringement. <Newly Inserted by Act No. 10807, Jun. 30, 2011 >

**Article 103 (Suspension of Reproduction or Interactive Transmission)** (1) Any person who claims that his/her copyright and other rights protected under this Act are infringed (hereafter referred to in this Article as "claimant to a right") due to the reproduction or interactive transmission of works, etc. through the use of services by an online service provider (excluding cases under Article 102 (1) 1; hereafter the same shall apply in this Article), may demand the online service provider, by vindicating the said facts, to suspend the reproduction or interactive transmission of the works, etc. <Amended by Act No. 10807, Jun. 30, 2011 >

(2) Where an online service provider is requested to suspend the reproduction or interactive transmission under paragraph (1), he/she shall immediately suspend the reproduction or interactive transmission of such works, etc. and notify a claimant to the right of such fact: Provided, That an online service provider referred to in Article 102 (1) 3 or 4 shall also notify the reproducer or interactive transmitter of such works, etc. <Amended by Act No. 10807, Jun. 30, 2011 >



(3) Where the reproducer or interactive transmitter, upon receipt of notification under paragraph (2), vindicates that his/her reproduction or interactive transmission is made with legitimate authority, and demands a resumption of such reproduction or interactive transmission, the online service provider shall promptly notify the claimant to the right of the fact of demanding a resumption and the scheduled date of resumption, and shall have the reproduction or interactive transmission resumed on the said scheduled date: Provided, That this shall not apply where the claimant to a right notifies an online service provider before the scheduled date of resumption, of the fact that he/she has filed a lawsuit against the act of infringement of reproducer or interactive transmitter. <Amended by Act No. 11110, Dec. 2, 2011>

(4) The online service provider shall make an announcement, by designating the person who is demanded to suspend or to resume the reproduction or interactive transmission under paragraphs (1) and (3) (hereafter referred to in this Article as “ recipient ” ), so as to have the users of facilities or services of the provider know with ease.

(5) Where the online service provider has made an announcement pursuant to paragraph (4), and has suspended or resumed the reproduction or interactive transmission of relevant works, etc. under paragraphs (2) and (3), the liability of the online service provider for the infringement on third parties ' copyright and other rights protected under this Act, and the liability of the online service provider for the losses incurred to the reproducer or interactive transmitter, shall be exempted: Provided, That this shall not apply to the liability arisen from the time when the online service provider has known the facts that the copyright and other rights protected under this Act were infringed due to the reproduction or interactive transmission of works, etc. by third parties to the time of demanding the suspension under paragraph (1). <Amended by Act No. 10807, Jun. 30, 2011; Act No. 11110, Dec. 2, 2011>

(6) Any person who demands, without legitimate authority, the suspension or resumption of the reproduction or interactive transmission of relevant works, etc. under paragraphs (1) and (3), shall make a compensation for any losses incurred thereby.

(7) Matters necessary for the vindication, suspension, notification, resumption of reproduction or interactive transmission, designation of a recipient, and public notice, etc. under paragraphs (1) through (4) shall be prescribed by Presidential Decree. In

such cases, the Minister of Culture, Sports and Tourism shall make a prior consultation with the heads of related central administrative agencies. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 10807, Jun. 30, 2011 >

**Article 103 - 2 (Scope of Court Orders Issued to Online Service Providers)** (1) Where the court orders necessary measures pursuant to Article 123 (3) to an online service provider who meets the requirements under Article 102 (1) 1, it may order the following measures only:

1. Termination of certain accounts;
2. Reasonable measures to prevent the access to specific foreign websites.

(2) Where the court orders necessary measures pursuant to Article 123 (3) to an online service provider who meets the requirements under Article 102 (1) 2 through 4, it may order the following measures only:

1. Deletion of illegal copies;
2. Measures to prevent the access to illegal copies;
3. Termination of specific accounts;
4. Other measures deemed by the court as necessary to the extent a minimum burden is imposed on an online service provider.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 103 - 3 (Request for Information on Reproducers and Interactive Transmitters)**

(1) Where the claimant to a right has requested an online service provider to provide information owned by such online service provider, such as the names and addresses of the relevant reproducer and interactive transmitter to the minimum extent necessary to file a civil lawsuit or bring criminal charges, but the online service provider has refused such request, the claimant to the right may request the Minister of Culture, Sports and Tourism to issue an order to the online service provider to provide such information.

(2) In receipt of a request under paragraph (1), the Minister of Culture, Sports and Tourism may order the online service provider to submit information on the relevant reproducer and interactive transmitter, after undergoing deliberation by the Copyright Protection Deliberation Committee referred to in Article 122 - 6. <Amended by Act No. 14083, Mar. 22, 2016 >

(3) The online service provider shall submit relevant information to the Minister of Culture, Sports and Tourism within seven days from receipt of an order under paragraph (2), and the Minister of Culture, Sports and Tourism shall provide such information to a person who has made a request under paragraph (1), without delay.

(4) No person provided with information on the relevant reproducer or interactive transmitter pursuant to paragraph (3) shall use such information for the purposes other than those requested under paragraph (1).

(5) Other matters necessary for the provision of information on reproducers or interactive transmitters shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 104 (Obligation, etc. of Online Service Providers of Special Type)** (1) The online service provider who aims principally at enabling interactive transmission of works, etc. by using computers between other persons (hereinafter referred to as “online service provider of special type”) shall take necessary measures, such as technological measures, etc. that block illegal forwarding of the relevant work, etc. upon request from the holder of rights. In such cases, matters regarding the request of holder of rights and necessary measures shall be prescribed by Presidential Decree. <Amended by Act No. 9625, Apr. 22, 2009>

(2) The Minister of Culture, Sports and Tourism may lay down and announce the extent of online service provider of special type under paragraph (1). <Amended by Act No. 8852, Feb. 29, 2008>

## CHAPTER VI - 2 PROHIBITION OF CIRCUMVENTING TECHNOLOGICAL PROTECTION MEASURES, ETC

**Article 104 - 2 (Prohibition of Circumventing Technological Protection Measures)** (1) No person shall circumvent the technological protection measures under subparagraph 28 (a) of Article 2 by intention or negligence without legitimate authority by removing, altering or bypassing such measures: Provided, That this shall not apply in any of the following:

1. Where a person engaged in research of encryption circumvents technological protection measures to the extent necessary to research flaws or vulnerability of

encryption technologies applied to such works, etc. after legitimately obtaining the copy of the works, etc.: Provided, That the foregoing shall be limited to cases where he/she has made a considerable effort to obtain a permission for the use necessary for such research from the holder of rights, but failed to do so;

2. Where he/she includes components or parts circumventing technological protection measures in technology, products, services or devices in order to prevent minors from accessing online works, etc. harmful to minors: Provided, That the foregoing shall be limited to cases where no ban is imposed pursuant to paragraph (2);
3. Where it is necessary to identify functions of non - disclosure collecting and distributing personally identifiable information capable of verifying individuals' online activities and circumventing them: Provided, That the foregoing shall not apply where it affects other persons' access to works, etc.;
4. Where it is necessary for law enforcement, legitimate information collection, guarantee of security, etc. by the State;
5. Where it is necessary for educational institutions and education supporting institutions under Article 25 (2), libraries under Article 31 (1) (limited to non - profit libraries) or archive management institutions under the Public Records Management Act to determine whether to purchase works, etc.: Provided, That the foregoing shall be limited to cases where any access thereto is impossible without circumventing technological protection measures;
6. Where a person who uses programs with legitimate authority engages in decompiling program codes to the extent necessary to secure compatibility with other programs;
7. Where it is necessary for a person who has legitimate authority to inspect, investigate, or correct the security of computers or information and communications networks;
8. Cases determined and notified by the Minister of Culture, Sports and Tourism according to the procedures prescribed by Presidential Decree as it is deemed that the legitimate use of works, etc. of specific types is unreasonably affected or likely to be affected by the prohibition of circumventing technological protection measures. In such cases, the effect of such exception shall be valid for three years.

(2) No person may manufacture, import, distribute, interactively transmit, sell or rent, offer to the general public for subscription, advertise to sell or rent, store or possess to distribute the following devices, products or parts, or provide the relevant services, without legitimate authority:

1. Those publicized, advertised or promoted for the purpose of circumventing technological protection measures;
2. Those having limited business purposes or uses other than circumventing technological protection measures;
3. Those designed, produced or remodeled, or performed for the main purpose of making circumventing technological protection measures possible or easy.

(3) Notwithstanding the provisions of paragraph (2), the aforementioned shall not apply in either of the following cases:

1. Cases falling under paragraph (1) 1, 2, 4, 6 and 7 in relation to technological protection measures under subparagraph 28 (a) of Article 2;
2. Cases falling under paragraph (1) 4 and 6 in relation to technological protection measures under subparagraph 28 (b) of Article 2.

