

Denmark

Consolidated Act on Copyright 2006ⁱ

(Consolidated Act No. 763 of June 30, 2006)

The Act on Copyright is hereby promulgated.

Chapter 1

Subject Matter and Scope of Copyright

Protected Works

1.–(1) The person creating a literary or artistic work shall have copyright therein, be it expressed in writing or in speech as a fictional or a descriptive representation, or whether it be a musical or dramatic work, cinematographic or photographic work, or a work of fine art, architecture, applied art, or expressed in some other manner.

(2) Maps and drawings and other works of a descriptive nature executed in graphic or plastic form shall be considered as literary works.

(3) Works in the form of computer programs shall be considered as literary works.

Scope of Protection

2.–(1) Within the limitations specified in this Act copyright implies the exclusive right to control the work by reproducing it and by making it available to the public, whether in the original or in an amended form, in translation, adaptation into another literary or artistic form or into another technique.

(2) Any direct or indirect, temporary or permanent reproduction, in whole or in part, by any means and in any form shall be considered as reproduction. The recording of the work on devices which can reproduce it, shall also be considered as a reproduction.

(3) The work is made available to the public if

ⁱ Act No. 395 of June 14, 1995 contains provisions implementing Council Directive 92/100/EEC, OJ 1992 L 346/61, Directive 93/83/EEC, OJ 1993 L 248/15, and Directive 93/98/EEC, OJ 1993 L 290/9. This Act re-enacts provisions from Act No. 1010 of December 19, 1992 whereby Council Directive 91/250/EEC, OJ 1991 L 122/42, was implemented. Act No. 1207 of December 27, 1996 contains provisions which in addition implement Council Directive 92/100/EEC, OJ 1992 L 346/61, and 93/83/EEC, OJ 1993 L 248/15. Act No. 407 of June 26, 1998 contains provisions implementing Directive 96/9/EEC of the European Parliament and of the Council, OJ 1996 L 77/20. Act No. 1051 of December 17, 2002 contains provisions implementing Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society, OJ 2001 L 167/10. Act no. 997 of 9 December 2003 contains a provision that additionally implements the Council's Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, OJ 1993 L 248, p. 15. Act no. 1402 of 21 December 2005 contains provisions that implement the European Parliament's and the Council's Directive 2001/84/EC of 27 September 2001 on the resale right for the benefit of the author of an original work of art, OJ 2001 no. L 272, p. 32. Act no. 1430 of 21 December 2005 implement the European Parliament's and the Council's Directive 2004/48/EC on enforcement of intellectual property rights, OJ 2004, L 195, p. 15.

- (i) copies of the work are offered for sale, rental or lending or distribution to the public in some other manner;
 - (ii) copies are exhibited in public; or
 - (iii) the work is performed in public.
- (4) Public performance within the meaning of subsection (3)(iii) shall include
- i) communication to the public of works, by wire or wireless means, including broadcasting by radio or television and the making available to the public of works in such a way that members of the public may access them from a place and at a time individually chosen by them; and
 - ii) performance at a place of business before a large group, which would otherwise have been considered not public.

3.—(1) The author of a work shall have the right to be identified by name as the author in accordance with the requirements of proper usage, on copies of the work as well as if the work is made available to the public.

(2) The work must not be altered nor made available to the public in a manner or in a context which is prejudicial to the author's literary or artistic reputation or individuality.

(3) The right of the author under this section cannot be waived except in respect of a use of the work which is limited in nature and extent.

Adaptations

4.—(1) The person translating, revising or otherwise adapting a work, including converting it into some other literary or artistic form, shall have copyright in the work in the new form, but his right to control it shall be subject to the copyright in the original work.

(2) Copyright in a new and independent work created through the free use of another work, shall not be subject to the copyright in the original work.

Composite Works

5. A person who, by combining works or parts of works, creates a composite literary or artistic work, shall have copyright therein, but the right shall be without prejudice to the rights in the individual works.

Joint Authorship

6. If a work has two or more authors, without the individual contributions being separable as independent works, the copyright in the work shall be held jointly. Each of the authors, however, may bring an action for infringement.

Copyright Holder Presumption, etc.

7.–(1) If not otherwise stated the person whose name or generally known pseudonym or signature is indicated in the usual manner on copies of the work, or where the work is made available to the public, shall be deemed to be the author.

(2) If a work is published without the author being indicated in accordance with subsection (1), the editor, if named, and otherwise the publisher, shall act on behalf of the author until the latter is named in a new edition of the work.

Publication and Publishing

8.–(1) A work shall be considered to have been made public if it has lawfully been made available to the public.

(2) A work shall be considered published if, with the consent of the author, copies of the work have been put on the market or otherwise distributed to the public.

Public Documents

9.–(1) Acts, administrative orders, legal decisions and similar official documents are not subject to copyright.

(2) The provision of subsection (1) shall not apply to works appearing as independent contributions in the documents mentioned in subsection (1). Such works may, however, be reproduced in connection with the document. The right to further use shall be subject to the provisions otherwise in force.

Relation to Protection under Other Legislation

10.–(1) Protection under the Act on Designs does not preclude copyright.

(2) Layout designs (topography) of semiconductor products are not protected under this Act, but are protected under the provisions in the Act on Protection of the Design (Topography) of Semiconductor Products.

Chapter 2

Limitations on Copyright and Management of Rights in the Event of Extended Collective License

General Provisions

11.–(1) The provisions of this chapter do not limit the author's rights under section 3, except as provided in section 29.

(2) Where a work is used in accordance with the provisions of this chapter, the work may not be altered more extensively than is required for the permitted use. If the work is used publicly, the source shall be indicated in accordance with the requirements of proper usage.

(3) Where a work is used in accordance with the provisions of this chapter, copies may not be made on the basis of a reproduction of the work which is contrary to section 2 or on the basis of a circumvention of a technological measure which is contrary to section 75 c(1). The provision in the first sentence does not apply to the production of copies pursuant to section 16 (5).

Temporary Reproduction

11 a.—(1) It is permitted to make temporary copies

- i) which are transient or incidental;
- ii) which are an integral and essential part of a technical process;
- iii) the sole purpose of which is to enable a transmission of a work in a network between third parties by an intermediary, or a lawful use of a work; and
- iv) which have no independent economic significance.

(2) The provision of subsection (1) shall not apply to computer programs and databases.

Reproduction for Private Use

12.—(1) Anyone is entitled to make or have made, for private purposes, single copies of works which have been made public if this is not done for commercial purposes. Such copies must not be used for any other purpose.

(2) The provision of subsection (1) does not provide the right to

- (i) construct a work of architecture;
- (ii) make a copy of a work of art by casting, by printing from an original negative or base, or in any other manner implying that the copy can be considered as an original;
- (iii) make copies of computer programs in digitized form;
- (iv) make copies in digital form of databases if the copy is made on the basis of a reproduction of the database in digital form; or
- (v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household.

(3) Notwithstanding the provision in subsection (2) (v), it is not permitted without the consent of the author to produce copies in digital form on the basis of a copy that has been lent or hired.

(4) The provision of subsection (1) does not confer a right to engage another person to make copies of

- (i) musical works;
- (ii) cinematographic works;
- (iii) literary works if the other person assists for commercial purposes;
- (iv) works of applied art; or
- (v) works of art if the copying is in the form of an artistic reproduction.

(5) The provision of subsection (1) does not entitle the user to make copies of musical works and cinematographic works by using technical equipment made available to the public in libraries, on business premises, or in other places accessible to the public. The same applies for literary works if the technical equipment has been provided for commercial purposes.

Reproduction within Educational Activities

13.—(1) For the purpose of educational activities copies may be made of published works and copies may be made by recording of works broadcast in radio and television provided the requirements regarding extended collective license according to section 50 have been met. The

copies thus made may be used only in educational activities comprised by the agreement presumed in section 50.

(2) The provision of subsection (1) concerning recording shall not apply to cinematographic works which are part of the general cinema repertoire of feature films except where only brief excerpts of the work are shown in the telecast.

(3) The provision of subsection (1) concerning reproduction of published works shall not apply to computer programs in digital form.

(4) Teachers and students may as part of educational activities make recordings of their own performances of works if this is not done for commercial purposes. Such recordings may not be used for any other purposes.

Reproduction by Business Enterprises, etc.

14. Public or private institutions, organisations and business enterprises may for internal use for the purpose of their activities by photocopying, etc., make or have copies made of descriptive articles in newspapers, magazines and collections, of brief excerpts of other published works of a descriptive nature, of musical works and of illustrations reproduced in association with the text, provided the requirements regarding extended collective license according to section 50 have been met. Such copies may be used only for activities which are covered by the agreement presumed in section 50.

Reproduction by Hospitals, etc.

