

Act on Collective Administration of Rights under the Copyright Act.

(Act No. 283/1997)

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Act

from

3rd October 1997

on Collective Administration of Rights under the Copyright Act and on Change and Amendment of Certain Acts.

National Council of Slovak Republic has agreed upon following Act:

Art. 1

§ 1 Subject Matter of Regulation

This Act shall regulate

- a) the conditions for granting the licence to perform the collective administration of rights under the Copyright Act¹⁾ to legal entities (hereafter referred to as the “collective administration”),
- b) the legal status, rights and obligations of legal entities performing the collective administration of rights under the Copyright Act (hereafter referred to as the “collective administration organisation”),
- c) the rights and obligations of the users of a protected subject matter within the execution of collective administration,
- d) legal relations arising due to the activities of collective administration organisation based on the granted licence for performance of collective administration.

§ 2 Definition of Certain Notions

For the purposes of this Act following shall be understood

¹⁾ Act No. 35/1965 on Literary, Scientific and Artistic Works/Copyright Act/in wording of the Act No. 89/1990, Act No. 468/1991 and the Act of National Council of Slovak Republic No. 13/1993.

- a) rightholder is an author,²⁾ performing artist,³⁾ phonogram producer⁴⁾ and radio and television organisation,⁵⁾
- b) protected subject matter is the work of an author, the performance of a performing artist, the phonogram or audio-visual fixation of a producer of such recordings and own broadcasted program of radio and television organisation,
- c) the user of a protected subject matter is a physical person who or legal entity which uses a protected subject matter in the specified field of collective administration pursuant to the [§ 3 Subs. 2](#) (hereafter referred to as the “user”).

§ 3 Collective Administration and Fields of Collective Administration

(1) Collective administration is a representation of rightholders in the execution of their economical rights arising from the Copyright Act.

(2) Collective administration shall be performed in particular in the literary, scientific, dramatical, musical, visual and architectural fields of creative activity in following sections

- a) public non-dramatic performance of the works by physical persons,
- b) public non-dramatic performance of a protected subject matter by means of technological devices,
- c) dissemination of a protected subject matter *inter alia* by radio and television broadcasting including the satellite broadcasting,
- d) dissemination of a protected subject matter by means of cable retransmission,
- e) rental and lending of the copies of works and recordings of artistic performances except for the works of architecture, works of applied art and works provided for the purposes of execution of an authorisation granted by a contract,¹⁾
- f) manufacturing of sound, visual and audio-visual recordings for one’s personal need by transferring their content onto blank carriers of such recordings,⁶⁾
- g) manufacturing of copies⁷⁾ by means of reprographic or other technological devices,

²⁾ § 12 of the Copyright Act.

³⁾ § 36 of the Copyright Act.

⁴⁾ § 45 of the Copyright Act.

⁵⁾ § 46 of the Copyright Act

¹⁾ Act No. 35/1965 on Literary, Scientific and Artistic Works/Copyright Act/in wording of the Act No. 89/1990, Act No. 468/1991 and the Act of National Council of Slovak Republic No. 13/1993.

⁶⁾ § 13 Subs. 2 and 3 of the Copyright Act.

⁷⁾ § 15 Subs. 2 litra a) of the Copyright Act.

- h) fair compensation of authors in the case of a resale of originals of their works,⁸⁾
- i) public display of works, production of copies and further public use thereof.

§ 4 Collective Administration Organisation

Collective administration can only be performed by a legal entity

- a) which has its seat within the territory of Slovak Republic
- b) which is established for non-entrepreneurial purposes pursuant to applicable legislation,⁹⁾
- c) to which the licence for performance of collective administration (hereafter referred to as the “licence”) in the defined field of creative activity has been granted by the Ministry of Culture of Slovak republic (hereafter referred to as the “ministry”).

§ 5 Conditions for Grant of Licence

(1) The Ministry shall decide upon granting the licence on the basis of a written application of legal entity (hereafter referred to as the “applicant”), if it fulfils criteria set in [§ 4 litra a\)](#) and [b\)](#).

(2) Written application shall contain the definition of the field in which the applicant intends to perform collective administration and information on the state of collective administration in that field.

(3) Following shall be enclosed by the applicant to the application set under [subsection 2](#):

- a) the document on registration, issued by the Ministry of Interior of Slovak Republic,
- b) the evidence on membership or promise of the membership in international organisations, evidence on contractual co-operation with organisations from abroad,
- c) the information on professional, technological and economical capability for performance of collective administration,
- d) the list of represented rightholders counting at least 200 persons and the draft of a type contract on representation of rightholders within the performance of collective administration,
- e) the repartition rules which shall contain the basic principles of the repartition of collected remunerations and compensations among entitled rightholders.

(4) The applicant shall be the only party of the proceedings set under [subsection 1](#).

⁸⁾ § 31 of the Copyright Act

⁹⁾ Act No. 83/1990 on Association of Citizens in wording of subsequent legislation.

(5) The ministry shall grant the licence to the applicant which demonstrates more expediency in fulfilment of the obligations under this Act.

(6) The ministry shall publish the decision on a grant of the licence in a ministerial publication medium.