[This Article Newly Inserted by Act No. 10807, Jun. 30, 2011]

#### **Article 104 - 3 (Prohibition of Removal, Alteration, etc. of Rights Management**

**Information)** (1) No person shall do any of the following acts without legitimate authority either knowingly or without knowing by negligence that such acts may cause or conceal the infringement of copyright or other rights protected pursuant to this Act: <Amended by Act No. 11110, Dec. 2, 2011 >

1. Act of deliberately removing, altering or falsely adding rights management information;
2. Act of distributing rights management information or importing such information for the purpose of distribution, upon knowing that such information has been removed or altered without legitimate authority;
3. Act of distributing, publicly performing or publicly transmitting the original or copies of relevant works, etc. or the reproduction thereof or of importing them for the purpose of distribution, upon knowing that rights management information has been removed, altered or falsely added without legitimate authority.

(2) Paragraph (1) shall not apply where it is necessary for national law enforcement, legitimate information collection, guarantee of security, etc.

[This Article Newly Inserted by Act No. 10807, Jun. 30, 2011]

#### **Article 104 - 4 (Prohibition of Circumvention, etc. of Encrypted Broadcasting Signals)**

No person shall conduct any of the following acts:

1. Act of manufacturing, assembling, altering, importing, exporting, selling, or renting, or delivering with other means, devices, products, major components, programs, or other tangible or intangible measures for the purposes of decoding (encoding) encrypted broadcasting signals without consent of a broadcasting organization, either knowingly or without knowing by negligence that such measures will be mainly used for such purposes: Provided, That this shall not apply to cases falling under Article 104 - 2 (1) 1, 2 or 4;
2. Where encrypted broadcasting signals have been decoded with legitimate authority, act of publicly transmitting such signals upon knowing such fact to other persons for profit without consent of a broadcasting organization;
3. Act of listening to or viewing or publicly transmitting to other persons by receiving encrypted broadcasting signals, upon knowing that such signals have been decoded without consent of a broadcasting organization.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

#### **Article 104 - 5 (Prohibition of Forging, etc. of Labels)**

No person shall conduct any of the following acts without legitimate authority:

1. Act of forging labels of works, etc. to be attached, enclosed or added to illegal copies or their documents or packaging, or act of distributing forged labels or owning them for the purpose of distribution upon knowing such fact;
2. Act of distributing labels produced upon obtaining a permit from the holder of right of works, etc. or a person who has received consent from the holder of right, beyond the permitted range, or act of redistributing forged labels or owning them for the purpose of redistribution upon knowing such fact;
3. Act of forging documents or packaging distributed together with legitimate copies of works, etc. to use them for illegal copies, or act of distributing forged documents or packaging or owning them for the purpose of distribution upon knowing such fact.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

#### **Article 104 - 6 (Prohibition of Recording, etc. of Cinematographic Works)**

No person shall record cinematographic works protected by copyright at a movie theater, etc. screening such works with a recording device without consent of the holder of author's economic right, or publicly transmit such works.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

#### **Article 104 - 7 (Prohibition of Transmitting Signals Prior to Broadcasting)**

No person shall transmit signals to be transmitted to a broadcasting organization (excluding cases in which the signals are transmitted for the purposes of allowing the public to directly receive them) to any third person without legitimate authority.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

#### **Article 104 - 8 (Claim, etc. of Suspension or Prevention of Infringement)**

A person who holds copyrights or other rights protected pursuant to this Act may request suspension or prevention of infringement, security for damages, damages or statutory damages in lieu thereof against a person who has violated Articles 104 - 2 through 104 - 4, and may request suspension and prevention of infringement against a person who has done an act under Article 104 - 2 (1) without intention or negligence. In such cases, Articles 123, 125, 125 - 2, 126 and 129 shall apply mutatis mutandis. <Amended by Act No. 11110, Dec. 2, 2011 >

[This Article Newly Inserted by Act No. 10807, Jun. 30, 2011]

### **CHAPTER VII COPYRIGHT TRUST SERVICE**

**Article 105 (Permission, etc. for Copyright Trust Service)** (1) Any person who intends to engage in a copyright trust service shall obtain permission from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree; and a person who intends to engage in a copyright agency or brokerage service shall report thereon to the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree: Provided, That the Minister of Culture, Sports and Tourism may designate a public institution under the Act on the Management of Public Institutions as an organization that provides copyright trust service. <Amended by Act No. 8852, Feb. 29, 2008; Act No.

[14083, Mar. 22, 2016](#)>

(2) Anyone who intends to operate the copyright trust service pursuant to the provisions of paragraph (1) shall satisfy the following requirements, prepare regulations defining the duties of copyright trust service as prescribed by Presidential Decree and submit them together with an application for permission for copyright trust service to the Minister of Culture, Sports and Tourism: Provided, That the requirements prescribed in subparagraph 1 shall not apply to a public institution referred to in the proviso to paragraph (1):<[Amended by Act No. 8852, Feb. 29, 2008; Act No. 14083, Mar. 22, 2016](#)>

1. That it shall be an organization comprised of the holders of right to works, etc.;
2. That it shall not aim at profit - making;
3. That it shall have sufficient capability to execute the duties, such as the collection, distribution, etc. of fees.

(3) Any person falling under any of the following subparagraphs shall not be eligible to obtain a license to engage in a copyright trust service or copyright agency or brokerage service (hereinafter referred to as “ copyright trust service ” ) under paragraph (1) or report it:<[Amended by Act No. 14634, Mar. 21, 2017](#)>

1. Any incompetent person under the adult guardianship or quasi - incompetent person under the limited guardianship;
2. Any person who has been declared bankrupt and has not yet been reinstated;
3. Any person who is within one - year period following 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 any of subparagraphs 1 through 4 is the representative or executive officer.

(4) Any person who has obtained permission or reported for copyright trust service under paragraph (1) (hereinafter referred to as “ copyright trust service provider ” ) may collect fees for his/her services from the holder of author ’ s economic rights or other interested persons.

(5) The rate and amount of fees under paragraph (4) and the rate and amount of usage fee that a copyright trust service provider receives from users shall be



determined by the copyright trust service provider after he/she obtains approval from the Minister of Culture, Sports and Tourism. In such cases, the Minister of Culture, Sports and Tourism shall collect opinions of interested persons, as prescribed by Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 14083, Mar. 22, 2016>

(6) As for approval under paragraph (5), the Minister of Culture, Sports and Tourism may approve after going through the deliberation of the Korea Copyright Commission pursuant to Article 112, and may ,if necessary, set the period of time for the approval or approve after correcting the content in the application . <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>

(7) Where there is an application for approval on the rate or amount of usage fee pursuant to the provisions of paragraph (5) or where the Minister of Culture, Sports and Tourism has granted approval, he/she shall announce the content thereof as prescribed by Presidential Decree. <Amended by Act No. 8852, Feb. 29, 2008>

(8) Where it is necessary for the protection of rights of the holder of author ' s economic right and other parties or for the contribution of convenience of use of works, etc., the Minister of Culture, Sports and Tourism may change the content of approval pursuant to the provisions of paragraph (5). <Amended by Act No. 8852, Feb. 29, 2008>

- Article 106 (Obligation of Copyright Trust Service Provider)** (1) The copyright trust service provider shall prepare a list of works, etc. that he/she manages on a quarter year basis in written or electronic form as prescribed by Presidential Decree so that all the people may peruse the list during business hours at the least.
- (2) Where a user requests in writing, the copyright trust service provider shall supply the information under his/her management necessary for concluding exploitation contract of works, etc., which is prescribed by Presidential Decree, within a considerable period of time in writing, unless there are justifiable causes to the contrary.
- (3) Where necessary for users' convenience, the Minister of Culture, Sports and Tourism may request a copyright trust service provider that receives usage fees under Article 105 (5) or an organization that collects remunerations from persons who do public performance using commercial phonogram under Articles 76 - 2 and

83 - 2 to make an integrated collection, as prescribed by Presidential Decree. In such cases, the copyright trust service provider or remuneration collection organization in receipt of such request shall comply therewith unless there is any good cause. <Newly Inserted by Act No. 14083, Mar. 22, 2016 >

(4) A copyright trust service provider or remuneration collection organization may entrust the affairs related to the integrated collection of usage fees and remunerations as prescribed in paragraph (3) to a person prescribed by Presidential Decree. <Newly Inserted by Act No. 14083, Mar. 22, 2016 >

(5) A copyright trust service provider or remuneration collection organization that entrusts affairs related to collection under paragraph (4), shall pay entrustment commission, as prescribed by Presidential Decree. <Newly Inserted by Act No. 14083, Mar. 22, 2016 >

(6) Necessary matters concerning the time frame for, and methods, etc. of, settlement of usage fees and remunerations collected under paragraph (3) shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 14083, Mar. 22, 2016 >

#### **Article 107 (Request for Perusal of Documents)**

The copyright trust service provider may request for perusal of documents needed for the calculation of usage fee for the relevant works from the person who uses the works, etc. under his/her management for commercial purposes. In such cases, the user shall comply therewith unless there is a justifiable reason to the contrary.