15. Hospitals, nursing homes, prisons and other 24-hour institutions within the social and welfare sector, the prison service, and similar institutions may for the brief use of the inmates and others of the institution make recordings of works broadcast on radio and television if this is not done for commercial purposes. Such recordings may be used only within the institution in question.

Archives, Libraries and Museums

16.-(1) Public archives, public libraries and other libraries that are financed in whole or in part by the public authorities, as well as State-run museums and museums that have been approved in accordance with the Museums Act, may use and distribute copies of works in their activities in accordance with the provisions of subsections (2)-(6) if this is not done for commercial purposes. However, this does not apply for computer programs in digital form, with the exception of computer games.

(2) The institutions may make copies for the purpose of back-up and preservation.

(3) If a copy in an institution's collection is incomplete, the institution may make copies of the missing parts, unless the work can be acquired through general trade or from the publisher.

(4) Libraries may make copies of published works that should be available in the library's collections, but which cannot be acquired through general trade or from the publisher.

(5) The copyright does not prevent the making of copies in accordance with the provisions of the Act on Legal Deposit of Published Material.

(6) Copies that have been made in accordance with subsections (3)-(5) or delivered pursuant to the Act on Legal Deposit of Published Material may be loaned to users. The same applies in special cases to copies made in accordance with subsection (2). The provisions in the first and

second sentences do not apply to recordings of moving pictures and copies made in digital form or in the form of sound recordings.

(7) The right to exploitation of copies made pursuant to subsections (2)-(5) shall be subject to the provisions otherwise in force.

16 a.-(1) Published works may be made available to individuals at the institutions specified in section 16 (1) for personal viewing or study on the spot by means of technical equipment.

(2) Notwithstanding the provisions of subsection (1), copies that are made or deposited pursuant to the Act on Legal Deposit may only be made available at the Royal Library, the State and University Library and the Danish Film Institute for separate individual persons.

(3) The institutions named in subsection (2) may communicate and hand over legal deposited copies of works that have been broadcast on radio and television, films and works published on electronic communication networks, for research purposes, if the work cannot be acquired through general trade. Such copies may not be used in any other way.

16 b. Public libraries and other libraries financed in whole or in part by the public authorities may upon request in digital form reproduce articles from newspapers, magazines and composite works, brief excerpts of books and other published literary works, as well as illustrations and music reproduced in connection with the text, provided the requirements regarding the extended collective license according to section 50 have been met. The provision of the first sentence shall not comprise broadcast by radio or television or the making available to the public of works in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of section 2 (4)(i).

Visually- and Hearing-handicapped Persons

17.-(1) It is permitted to use and distribute copies of published works if the use and the distributed copies are specifically intended for the blind, visually impaired, the deaf and sufferers from speech impediments, as well as persons who on account of handicap are unable to read printed text. The provision of the first sentence does not apply to the use or distribution of copies for commercial purposes.

(2) The provision of subsection (1) does not apply to sound recordings of literary works or use that consists solely of sound recordings of musical works.

(3) Sound recordings of published literary works may be used and distributed for use by visually impaired persons and backward readers if this is not done for commercial purposes. The author is entitled to remuneration.

(4) Government or municipal institutions and other social or non-profit institutions may, for the use of visually handicapped and hearing-impaired persons, by means of sound or visual recording produce copies of works broadcast on the radio or television, provided the requirements regarding the extended collective license according to section 50 have been met. Such recording may only be used for the purpose of activities covered by the agreement presumed in section 50.

Production of Anthologies for Educational Use, etc.

18.—(1) Minor portions of literary works and musical works or such works of small proportions may be used in composite works compiling contributions by a large number of authors for use in educational activities, provided that five years have elapsed since the year when the work was published. In connection with the text also works of art and works of a descriptive nature, cf. section 1(2), may be used, provided that five years have elapsed since the year when the work was made public. The author shall be entitled to remuneration.

(2) The provision of subsection (1) does not apply to works prepared for use in educational activities or if the use is for commercial purposes.

(3) A few published songs may be freely used in song booklets produced solely for the use of participants in a particular meeting. However, no more than 300 copies of each booklet may be produced.

Distribution of Copies

19.—(1) Where a copy of a work has been sold or otherwise transferred to others within the European Economic Area with the consent of the author the copy may be further distributed. In respect of further distribution in the form of lending or rental, the provision of subsection (1) shall also apply to sale or assignment in any other form to others outside the European Economic Area.

(2) Notwithstanding the provision of subsection (1), copies may not be distributed to the general public through rental without the consent of the author. However, this does not apply to works of architecture and applied art.

(3) Notwithstanding the provision of subsection (1), copies of cinematographic works and copies of computer programs in digitized form may not be distributed to the public through lending without the consent of the author. However, this does not apply if a copy of a computer program in digitized form constitutes a part of a literary work and is lent together with it.

(4) The provision of subsection (1) shall not carry any limitation in the right to receive remuneration etc., under the Act on Public Lending Right Remuneration.

Exhibition of Copies

20. Where a work has been published or if a copy of a work of art has been transferred to other parties by the author, the published or transferred copies may be exhibited in public.

Public Performances

21.—(1) A published work, which is not a dramatic work or a cinematographic work, may be performed in public

- (i) on occasions when the audience is admitted free of charge where the performance is not the main feature of the event and where the event does not occur for commercial purposes; and
- (ii) where the performance occurs in the case of divine services or educational activities.

(2) The provision of subsection (1)(ii) does not apply to performances on radio or television and to performances in educational activities which occur for commercial purposes.

(3) In public libraries works which have been made public may be made available to individuals for personal viewing or study on the spot by means of technical equipment.

Quotations

22. A person may quote from a work, which has been made public, in accordance with proper usage and to the extent required for the purpose.

Use of Works of Fine Art, etc.

23.—(1) Works of art and works of a descriptive nature, cf. section 1(2), which have been made public may be used in critical or scientific presentations in connection with the text in accordance with proper usage and to the extent required for the purpose. Reproduction for commercial purposes is not permitted.

(2) A work of art that has been made public may be used in a generally informative presentation and may be used in a critical or scientific presentation for commercial purposes provided the requirements regarding extended collective license according to section 50 have been met. This shall, however, not apply if the author has issued a prohibition against use of the work in relation to any of the parties to the license agreement.

(3) Works of art made available to the public may be used in newspapers and periodicals in connection with the reporting of current events in accordance with proper usage and to the extent required for the purpose. The provision of the first sentence does not apply to works produced with a view to use in newspapers or periodicals.

(4) Published works of art or copies of works of art that have been transferred to others by the author may be used in newspapers, periodicals, films and television if the use is of subordinate importance in the context in question.

24.—(1) Works of art included in a collection or exhibited or offered for sale may be reproduced in catalogues of the collection. Such works of art may also be used in notices of exhibitions or sale, including in the form of communication to the public.

(2) Works of art may be reproduced in pictorial form and then made available to the public if they are permanently situated in a public place or road. The provision of the first sentence shall not apply if the work of art is the chief motif and its reproduction is used for commercial purposes.

(3) Buildings may be freely reproduced in pictorial form and then made available to the public.

Reporting of Current Events

25. If performance or exhibition of a work is part of a current event and it is used in film, radio or television, the work may be included to the extent the work forms a natural part of the reporting of the current event.

Public Proceedings, Public Access, etc.

26. Proceedings in Parliament, municipal councils and other elected public authorities, in judicial proceedings and in public meetings held to discuss general matters may be used without the author's consent. However, the author shall have the exclusive right to publish compilations of his own statements.

27.—(1) Where copies of works protected under this Act have come in to an administrative authority or court in connection with its activities, the copyright shall not prevent other parties from demanding access to copies of works, including demanding a transcript or a copy, in accordance with the provisions of the legislation on access to public documents. The same shall apply to works produced within the administrative authority or court.

(2) The copyright shall not prevent that documents delivered to a public record office or an institution which the Minister for Culture has decided shall be considered equivalent hereto are made available to the public in accordance with the provisions of the legislation on archives. However, it shall be prohibited to issue transcripts or to make copies of private documents.

(3) The right to further exploitation of works to which access has been given in pursuance of subsection (1) or (2) or of which transcripts or copies have been issued shall be subject to the provisions otherwise in force.

28.—(1) Works may to the extent justified by the purpose be used in connection with

- (i) judicial proceedings and proceedings before administrative tribunals, etc., and
- (ii) proceedings within public authorities and institutions under Parliament.

(2) The right to further exploitation shall be subject to the provisions otherwise in force.

Alteration of Buildings and Articles for Everyday Use

29.—(1) Buildings may be altered by the owner without the consent of the author if this is done for technical reasons or for the purpose of their practical use.

(2) Articles for everyday use may be altered by the owner without the consent of the author.

