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PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD

Danemark

Le présent document contient le texte des lois et réglementations ci-après¹, notifiées par le Danemark au titre de l'article 63:2 de l'Accord:

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- Loi n° 395 concernant le droit d'auteur sur les oeuvres littéraires et artistiques et les droits voisins (Loi de 1995 sur le droit d'auteur)	2
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¹Anglais seulement.

Denmark

Act on Copyright 1995

Chapter 1

Subject matter and Scope of Copyright

Protected works

Section 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

Section 2. (1) Within the limitations specified in this Act copyright implies the exclusive right to control the work by making copies thereof 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) The recording of the work on devices which can reproduce it, shall be considered as a production of copies.

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

(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, including broadcast by television;

(iii) the work is performed in public, including broadcast by radio or television.

(4) Public performance within the meaning of subsection (3) (iii) shall include the performance at a place of business before a large group, which would otherwise have been considered not public.

Section 3. (1) When a work is reproduced, or when it is made available to the public, the name of the author shall be stated to the extent and in the manner required by proper usage.

(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 to his 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

Section 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

Section 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

Section 6. When 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.

Section 7. (1) When 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 when 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 the foregoing subsection, 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

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

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

Public Documents

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

(2) The provision in the foregoing subsection shall not apply to works appearing as independent contributions in the documents mentioned in the foregoing subsection. 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

Section 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**General Provisions*

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

(2) When 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.

Reproduction for Private Use

Section 12.-(1) Anyone is entitled to make or have made, for private purposes, single copies of works which have been made public. Such copies must not be used for any other purposes.

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

- (i) construct a work of architecture;
- (ii) produce a copy of a work of art by casting, by printing from an original negative or base, or any other manner implying that the copy can be considered as an original;
- (iii) produce copies of computer programs in digitized form; or
- (iv) produce copies in digitized form of other works if the reproduction is made on the basis of a production of the work in digitized form.

(3) 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) works of applied art, or
- (iv) works of art if the copying is in the form of an artistic reproduction.

(4) The provision of subsection (1) does not entitle the user to reproduce copies of musical works and cinematographic works by using technical equipment made available to the public in libraries, in business premises, or in other places open to the public.

Reproduction within

Educational Activities

Section 13.-(1) Photocopying, etc., for educational use may be made of published works and copies may be made by recording of works broadcast in radio and television provided

the requirements regarding the extended collective agreement license contained in Section 50 of this Act have been met. The copies thus made may be used only in such educational activities which are covered 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) Teachers and pupils may for educational purposes make recordings of their own performances of works. Such recordings may not be used for any other purposes.

*Reproduction by Business
Enterprises, etc.*

Section 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 descriptive nature, and of illustrations reproduced in association with the text, provided the requirements of Section 50 of this Act regarding the extended collective license agreement 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.

Section 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. Such recordings may be used only within the institution in question.

*Reproduction within Archives,
Libraries and Museums*

Section 16. The Minister for Culture may lay down rules according to which archives, libraries and museums may, on specified conditions, make single copies of works to be used for the purpose of their activities. If the copying is made by way of sound and visual recording or in digital form, the copies may not without the consent of the author be lent or in any other way be made available to the public outside the archives, libraries or museums.

*Reproduction for
visually handicapped and
hearing-impaired persons*

Section 17.-(1) A person is entitled to make copies in braille of published literary or musical works. Copies of such works may furthermore be photographed for educational use in schools for the deaf and sufferers from speech impediments. The Minister for Culture may lay down rules determining that the provision of the first paragraph of this subsection may be extended also to comprise other forms of reproduction.

(2) For the purpose of lending to the blind, sufferers from defective vision, dyslexia, backward readers and others unable to read ordinary books, it is permitted to make sound recordings of published literary works when this is not done for commercial purposes. The author shall be entitled to remuneration for such recordings.

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

*Production of Anthologies
for Educational Use, etc.*

Section 18.-(1) Minor portions from literary and musical works or short works of those categories may be reproduced in composite works consisting of works of a large number of authors compiled for use in educational activities, provided that five years have elapsed from the publication of those works. Works of art and works of a descriptive nature, cf Section 1 (2), may be used in connection with the text, provided five years have elapsed from their being made available to the public. The author is entitled to remuneration.

(2) The provision of subsection 1 does not apply to works prepared for use in educational activities.

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

Distribution of Copies

Section 19.-(1) When a copy of a work has been sold or otherwise transferred to others with the consent of the author the copy may be further distributed.

(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 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 or is lent together with it.