**Article 108 (Supervision)** (1) The Minister of Culture, Sports and Tourism may demand a copyright trust service provider to submit a necessary report on the duties of the copyright trust service. <Amended by Act No. 8852, Feb. 29, 2008 >

(2) In order to promote the protection of rights and interests of authors and the convenient use of works, the Minister of Culture, Sports and Tourism may issue necessary orders concerning copyright trust service. <Amended by Act No. 8852, Feb. 29, 2008 >

**Article 109 (Cancellation, etc. of Permission)** (1) The Minister of Culture, Sports and Tourism may order the suspension of business for a specified period of not longer than six months, if a copyright trust service provider commits any of the following subparagraphs: <Amended by Act No. 8852, Feb. 29, 2008; Act No. 14083, Mar. 22, 2016 >

1. Where he/she has received an amount in excess of the fee approved pursuant to the provisions of Article 105 (5);
2. Where he/she has received an additional usage fee in addition to the usage fee approved pursuant to the provisions of Article 105 (5);
3. Where he/she has failed to make a report under Article 108 (1) without any justifiable reason or made a false report;
4. Where he/she has received an order under Article 108 (2), and failed to fulfill the order without any justifiable reason;
5. Where he/she has received a request to make integrated collection under Article 106 (3), and failed to comply with the request without any justifiable reason.

(2) The Minister of Culture, Sports and Tourism may cancel permission for, or order to close copyright trust service if a copyright trust service provider commits any of the following subparagraphs: <Amended by Act No. 8852, Feb. 29, 2008>

1. That the copyright trust service provider has obtained permission or made a report by fraudulent or unlawful means;
2. That the copyright trust service provider continues to engage in the business after receiving an order of suspension under paragraph (1).

#### **Article 110 (Hearings)**

If the Minister of Culture, Sports and Tourism intends to cancel the permission for, or order to close copyright trust service pursuant to the provisions of Article 109 (2), he/she shall hold a hearing. <Amended by Act No. 8852, Feb. 29, 2008>

**Article 111 (Imposition of Penalty Surcharge)** (1) When a copyright trust service provider falls under any of the subparagraphs of Article 109 (1) and thus has to be given a disposition of business suspension, the Minister of Culture, Sports and Tourism may impose and collect a penalty surcharge not exceeding 1/100 of the usage fees and remunerations collected in the immediately preceding year, in lieu of the disposition of business suspension, as prescribed by Presidential Decree:

Provided, That where it is impractical to calculate the amount to be collected, the Minister may impose and collect a penalty surcharge in an amount not exceeding one billion won. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 14083, Mar. 22, 2016>

(2) When the person who has been given a disposition of business suspension pursuant to the provisions of paragraph (1) fails to pay the penalty surcharge by the

payment deadline, the Minister of Culture, Sports and Tourism shall collect it in the same manner as delinquent national taxes are collected. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 14083, Mar. 22, 2016>

(3) The penalty surcharge collected pursuant to the provisions of paragraphs (1) and (2) may be used by the collecting body to establish order of healthy use of works. <Amended by Act No. 14083, Mar. 22, 2016>

(4) Matters necessary for the amount of penalty surcharge in accordance with the kind, degree, etc. of violation for which a penalty surcharge is imposed pursuant to the provisions of paragraph (1), procedures for use of penalty surcharge pursuant to the provisions of paragraph (3), etc. shall be prescribed by Presidential Decree. <Amended by Act No. 14083, Mar. 22, 2016>

## CHAPTER VIII KOREA COPYRIGHT COMMISSION

**Article 112 (Establishment of Korea Copyright Commission)** (1) In order to deliberate on matters concerning copyright and other rights (hereafter referred to as “copyright” in this Chapter) protected pursuant to this Act, and to mediate and conciliate disputes concerning copyright (hereinafter referred to as “dispute”), and to conduct business necessary for the promotion of the rights and interests of right holders and protection and fair use of works, etc., the Korea Copyright Commission (hereinafter referred to as the “Commission”) shall be established. <Amended by Act No. 14083, Mar. 22, 2016>

(2) The Commission shall be a legal person.

(3) The provisions on an incorporated foundation under the Civil Act shall apply mutatis mutandis to matters not prescribed in this Act regarding the Commission. In such cases, a member of the Commission shall be deemed a director.

(4) Any person who is not the Commission shall not use the name of the Korea Copyright Commission.

[This Article Wholly Amended by Act No. 9625, Apr. 22, 2009]

**Article 112 - 2 (Organization of the Commission)** (1) The Commission shall be comprised of members no less than 20 but no more than 25 including one chairperson and two vice - chairpersons.

(2) Members shall be appointed by the Minister of Culture, Sports and Tourism from among the persons referred to in the following subparagraphs, and the chairperson and vice - chairpersons shall be elected from among the members. In such cases, the Minister of Culture, Sports and Tourism shall strike a balance between the number of members who reflect the interest of holders of rights which are protected by this Act and the number of members who reflect the interest of users thereof, and may request organizations of holders of a right by field or organizations of users by field or such to recommend members:

1. Those who majored in the field related to copyright as those who are or were associate professors or higher, or in the position equivalent thereto in a college or authorized research institution;
2. Those who are in the position of a judge or public prosecutor, or those who have qualification for a lawyer;
3. Those who are experienced in business in the field of copyright or cultural industry as those who are or were public officials in Grade IV or higher, or in the position in a public institution equivalent thereto;
4. Those who are or were in the position of executive officer of an organization related to copyright or cultural industry;
5. Those who have extensive knowledge and wide experience in business related to copyright or cultural industry.

(3) A term of office of members shall be three years and they may be reappointed: Provided, That a term of office of a member who is appointed to the designated post shall be the term of the post he/she holds.

(4) When a vacancy occurs in the membership of the Commission, a substitute member shall be appointed pursuant to paragraph (2), and a term of office of the substitute member shall be the remainder of his/her predecessor ' s term of office: Provided, That if the number of members is no less than 20, a substitute member need not be appointed.

(5) Subcommittees by field may be established in order to efficiently conduct business of the Commission. A resolution made by a subcommittee with respect to matters entrusted by the Commission shall be deemed made by the Commission.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 113 (Functions)**

The Commission shall perform the following functions: <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>

1. Mediation or conciliation of disputes;
2. Deliberation of the matters concerning the rate or amount of fee and usage fee for copyright trust service provider pursuant to the provisions of Article 105 (6) and deliberation of the matters presented for consideration by the Minister of Culture, Sports and Tourism or jointly by three or more members;
3. Projects for setting up order in the use of works, etc. and for promoting fair use of works;
4. International cooperation for the protection of copyright;
5. Research, education and publicity of copyright;
6. Support to the formulation of policy on copyright;
7. Measures of technological protection and support to the formulation of policy on rights management information;
8. Construction and operation of information management system for the provision of copyright information;
9. Appraisal of infringement, etc. of copyright;
10. Deleted; <by Act No. 14083, Mar. 22, 2016>
11. Duties prescribed as duties of the Commission or duties entrusted to the Commission pursuant to statutes;
12. Other duties entrusted by the Minister of Culture, Sports and Tourism.

- Article 113 - 2 (Mediation)** (1) Any person seeking for mediation for dispute settlement may apply for mediation by filing an application with the Commission.
- (2) When the Commission has received an application for mediation pursuant to paragraph (1), the chairperson shall appoint a member from among the members and have him/her mediate.
- (3) Where a member responsible for mediation deems that a dispute is not possible to be settled through mediation, he/she may discontinue mediation.
- (4) When an application for conciliation has been made under this Act with respect to a dispute under mediation, the relevant mediation shall be deemed to have been suspended.

(5) When mediation has been effected, a member responsible for mediation shall prepare a written mediation and put his/her name and seal on it with the relevant persons.

(6) Matters necessary for application of and procedures for mediation shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 114 (Conciliation Division)** (1) In order for the Commission to effectively execute the duties of dispute conciliation, a conciliation division comprised of one member, or three or more members, including one member qualified as a lawyer.

(2) Matters necessary for the composition, operation, etc. of conciliation division pursuant to the provisions of paragraph (1) shall be prescribed by Presidential Decree.

**Article 114 - 2 (Application, etc. for Conciliation)** (1) Any person who wants for dispute conciliation may apply for conciliation by filing an application for conciliation in which the intention and cause of application is stated with the Commission.

(2) The conciliation division under Article 114 shall make conciliation of a dispute pursuant to paragraph (1).

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 115 (Non - Disclosure)**

The procedures of conciliation shall be kept closed to the public in principle: Provided, That the head of conciliation division may permit those who are recognized as appropriate with the consent of the relevant parties to attend the procedures.

**Article 116 (Limitation on Use of Statement)**

The statements made by the relevant parties or interested persons at the conciliation procedures shall not be used at the lawsuit or arbitration proceeding.

**Article 117 (Conclusion of Conciliation)** (1) Conciliation shall take effect by entering the matters that have been agreed upon between the relevant parties in the record.

(2) The record pursuant to the provisions of paragraph (1) shall have the same effect as the court settlement: Provided, That the same shall not apply to the matters that cannot be disposed of voluntarily by the relevant parties.