Special Provisions on Radio and Television

30.—(1) DR, TV 2/DANMARK A/S and the regional TV 2 companies may on radio or television broadcast published works provided the requirements regarding extended collective license according to section 50 have been met. The provision of the first sentence does not apply to dramatic or cinematographic works.

(2) The author may issue a prohibition to the broadcaster against the broadcast of the work pursuant to subsection (1).

(3) The Minister for Culture may stipulate that the provisions of subsections (1) and (2) shall apply correspondingly to agreements made by other broadcasters.

(4) The provision of subsection (1) shall apply correspondingly if the author of a work of art has transferred one or more copies to others.

(5) The provision of the first sentence of subsection (1) shall not apply to broadcasts on radio and television via satellite unless the broadcaster makes a simultaneous broadcast via a terrestrial network.

30 a.—(1) Works which have been made public and are a part of DR's, TV 2/DANMARK A/S' and the regional TV 2 companies' own productions can, by the mentioned broadcasters, be repeated and made available in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of section 2(4)(i), provided that the requirements regarding extended collective license according to section 50 have been met.

The provision of the first sentence shall apply correspondingly to the making of copies which are necessary for the reproduction. The provisions of the first and second sentences shall apply exclusively to works which are a part of productions broadcast before January 1, 1998.

(2) The author may issue a prohibition to the broadcaster against the reproduction of the work pursuant to subsection (1).

31.—(1) Broadcasters may for the purpose of their broadcasts record works on tape, film, or any other device that can reproduce them provided they have the right to broadcast the works in question. The right to make such works available to the public shall be subject to the provisions otherwise in force.

(2) The Minister for Culture may lay down rules on the conditions to make such recordings and on their use and storage.

32. Broadcasts of debate programs in which general questions are discussed may be used without the consent of the author. However, the author shall have the exclusive right to publish compilations of his own statements.

33.—(1) Broadcasts of works may be recorded on tape, film or any other device by means of which they can be reproduced and may be stored with the National Media Collection if the broadcast is of documentary value. The Media Collection may produce single copies of the broadcasts for security and protection purposes and for research purposes. The right to further exploitation shall be subject to the provisions otherwise in force.

(2) The Minister for Culture may provide that the provision in subsection (1) shall apply correspondingly to other public archives.

34. Broadcasters may on request deliver recordings of broadcasts to persons who have taken part in the broadcasts in question or who feel offended by comment in a specific broadcast or through public mention of the broadcast in question. Recordings delivered according to the first sentence may be used for internal use only.

35.—(1) Works which are broadcast wireless on radio or television may be retransmitted simultaneously and without alteration via cable systems and may in the same manner be retransmitted to the public by means of radio systems, provided the requirements regarding extended collective license according to section 50 have been met. The provision of the first sentence shall not apply to rights held by broadcasters.

(2) Notwithstanding the provision of subsection (1), works forming part of a wireless radio or television broadcast received by means of the receivers' own antennae, may be retransmitted via cable systems consisting of no more than two connections.

(3) The owner of a system as mentioned in subsection (1) is responsible for an agreement being made regarding retransmission of radio and television broadcasts via the systems. If remuneration to be paid by the owner according to an agreement made in accordance with subsection (1) or an order from the Copyright License Tribunal under section 48(1), is fixed as an

amount per connection, the user of the individual connection is under an obligation to pay the owner a corresponding amount.

Special Provisions on Computer Programs, etc.

36.—(1) The person who has the right to use a computer program shall be entitled to

- (i) produce such copies of the program and to make such alterations of the program which are necessary for the person to use the computer program in accordance with its intended purpose, including for error correction;
- (ii) make a back-up copy insofar as it is necessary for the use of the program; and
- (iii) observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing, etc. the program which he is entitled to.

(2) The person who has the right to use a database may perform such actions which are necessary for the person to obtain access to the contents of the database and make normal use of it.

(3) The provisions of subsection (1)(ii) and (iii) and of subsection (2) may not be deviated from by agreement.

37.—(1) Reproduction of the code of a computer program and translation of its form shall be permitted where this is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:

- (i) these acts are performed by the licensee or by another person having a right to use a copy of a program, or on their behalf by a person authorised to do so;
- (ii) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in (i); and
- (iii) these acts are confined to the parts of the original program which are necessary to achieve interoperability.

(2) The provisions of subsection (1) shall not permit the information obtained through its application:

- (i) to be used for goals other than to achieve the interoperability of the independently created computer program;
- (ii) to be given to others, except where necessary to achieve the interoperability of the independently created computer program; or
- (iii) to be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.

(3) The provisions of subsections (1) and (2) may not be deviated from by agreement.

Artists' Resale Right

38.—(1) The author is entitled to remuneration for the resale of copies of works of art, including paintings, collages, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramic art, glass art and photographic works (resale right remuneration). The provision in the first sentence relates to copies of works of art that have been produced in one copy or in a limited

quantity by the author himself or with his permission. The provision in the first sentence does not comprise architectural works.

(2) Resale right remuneration shall be paid for all instances of resale in which sellers, buyers or agents are involved on a professional basis in the art market, including auction houses, art galleries and art dealers. The obligation to pay the remuneration rests with the seller or the intermediary. Remuneration shall only be paid if the sales price exceeds 300 euros (excl. VAT). The total remuneration cannot exceed 12,500 euros (excl. VAT) per copy.

(3) The remuneration is calculated as

- (i) 5 per cent for the portion of the sale price up to 50,000 euros (excl. VAT),
- (ii) 3 per cent for the portion of the sale price from 50,000.01 to 200,000 euros (excl. VAT),
- (iii) 1 per cent for the portion of the sale price from 200,000.01 to 350,000 euros (excl. VAT),
- (iv) 0.5 per cent for the portion of the sale price from 350,000.01 to 500,000 euros (excl. VAT),
- (v) 0.25 per cent for the portion of the sale price exceeding 500,000 euros (excl. VAT).

(4) The right to remuneration shall last until the expiration of the term of copyright, cf. section 63. This right is personal and unassignable. After the death of the author the right shall, however, succeed to the author's spouse and issue. Where the author does not leave behind any spouse or issue, the right of remuneration shall pass to the organisation mentioned in subsection (5).

(5) The right of remuneration of resale right may be exercised only by an organisation approved by the Minister for Culture. The organisation shall be in charge of the collection and make distribution to the beneficiaries. The beneficiary's claim against the organisation shall last until three years have elapsed from the end of the year in which the resale took place. The period of limitation shall be suspended by written demand from the beneficiary.

(6) The seller or agent, cf. the second sentence in subsection (2), shall

- (i) submit an annual statement to the organisation as at 1 June specifying the previous year's sales of works of art that are covered by the resale right scheme, cf. subsections (1) and (2), attested by an authorised public accountant or a registered auditor and
- (ii) at the organisation's request and within four weeks of receipt of the request to submit all of the information necessary to secure payment of remuneration when the organisation requests this within three years of the resale.

Remuneration for Reproduction for Private Use

39.—(1) Anyone who for commercial purposes produces or imports sound tapes or videotapes or other devices on to which sound or images can be recorded shall pay remuneration to the authors of the works mentioned in subsection (2).

(2) The remuneration shall be paid for tapes, etc., which are suitable for production of copies for private use, and only for works which have been broadcast on radio or television, or which have been published on phonogram, film, videogram, etc.

(3) Administration and control, including collection, shall be carried out by a joint organisation representing a substantial number of authors, performers and other rightholders, including record producers, etc., and photographers, whose works, performances, etc., are used in

Denmark. The organisation shall be approved by the Minister for Culture. The Minister may demand to be supplied with all information about collection, administration and distribution of the remuneration.

(4) The organisation lays down guidelines for payment of the remuneration to the beneficiaries so that to the greatest possible extent distribution will take place in accordance with the copying actually made. One third of the annual amount for payment shall, however, be used to support purposes common to the authors and others within the groups represented by the organisation, cf. subsection (3).

40. For 2006, the remuneration per minute playing time for analogue sound tapes is DKK 0.0603 and for analogue videotapes DKK 0.0839.

(2) For 2006, the remuneration for digital sound media is DKK 1.88 per unit, for digital image media DKK 3 per unit and for digital memory cards DKK 4.28 per unit.

(3) The remuneration specified in subsections (1) and (2) shall be adjusted annually from 2007 by the rate adjustment percentage, cf. Act on Rate Adjustment Percentage.

41.—(1) Companies which for commercial purposes produce or import sound tapes or videotapes, etc., shall be registered with the joint organisation.

(2) The organisation shall issue a certificate for the registration.

(3) Registered companies shall without the remuneration having been settled be entitled to import or from another registered company to receive sound tapes or videotapes liable to remuneration in accordance with section 39.

42.—(1) The remuneration period shall be the month.