(7) The ministry shall keep the records of collective administration organisations to which it has granted the licence; the records shall contain a name, seat and defined field of specified section.

(8) In a case of a licensing of the use of a protected subject matter pursuant [§ 3 Subs. 2 litra f](#)) and [g](#)) the rights shall be exercised and the claims shall be settled only via collective administration organisations to which the licence to perform a collective administration in these sections has been granted. Notwithstanding this, the right of a rightholder to judicial protection shall remain unaffected.

(9) In a case of a licensing of the use of a protected subject matter pursuant [§ 3 Subs. 2 litra d](#)) the collective administration organisations shall only settle the claims of authors, performing artists and phonogram producers.

(10) In a case of a rental of copies of works and recordings of artistic performances except for the works of architecture, works of applied art and works provided for the purposes of execution of an authorisation granted by a contract the collective administration organisation shall administer only the right to remuneration for such use.

(11) In a case of a lending of copies of works and recordings of artistic performances except for the works of architecture, works of applied art and works provided for the purposes of execution of an authorisation granted by a contract the collective administration organisation shall license this use and administer the right to remuneration due to it.

§ 6 Withdrawal of Licence

(1) Shall it be proved that collective administration organisation violated the obligations imposed by this Act or does not fulfil the conditions under [§ 4](#) and [§ 5](#) on the basis of which the licence has been granted to it, the ministry provides to it a reform term. Shall no reform take place in provided term or no reform can be made, the ministry decides to withdraw the licence.

(2) Collective administration organisation the licence of which shall be withdrawn is a only party to the proceedings set under [subsection 1](#).

§ 7 Rights and Obligations of Collective Administration Organisations

(1) Collective administration organisation to which the licence has been granted shall be obliged

- a) to perform collective administration of a protected subject matter in a manner not diminishing the possibility of their further use, this also by licensing the use thereof under reasonable conditions,

- b) to adopt the protection of any rightholder who requested it, if he/she/it proves his/her/its protected subject matter has been used in the field for which the licence has been granted,
- c) to perform the collective administration of Slovak and foreign rightholders equally, in accordance with international conventions and treaties by which Slovak Republic is bound,
- d) to keep the records of a protected subject matter, the use thereof, the records of rightholders and the rights they have to protected subject matter, and to provide them, with approval of rightholders, to the artistic funds¹⁰⁾ and the ministry, to fulfil the objectives in the field of registration in the international lists of rightholders and protected subject matter.
- e) to create a reserve fund for accommodation of additional claims of unrepresented rightholders and to keep the account book pursuant to applicable legislation,¹¹⁾
- f) to submit to the body determined by the Statutes a annual financial report,
- g) to pay the remunerations and compensations which it has collected due to the use of a protected subject matter in the fields under [§ 3 Subs. 2 litra d\), e\), f\)](#) and [g\)](#) to unrepresented rightholder within 3 years term since this use took place; unrepresented rightholder shall have the same rights and obligations as represented rightholder.
- h) in the fields of use of a protected subject matter under [§ 3 Subsection 2 litra d\), f\), g\)](#) and in the case of a lending of copies of works and recordings of artistic performances except for the works of architecture, works of applied art and works provided for the purposes of execution of an authorisation granted by a contract to licence the use thereof also on behalf of unrepresented rightholders and rightholders with whom the representing collective administration organisation has not concluded the contract on their representation by the collective administration organisation set under this Act.

(2) Collective administration organisation to which the licence has been granted shall have the right

- a) to conclude the contracts on the use of a protected subject matter, if it arises from the contract, to license the use thereof, to negotiate the amount of remunerations and compensations for the use thereof,
- b) to request the information on use and the scope of the use of a protected subject matter as well as other information needed to guarantee a proper performance of collective administration,

¹⁰⁾ Act of the National Council of Slovak Republic No. 13/1993 on Artistic Funds

¹¹⁾ Act No. 563/1991 on Accounting in wording of the Act of the National Council of Slovak Republic No. 272/1996.

- c) to inspect proper and due fulfilment of obligations of users arising from the Copyright Act or contract which it has concluded with them,
- d) to use, with the approval of represented rightholders and in accordance with agreements with partner collective administration organisations abroad, a part of collected remunerations and compensations for supporting, cultural and other non-entrepreneurial purposes.

(3) Collective administration organisation to which the licence has been granted shall notify to the ministry within 30 days all changes of data set under [§ 5 Subs. 3](#) or other facts decisive for grant of the licence.

(4) The amount of remunerations and compensations for the use of a protected subject matter shall be determined by the agreement between the collective administration organisation and user, interest associations of collective administration organisations and user, collective administration organisations and interest associations of users or between interest associations of both collective administration organisations and users.

(5) Shall parties of the contract reach no agreement on amount of remuneration and compensation for the use of a protected subject matter, the right to use it shall only be established if the user deposits, in the form of a bank guarantee, bank deposit, court deposit or in any other form, the remuneration or compensation in amount determined by collective administration organisation remunerations and compensations schedule. Parties of the contract shall have to right to dispose with this remuneration and compensation only after they reach agreement of after final decision of court.

