

# **REGULATION OF THE MINISTER OF CULTURE AND ART of 22 December 1994**

on the detailed rules and procedures of the Copyright Commission, remuneration of its members and the scale of fees for proceedings before the Commission as well as rules of their remittance.

By virtue of **article 108 paragraph 9** of the Act of 4 February 1994 on Copyright and Neighbouring Rights (official gazette *Dziennik Ustaw* No. 24, item 83 and No. 43, item 170) it is hereby ordered as follows:

§ 1. The Minister of Culture and Art shall, within one month of receipt of an application for approving the tables of remuneration for the use of works or artistic performances covered by collective administration, hereinafter referred to as “the tables”, appoint — from among the members of the Copyright Commission, hereinafter referred to as “the Commission” — a seven-member decision-making body of arbiters who shall examine the application taking into account the types of works and use of works (fields of exploitation) dealt with by the application.

§ 2. 1. In an application for settling a dispute over the use of the tables the party applying must indicate an arbiter to act on behalf of that party and the other party must — within 7 days from the date of being served with a summons in writing — appoint an arbiter to act on behalf of that party. Copies of the application and its enclosures must be attached to the summons.

2. In the event of expiry of the time limit referred to in [paragraph 1](#) without the required result, the Minister of Culture and Art shall appoint an arbiter *ex officio* within 14 days of the date of being advised of the failure of a party to appoint an arbiter, taking into account the type of works and use (fields of exploitation) relevant to the remuneration in question.

3. The procedure as referred to in [paragraph 2](#), shall apply as appropriate to the appointment of a superarbiter where the arbiters, having been appointed as members of the decision-making body, fail to appoint a superarbiter within 14 days from the date of being advised of their appointments as arbiters.

§ 3. 1. A member of the Commission shall be independent in the performance of his duties.

2. A member of the Commission may not, without good reason, refuse to discharge the function of arbiter or superarbiter.

§ 4. 1. The term of office of a member of the Commission shall be three years.

2. Before the expiry of the period specified in [paragraph 1](#) above, the member of the Commission may be discharged by the Minister of Culture and Art in the event of:

- 1) resignation from membership of the Commission;
- 2) conviction by a valid judgement passed in criminal proceedings for an act committed for base motives or deprivation of public rights;
- 3) illness preventing discharge of the function of member of the Commission for a period not shorter than one year.

§ 5. Technical and administrative services for the Commission shall be provided by the Copyright and Neighbouring Rights Bureau established under separate provisions of law, hereinafter referred to as “the Bureau”.

§ 6. Fees for examining the matters falling within the competence of the Commission shall be remitted together with the application in the following amounts:

1) ten times the average monthly remuneration paid within the sector of enterprises, as announced by the President of the Central Statistical Office in the official gazette *Dziennik Urzędowy Rzeczypospolitej Polskiej "Monitor Polski"* for the approval of remuneration tables, submitted by a collective administration organization in respect of use of works or artistic performances covered by collective administration;

2) five times the average monthly remuneration referred to in [point 1](#) above, for the appointment of a competent organization if an author is not a member of any organization or has not disclosed his authorship;

3) five times the average monthly remuneration referred to in [point 1](#) above, for the settlement of a dispute relating to the application of remuneration tables for the use of works or artistic performances covered by collective administration.

§ 7. In case of failure to remit the fees specified in [§ 6](#) together with the application for examining the case, the Bureau shall order the fee to be remitted within one week and if such period has expired without result the application shall be discontinued.

§ 8. Irrespective of the fees specified in [§ 6](#) above, the decision-making body may order an advance payment to be remitted to cover the costs of obtaining an expert opinion if such opinion has been considered necessary.

§ 9. 1. The final decision shall include: date of issuance, membership of the decision-making body, description of the parties and subject matter of the decision, contents of the decision and the reasons therefor.

2. The decision shall be signed by all members of the decision-making body, including the members outvoted. In the case of absence of a signature of a member of the decision-making body, the superarbiter of the body shall make an annotation relating to the reason for such absence. The decision shall be sent to the parties involved within one month of the date of settlement.

3. In its final decision the body shall decide on the costs of the proceedings.

4. The fees as specified in [§ 6](#), the advance payments as specified in [§ 8](#) as well as the payments to cover the costs of the proceedings shall be remitted to the account of the Bureau.

§ 10. A draft decision shall be prepared by the superarbiter or clerk of the body appointed by the superarbiter.

§ 11. 1. For the participation in making a decision in each case, the member of the decision-making body shall receive a lump-sum remuneration in the amount of an average monthly remuneration in the sector of enterprises published by the President of the Central Statistics Office in the official gazette *Dziennik Urzędowy Rzeczypospolitej Polskiej "Monitor Polski"*. The superarbiter shall receive remuneration in triple amount, subject to [subparagraph 2](#) below.

2. If draft reasons for the decision have been prepared by a clerk designated by the superarbiter, they both shall receive remuneration in double amount.

§ 12. This Regulation shall come into force on 1st January 1995.

Minister of Culture and Art: *K. Dejmek*

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