(4) The provision of subsection (1) shall not carry any limitation in the right to receive remuneration etc., in accordance with the Act on Library Fees.

Exhibition of Copies

Section 20.-(1) When 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 publicly exhibited.

(2) The provision of subsection (1) does not apply to exhibition of copies of works of art on television or in films. This shall apply also to exhibition of copies of literary or musical works if the content of the work is thereby made available to the public.

Public Performances

Section 21.-(1) A published work other than dramatic or cinematographic works may be publicly performed

- (i) on occasions when the performance of such works is not the main feature of the event, provided that no admission fee is charged and the event is not for profit; and
- (ii) where the performance is made 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.

(3) In public libraries published copies of cinematographic works, musical works and works in digital form can be made available to individuals for personal viewing or study on the spot by means of technical equipment. Reproduction is not allowed.

Quotations

Section 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.

Section 23.-(1) Works of art and works of a descriptive nature which have been made public, cf. Section 1(2), may be used in critical or scientific presentations in connection with the text if fair practice is observed and to the extent justified for the purpose.

(2) Works of art made available to the public may be used in newspapers and periodicals in connection with the reporting of current events if fair practice is observed and to the extent justified for the purpose. The provision of the first paragraph does not apply to works produced with a view to usage in newspapers or periodicals.

(3) 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 usage is of subordinate importance in the context in question.

Section 24.-(1) Works of art included in a collection, or exhibited, or offered for sale may be reproduced in pictorial form and then made available to the public in catalogues of the collection and in notices of exhibitions or sale.

(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 paragraph 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

Section 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.

Section 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.

Section 27.-(1) Where copies of works protected under this Act have been lodged in custody of an administrative authority in connection with its activity, the copyright shall not prevent other parties from demanding access to copies of works nor from demanding a transcript or a copy in compliance with the existing statutory provisions thereon. The same shall apply to works produced within the administrative authority.

(2) The copyright does not prevent that records and files delivered to a statutory register are made available to the general public in accordance with the existing rules of the archives law. However, it shall be prohibited to issue transcripts or to make copies of private records.

(3) The right to further exploitation of works open to public access 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.

Section 28. Works may be reproduced in connection with judicial proceedings and proceedings before administrative tribunals, etc., to the extent justified by the purpose. The right to further exploitation depends on the rules otherwise in force.

*Alteration of Buildings and
Articles for Everyday Use*

Section 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

Section 30.-(1) Danmarks Radio, TV 2 and Færøernes Radio (Utvarp Føroya), Færøernes Fjernsyn (Sjónvarp Føroya) and Grønlands Radio (Kalaallit Nunaata Radioa) may on radio or television broadcast published works if the conditions concerning the extended collective agreement license under Section 50 of this Act have been met. The provision of the first paragraph does not apply to dramatic or cinematographic works.

(2) The author may issue a prohibition to the radio or television organisation 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 radio and television organisations.

(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 paragraph 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.

Section 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 is subject to rules 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.

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

Section 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 any other rules in force.

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

Section 34. Broadcasters may on request deliver recordings of broadcasts to persons and institutions 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 paragraph may be used for internal use only.

Section 35.-(1) Works which are broadcast on radio or television may be distributed by cable systems and retransmitted to the general public by means of radio systems provided the redistribution and retransmission take place simultaneously with the original broadcast and without any alterations.

(2) The author shall be entitled to remuneration. However, this does not apply where broadcasts are received by way of the receivers' own community antennae and redistributed via cable systems consisting of 25 connections or less in one and the same building or in a group of adjacent buildings.

(3) The claim for remuneration can only be advanced by a joint organisation approved by the Minister for Culture consisting of authors, performers and other rightholders, including broadcasters and photographers whose works, performances, productions and pictures are used in radio and television broadcasts in Denmark.

(4) The owner of the system is liable to pay the remuneration. If the remuneration payable by the owner has been fixed as an amount per connection, the user of the individual connection is under an obligation to pay the owner a corresponding amount.

(5) The provision of subsection (1) shall not apply to transmissions made via communication satellites unless a simultaneous direct broadcast is made to the general public, and encrypted transmissions.

*Special Provisions on Computer
Programs, Etc.*

Section 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 use of the computer program by the lawful acquirer 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 provisions of (i) and (ii) of subsection (1) shall apply correspondingly to other works in digitized form the application of which is controlled by a computer program. However, it shall be prohibited to make any alterations of the works.

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

Section 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 authorized 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 when necessary for 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.