**Article 118 (Conciliation Expense, etc.)** (1) Conciliation expense shall be borne by the applicant: Provided, That where conciliation has been concluded and unless special agreement exists, the relevant parties shall share the expense equally.

(2) Matters necessary for application of and procedures for conciliation, and payment methods of conciliation expense shall be prescribed by Presidential Decree.  
<Newly Inserted by Act No. 9625, Apr. 22, 2009>

(3) The amount of conciliation expense pursuant to paragraph (1) shall be determined by the Commission.<Amended by Act No. 9625, Apr. 22, 2009>

**Article 119 (Appraisal)** (1) The Commission may, where a case falls under any of the following subparagraphs, make an appraisal: <Amended by Act No. 9625, Apr. 22, 2009>

1. Where a court or investigation agency requests for an appraisal of infringement of copyright or other rights for a trial or investigation;
2. Where both parties to conciliation of a dispute request for an appraisal of a program and electronic information or such related to the program for dispute conciliation pursuant to Article 114 - 2 to make

(2) Matters necessary for the procedures, methods, etc. of appraisal pursuant to the provisions of paragraph (1) shall be prescribed by Presidential Decree.

(3) When the Commission makes an appraisal pursuant to the provisions of paragraph (1), it may collect appraisal fee and the amount shall be determined by the Commission.

**Article 120 (Copyright Technology Center)** (1) In order to effectively execute the duties in subparagraphs 7 and 8 of Article 113, the Commission shall have Copyright Technology Center. <Amended by Act No. 9625, Apr. 22, 2009>

(2) Matters necessary for operation of Copyright Technology Center shall be prescribed by Presidential Decree.<Newly Inserted by Act No. 9625, Apr. 22, 2009>

**Article 121 Deleted.** <by Act No. 9625, Apr. 22, 2009>

**Article 122 (Subsidy, etc.)** (1) The State may contribute money or provide subsidy for expenses necessary for operation of the Commission within budgetary limits.  
<Amended by Act No. 9625, Apr. 22, 2009>

(2) Individuals, legal persons or organizations may contribute money or other property to the Commission in order to support the execution of duties pursuant to



the provisions of subparagraphs 3, 5 and 8 of Article 113.

(3) The contributions pursuant to the provisions of paragraph (2) shall be held in a separate account and approval from the Minister of Culture, Sports and Tourism shall be obtained for the use thereof. <Amended by Act No. 8852, Feb. 29, 2008 >

## CHAPTER VIII - II KOREA COPYRIGHT PROTECTION AGENCY

**Article 122 - 2 (Establishment of Korea Copyright Protection Agency)** (1) There is hereby established the Korea Copyright Protection Agency (hereinafter referred to as the "Protection Agency") to provide services related to the protection of copyright.

(2) The Protection Agency shall be a corporation.

(3) The Government may contribute money or provide subsidy for expenses required for the establishment, facilities, operation, etc. of the Protection Agency within budgetary limits.

(4) Except as expressly provided for in this Act and the Act on the Management of Public Institutions, the provisions of the Civil Act that are relevant to an incorporated foundation shall apply mutatis mutandis in regard to the Protection Agency.

(5) No one other than the Protection Agency under this Act shall not use the title of the Korea Copyright Protection Agency or any title similar thereto.

[This Article Newly Inserted by Act No. 14083, Mar. 22, 2016]

**Article 122 - 3 (Articles of Incorporation of Protection Agency)**

The articles of incorporation of the Protection Agency shall include the following matters:

1. Purpose;
2. Name;
3. Matters concerning the main office;
4. Matters concerning executive officers and employees;
5. Matters concerning the operation of the board of directors;
6. Matters concerning the Copyright Protection Deliberation Committee referred to in Article 122 - 6;

7. Matters concerning duties;
8. Matters concerning property and accounting;
9. Matters concerning the amendment of the articles of incorporation;
10. Matters concerning the establishment, amendment and repeal of internal regulations.

[This Article Newly Inserted by Act No. 14083, Mar. 22, 2016]

- Article 122 - 4 (Executive Officers of Protection Agency)** (1) The Protection Agency shall have not more than nine directors including one chairperson, and one auditor; the auditor and directors excluding the chairperson shall be part - time, and the chairperson shall preside over meetings of the board of directors.
- (2) The chairperson shall be appointed and dismissed by the Minister of Culture, Sports and Tourism.
- (3) The term of office of the chairperson shall be three years.
- (4) The chairperson shall represent and exercise overall control over the Protection Agency.
- (5) Where the chairperson is unable to perform his/her duties in extenuating circumstances, one of directors in the order enumerated in the articles of incorporation shall act on behalf of the chairperson.
- (6) No person who falls under any subparagraph of Article 33 of the State Public Officials Act shall be an executive officer of the Protection Agency referred to in paragraph (1).

[This Article Newly Inserted by Act No. 14083, Mar. 22, 2016]

**Article 122 - 5 (Functions)**

The functions of the Protection Agency shall be as follows:

1. Support for the establishment and implementation of policies for protection of copyrights;
2. Fact - finding survey and production of statistics on infringement of copyrights;
3. Research and development of technology for protection of copyrights;
4. Provision of support to the investigation and regulation of infringements on copyrights under subparagraph 26 of Article 5 of the Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of Their Duties;

5. Deliberation on corrective orders issued by the Minister of Culture, Sports and Tourism under Article 133 - 2;
6. Making recommendations to online service providers to take corrective measures and making requests to the Minister of Culture, Sports and Tourism to issue corrective orders under Article 133 - 3;
7. Affairs prescribed as duties of the Protection Agency or entrusted to it, by Acts and subordinate statutes;
8. Other affairs entrusted by the Minister of Culture, Sports and Tourism.

[This Article Newly Inserted by Act No. 14083, Mar. 22, 2016]

- Article 122 - 6 (Composition of Deliberation Committee)** (1) In order to conduct deliberations under Articles 103 - 3, 133 - 2 and 133 - 3 and to deliberate on the matters requested by the chairperson of the Protection Agency or referred to by the chairperson of the Deliberation Committee in connection with the protection of copyright, the Copyright Protection Deliberation Committee (hereinafter referred to as the "Deliberation Committee") shall be established under the Protection Agency.
- (2) The Deliberation Committee shall be comprised of not less than five nor more than ten members, including one chairperson, and there shall be a balance between the number of the members representing the interest of the holders of the rights protected by this Act and the number of the members representing the interest of the users. <Amended by Act No. 14432, Dec. 20, 2016>
- (3) The chairperson of the Deliberation Committee shall be elected by and from among its members.
- (4) Members of the Deliberation Committee shall be commissioned by the Minister of Culture, Sports and Tourism in compliance with Presidential Decree from among persons with extensive knowledge of and experience in copyright, cultural industry, law, etc.,.
- (5) The term of office of a member of the Deliberation Committee shall be three years, and the consecutive appointment may be permitted.
- (6) Other matters necessary for the composition and operation of the Deliberation Committee shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 14083, Mar. 22, 2016]

**CHAPTER IX REMEDIES FOR INFRINGEMENT OF RIGHTS**

**Article 123 (Right of Demanding Suspension, etc. of Infringement)** (1) Any person who holds the copyright or other rights protected under this Act (excluding the rights to be compensated under Articles 25, 31, 75, 76, 76 - 2, 82, 83 and 83 - 2; hereafter the same shall apply in this Article) may demand of a person infringing his/her rights to suspend such act or demand a person likely to infringe on his/her rights to take preventive measures or to provide a security for compensation for damages.

[<Amended by Act No. 9529, Mar 25, 2009>](#)

(2) If a person who holds the copyright or other rights protected under this Act makes a demand under paragraph (1), he/she may demand destruction 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 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) With respect to paragraph (3), where a final 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/her request.

**Article 124 (Act Construed as Infringement)** (1) Any act falling under any of the following subparagraphs shall be considered to be infringement of copyright or other rights protected under this Act: [<Amended by Act No. 9625, Apr. 22, 2009>](#)

1. The importation into the Republic of Korea, for the purpose of distribution therein of goods made by an act which would infringe on copyright or other rights protected under this Act, if they were made within the Republic of Korea at the time of such importation;
2. The possession, for the purpose of distribution, of goods produced by an act that constitutes an infringement on copyright or other rights protected under this Act (including those imported as referred to in subparagraph 1) with the knowledge of such infringement;

3. Exploitation in business of a copy (including imported goods pursuant to subparagraph 1) of a program made in infringement of copyright of a program by a person who has acquired it with the knowledge of such infringement.

(2) An act of using a work in a manner prejudicial to the honor or reputation of the author shall be considered to be an infringement of his/her moral rights. <Amended by Act No. 10807, Jun. 30, 2011 >

(3) Deleted. <by Act No. 10807, Jun. 30, 2011 >

**Article 125 (Claim for Damages)** (1) Where the holder of author ' s economic right or other rights (excluding author ' s moral right and performer ' s moral right) protected under this Act (hereinafter referred to as " holder of author ' s economic right, etc. " ) claims compensation against a person who has infringed on his/her rights intentionally or by negligence for damages sustained from the relevant infringement, if the infringing person has gained any profit by his/her infringement, the relevant amount of profit shall be presumed to be the amount of damages sustained by the holder of author ' s economic right, etc.