(2) Registered companies shall prepare a statement of the number of sound tapes and videotapes liable to remuneration which during the period have been distributed by the company, and their playing time.

(3) Registered companies using sound tapes or videotapes within the company shall include the requirements for distribution according to subsection (2).

(4) The statement shall be specified in accordance with guidelines to be laid down by the Minister for Culture according to negotiation with the joint organisation. The Minister for Culture may, moreover, subject to negotiation with the joint organisation lay down guidelines for control measures in connection with the statement mentioned in the first sentence of this subsection.

(5) The Minister for Culture can define rules, the purpose of which is to simplify the scheme with deductions or repayments of remuneration for sound tapes and videotapes, etc., used for professional purposes, cf. section 43 (1) (iii), and section 44 (1) (ii).

(6) Anyone selling sound tapes and videotapes, etc. is obliged when ordered to do so by the organisation to explain within four weeks from whom the tapes, etc. were bought.

43.—(1) A deduction shall be made from the number liable to remuneration made up in accordance with section 42(2):

(i) the number of sound tapes and videotapes distributed to another registered company in accordance with section 41(3);

- (ii) the number of exported sound tapes and videotapes;
- (iii) the number of sound tapes and videotapes to be used for professional purposes, including educational purposes;
- (iv) the number of sound tapes and videotapes to be used for production of recordings to be used for the visually handicapped and hearing-impaired persons;
- (v) the number of sound tapes and videotapes to be used for special purposes which by the Minister for Culture have been exempted from the remuneration.

(2) The Minister for Culture may according to negotiation with the joint organisation lay down guidelines for controlling deductions in accordance with subsection (1).

44.—(1) The remuneration shall be repaid in case of:

- (i) commercial export of sound tapes or videotapes on which remuneration has been paid;
- (ii) utilization of sound tapes or videotapes for professional purposes, including educational purposes, on which remuneration has been paid;
- (iii) utilization of sound tapes or videotapes for production of recordings to be used by visually handicapped or hearing-impaired persons, on which remuneration has been paid; or
- (iv) utilization of sound tapes or video tapes for special purposes which by the Minister for Culture have been exempted from payment of remuneration, on which remuneration has been paid.

(2) In accordance with negotiation with the joint organisation, the Minister for Culture lays down the guidelines to apply to refunding of remuneration according to subsection (1).

45.—(1) Registered companies shall keep accounts of production, import and distribution etc., of sound tapes and videotapes liable to remuneration.

(2) In accordance with negotiation with the joint organisation, the Minister for Culture lays down guidelines to apply to the accounting of the registered companies, including issue of invoices etc.

(3) Registered companies shall keep accounting material for five years after the end of the financial year.

46. After the end of each remuneration period and not later than at the end of the next month registered companies shall to the joint organisation deliver a statement specifying the number of distributed sound cassette tapes and video cassette tapes, and their playing time, cf. sections 42 and 43. The company shall at the latest together with delivery of the statement pay the remuneration to the organisation. The statement shall be signed by the management of the company.

Common Provisions on Compulsory License

47.—(1) If no agreement can be reached on the amount of the remuneration in accordance with section 17(3), section 18(1), section 51(2) and section 68 each party may submit the question to a Tribunal, the Copyright License Tribunal, set up by the Minister for Culture. The decision of the Tribunal may not be brought before any other administrative authority. The Minister for Culture will lay down the rules governing the activities of the Tribunal and may in this connection lay down rules on the covering of the expenses incurred in connection with such activities.

(2) The Minister for Culture may lay down rules on collection of remuneration in accordance with section 17(3), section 18(1), and section 68.

(3) If the user of a work in accordance with section 68 does not pay the remuneration fixed by agreement between the parties or according to a decision made by the Copyright Licence Tribunal, it may by judgment be established that the particular utilization of the work may be made only subject to the consent of the author until payment is effected.

48.—(1) If an organisation approved in accordance with section 50(3) or a broadcaster unreasonably refuses to consent to retransmission via cable systems or wireless of works and broadcasts that are broadcast wireless simultaneously and without alteration or if such retransmission is offered on unreasonable terms, the Copyright License Tribunal may at request grant the necessary permission and lay down the conditions in this respect. The provision of section 50(1), second sentence, shall apply correspondingly. The Copyright License Tribunal's decisions as described in the first sentence are not binding on radio and television companies.

(2) Where in accordance with section 69, a broadcaster refuses to give its consent to a broadcast be recorded in a manner as mentioned in the second division of the first sentence of section 13(1) or section 17(4) or in the absence of any agreement on the conditions of such a recording, the Copyright License Tribunal may at the request of each party grant the necessary permission and lay down the conditions in this respect.

(3) The provision of subsection (2) shall apply only if an organisation of authors has made an agreement comprised by section 50, cf. the second division of the first sentence of section 13(1) or section 17(4). The provision of section 49 shall apply correspondingly.

49.—(1) Claims for remuneration according to section 17(3), section 18(1), and section 68 shall become statute-barred after three years from the end of the year in which the utilization of the work took place.

(2) If the claim for remuneration is made by an organisation the provision of subsection (1) shall apply also to the author's claim against the organisation.

(3) The limitation shall be suspended by written demand.

Common Provisions on Extended Collective License

50.—(1) Extended collective license according to sections 13, 14 and section 16 b, section 17 (4), section 23(2) and sections 30, 30 a and 35 may be invoked by users who have made an agreement on the exploitation of works in question with an organisation comprising a substantial number of authors of a certain type of works which are used in Denmark. The extended collective license gives the user right to exploit other works of the same nature although the authors of those works are not represented by the organisation.

(2) The extended collective license gives the user right only to exploit the works of the unrepresented authors in the manner and on the terms that follow from the agreement made with the organisation and from the provisions mentioned in subsection (1).

(3) Rightholder organisations who make agreements of the nature mentioned in subsection (1), shall be approved by the Minister for Culture. Only one organisation can be approved for each

type of works. The Minister may decide that an approved organisation in certain fields shall be a joint organisation comprising several organisations which meet the conditions of subsection (1).

51.—(1) For exploitation of works according to sections 13, 14 and 16 b, section 17 (4), section 23(2) and sections 30, 30 a and 35 the rules laid down by the organisation with regard to the distribution of remuneration between the authors represented by the organisation shall apply correspondingly to unrepresented authors.

(2) Unrepresented authors may claim an individual remuneration although such a right appears neither from the agreement with the user nor from the organisation's rules on remuneration. The amount of the individual remuneration may be fixed according to the provision of section 47(1). The claim for remuneration shall be advanced against the organisation only.

(3) Claims for remuneration which the organisations approved according to section 50(3) wish to make in connection with exploitation of works according to section 35, shall be made simultaneously to the users.

(4) The provision of section 49 shall apply correspondingly to the claims for remuneration according to the rules mentioned in subsections (1) and (2).

52.—(1) In the absence of any result of negotiations on the making of agreements as mentioned in section 13 (1), section 14, section 16 b, section 17 (4), section 23(2) and section 30 a, each party may demand mediation.

(2) Demands for mediation shall be addressed to the Minister for Culture. The request may be made if one of the parties has broken off the negotiations or rejected a request for negotiations, or if the negotiations do not appear to lead to any result.

(3) The mediation shall be made by a mediator to be appointed by the Minister for Culture. The mediation negotiations shall be based on the parties' proposal for a solution, if any. The mediator may propose to the parties to have the dispute settled by arbitration and may participate in the appointment of arbitrators.

(4) The mediator may make proposals for the solution of the dispute and may demand that such a proposal be submitted to the competent bodies of the parties for adoption or rejection within a time-limit fixed by the mediator. The mediator shall notify the Minister for Culture of the outcome of the mediation.

(5) The mediator may decide that agreements shall remain in force although the agreement term has expired or will expire in the course of the negotiations. However, the agreement cannot be prolonged for more than two weeks after the parties have decided on a final mediation proposal or proposal for arbitration, or after the mediator has notified that there is no basis to make such proposals.

(6) The person who is or who has been mediator must not without authorisation disclose or utilize any knowledge obtained in his capacity of being a mediator.

(7) The Minister for Culture may lay down rules regarding the covering of expenses incurred in connection with the work of the mediator.

Chapter 3
Assignment of Copyright

General Provisions

53.—(1) Subject to the limitations following from sections 3 and 38 the copyright holder may wholly or partially assign his rights under this Act.

(2) The transfer of copies shall not include an assignment of the copyright.

(3) Where a right to exploit the work in a specific manner or through specific means has been assigned, the assignment does not give the assignee the right to exploit the work in any other manners or through any other means.

(4) The provisions of sections 54-59 on assignment of copyright may be deviated from by agreement between the parties except where otherwise provided in the individual provisions.

54. The assignee shall be under an obligation to exploit the work. The author may cancel the agreement if the assignee has not exploited the work within a reasonable time or at the latest five years after the time where the agreement has been fulfilled on the part of the author.