*Remuneration for Commercial Resale
of Works of Art*

Section 38.-(1) In the event of commercial resale of copies of works of art the author shall be entitled to a remuneration of five per cent of the sales price, excluding VAT.

(2) The provision of subsection (1) shall not comprise architectural works. Works of applied art shall not be comprised if they have been produced in several identical copies.

(3) The Minister for Culture may stipulate further provisions concerning the calculation of remuneration, including provisions concerning the minimum sales price which shall give entitlement to remuneration.

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

(5) The right of remuneration may be claimed only by an organisation approved by the Minister for Culture. The organisation shall be in charge of the collection and shall make the 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) In the event of commercial resale as mentioned in subsection of (1), the seller is under an obligation to forward an annual statement of the sale of works of art certified by a state-authorized public accountant or registered accountant to the organisation mentioned in subsection (5).

*Remuneration for Reproduction
for Private Use*

Section 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 Danish authors, performers and other rightholders, including record producers, etc., and photographers, and which is approved by the Minister for Culture. The Minister may request to receive 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).

Section 40. For 1993, the remuneration per minute playing time for sound tape is DKK 0.045 and for videotape DKK 0.0625. The remuneration shall be adjusted annually by the rate adjustment percentage, cf. Act on a rate adjustment percentage.

Section 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.

Section 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 paragraph of this subsection.

Section 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) hereof.

Section 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 the remuneration, 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).

Section 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.

Section 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*

Section 47.-(1) If no agreement can be reached on the amount of the remuneration in accordance with Section 17(2), Section 18(1), Section 35, Section 51(2) and Section 68 of this Act, 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.

(2) The Minister for Culture may lay down rules on collection of remunerations in accordance with Section 17(2), Section 18(1), Section 35 and Section 68.

(3) If the user of a work in accordance with Section 35 or Section 68 Act 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 utilization of the work in question may be made only subject to the consent of the author until payment is effected.

Section 48.-(1) If a broadcaster unreasonably refuses to give its consent to distribution of its broadcast via cable system simultaneously and unaltered or if such redistribution is offered on unreasonable terms, the Copyright License Tribunal may at request grant the necessary permission and lay down the conditions in this respect. Nevertheless, a decision on the fixing of the remuneration may insofar as broadcasts comprised by Section 35(1) are

concerned be made only on the basis of a demand made by the broadcaster through the joint organisation mentioned in Section 35(3). The provisions of Section 35(4) and Section 49 shall apply correspondingly to the claims for remuneration mentioned in the second paragraph of this subsection.

(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 second division of the first paragraph of Section 13(1) or 17(3) 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 have made an agreement comprised by Section 50, cf. the second division of the first paragraph of Section 13(1) or Section 17(3). The provision of Section 49 hereof shall apply correspondingly.

Section 49.-(1) Claims for remuneration according to Section 17(2), Section 18(1), Section 35 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 claims against the organisation.

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

*Common Provisions on Extended Collective
Agreement Licenses*

Section 50.-(1) Extended collective agreement license according to Sections 13, 14, 17 (3) and Section 30 may be invoked by users who have made an agreement on the particular exploitation of the work with an organisation comprising a substantial number of Danish authors of a certain type of works. The extended agreement license grants the users a 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 agreement license gives the user right only to exploit the unrepresented works in the manner and on the terms that follow from the agreement made with the organisation and from the provisions mentioned in subsection (1).

Section 51.-(1) For exploitation of works according to Sections 13 and 14, Section 17(3) and Section 30, 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) The provision of Section 49 shall apply correspondingly to the claims for remuneration according to the rules mentioned in subsections (1) and (2).

Section 52.-(1) In the absence of any result of negotiations on the making of agreements as mentioned in Section 13(1), Section 14 and Section 17(3), each party may request mediation.

(2) Requests for mediation shall be addressed to the Minister for Culture. The request may be made when 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 authorization disclose or utilize any knowledge obtained in his capacity of being a mediator.

Chapter 3
Assignment of Copyright
General Provisions

Section 53.-(1) Subject to the limitations following from Sections 3 and 38 the copyright holder may wholly or partially assign his rights according to this law.

(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.

Section 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.

Section 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 Re-assignment

Section 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 the copyright does not give the assignee any right to re-assign the copyright unless the re-assignment is usual or obviously presumed. The assignor remains liable for the performance of the agreement with the author.

Settlement and Control

Section 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*

Section 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) script, dialogues and musical works created for the purpose of making the film; or
- (iii) the principal director of the film.