(2) Where the holder of author ' s economic right, etc. claims compensation against a person who has infringed on his/her rights intentionally or by negligence for damages sustained from the relevant infringement, the amount corresponding to that normally gained by an exercise of such rights shall be made as the amount of damages sustained by the holder of author ' s economic right, etc., and a claim therefor may be made.

(3) Notwithstanding the provisions of paragraph (2), where the amount of damages sustained by the holder of author ' s economic right, etc. exceeds the amount under paragraph (2), a claim for such exceeding amount may be made.

(4) Any person who has infringed on copyright, exclusive publication right (including cases applied mutatis mutandis under Articles 88 and 96), publication right, neighboring right or right of database producer which is registered shall be presumed to have been negligent in the relevant infringement. <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011 >

**Article 125 - 2 (Claim of Statutory Damages)** (1) A holder of author's economic right, etc. may claim considerable damages within the scope of up to ten million won (50 million won in cases of intentionally infringing rights for profit) for each work, etc.

whose right is infringed in lieu of the actual amount of damages or the amount of damages determined pursuant to Article 125 or 126 against a person who has infringed on rights intentionally or by negligence before a trial proceedings of the relevant is concluded.

(2) For the purpose of paragraph (1), compilation works and derivative works which use two or more works as their material shall be deemed a single work.

(3) In order for the holder of author's economic right, etc. to make a claim pursuant to paragraph (1), relevant works, etc. shall be registered pursuant to Articles 53 through 55 (including cases applied mutatis mutandis under Articles 90 and 98) before the act of infringement occurs.

(4) In receipt of a claim under paragraph (1), the court may recognize a considerable amount of damages within the scope under paragraph (1) in consideration of the purport of defense and the results of evidence examination.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

#### **Article 126 (Acknowledgement of the Amount of Damages)**

When the fact is admitted that some damages have been done, but it is difficult to estimate the amount of damage under Article 125, the court may acknowledge a considerable amount of damage, in the light of the purport of pleading and the results of evidence examination.

#### **Article 127 (Claim for Restoration of Reputation, etc.)**

An author or performer may demand of the person who has infringed on the author's moral right or performer's moral right wilfully or by negligence to take measures necessary for the restoration of his/her reputation in lieu of or together with compensation for damages.

#### **Article 128 (Protection of Author's Moral Interests after Death)**

After the death of an author, his/her bereaved family (referring to the surviving spouse, children, parents, grand children, grand parents, brothers and sisters of the deceased author) or the executor of his/her will may, pursuant to Article 123, claim compensation from a person who has violated or is likely to violate the provisions of Article 14 (2) in respect of the work concerned, or, may, pursuant to Article 127, demand restoration of his/her reputation from a person who has infringed on

author ' s moral right intentionally or by negligence or who has violated the provisions of Article 14 (2).

#### **Article 129 (Infringement on Rights to Joint Work)**

Each author of a joint work or each holder of author ' s economic right to a joint work shall be entitled to make the demand pursuant to Article 123 without the consent of other authors or other holders of author ' s economic right, or to claim compensation for damages to his/her share in a joint work regarding the infringement on author ' s economic right pursuant to Article 125.

**Article 129 - 2 (Provision of Information)** (1) Where deemed necessary for collecting evidence upon request of the party concerned in a lawsuit against the infringement of copyright or other rights protected pursuant to this Act, the court may order the other party concerned to provide the following information that he/she holds or knows:

1. Information capable of identifying the act of infringement or a party related to the production and distribution of illegal copies;
2. Information on the routes of production and distribution of illegal copies.

(2) Notwithstanding the provisions of paragraph (1), the other party concerned may refuse to provide information in any of the following cases:

1. Where any of the following persons might be indicted or found guilty:
  - (a) The other party concerned;
  - (b) A person who is or was a relative of the other party concerned;
  - (c) Guardian of the other party concerned;
2. Where it is intended to protect trade secrets (referring to trade secrets under subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act; hereinafter the same shall apply) or privacy, or where other justifiable grounds for refusing the provision of information exist.

(3) Where the other party concerned fails to comply with the order to provide information without any justifiable ground, the court may recognize argument on information by the party concerned as true.

(4) Where deemed necessary to determine whether there are justifiable grounds prescribed in paragraph (2) 2, the court may require the other party concerned to provide necessary information. In such cases, the court shall not disclose the

provided information to anyone, unless it is necessary to hear the opinion of the party concerned who has requested the provision of information or his/her representative in order to determine whether the justifiable grounds exist.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 129 - 3 (Order of Secrecy Maintenance)** (1) Where all of the following grounds have been substantiated in regard to the trade secrets owned by the party concerned in a lawsuit against the infringement of copyright or other rights protected pursuant to this Act (excluding rights to receive compensation under Articles 25, 31, 75, 76, 76 - 2, 82, 83, 83 - 2 and 101 - 3; hereafter the same shall apply in this Article), the court may, by decision, order the other party concerned, an agent representing the party concerned in the lawsuit or other persons who have become aware of the trade secrets from the lawsuit to neither use such trade secrets for purposes other than the purpose of continuing the lawsuit, nor disclose such trade secrets to persons other than those related to the trade secrets and issued with the order under this paragraph, upon request of the party concerned: Provided, That this shall not apply where, until such request is made, the other party concerned, an agent representing the party concerned in the lawsuit or other persons who have become aware of the trade secrets from the lawsuit have already obtained such trade secrets by means other than the perusal of preparatory documents or evidence examination under subparagraph 1:

1. That trade secrets are included in preparatory documents to have already been submitted or to be submitted, or in evidence (including information provided pursuant to Article 129 - 2 (4)) to have already been investigated or to be investigated;
2. That the use or disclosure of trade secrets under subparagraph 1 for purposes other than the purpose of carrying out the lawsuit is likely to harm the business of the party concerned, and thus it is necessary to restrict the use or disclosure of trade secrets in order to prevent such harm.

(2) The application for an order under paragraph (1) (hereinafter referred to as "order of secrecy maintenance") shall be made in documents stating the following matters:



1. The party subject to order of secrecy maintenance;
2. The facts that are sufficient to identify the trade secrets subject to order of secrecy maintenance;
3. The facts falling under the grounds prescribed in each subparagraph of paragraph (1).

(3) Where an order of secrecy maintenance has been decided, the written decision shall be served on the party subject to order of secrecy maintenance.

(4) Order of secrecy maintenance shall take effect from the time the written decision under paragraph (3) is served on the party subject to it .

(5) An immediate appeal may be made against the ruling that has dismissed or rejected the application for an order of secrecy maintenance.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 129 - 4 (Revocation of Secrecy Maintenance Order)** (1) Where the party who has applied for or received an order of secrecy maintenance fails to meet, or no longer meets, the requirements prescribed in Article 129 - 3 (1), he/she may request the court keeping the records of proceedings (where no court is keeping the records of proceedings, referring to the court that has issued the confidentiality order) to revoke the order.

(2) The court ruling on the application for revocation of a secrecy maintenance order shall serve the applicant and the other party concerned with the written decision.

(3) An immediate appeal may be made against the court ruling of the application for revocation of the confidentiality order.

(4) A court ruling to revoke a secrecy maintenance order shall take its effect only when it becomes final and conclusive.

(5) Where any person other than the applicant for revocation of a secrecy maintenance order and the other party concerned has received the secrecy maintenance order about the relevant trade secrets, the court that held the trial to revoke the confidentiality order shall immediately notify such person of the purport of the trial to revoke the secrecy maintenance order.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

**Article 129 - 5 (Notification, etc. of Application Including Perusal of Records of Proceedings)** (1) Where a decision under Article 163 (1) of the Civil Procedure Act

has been made on the records of proceedings of the trial that issued an secrecy maintenance order (excluding a trial that has revoked secrecy maintenance order in whole), if the party concerned applied for the perusal, etc. of the part containing confidential information prescribed in the same paragraph through a person not subject to secrecy maintenance order in the relevant lawsuit, the court administrative officer, junior court administrative officer, chief court clerk or senior court clerk (hereafter referred to as "junior court administrative officer, etc." in this Article) shall notify a person who made application under Article 163 (1) of the Civil Procedure Act (excluding a person who applied for the perusal, etc. thereof) of the purport of such an application, right after the application for perusal, etc. thereof is made.

(2) In cases falling under paragraph (1), no junior court administrative officer, etc. shall allow the person who has taken the procedures for such application for perusal, etc. the part containing confidential information under paragraph (1) until two weeks pass from the date of the application under paragraph (1) (where the application for the secrecy maintenance order for the person who has taken the procedures for such application is made within the period, referring to the point when the trial for such application becomes final and conclusive).