55. Where the agreement does not expressly specify individual forms of exploitation comprised by the assignment the author may subject to a reasonable notice terminate the assignment of the rights in the unspecified forms of exploitation which have not been implemented by the assignee within three years from the time when the agreement has been fulfilled on the part of the author.

Alterations and Reassignment

56.—(1) Assignment of copyright does not give the assignee any right to alter the work unless the alteration is usual or obviously presumed.

(2) Assignment of copyright does not give the assignee any right to reassign copyright unless the reassignment is usual or obviously presumed. The assignor remains liable for the performance of the agreement with the author.

Settlement and Control

57.—(1) If the author's remuneration depends on the assignee's turnover, sales figures, etc., the author may demand that settlement is made at least once a year. The author may likewise demand that the settlement be accompanied by satisfactory information on the circumstances forming the basis of the calculation of the remuneration.

(2) The author may demand that the accounts, bookkeeping and inventory together with certifications by the party who has exploited the work in connection with the annual settlement according to subsection (1) be made available to a state-authorized public accountant or registered accountant appointed by the author. The accountant shall inform the author of the correctness of the settlement and of irregularities, if any. The accountant shall otherwise observe secrecy about all other matters that become known to him in connection with his review.

(3) The provisions of subsections (1) and (2) shall not be deviated from to the detriment of the author.

Special Provisions concerning Agreements on Recording of Films

58.—(1) An agreement to take part in the recording of a film shall imply that the author shall have no right to oppose that

- (i) copies of the film are made;
- (ii) copies of the film are distributed to the public;
- (iii) the film is performed in public; or
- (iv) the film is subtitled or dubbed in another language.

(2) The provision of subsection (1) shall not apply to

- (i) works already existing;
- (ii) scripts, dialogues and musical works created for the purpose of making the film; or
- (iii) the principal director of the film.

Provisions on Unassignable Claims for Remuneration in Connection with Rental of Moving Pictures and Sound Recordings.

58 a. If an author has assigned his right to make a work available to the public through rental to a producer of moving pictures or sound recordings, the author shall be entitled to an equitable remuneration from the producer for the rental. The right to remuneration may be exercised only through organisations which represent the individual groups of rightholders. The provisions of the first and second sentences may not be deviated from by agreement.

Special Provisions on Computer Programs Produced in the Course of Employment

59. Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer the copyright in such a computer program shall pass to the employer.

Commissioned Portraits

60. The author cannot exercise his rights in a commissioned portrait without the consent of the commissioner.

Inheritance and Creditor Proceedings

61.—(1) The usual provisions of the inheritance laws shall apply to the copyright upon the author's death.

(2) The author may give directions in his will with binding effect also for the spouse and issue concerning the exercise of the copyright, or may authorise somebody else to give such directions.

62.—(1) The author's right to control his work shall not be subject to creditor proceedings, either when remaining with the author or when with any person who has acquired the copyright by virtue of marriage or inheritance.

(2) Copies of the work shall not be subject to creditor proceedings either when remaining with the author or when with any person to whom copies have been assigned by virtue of marriage or inheritance if the proceedings are in respect of

- (i) manuscripts;

- (ii) bases, plates, forms, etc., by which a work of art can be performed; or
- (iii) copies of works of art which have not yet been exhibited, offered for sale or in any other way approved for publication.

Chapter 4 *Duration of Copyright*

63.—(1) The copyright in a work shall last for 70 years after the year of the author's death or with regard to the works mentioned in section 6 after the year of death of the last surviving author. With regard to cinematographic works the copyright, however, shall last for 70 years after the year of death of the last of the following persons to survive:

- (i) the principal director;
- (ii) the author of the script;
- (iii) the author of the dialogue; and
- (iv) the composer of music specifically created for use in the cinematographic work.

(2) Where a work is made public without indication of the author's name, generally known pseudonym or signature, the copyright shall last for 70 years after the year in which the work was made public. Where a work consists of parts, volumes, instalments, issues or episodes a separate term of protection shall run for each item.

(3) If within the period mentioned the author is indicated in accordance with section 7 or if it is established that he had died before the work was made public, the duration of copyright shall be calculated in accordance with subsection (1).

(4) Copyright in a work of unknown authorship that has not been made public shall last 70 years after the end of the year in which the work was created.

64. Where a work has not been published previously, the person who lawfully makes the work public or publishes it for the first time after the expiry of copyright protection, shall have rights in the work equivalent to the economic rights attributed by the Act to the person creating a literary or artistic work. This protection shall last for 25 years after the end of the year in which the work was made public or published.

Chapter 5 *Other Rights*

Performing Artists

65.—(1) The performance of a literary or artistic work by a performing artist may not without his consent

- (i) be recorded on tape, film or any other device by means of which it can be reproduced; or
- (ii) be made available to the public.

(2) Where a performance has been recorded as stated in subsection (1)(i), it must not without the consent of the performing artist be reproduced or be made available to the public until 50 years

after the end of the year in which the performance took place. However, if a recording of the performance is lawfully published or lawfully communicated to the public during this period, the rights shall expire 50 years from the date of the first such publication, or the first such communication, whichever is the earlier.

(3) An agreement between a performing artist and a film producer to take part in the recording of a film implies that in the absence of any opposite agreement the performing artist is assumed to have assigned his right to the rental of the film to the producer.

(4) The provisions of section 2(2)-(4), sections 3, 7, 11 and 11 a, section 12(1), (2)(v), (3), (4)(i), and (5) first sentence, sections 13, 15, 16 and 16 a, section 17(1), (2) and (4), section 18(1) and (2), section 19(1) and (2) and sections 21, 22, 25, 27, 28, 30 a, 31, 34, 35, 39-47, 49-57, 58 a, 61 and 62 shall apply correspondingly to performing artists' performances and recordings of such performances.

Producers of Sound Recordings

66.—(1) Sound recordings may not without the consent of the producer be copied or made available to the public until 50 years have elapsed after the end of the year in which the recording was made. If a sound recording is published during this period the protection shall, however, last until 50 years have elapsed after the end of the year of the first publication. If a sound recording is not published but is made public in any other manner within the period mentioned in the first sentence, the protection shall, however, last until 50 years have elapsed after the end of the year in which it was made public.

(2) The provisions of section 2(2)-(4), section 7 (1), section 11(2) and (3), section 11 a, section 12(1), (2)(v), (3), (4) (i), and (5), first sentence, sections 13, 15, 16 and 16 a, section 17, (1), (2) and (4), section 18(1) and (2), section 19(1) and (2), sections 21, 22, 25, 27, 28, 30 a, 31, 34, 39-47 and 49-52 shall apply correspondingly to sound recordings.

(3) Notwithstanding the provision of subsection (1), sound recordings broadcast wireless may be retransmitted via cable systems and be retransmitted to the public by means of radio systems if this is done without alterations and simultaneously with the broadcast.

Producers of Recordings of Moving Pictures

67.—(1) Recordings of moving pictures may not without the consent of the producer be copied or made available to the public until 50 years have elapsed after the end of the year in which the recording was made. If a recording of a moving picture is published or made public during this period the protection shall, however, last until 50 years have elapsed after the end of the year in which it was first published or made public, whichever is the earlier.

(2) The provisions of section 2(2)-(4), section 7(1), section 11(2) and (3), section 11 a, section 12(1), (2)(v), (3), (4) (ii), and (5), first sentence, sections 13, 15, 16 and 16 a, section 17 (1) and (4), section 18(1) and (2), section 19(1) and (2), sections 22, 25, 27, 28, 30 a, 31, 32, 34, 39-47 and 49-52 shall apply correspondingly to recordings of moving pictures.

(3) Notwithstanding the provision of subsection (1), recordings of moving pictures broadcast wireless on television may be retransmitted via cable systems and be retransmitted to the public by means of radio systems if this is done without alterations and simultaneously with the broadcast.

Remuneration for Use of Sound Recordings in Broadcasts on Radio and Television, etc.

68.—(1) Notwithstanding the provisions of section 65(2) and section 66(1), published sound recordings may be used in broadcasts on radio and television and for other public performances. The provision of the first sentence shall not apply to public performance in the form of the making available to the public of published sound recordings in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of section 2(4)(i).

(2) Performing artists and producers of sound recordings shall be entitled to remuneration. The claim for remuneration may be made only through a joint organisation approved by the Minister for Culture, which comprises performers as well as producers of sound recordings.

(3) The provisions of subsections (1) and (2) shall not apply to broadcasts on television and other public performances of cinematographic works if sound and images are broadcast or performed simultaneously.

Broadcasters

69.—(1) A radio or television broadcast may not without the consent of the broadcaster be rebroadcast by others or in any other manner be performed in public. Neither may the broadcast without consent be photographed or recorded on tape, film or any other device by means of which it can be reproduced.

