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# Act Amending the 1912 Copyright Act Concerning a Levy on the Reproduction of Recorded Images or Sound Recordings for Personal Use, Study or Practice

(of May 30, 1990)

*Section I.* The following amendments shall be made to the 1912 Copyright Act\*:

A. After Section 16b the following sections shall be inserted:

*Section 16c.*

(1) A levy shall be paid to the creator or the person in whom his rights are vested for reproduction which, having regard to the first paragraph of Section 16b, is for personal use, study or practice, and which takes the form of the recording of a work or part thereof on an object which is intended to show the images or play the sounds recorded upon it.

(2) The levy shall be paid by the manufacturer or importer of the objects referred to in subsection (1).

(3) The manufacturer shall be obliged to pay the levy at the time that the objects manufactured by him can be put into circulation. The importer shall be obliged to pay the levy at the time of import.

(4) The obligation to pay the levy shall lapse if the person liable to pay pursuant to subsection (2) exports the objects referred to in subsection (1).

(5) The levy shall be paid only once for each object.

*Section 16d.*

(1) The levy referred to in Section 16c shall be paid to a legal person to be designated by Our Minister of Justice and which in his opinion has representative status.\*\* The said legal person shall be responsible for the collection and distribution of such levies in accordance with a scheme approved by Our Minister.

In matters relating to the collection of the levy the legal person shall represent the creators or the persons in whom their rights are vested both at law and otherwise. The legal person referred to above shall come under the supervision of Our Minister.

(2) Further regulations governing the exercise of supervision over the legal person referred to in subsection (1) may be laid down by order in council.

*Section 16e.*

(1) The amount of the levy referred to in Section 16c shall be determined by a foundation (*stichting*) to be designated by Our Minister whose board is composed in such a fashion that it furthers in a balanced way the interests of the creators or the persons in whom their rights are vested and the persons liable to pay the levy pursuant to Section 16c, subsection (2). The chairman of the board referred to above shall be appointed by Our Minister of Justice.

(2) The running or playing time of the object in question shall be of primary importance in determining the amount of the levy.

*Section 16f.* Any person who is liable to pay the levy referred to in Section 16c shall be obliged to inform the legal person referred to in Section 16d, subsection (1), either immediately or within a period agreed with the said legal person, of the number and running or playing time of the objects imported or manufactured by him as referred to in Section 16c, subsection (1). He shall further be obliged, at the request of the said legal person, to allow that legal person immediately to inspect the documents necessary to enable it to determine whether the levy is payable and the amount to be paid.

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\* For the basic law, see *Copyright, 1973*, pp. 181 *et seq.*

\*\* I.e., can be deemed adequately to represent the interests of those it represents.

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*Section 16g.* Any disputes which may arise concerning the levy referred to in Section 16c shall be settled at first instance solely by The Hague District Court.

B. After Section 35b a new Section 35c shall be inserted, which shall read as follows:

*Section 35c.* Any person who intentionally fails to submit to the legal person referred to in Section 16d, subsection (1), written notification for the purpose of establishing the amount of the levy referred to in Section 16c or in such notification intentionally provides incorrect or insufficient information shall be liable to a term of imprisonment not exceeding three months or to a third category fine. The offense shall be deemed to be a summary offense.

C. After Section 36b a new Section 36c shall be inserted, which shall read as follows:

*Section 36c.* Any person who is involved in the implementation of this Act and thereby has at his disposal information which he knows or should reasonably suspect to be confidential and who is not obliged by reason of his office, profession or a statutory provision to maintain confidentiality in this respect, is obliged to maintain confidentiality regarding such information, unless he is obliged to make it public under a statutory provision or if his duties in connection with the implementation of this Act make it necessary.

*Section II.* This Act shall come into force on a date to be determined by Royal Decree.

*Entry into force:* See Section II.

*Source:* *Staatsblad*, No. 305 of June 28, 1990. English text provided by the Ministry of Justice of the Netherlands.