*Special Provisions on Computer
Programs produced in the course of
Employment*

Section 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

Section 60. The author shall not have the right to exercise his rights in a commissioned portrait without the consent of the commissioner.

Inheritance and Creditor Proceedings

Section 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 authorize somebody else to give such directions.

Section 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

Section 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.

Section 64. When 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

Section 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 transferred to any other device by means of which it can 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(3), Sections 3 and 11, Section 12(1) and (2)(iv), Section 12(3)(i) and Section 12(4), Sections 13, 15 and 16, Section 17(3), Section 18(1) and (2), Section 19(1) and (2), Sections 21, 22, 25, 27, 28, 31 and 33-35, Section 36(2),

Sections 39-47, 49-57, and Sections 61 and 62 shall apply correspondingly to performers' performances and recordings of such performances. The provision of Section 19(1) shall apply only to a recording according to subsections (1) and (2) when it is sold for the first time or in any other manner assigned by the rightholder or with the consent of the rightholder within the area of the European Economic Area.

(5) Notwithstanding the provisions of subsection (1) the Royal Theatre may let gala performances or performances in connection with official visits be broadcast by Danmarks Radio or TV2 on radio or television.

Producers of Sound Recordings

Section 66.-(1) Sound recordings may not be copied without the consent of the producer 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 lawfully published or lawfully communicated to the public during this period the protection shall, however, expire 50 years from the end of the year of the first such publication or the first such communication to the public, whichever is the earlier. Copying shall also be understood to mean the transfer of a recording from one recording to another.

(2) The provisions of Section 2(3), Section 11(2), Section 12(1) and (2) (iv), Section 12(3)(i) and Section 12(4), Sections 13, 15 and 16, Section 17(3), Section 18(1) and (2), Section 19(1) and (2), Sections 21, 22, 25, 27, 28, 31, 33, 34, 35(1), Section 36(2), Sections 39-47, 49-52 shall apply correspondingly to sound recordings. The provision of Section 19(1) shall apply only to a recording according to subsection (1) when the recording is sold for the first time or in any other manner assigned by the rightholder or with the rightholder's consent within the area of the European Economic Area.

Producers of Recordings of Moving Pictures

Section 67.- (1) Recordings of moving pictures may not be copied without the consent of the producer or made available to the public until 50 years after the end of the year in which the recording was made. If a recording of a moving picture is lawfully published or lawfully communicated to the public during this period the protection shall, however, expire 50 years from the end of the year of the first such publication or the first such communication to the public, whichever is the earlier. Copying shall also be understood to mean the transfer of a recording from one recording to another.

(2) The provisions of Section 2(3), Section 11(2), Section 12(1) and (2)(iv) Section 12(3)(ii) and Section 12(4), Sections 13, 15 and 16, Section 17(3), Section 18(1) and (2), Section 19(1) and (2), Section 21(3), 22, 25, 27, 28, Section 31-34, Section 35(1), Section 36(2), Section 47, and Sections 49-52 shall apply correspondingly to recordings of moving pictures. The provision of Section 19(1) shall apply only to a recording according to subsection (1) when the recording is sold for the first time or in any other manner assigned by the rightholder or with the rightholder's consent within the area of the European Economic Area.

*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.

(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

Section 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 organisation be transferred to any other device by means of which it can be reproduced or distributed to the public until 50 years have elapsed from the end of the year in which the broadcast took place.

(3) The provisions of Section 11(2), Section 12(1) and (2)(iv), Section 15, Section 19(1) and (2), Sections 21, 22 and 25, Section 27(1) and (3), Sections 28, 31, 32, 33, and Section 36(2) shall apply correspondingly to radio and television broadcasts. The provision of Section 19(1) of this Act shall apply only to a recording according to subsection (2) when the recording is sold for the first time or in any other manner assigned by the rightholder or with the rightholder's consent within the area of the European Economic Area.

Producers of Photographic Pictures

Section 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) and (3), Sections 3, 7, 9 and 11, Section 12(1) and (2)(iv) Sections 13-16, Section 17(3), 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 and Sections 33-35, Section 36(2), and Sections 39-47 and 49-58, and Sections 60-62 shall apply correspondingly to photographic pictures. Where a photographic picture is subject to copyright according to Section 1, such rights may also be enforced.

Producers of Catalogues, etc.

Section 71.-(1) Catalogues, tables and similar works in which a great number of items of information have been compiled, may not be copied without the consent of the producer until 10 years have elapsed from the end of the year in which the work was made public. However, the protection expires 15 years after the end of the year in which the work was produced.