(3) In regard to allowing the person who has applied for the perusal, etc. under paragraph (1) to peruse, etc. the part containing confidential information under paragraph (1), paragraph (2) shall not apply where all of the parties concerned who have made an application under Article 163 (1) of the Civil Procedure Act consent thereto.

[This Article Newly Inserted by Act No. 11110, Dec. 2, 2011]

## CHAPTER X SUPPLEMENTARY PROVISIONS

### Article 130 (Delegation and Entrustment of Authority)

The Minister of Culture, Sports and Tourism may delegate part of his/her authority pursuant to this Act to the Special Metropolitan City Mayor, a Metropolitan City Mayor, Do Governor and Special Self - Governing Province Governor as prescribed by Presidential Decree, or may entrust it to the Commission, Protection Agency, or copyright - related organizations. <Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625,

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[Apr. 22, 2009; Act No. 14083, Mar. 22, 2016](#)>

### **Article 131 (Legal Fiction as Public Official in Application of Penal Provisions)**

Members and employees of the Commission, executive officers and employees of the Protection Agency, and members of the Deliberation Committee shall be deemed public officials in the application of Articles 129 through 132 of the Criminal Act.

[<Amended by Act No. 14083, Mar. 22, 2016>](#)

### **Article 132 (Fees)**

Those who apply, etc. for a matter falling under any of the following subparagraphs pursuant to this Act shall pay a fee, as stipulated by Ordinance of the Ministry of Culture, Sports and Tourism:[<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011>](#)

1. Those who apply for approval of statutory license (including the cases applied mutatis mutandis pursuant to Articles 89 and 97) pursuant to Articles 50 through 52;
2. Those who apply for registration (including the cases applied mutatis mutandis pursuant to Articles 90 and 98), modifications of the registered matters, perusal of registers and issuance of copies thereof pursuant to Articles 53 through 55;
3. Those who apply for permission or report copyright trust service pursuant to Article 105.

### **Article 133 (Collection, Destruction and Deletion of Illegal Copies) (1)** When the

Minster of Culture, Sports and Tourism, the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Do Governor and a Special Self - Governing Province Governor or the head of a Si/Gun/Gu (referring to the head of an autonomous Gu) finds out copies (excluding copies which are interactively transmitted through information and communication networks) that infringe on copyright or other rights protected pursuant to this Act, or tools, devices, information and programs manufactured to circumvent technological protection measures for works, etc., he/she may have the relevant public officials collect, destroy or delete them pursuant to the procedures and methods prescribed by Presidential Decree. [<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>](#)

(2) The Minister of Culture, Sports and Tourism may entrust the duties pursuant to the provisions of paragraph (1) to an organization prescribed by Presidential Decree. In such cases, those who are engaged in these duties shall be deemed public officials.

[<Amended by Act No. 8852, Feb. 29, 2008>](#)

(3) Where the relevant public officials, etc. collect, destroy or delete them pursuant to paragraphs (1) and (2), the Minister of Culture, Sports and Tourism may request the relevant organization for cooperation if necessary.

[<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>](#)

(4) Deleted.[<by Act No. 9625, Apr. 22, 2009>](#)

(5) The Minister of Culture, Sports and Tourism may set up and operate structures necessary for the duties pursuant to paragraph (1).

[<Amended by Act No. 8852, Feb. 29, 2008; Act No. 9625, Apr. 22, 2009>](#)

(6) Where the provisions of paragraphs (1) through (3) conflict with the provisions of other Acts, this Act shall prevail to the extent of the conflict.

[<Amended by Act No. 9625, Apr. 22, 2009>](#)

**Article 133 - 2 (Orders, etc. for Deletion of Illegal Copies, etc. through Information and Communications Networks)**

(1) Where a copy or information which infringes on copyright or other rights protected under this Act, or a program or information (hereinafter referred to as "illegal copies, etc.") which circumvents technological protection measures is interactively transmitted through information and communications network, the Minister of Culture, Sports and Tourism may order, following deliberation by the Deliberation Committee, an online service provider to take measures referred to in the following subparagraphs, as prescribed by Presidential Decree:

[<Amended by Act No. 14083, Mar. 22, 2016>](#)

1. Warnings to reproducers and interactive transmitters of illegal reproductions, etc.;

2. Deletion or suspension of interactive transmission of illegal reproductions, etc.

(2) Where any reproducer and interactive transmitter who receives warnings pursuant to paragraph (1) 1 three times or more interactively transmits illegal reproductions, etc., the Minister of Culture, Sports and Tourism may order, following deliberation by the Deliberation Committee, an online service provider to suspend an account (excluding an exclusive account for e-mail and including other accounts given by the relevant online service provider; hereinafter the same shall apply) of

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the relevant reproducer or interactive transmitter within a fixed period of up to six months. <Amended by Act No. 11110, Dec. 2, 2011; Act No. 14083, Mar. 22, 2016>

(3) An online service provider who has received orders pursuant to paragraph (2) shall, seven days before he/she suspends an account of the relevant reproducer or interactive transmitter, notify the relevant reproducer or interactive transmitter of the fact that the relevant account will be suspended, as prescribed by Presidential Decree.

(4) Where a bulletin board for which orders pursuant to paragraph (1) 2 have been issued more than three times from among bulletin boards (referring to bulletin boards providing commercial interests or convenience of use from among the bulletin boards referred to in Article 2 (1) 9 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc.; hereinafter the same shall apply) established in information and communications network of an online service provider is judged to seriously harm healthy use of copyright in the light of the form of the relevant bulletin board and the quantity and nature of copies posted, the Minister of Culture, Sports and Tourism may order, following deliberation by the Deliberation Committee, the online service provider to suspend the whole or part of the relevant bulletin board service within a fixed period not exceeding six months, as prescribed by Presidential Decree. <Amended by Act No. 14083, Mar. 22, 2016>

(5) An online service provider who has received orders pursuant to paragraph (4) shall, from ten days before he/she suspends the relevant bulletin board service, post the fact that the relevant bulletin board service is suspended on the website of the relevant online service provider and on the relevant bulletin board, as prescribed by Presidential Decree.

(6) An online service provider shall notify the Minister of Culture, Sports and Tourism of the result of measures taken within five days from receiving an order pursuant to paragraph (1), within ten days from receiving an order pursuant to paragraph (2), within 15 days from receiving an order pursuant to paragraph (4), as prescribed by Presidential Decree.

(7) The Minister of Culture, Sports and Tourism shall give an opportunity of submission of an opinion in advance to online service providers subject to orders referred to in paragraphs (1), (2) and (4), to reproducers and interactive transmitters who have direct stake in orders pursuant to paragraph (2) and to

operators of bulletin boards pursuant to paragraph (4). In such cases, Articles 22 (4) through (6) and 27 of the Administrative Procedures Act shall apply mutatis mutandis to the submission of an opinion.

(8) The Minister of Culture, Sports and Tourism may establish and operate an organization necessary to perform affairs pursuant to paragraphs (1), (2) and (4).

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 133 - 3 (Recommendation of Correction, etc.)** (1) Where the Protection Agency, as a result of investigation into information and communications network of an online service provider, has found a fact that illegal copies, etc. have been interactively transmitted, it may recommend an online service provider to take corrective measures falling under the following subparagraphs, following deliberation by the Deliberation Committee: <Amended by Act No. 14083, Mar. 22, 2016>

1. Warnings to reproducers or interactive transmitters of illegal copies, etc.;
2. Deletion and suspension of interactive transmission of illegal copies, etc.;
3. Suspension of accounts of reproducers or interactive transmitters who have repeatedly transmitted illegal copies, etc.

(2) Within five days from receiving recommendation pursuant to paragraph (1) 1 and 2, and within ten days from receiving recommendation pursuant to paragraph (1) 3, an online service provider shall notify the Protection Agency of the result of performing the correction measures.<Amended by Act No. 14083, Mar. 22, 2016>

(3) Where an online service provider fails to comply with the recommendation pursuant to paragraph (1), the Protection Agency may request the Minister of Culture, Sports and Tourism to issue an order pursuant to Article 133 - 2 (1) and (2) to him/her.<Amended by Act No. 14083, Mar. 22, 2016>

(4) Where, pursuant to paragraph (3), the Minister of Culture, Sports and Tourism gives an order pursuant to Article 133 - 2 (1) and (2), no deliberation by the Deliberation Committee shall be required.<Amended by Act No. 14083, Mar. 22, 2016>

[This Article Newly Inserted by Act No. 9625, Apr. 22, 2009]

**Article 134 (Creation of Environment for fair Use of Works)** (1) The Minister of Culture, Sports and Tourism may execute projects necessary for promotion of fair use of works, such as provision of information on works, etc., copyright of which has expired. <Amended by Act No. 9625, Apr. 22, 2009>

(2) Matters necessary for projects under paragraph (1) shall be prescribed by Presidential Decree. <Amended by Act No. 9625, Apr. 22, 2009>

(3) Deleted. <by Act No. 9625, Apr. 22, 2009>

**Article 135 (Donation of Author ' s Economic Right, etc.)** (1) The holder of author ' s economic right, etc. may donate their rights to the Minister of Culture, Sports and Tourism. <Amended by Act No. 8852, Feb. 29, 2008>

(2) The Minister of Culture, Sports and Tourism may designate an organization capable of equally managing the rights to the works, etc. donated by the holder of author ' s property right, etc. <Amended by Act No. 8852, Feb. 29, 2008>

(3) The organization designated pursuant to the provisions of paragraph (2) shall not use the works, etc. for commercial purposes or against the intention of the relevant holder of author ' s economic right, etc.