(2) Where a broadcast is photographed or recorded as mentioned in subsection (1), it must not without the consent of the broadcaster be copied or made available to the public until 50 years have elapsed after the end of the year in which the broadcast took place.

(3) The provisions of section 2(2)-(4), section 7(1), 11(2) and (3), section 11 a, section 12(1), (2)(v), (3), (4)(ii) and (5) first sentence, sections 15-16 a, section 17(1) and (2), section 19(1) and (2), sections 21, 22 and 25, section 27(1) and (3) and sections 28, 31, 32 and 39-46 shall apply correspondingly to radio and television broadcasts.

Producers of Photographic Pictures

70.—(1) The person who produces a photographic picture (the photographer) shall enjoy the exclusive right to make copies of it and make it available to the public.

(2) The rights in a photographic picture shall last until 50 years have elapsed from the end of the year in which the picture was taken.

(3) The provisions of section 2(2)-(4), sections 3, 7, 9, 11 and 11 a, section 12(1), (2)(v) and (3), sections 13-16 b, section 17(1) and (4), section 18(1) and (2), section 19(1) and (2), sections 20, 21 and 23, section 24(1) and (2), sections 25, 27, 28, 30-31, 34, 35, 39-47, 49-58 and sections 60-62 shall apply correspondingly to photographic pictures. If a photographic picture is subject to copyright according to section 1, this right may also be exercised.

Producers of Catalogues, etc.

71.—(1) The person who produces a catalogue, a table, a database or the like, in which a great number of items of information has been compiled, or which is the result of a substantial investment, shall have the exclusive right to control the product in question as a whole or an essential part thereof by making copies of it and by making it available to the public.

(2) The provision of subsection (1) shall apply correspondingly to a reproduction or making available to the public of insubstantial parts of the contents of a catalogue, a table, a database or the like, which is made repeatedly and systematically, if the said acts may be equalled to acts which conflict with normal exploitation of the products in question or which unreasonably prejudice the legitimate interests of the producer.

(3) If products of the nature mentioned in subsection (1) or parts thereof are subject to copyright or other protection, such rights may also be exercised.

(4) The protection according to subsection (1) shall last until 15 years have elapsed after the end of the year in which the product was produced. If a product of the said nature is made available to the public within this period of time, the protection shall, however, last until 15 years have elapsed after the end of the year in which the product was made available to the public for the first time.

(5) The provisions of section 2(2)-(4), sections 6-9, section 11(2) and (3), section 12(1) and (2)(iv), (4)(iii) and (5) second sentence, sections 13-17, section 18(1) and (2), section 19(1) and (2), section 20-22, 25, 27, 28, 30-32, 34 and 35, section 36(2) and (3), section 47 and sections 49-52 shall apply correspondingly to the catalogues, tables, databases, etc., mentioned in subsection (1).

(6) Terms of agreement which extend the right of the producer according to subsection (1) in a product made public shall be null and void.

Press Releases

72. Press releases supplied under contract from foreign news agencies or from correspondents abroad, may not without the consent of the recipient be made available to the public through the press, the radio or in any other similar manner until after 12 hours after they have been made public in Denmark.

Chapter 6

Various Provisions

Protection of Titles, etc.

73.—(1) A literary or artistic work may not be made available to the public under a title, pseudonym or signature likely to be confused with a work previously made public or with its author.

(2) Where the publication of the work made public previously has taken place less than three months prior to the publishing of the other work, the provision of subsection (1) shall not apply unless it may be presumed that confusion was intended.

Signing of Works of Art

74.—(1) The name or signature of the artist may not be placed on a work of art by others than himself without his consent.

(2) The name or signature of the artist may not in any case be put on a reproduction in such a manner that the reproduction may be confused with the original.

Moral Rights after the Expiration of Copyright

75. Although the copyright has expired a literary or artistic work may not be altered or made available to the public contrary to section 3(1) and (2) if cultural interests are thereby violated.

Public Performance of Musical Works

75 a.—(1) Commercial activity whereby a representative of the owner of the copyright or a contractual owner of this right makes agreements on public performance of a musical work protected under this Act, shall be approved by the Minister for Culture. The Minister may lay down specific terms for the approval. Agreements made in contravention of the first and second sentences shall be null and void.

(2) If an organisation, etc., approved in accordance with subsection (1) stipulates unreasonable terms for consenting to the public performance of musical works, the Copyright License Tribunal may at request lay down the conditions for the performance. The provisions of section 47(1), second and third sentences, shall apply correspondingly.

Chapter 6 a

Technological Measures, etc.

75 b. It is not permitted to market or for commercial purposes possess means the only purpose of which is to facilitate unlawful removal or circumvention of technical devices which are used to protect a computer program.

75 c.—(1) It is not permitted to circumvent effective technological measures without the consent of the rightholder.

(2) It is not permitted to produce, import, distribute, sell, rent, advertise for sale or rental, or to possess for commercial purposes devices, products or components that

- (i) are promoted, advertised or marketed for the purpose of circumvention of effective technological measures;
- (ii) have only a limited commercially significant purpose or use other than to circumvent effective technological measures; or
- (iii) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.

(3) The provision of subsection (2) shall apply correspondingly to services.

(4) The expression effective technological measures in subsections (1) and (2) shall mean any effective technological measures that, in the normal course of their operation, are designed to protect works and performances and productions, etc. protected under this Act.

(5) The provisions of subsections (1)-(4) shall not apply to the protection of computer programs.

(6) The provisions of subsections (1)-(4) shall not prevent research into cryptography.

75 d.—(1) The Copyright License Tribunal, cf. section 47(1), may, upon request, order a rightholder who has used the effective technological measures mentioned in section 75 c(1) to make such means available to a user which are necessary for the latter to benefit from the provisions of

section 15 and 16, section 17(1)-(3), section 18(1) and (2), section 21(1)(ii), section 23(1) and sections 26-28, 31 and 68. If the rightholder does not comply with the order within 4 weeks from the decision of the Tribunal, the user may circumvent the effective technological measure, notwithstanding the provision of section 75 c(1). The provisions of the first and second sentences shall apply only to users with legal access to the work or the performance or the production, etc.

(2) The provision of subsection (1) shall apply only to the extent that the rightholder has not, by voluntary measures, including agreements with other parties concerned, ensured that the user may benefit from the provisions mentioned in subsection (1) notwithstanding the use of effective technological measures.

(3) The provision of subsection (1) shall not apply to works and performances or productions, etc. made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of section 2(4)(i).

75 e.—(1) It is not permitted without the consent of the rightholder to

- (i) remove or alter any electronic rights-management information; or
- (ii) distribute, import for distribution or communicate to the public works and performances or productions, etc. from which electronic rights-management information has been removed or altered without consent.

(2) The provision of subsection (1) shall apply only if the actions concerned are carried out by a person who knows, or has reasonable grounds to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of the right to a work or performance or production, etc. protected under this Act.

Chapter 7

Enforcement of the Law

Penal Sanctions

76.—(1) Anyone who with intent or by gross negligence

- (i) violates section 2 or section 3;
 - (ii) violates sections 65, 66, 67, 69, 70 or 71;
 - (iii) violates section 11(2), section 60 or sections 72-75;
 - (iv) fails to file a statement or information according to section 38 (6);
 - (v) fails to register or fails to disclose information to the joint organisation according to section 41(1), section 42(6) and the first sentence of section 46, or fails to keep and hold accounts according to section 45; or
 - (vi) violates regulations laid down pursuant to section 61(2)
- is liable to a fine.

(2) Where an intentional violation of the provisions mentioned in subsection (1)(i) and (ii) has been committed by using works, performances or productions protected under sections 65-71 or by distributing copies hereof among the general public, the punishment may under particularly aggravating circumstances be increased to imprisonment in one year and 6 months, unless a more

severe punishment is provided by section 299 b in the penal code. Particularly aggravating circumstances are deemed to exist especially where the offence is commercial, concerns production or distribution of a considerable number of copies, or where works, performances or productions are made available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, cf. the second division of section 2 (4)(i).

77.—(1) Where copies of works or of performances or productions that are protected under sections 65-71 have been produced outside Denmark under such circumstances that a similar production in Denmark would have been in conflict with the law, anyone who with intent or by gross negligence imports such copies with a view to making them available to the public shall be liable to a fine.

(2) The provision of section 76(2) shall apply correspondingly to intentional violations of the provision of subsection (1).

78.—(1) Anyone who with intent or by gross negligence violates section 75 b or 75 c is liable to a fine. Anyone who with intent violates section 75 e is liable to a fine.

79. In regulations issued pursuant to section 16, section 31(2), section 42(4), section 43(2), section 44(2), section 45(2) and section 47(2) may be laid down a fine for violation of provisions of the regulations.