(6) Following shall be in particular observed while determining the amount of remunerations and compensations

- a) financial importance of use of a protected subject matter for rightholder,
- b) financial profit of user from the use of a protected subject matter,
- c) financial expenses of user directly spent for the use of a protected subject matter,
- d) the scope and extent of the use of a protected subject matter.

(7) The amount of remunerations and compensations for the use of a protected subject matter under [§ 3 Subs. 2 litra d\)](#) shall be determined by an agreement as an aggregate remuneration to all collective administration organisations to which the licences have been granted for this specific field.

(8) The amount of remunerations and compensations for the use of a protected subject matter under [§ 3 Subs. 2 litra e\), f\), and g\)](#) which can not be determined by an agreement between collective administration organisations and users or their interest associations as well as the modus of the payment shall be regulated by applicable legislation.¹²⁾

¹²⁾ Regulation of the Ministry of Culture of Slovak Republic No. 488/1991 on Execution of Certain Provisions of the Copyright Act

§ 8 Rights and Obligations of Users

Shall user give no proof that rightholder explicitly excluded collective administration and shall licence being granted for the field of use in accordance with [§ 5](#), the users are obliged to settle the rights of the holders thereof via collective administration organisation to which the licence has been granted in determined field of creative activity.

§ 9 Financial Management of Collective Administration Organisations

(1) Expenses related to the performance of collective administration shall be covered, after an agreement with represented rightholders, by deduction from collected remunerations and compensations, membership contributions and other incomes.

(2) The modus of a disposal with the properties shall be governed by statutes of collective administration organisation and applicable legislation.

(3) In the case of cease of collective administration organisation the property settlement shall be done in accordance with the applicable legislation.

§ 10

If not otherwise provided herein a general legislation on administration proceedings¹³⁾ shall apply to proceedings pursuant to this Act.

§ 11 Transitional Provision

Legal entities which before entry into force of this Act performed a collective administration shall be considered being the collective administration organisations under this Act, this within period of 6 months since entry into force thereof.

§ 12 Revoking Provisions

Following legislation shall be revoked

1. Regulation of Minister of Culture No. 220/1954 on Tariffs of Royalties for Non-dramatic Performance of Musical Works in wording of Regulation of Minister of Culture and Information No. 183/1968.

2. [§ 10](#) and [§ 11](#) of Regulation of Ministry of Education and Culture No. 99/1958 on Authorisation of Public Concerts and Other Musical Productions, Public Entertainment and Artistic Productions, Folk Entertainment Enterprises, Certain Dramatical Performances, Exhibitions, Lectures and Film Performances and on Exclusive Authorisation of Organisations for Protection of Authors.

Art. II

¹³⁾ Act No. 71/1967 on Administration Proceedings/Administration Rules/

Act No. 35/1965 on Literary, Scientific and Artistic Works (Copyright Act) in wording of the Act No. 89/1990, Act No. 468/1991 and Act of the National Council of Slovak Republic No.13/1993 shall be changed and amended as follows

In § 13 a new subsection 3 shall be added after subsection 2, which shall read as follows

“(3) Authors of the works which can be due to their nature reproduced for one’s personal need (§ 15 Subs. 2 litra a)) on the basis of a print or the copies thereof by their transfer by means of technological devices onto other tangible carrier shall have the right to compensation from producer of such devices, or importer respectively.”

Present subsection 3 shall be entitled as subsection 4.

Art. III

Act No. 468/1991 on Performance of Radio and Television Broadcasting in wording of the Act No. 597/1992, Act of the National Council of Slovak Republic No. 166/1993, Act of the National Council of Slovak Republic No. 325/1993, Act of the National Council of Slovak Republic No. 212/1995, Act of the National Council of Slovak Republic No. 220/1996 and Act of the National Council of Slovak Republic No. 160/1997 shall be changed and amended as follows

1. Litra f) shall be added to § 5, which shall read as follows

“f) to conclude the contract with collective administration organisations to which the licence has been granted for performance of collective administration pursuant to applicable.¹⁾”.

Footnote to reference 1 shall read as follows:

2. Litra f) shall be added to § 15 Subs. 1, which shall read as follows:

“f) if the holder of the licence has not fulfilled its obligation pursuant § 5 litra f).”.

Art. IV

Act of the National Council of Slovak Republic No. 13/1993 on Artistic Funds shall be changed and amended as follows:

Litra c) shall be added after litra b) in § 2 Subs. 3, which shall read as follows:

c) by establishing the collective administration organisations pursuant to applicable legislation,^{2a)}.

¹⁾ “Art 1. of the Act No. 283/1997 on Collective Administration of Rights under the Copyright Act and on Change and Amendment of Certain Acts.”.

^{2a)} “Art 1. of the Act No. 283/1997 on Collective Administration of Rights under the Copyright Act and on Change and Amendment of Certain Acts.”.

Footnote to reference 2a shall read as follows:

Present **litra c)** and **d)** shall be changed to **d)** and **e)**.

Art. V

This Act shall enter into force on 1st of December, 1998.

Hand-written signatures:

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