(4) Matters necessary for the procedures of donation, designation of organization, etc. pursuant to the provisions of paragraphs (1) and (2) shall be prescribed by Presidential Decree.

## CHAPTER XI PENALTY PROVISIONS

**Article 136 (Penalty Provisions)** (1) Any person who falls under any of the following subparagraphs may be punished by imprisonment with labor up to five years or by a fine up to 50 million won, or may be punished by both: <Amended by Act No. 11110, Dec. 2, 2011>

1. A person who infringes on author ' s economic right or other property rights protected pursuant to this Act (excluding the rights under Article 93) by means of reproduction, performance, public transmission, exhibition, distribution, rental, or production of derivative works;
2. A person who violates the court order under Article 129 - 3 (1) without justifiable grounds.

(2) Any person who falls under any of the following subparagraphs shall be punished by imprisonment with labor for up to three years or by a fine up to 30 million won, or may be punishable by both: <Amended by Act No. 9625, Apr. 22, 2009; Act No. 10807, Jun. 30, 2011; Act No. 11110, Dec. 2, 2011>



1. A person who defames the honor of author or performer by infringing on author's or performer's moral rights;
2. A person who files for false registration pursuant to Articles 53 and 54 (including cases applied mutatis mutandis pursuant to Articles 90 and 98) deceitfully;
3. A person who infringes on the right of a database producer protected pursuant to Article 93 by means of reproduction, distribution, broadcasting or interactive transmission;
- 3 - 2. A person who violates Article 103 - 3 (4);
- 3 - 3. A person who violates Article 104 - 2 (1) or (2) for his/her own business or for profit;
- 3 - 4. A person who violates Article 104 - 3 (1) for his/her own business or for profit: Provided, That a person who, by negligence, has not known that such act causes or conceals the infringement of copyright or other rights protected pursuant to this Act shall be excluded herefrom;
- 3 - 5. A person who commits an act falling under subparagraph 1 or 2 of Article 104 - 4;
- 3 - 6. A person who violates Article 104 - 5;
- 3 - 7. A person who violates Article 104 - 7;
4. A person who commits an act deemed an infringement pursuant to Article 124 (1);
5. and 6. Deleted. <by Act No. 10807, Jun. 30, 2011 >

**Article 137 (Penalty Provisions)** (1) Any person who falls under any of the following subparagraphs shall be punished by imprisonment with labor up to one year or by a fine up to ten million won: <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011 >

1. A person who makes a work public under the real name or pseudonym of a person other than the author;
2. A person who publicly performs or publicly transmits a performance, or distributes copies of performance under the real name or pseudonym of a person other than the performer;
3. A person who violates Article 14 (2);
- 3 - 2. A person who conducts an act falling under subparagraph 3 of Article 104 - 4;



- 3 - 3. A person who violates Article 104 - 6;
  4. A person who operates copyright trust service without obtaining permission pursuant to Article 105 (1);
  5. A person who commits an act deemed an infringement pursuant to Article 124 (2);
  6. A person who obstructs the business of an online service provider by making a demand by intention for the suspension or resumption of a reproduction or interactive transmission under Article 103 (1) or (3), upon knowing that he/she had no legitimate authority;
  7. A person who violates Article 55 - 2 (including cases applied mutatis mutandis pursuant to Articles 90 and 98).
- (2) A person who attempts to commit a crime under paragraph (1) 3 - 3 shall be punished. <Newly Inserted by Act No. 11110, Dec. 2, 2011 >

#### **Article 138 (Penalty Provisions)**

Any person who falls under any of the following subparagraphs shall be punished by a fine up to five million won: <Amended by Act No. 11110, Dec. 2, 2011 >

1. A person who violates Article 35 (4);
2. A person who fails to indicate the sources, in violation of Article 37 (including the cases applied mutatis mutandis pursuant to Articles 87 and 94);
3. A person who fails to the holder of author's economic right, in violation of Article 58 (3) (including cases applied mutatis mutandis under Articles 63 - 2, 88 and 96);
4. A person who fails to notify the author, in violation of Article 58 - 2 (2) (including cases applied mutatis mutandis under Articles 63 - 2, 88 and 96);
5. A person who engages in a copyright agency or brokerage service without reporting pursuant to Article 105 (1), or who continues the services after receipt of an order to close the services pursuant to Article 109 (2).

#### **Article 139 (Confiscation)**

Among copies made by infringing on copyright or other rights protected pursuant to this Act and tools and materials mainly used to produce such copies, which are owned by the infringing person, printer, distributor or public performer shall be confiscated. <Amended by Act No. 11110, Dec. 2, 2011 >

[This Article Wholly Amended by Act No. 10807, Jun. 30, 2011]

**Article 140 (Complaint)**

The crimes under this Chapter shall be prosecuted only when the injured party has made a complaint: Provided, That in cases falling under any of the following subparagraphs, the same shall not apply: <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011>

1. Where an act falling under Article 136 (1) 1 or 136 (2) 3 and 4 (in cases falling under Article 124 (1) 3, the act shall not be punishable against the explicit opinion of the victim) has been committed habitually for profit - making;
2. Cases falling under Article 136 (2) 2 and 3 - 2 through 3 - 7, Article 137 (1) 1 through 4, 6 and 7, and subparagraph 5 of Article 138;
3. Deleted.<by Act No. 11110, Dec. 2, 2011>

**Article 141 (Joint Penal Provisions)**

If a representative of a legal person, or an agent, employee or other employed persons of a legal person or an individual has committed a crime as prescribed under this Chapter with respect to the affairs of the legal person or the individual, the fine prescribed under the relevant Articles shall be imposed on such a legal person or an individual in addition to the punishment of the offender: Provided, That where a legal person or an individual has not neglected to pay reasonable attention to and supervise the relevant affairs in order to prevent such an offense, the same shall not apply. <Amended by Act No. 9625, Apr. 22, 2009>

- Article 142 (Administrative Fine)** (1) A person who has failed to take necessary measures pursuant to Article 104 (1) shall be punished by an administrative fine not exceeding 30 million won. <Amended by Act No. 9625, Apr. 22, 2009>
- (2) A person who falls under any of the following subparagraphs shall be punished by an administrative fine not exceeding ten million won: <Amended by Act No. 9625, Apr. 22, 2009; Act No. 11110, Dec. 2, 2011; Act No. 14083, Mar. 22, 2016>
1. A person who fails to comply with the order of the Minister of Culture, Sports and Tourism under Article 103 - 3 (2);
  2. A person who fails to perform his/her duty pursuant to Article 106;
  3. A person who uses the title of the Korea Copyright Commission, in violation of Article 112 (4);

3 - 2. A person who uses the title of the Korea Copyright Protection Agency, in violation of Article 122 - 2 (5);

4. A person who fails to execute orders given by the Minister of Culture, Sports and Tourism pursuant to Article 133 - 2 (1), (2) and (4);

5. A person who fails to give notice pursuant to Article 133 - 2 (3), to post notice pursuant to paragraph (5) of the same Article, to give notice pursuant to paragraph (6) of the same Article.

(3) An administrative fine pursuant to paragraphs (1) and (2) shall be imposed and collected by the Minister of Culture, Sports and Tourism, as prescribed by Presidential Decree. <Amended by Act No. 9625, Apr. 22, 2009 >

(4) and (5) Deleted. <by Act No. 9625, Apr. 22, 2009 >

**ADDENDA** <No. 8852, 29. Feb, 2008 >

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

**ADDENDA** <No. 9529, 25. Mar, 2009 >

This Act shall enter into force six months after the date of its promulgation.

**ADDENDA** <No. 9625, 22. Apr, 2009 >

**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

**Article 2 (Repeal of Computer Programs Protection Act)**

The Computer Programs Protection Act shall be repealed.

**Article 3 (Preparation of Establishment of Commission)**

(1) An action of preparation made to establish the Commission pursuant to this Act may be made before this Act enters into force.

(2) The Minister of Culture, Sports and Tourism shall organize the founding committee to take charge of affairs relating to the establishment of the Commission.

(3) The founding committee shall be comprised of not more than five members appointed by the Minister of Culture, Sports and Tourism, and the chairperson of the Copyright Commission pursuant to Article 112 of the previous Copyright Act shall be the chairperson of the founding committee.

(4) The founding committee shall prepare the articles of association to obtain authorization of the Minister of Culture, Sports and Tourism before this Act enters into force.