80. Companies, etc. (legal persons) may be liable to punishment under the provisions of Chapter 5 of the Criminal Code.

Legal Proceedings

81.—(1) Legal proceedings in respect of violations comprised by section 76(1), section 77(1) or section 79 shall be instituted at the instance of the aggrieved party.

(2) After the death of the author, legal proceedings in respect of violations of section 3 and of the regulations laid down pursuant to section 61(2) shall, moreover, be instituted by the author's spouse, relative in direct line of ascent or descent, or any sisters or brothers.

(3) After the death of the author, legal proceedings in respect of violation of sections 3 and 73-74 shall, moreover, be instituted by the public authorities. However, legal proceedings in respect of violations of section 3 may be instituted by the public authorities only where cultural interests must be deemed to be infringed by the violation.

(4) Notwithstanding the provision of subsection (1), legal proceedings shall be instituted by the public authorities in the event of violations of section 75.

(5) Legal proceedings shall be instituted by the public authorities in the event of violations of section 78, cf. section 75 b and section 75 c(2).

(6) Legal proceedings shall be instituted by the aggrieved party in the event of violations of section 78, cf. section 75 c(1) and section 75 e.

82. Legal proceedings in respect of violations comprised by section 76(2) or section 77(2) shall only be instituted by request of the aggrieved party, unless public interests require legal proceedings.

Damages and Compensation

83.-(1) Anyone who with intent or by negligence violates any of the provisions of sections 76 and 77 shall pay

- (i) reasonable remuneration to the infringed party for the exploitation
- (ii) damages to the infringed party for any additional damage caused by the violation.

(2) When setting the damages according to subsection (1)(ii), consideration shall be given to such matters as the infringed party's loss of profits and the offender's unfair profits.

(3) In cases covered by subsection (1), compensation can also be set to the infringed party for non-financial damage.

Destruction, etc.

84.-(1) The court can by sentence decide that copies infringing the right to works or productions protected according to sections 65-71 shall

- (i) be recalled from the channels of commerce,
- (ii) be definitively removed from the channels of commerce,
- (iii) be destroyed or
- (iv) be handed over to the infringed party.

(2) Subsection (1) applies correspondingly to materials, tools, etc. that have primarily been used for illegal production or application of copies of the work or the production.

(3) Measures according to subsection (1) shall be undertaken without any form of compensation to the offender and does not have any effect on any possible compensation to the infringed party. Measures shall be undertaken at the offender's expense, unless special reasons dictate otherwise.

(4) In considering a request for corrective measures according to subsection (1) the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account by the court.

Publication of Judgements

84 a.-(1) In a judgement in which someone is sentenced according to sections 83 or 84, the court may upon request decide that the judgement shall be published in full or in part.

(2) The obligation to publish rests with the offender. Publication shall be arranged at the offender's expense and in as prominent a way as can reasonably be expected.

Chapter 8

Scope of Application of this Act

Copyright

85.-(1) The provisions of this Act concerning copyright shall apply to

- (i) works of persons who are nationals of or who have their habitual residence in a country within the European Economic Area;
- (ii) works first published in a country within the European Economic Area, or first published simultaneously in a country within the European Economic Area and in another country;
- (iii) cinematographic works, the maker of which has his headquarters or his habitual residence in a country within the European Economic Area;
- (iv) buildings situated in a country within the European Economic Area; and
- (v) works of art incorporated in a building or other structure in a country within the European Economic Area.

(2) Where subsection (1)(ii) is applied, publication shall be considered as simultaneous if the work is published in a country within the European Economic Area within 30 days of its publishing in another country.

(3) Where subsection (1)(iii) is applied, the person or corporate body whose name appears on the cinematographic work in the usual manner shall, in the absence of information to the contrary, be presumed to be the maker of the said work.

(4) The provision of section 38 shall apply to works of persons who are nationals of or who have their habitual residence in a country within the European Economic Area.

(5) The provisions of section 64 shall apply to publications etc. made by

- (i) persons who are nationals of or who have their habitual residence in a country within the European Economic Area; or
- (ii) companies which have their headquarters in a country within the European Economic Area.

(6) The provisions of sections 73-75 shall apply to any work.

Other Rights

86.—(1) The provision of section 65 shall apply to

- (i) performances which have taken place in a country within the European Economic Area; and
- (ii) performances which are reproduced on sound recordings which are protected in accordance with the provision of subsection (2).

(2) The provision of section 66 shall apply to

- (i) sound recordings that have taken place in a country within the European Economic Area;
- (ii) sound recordings that have been made by persons who are nationals of or who have their habitual residence in a country within the European Economic Area; and
- (iii) sound recordings that have been made by companies which have their headquarters in a country within the European Economic Area.

(3) The provision of section 67 shall apply to

- (i) recordings of moving pictures that have taken place in a country within the European Economic Area;
- (ii) recordings of moving pictures that have been made by persons who are nationals of or who have their habitual residence in a country within the European Economic Area; and
- (iii) recordings of moving pictures that have been made by companies having their headquarters in a country within the European Economic Area.

(4) The provision of section 69 shall apply to

- (i) broadcasts which have taken place in a country within the European Economic Area; and

- (ii) broadcasters which have their headquarters in a country within the European Economic Area.
 - (5) The provision of section 70 shall apply to
- (i) photographs made by persons who are nationals of or who have their habitual residence in a country within the European Economic Area; and
- (ii) photographs incorporated in buildings or structures in a country within the European Economic Area.
 - (6) The provision of section 71 shall apply to
- (i) catalogues, etc. made by persons who are nationals of or who have their habitual residence in a country within the European Economic Area; and
- (ii) catalogues, etc. made by companies which have their headquarters in a country within the European Economic Area.
 - (7) The provisions of subsection (6) shall apply correspondingly to press releases as mentioned in section 72.

(8) Notwithstanding the provision of subsection (1), the provision of section 65(1) on recording shall apply to all sound recordings of performances. Notwithstanding the provision of subsection (2), section 66(1) on copying shall apply to all sound recordings. Notwithstanding the provisions of subsections (1)-(4), the provisions of section 65(2), section 66(1), section 67(1) and section 69(2) on the distribution of copies to the public shall apply to all performances, sound recordings, moving pictures recordings and radio and television broadcasts.

Special Provisions on Satellite Broadcasting

87.—(1) Satellite broadcasting shall be deemed to occur in Denmark if the programme-carrying signals intended for reception by the public under the control and responsibility of a broadcaster in this country are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(2) Satellite broadcasting shall also be deemed to occur in Denmark if the introduction in the chain of communication occurs in a State that is not a member of the European Economic Area and which does not provide the level of protection provided for under Chapter II of Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission in the following cases

- (i) if the programme-carrying signals are transmitted to the satellite from an uplink station situated in Denmark. The rights provided for under sections 2, 64, and 65-73 shall then be exercisable against the person operating the station;
- (ii) if there is no use of an uplink station situated in an EEA Member State and a broadcaster with its headquarters in Denmark has commissioned the introduction into the chain of communication. The rights provided for under sections 2, 64, and 65-73 shall then be exercisable against the broadcaster.

Application of this Act in Relation to other Countries, etc.

88.—(1) The Minister for Culture may define more detailed rules under which the application of the provisions of this Act may be extended to other countries conditional upon reciprocity.

(2) The Minister for Culture may also define more detailed rules under which the Act may be made applicable to works first published by international organisations and to unpublished works that such organisations are entitled to publish.

Chapter 9

Coming into Force and Transitional Provisions

89.—(1) This Act shall come into force on July 1, 1995.

(2) Simultaneously the following Acts shall be repealed:

- (i) Act on the Copyright in Literary and Artistic Works, cf. Consolidated Act No. 1170 of December 21, 1994; and
- (ii) Act on the Right in Photographic Pictures, cf. Consolidated Act No. 715 of September 8, 1993.

(3) A proposal for revision of sections 75 c and 75 d shall be submitted to the Folketing (Parliament) in the year 2005-2006 at the latest.

90.—(1) This Act shall apply also to works and performances and productions, etc., made before the coming into force of this Act.

(2) This Act shall not apply to acts of exploitation concluded or rights acquired before the coming into force of this Act. Copies of works or of performances or productions etc. can still be distributed to the public and be exhibited in public if they have been lawfully made at a time when such distribution or exhibition was permitted. The provisions of section 19(2) and (3) shall, however, always apply to rental and lending carried out after the coming into force of this Act.

(3) If by application of the new provisions the term of protection for a work or a performance or a production etc. shall become shorter than according to the previous provisions these provisions shall apply. The provision of section 63(4) shall, however, always apply.

91.—(1) The provisions of sections 54, 55, 56, and 58 shall not apply to agreements made before July 1, 1995.

(2) The provision of section 65(3) shall also apply to agreements made before July 1, 1995.

(3) The provisions of section 30(5) and section 87(2) shall not apply until January 1, 2000 to agreements made before January 1, 1995.

(4) The provision of section 59 shall not apply to computer programs produced before January 1, 1993.

(5) The provision of section 70 shall not apply to photographic pictures made before January 1, 1970.

92. The special privileges and prohibitions provided under older laws shall remain in force.

93. This Act shall not extend to the Faeroe Islands and Greenland but may by Royal Ordinance be brought into full or partial operation in the Faeroe Islands and Greenland, subject to

such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act No. 295 of April 24, 1996 to Amend the Copyright Act (Repeal of revision provision) contains no coming into force provision.

Act No. 1207 of December 27, 1996 to Amend the Copyright Act and to Repeal the Act on the Cultural Fund and on Certain Concessions in the Field of Copyright (Copying for the benefit of handicapped persons, cable retransmission of broadcasts, unassignable claim for remuneration in connection with rental of videograms and phonograms etc.) contains the following coming into force provisions, etc.:

Section 2

(1) This Act shall come into force on January 1, 1997. Section 1, nos. 2, 4, 5, 7, 10, 12, 13, 15, 16, 23, 24, 26, and 27, however, not until January 1, 1998. Section 50(4) of the Act on Copyright as worded by section 1, no. 13, of this Act, shall come into force on January 1, 1997.

(2) On January 1, 1997, Act No. 409 of June 13, 1990 concerning the Cultural Fund and on Certain Concessions in the Copyright Area shall be repealed.

(3) If organisations representing the rightholders mentioned in sections 1, 65, 70 and 71, of the Act on Copyright unreasonably refuse to consent to the retransmission simultaneously and without alteration via cable systems of works, performances and productions included in broadcasts of the nature mentioned in section 35(5) of the Act on Copyright, or if such retransmission is offered on unreasonable terms, the tribunal mentioned in section 48(1) of the Act on Copyright (the Copyright License Tribunal) may, at request for the year 1997 grant the necessary permission and lay down the conditions in this respect. The provision of section 50(1), second sentence, of the Act on Copyright shall apply correspondingly.

(4) The provisions of section 1, nos. 19 and 21, shall apply to agreements made after November 19, 1992. With regard to agreements made before July 1, 1994, the provisions of section 1, nos. 19 and 21, shall, however, apply only if authors or performers or representatives of those have made claims to this effect before January 1, 1997 to the producer.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland but may by Royal Ordinance be brought into full or partial operation in the Faeroe Islands and Greenland, subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act No. 407 of June 26, 1998 to Amend the Copyright Act (Databases, digital copying for educational use etc., reproduction of works of fine art etc.) contains the following coming into force provisions, etc.:

Section 2

(1) This Act shall come into force on July 1, 1998.

(2) This Act shall apply also to works and productions made before the coming into force of the Act. A catalogue, a table, a database or the like, produced not later than 15 years before January 1, 1998, is protected in accordance with section 71 of the Act on Copyright as worded by section 1, no. 12, of this Act, until January 1, 2013.

(3). This Act shall not apply to acts of exploitation concluded or rights acquired before the coming into force of the Act. Copies of products made according to section 71 of the Act on Copyright in its previous wording can still be distributed to the public and be exhibited in public, if they have been lawfully made at a time when such distribution or exhibition was permitted. The provisions of section 19(2) shall, however, always apply to rental of such products, which is carried out after the coming into force of the Act.

(4) Where prior to the coming into force of this Act, reproduction was commenced or essential preparations were made to produce copies of the products mentioned in section 71 of the Act on Copyright in its previous wording, reproduction may to the extent necessary and usual be completed within the planned framework, however, not later than January 1, 2000. Copies produced on the basis of the provision of the first sentence, may be distributed to the public and be exhibited in public. The provision of subsection (3), third sentence, shall apply correspondingly.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland but may by Royal Ordinance be brought into full or partial operation in the Faeroe Islands and Greenland, subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act No. 472 of June 7, 2001 to Amend the Copyright Act (Digital copying for personal use, extended collective license etc.) contains the following coming into force provisions, etc.:

Section 2

(1) This Act shall come into force on the day after publication in the Danish Legal Gazette.ⁱⁱ

(2) The provisions of section 50, cf. sections 13 and 14, section 17(5), section 23(2) and sections 30 and 35, of the Act on Copyright in force till now, shall still apply to agreements made before the coming into force of this Act.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland but may by Royal Ordinance be brought into full or partial operation in the Faeroe Islands and Greenland, subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act No. 1051 of December 17, 2002 to Amend the Copyright Act (Implementation of Infosoc Directive, new extended collective licences etc.) contains the following coming into force provisions, etc.:

Section 2

(1) This Act shall come into force on December 22, 2002.

(2) The provision of section 1, no. 35, shall not apply to sound recordings where the term of protection has expired when the Act comes into force.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland but may by Royal Ordinance be brought into operation in these parts of the Kingdom, subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act no. 997 of 9 December 2003 to Amend the Copyright Act (Revision of blank tape levies, copying for private use, etc.) contains the following coming into force provisions, etc.:

Section 2

This Act comes into force on the day after publication in the Danish Legal Gazette.ⁱⁱⁱ

Section 3

This Act shall not extend to the Faeroe Islands and Greenland, but may by Royal Ordinance be brought into operation in full or in part in the Faeroe Islands and Greenland subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act no. 352 of 19 May 2004 to Amend the Penal Code, the Administration of Justice Act, the Marketing Practices Act and the Copyright Act (IT criminality, etc.)^{iv}, contains the following coming into force provisions, etc.:

Section 5

This Act enters into force on 1 July 2004.

Section 6

(1) This Act does not extend to the Faeroe Islands and Greenland.

(2) (Omitted)

(3) By Royal Ordinance section 4 of the Act may extend in full or in part to the Faeroe Islands and Greenland subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act no. 1440 of 22 December 2004 to Amend the Copyright Act (archives, libraries and museums, as well as visually impaired persons and backward readers, etc.) contains the following coming into force provisions, etc.:

Section 2

(1) This Act enters into force on 1 July 2005.

(2) Ordinance no. 1213 of 17 December 2002, changed through Ordinance no. 159 of 17 March 2004, remains in force until superseded by or modified by rules issued pursuant to section 88 of the Copyright Act as contained in section 1, no. 25 of this Act.

(3) Executive Order no. 876 of 28 November 1997 is repealed.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland, but may by Royal Ordinance be brought into operation in full or in part in the Faeroe Islands and Greenland subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act no. 1402 of 21 December 2005 to Amend the Copyright Act (Artists' resale right) contains the following coming into force provisions, etc.:

Section 2

(1) This Act enters into force on 1 January 2006.

(2) This Act extends to agreements on resale that are entered into on or after 1 January 2006.

(3) As regards agreements on resale that were entered into before 1 January 2006, the rules that prevailed previously shall apply.

(4) Executive Order no. 274 of 18 April 1996 on the calculation of artistic royalties in connection with the commercial resale of works of art is repealed.

Section 3

This Act shall not extend to the Faeroe Islands and Greenland, but may by Royal Ordinance be brought into operation in full or in part in the Faeroe Islands and Greenland subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

Act no. 1430 of 21 December 2005 to Amend the Patents Act, Copyright Act and other Acts (Implementation of EU Directive 2004/48/2004 on enforcement of intellectual property rights)^v contains the following coming into force provisions, etc.:

Section 8

This Act enters into force on 1 January 2006.

Section 9

(1) This Act shall not extend to the Faeroe Islands and Greenland.

(2) By Royal Ordinance sections 1-3 and 5 may extend in full or in part to these parts of the Kingdom, subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

(3) By Royal Ordinance section 6 may extend in full or in part to Greenland, subject to such modifications as required by the special conditions obtaining in Greenland.

Act no. 569 of 9 June 2006 to Amend the Copyright Act (Technical measures and revision of the blank tape levy system) contains the following coming into force provisions, etc.:

Section 2

This Act comes into force on the day after publication in the Danish Legal Gazette.^{vi}

Section 3

This Act shall not extend to the Faeroe Islands and Greenland, but may by Royal Ordinance be brought into operation in the Faeroe Islands and Greenland subject to such modifications as required by the special conditions obtaining in the Faeroe Islands and Greenland.

The Ministry of Culture, June 30, 2006

ⁱⁱ This Act entered into force on June 9, 2001.

ⁱⁱⁱ This Act entered into force on December 12, 2003.

^{iv} Section 4 of this Act contains an amendment of the Copyright Act.

^v Section 5 of this Act contains an amendment of the Copyright Act.

^{vi} This Act entered into force on June 11, 2006.