(5) When the founding committee has obtained authorization pursuant to paragraph (4), it shall make registration for the establishment of the Commission.

(6) Expenses incurred in the establishment of the Commission shall be borne by the State.

(7) After the founding committee has registered the establishment of the Commission pursuant to paragraph (5), it shall transfer affairs to the chairperson of the Commission without delay, and the founding committee members shall be deemed to have been dismissed when transfer of affairs has been completed.

#### **Article 4 (Transitional Measures concerning Affairs, Rights and Duties, Employment of Copyright Commission and Computer Programs Protection Committee)**

(1) The Korea Copyright Commission shall take over affairs, rights and duties and employment of staff of the Copyright Commission and the Computer Programs Protection Committee pursuant to Articles 112 through 122 of the previous Copyright Act and Articles 35 through 43 of the previous Computer Programs Protection Act at the time this Act enters into force.

(2) The chairperson and members of the Copyright Commission pursuant to Article 112 of the previous Copyright Act at the time this Act enters into force shall be deemed the chairperson and members of the Korea Copyright Commission, and the term of office shall be reckoned from the time when a term of office of the chairperson and members of the previous Copyright Commission began.

#### **Article 5 (Transitional Measures concerning Scope of Application)**

(1) With respect to works, etc. the whole or part of the right of which, protected by the previous Copyright Act and the previous Computer Programs Protection Act, has terminated or has not been protected before this Act enters into force, this Act shall not apply to the part thereof.

(2) Use of programs made before this Act enters into force shall be in accordance with the previous Computer Programs Protection Act.

**Article 6 (Transitional Measures concerning Statutory License)**

Acts referred to in the following subparagraphs done under the previous Computer Programs Protection Act before this Act enters into force shall be deemed to have been done pursuant to this Act:

**Article 7 (Transitional Measures concerning Application of Penalty Provisions)**

In application of the penal provisions pursuant to the previous Computer Programs Protection Act to acts done before this Act enters into force, it shall be in accordance with the previous Computer Programs Protection Act.

**Article 8 Omitted.**

**Article 9 (Relation with Other Statutes)**

Where the previous Computer Programs Protection Act or the provisions thereof are cited by other statutes as at the time when this Act enters into force, this Act or the corresponding provisions of this Act shall be deemed to have been cited.

**ADDENDA** <No. 9785, 31. Jul, 2009>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 9 Omitted.

**ADDENDA** <No. 10807, 30. Jun, 2011>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date on which the Free Trade Agreement between the Republic of Korea, of the one part, and the European Union and its Member States, of the other part, takes effect: Provided, That the amended provisions of Articles 39 through 42 shall enter into force two years from the date on which the Free Trade Agreement between the Republic of Korea, of the one part, and the European Union and its Member States, of the other part, takes effect.

Articles 2 (Transitional Measures concerning Scope of Application)

With regard to works, etc. for which all or some of copyright or other rights protected pursuant to this Act have been extinct or not protected pursuant to the former provisions before this Act enters into force, this Act shall not apply.

**Article 3 (Transitional Measures concerning Restriction on Responsibilities of Online Service Providers)**

Restriction on responsibilities of online service providers for the infringement of copyright or other rights protected pursuant to this Act before this Act enters into force shall be governed by the former provisions, notwithstanding the amended provisions of Articles 102 and 103.

**Article 4 (Transitional Measures concerning Application of Penalty Provisions)**

Application of penal provisions to acts done before this Act enters into force shall be governed by the former provisions.

**ADDENDA** <No. 11110, 02. Dec, 2011 >

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date on which the Free Trade Agreement between the Republic of Korea and the United States of America and Exchange of Letters on the Free Trade Agreement between the Republic of Korea and the United States of America takes effect: Provided, That the amended provisions of Articles 64 (2) and 86 shall enter into force on August 1, 2013.

**Article 2 (Applicability)**

The amended provisions of Articles 103 - 3, 125 - 2 and 129 - 2 through 129 - 5 shall apply, starting with the first infringement of rights or violation of obligations after this Act enters into force.

**Article 3 (Transitional Measures concerning Scope of Application)**

With regard to works whose copyright or other rights protected pursuant to this Act have ceased to exist or have not been protected in full or in part under the former provisions before this Act enters into force, this Act shall not apply to the relevant parts.

**Article 4 (Special Rules concerning Protection Period of Neighboring Rights)**

(1) Notwithstanding the provisions of Article 3, the neighboring rights that come into being between July 1, 1987, and June 30, 1994, pursuant to the amended provisions

of Article 2 (3) of the Addenda of the Copyright Act amended by Act No. 8101 shall remain for 50 years counting from the year following the time when such rights come into being pursuant to the amended provisions of Article 70 of the Copyright Act amended by Act No. 4717, which entered into force on July 1, 1994 (hereafter referred to as "the same Act" in this Article).

(2) Among the neighboring rights that come into being between July 1, 1987, and June 30, 1994, pursuant to paragraph (3) of the Addenda of the same Act, those that have become extinct because the 20 - year protection period under the former Act (referring to the Copyright Act before the Copyright Act amended by Act No. 4717 enters into force; hereafter the same shall apply in this Article) has lapsed before this Act enters into force shall be reinstated from the enforcement date of this Act and reverted to the holder of neighboring rights. In such cases, such neighboring rights shall remain for the remaining period of the protection period that would have been acknowledged if they had been protected for 50 years counting from the year following the time they came into being for the first time.

(3) Act of using performances, phonograms or broadcasts for which neighboring rights have been reinstated pursuant to paragraph (2) before this Act enters into force shall not be deemed infringement of rights prescribed by this Act.

(4) Reproductions manufactured before this Act enters into force by using relevant performance, phonograms or broadcasts after neighboring rights under paragraph (2) become extinct pursuant to the former Act may be continuously distributed without the permit from the holder of neighboring rights for two years after this Act enters into force.

#### **Article 5 (Transitional Measures concerning Restriction, etc. on Responsibilities of Online Service Providers)**

Notwithstanding the amended provisions of Articles 102 and 103 - 2, the restriction on responsibilities of online service providers in regard to the infringement of copyright or other rights protected pursuant to this Act before this Act enters into force shall be governed by the former provisions.

#### **Article 6 (Transitional Measures concerning Exclusive Publication Right of Program)**

Exclusive publication right of programs established and registered before this Act enters into force shall be governed by the former provisions.

**Article 7 (Transitional Measures concerning Application of Penalty Provisions)**

Application of penal provisions to acts taken before this Act enters into force shall be governed by the former provisions.

**Article 8 Omitted.**

**ADDENDA** <No. 11903, 16. Jul, 2013 >

This Act shall enter into force three months after the date of its promulgation.

**ADDENDA** <No. 12137, 30. Dec, 2013 >

This Act shall enter into force six months after the date of its promulgation.

**ADDENDA** <No. 13978, 03. Feb, 2016 >

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

Articles 2 and 3 Omitted.

**ADDENDA** <No. 14083, 22. Mar, 2016 >

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Preparation for Establishment of Protection Agency)**

(1) Preparatory activities to incorporate the Protection Agency may be performed before this Act enters into force.

(2) In order to deal with the affairs related to the incorporation of the Protection Agency, the Minister of Culture, Sports and Tourism shall organize a steering group for incorporation of the Protection Agency (hereinafter referred to as the "steering group for incorporation")

(3) The steering group for incorporation shall be comprised of and operated by not more than five incorporators commissioned by the Minister of Culture, Sports and Tourism.



(4) The steering group for incorporation shall prepare the articles of incorporation of the Protection Agency, obtain approval thereof from the Minister of Culture, Sports and Tourism, register incorporation of the Protection Agency under a joint name of incorporators, and then, transfer their duties to the chairperson of the Protection Agency.

(5) When the transfer of duties under paragraph (4) is completed, the steering group for incorporation shall be deemed dissolved and incorporators dismissed.

**Article 3 (Transitional Measures concerning Affairs under Jurisdiction of Korea Copyright Commission, and Its Rights and Obligations, Employment Relationship, etc.)**

(1) Affairs under the jurisdiction of the Korea Copyright Commission under subparagraph 10 of the former Article 113, and its rights and obligations and employment relationship existing as at the time this Act enters into force shall be succeeded by the Protection Agency.

(2) Any activities performed by or toward the Korea Copyright Commission pursuant to subparagraph 10 of the former Article 113 before the establishment of the Protection Agency shall be deemed performed by or toward the Protection Agency.

**ADDENDA** <No. 14432, 20. Dec, 2016 >

This Act shall enter into force on the date of its promulgation.

**ADDENDA** <No. 14634, 21. Mar, 2017 >

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Transitional Measures concerning Ineligibility of the Incompetent, etc.)**

Notwithstanding the amended provisions of Article 105 (3) 1, the former provisions shall apply to the persons who has already been declared incompetent or quasi-incompetent at the time this Act enters into force, and of whom the effect of the declaration of the incompetency or quasi-incompetency remains valid pursuant to Article 2 of the Addenda to the Civil Act partially amended by Act 10429.