(2) Where productions of the said nature or parts hereof are subject to copyright or other protection, such rights may also be enforced.

(3) The provisions of Sections 6-9, Section 11(2), Section 12(1) and (2)(iv), Sections 13-17, Section 18(1) and (2), Sections 22, 27, 28, 30-35, Section 36(2), Sections 47 and 49-52 shall apply correspondingly to catalogues, etc.

Press Releases

Section 72. Press releases supplied under contract with 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.

Section 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 the confusion was intentional.

Signing of Works of Art

Section 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 is likely to be confused with the original.

*Moral Rights after
the Expiration of Copyright*

Section 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) of this Act if cultural interests are thereby violated.

Chapter 7
*Enforcement of the Law
Penal Sanctions*

Section 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 according to Section 38(6);
- (v) fails to register or fails to disclose information to the joint organisation according to Section 41(1) and the first paragraph 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 subsection (1)(i) and (ii) above has been committed by production for commercial purposes or by distribution among the general public of copies of literary or artistic works or by performances or productions that are protected under Sections 65-71 of this Act, the punishment may under particularly aggravated circumstances be increased to simple detention or imprisonment for a term not exceeding 12 months. Particularly aggravated circumstances are deemed to exist especially where the offence concerns a substantial number of copies, or where the object of the offence is to obtain a considerable profit.

Section 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).

Section 78.-(1) Anyone who with intent or by gross negligence markets or for commercial purposes possesses means the only purpose of which is to facilitate unlawful removal or circumvention of technical devices which may have been used to protect a computer program is liable to a fine.

(2) The provision of subsection (1) above shall apply correspondingly to other works in digitized form.

Section 79. Regulations issued in accordance with Section 16, Section 31(2), Section 42(4), Section 43(2), Section 44(2), Section 45(2) and Section 47(2) may lay down the fine for violation of the provisions of the regulations.

Section 80. Where a violation has been committed by a company, a society, a foundation, etc., such company, society, foundation etc. may be liable to punishment by such a fine. Where the violation has been committed by the State, a municipality or by a joint municipal entity, cf. Section 60 of the Local Administration Act, the State, municipality or joint municipal entity may be liable to a fine.

Legal Proceedings

Section 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 prescribed 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 be instituted by the public authorities. However, legal proceedings in respect of violations of Section 3 of this Act may be instituted by the public authorities only where cultural interests must be deemed to be infringed by the violation.

(4) Legal proceedings in the event of violations of Sections 75 and 78 shall be instituted at the instance of the public authorities

Section 82.-(1) Legal proceedings in respect of violations comprised by Section 76(2) or Section 77(2) shall be instituted at the instance of the public authorities at the request of the aggrieved party.

(2) Searches in cases concerning violation of provisions of this Act shall be made in accordance with the rules of the Administration of Justice Act concerning searches in cases which may carry a sentence of imprisonment according to the law.

Damages and Compensation

Section 83.-(1) Anyone who with intent or by negligence violates any of the provisions of Sections 76 or 77 shall be liable to pay reasonable remuneration for the exploitation and damages for any additional damage caused by the violation.

(2) Even if the violation is committed in good faith the infringed party may be awarded remuneration and compensation according to the provision of subsection (1) to

the extent this is deemed reasonable. However, in such cases the remuneration and compensation shall not exceed the profit gained by the violation.

(3) An author, a photographer or a performing artist whose rights are infringed by any unlawful act shall be entitled to damages for tort.

Seizure, etc.

Section 84.-(1) If copies of works or of performances or productions protected according to Sections 65-71 of this Act have been made in, imported into or made available to the public in Denmark in contravention of this Act or of the regulations laid down in Section 61(2) it may by judgment be ordered that such copies shall be seized in favour of the infringed party to be transferred to him against a remuneration not to exceed the production costs.

(2) Instead of seizure or transfer, it may be ordered that the copies shall be destroyed in whole or in part or in any other manner be made unserviceable for unlawful use. If due to the artistic or financial value of the copies or if otherwise deemed reasonable in the circumstances, the courts may allow the copies to be made available to the public against damages and compensation to the infringed party.

(3) The provisions of subsections (1) and (2) shall apply correspondingly to type matters, printing blocks, forms and other things that may serve unlawful production or application of the work or the production.

(4) The provisions of subsections (1) - (3) above shall not apply to persons who have acquired copies in good faith for private use.

(5) Seizure or destructions of buildings may not be demanded in pursuance of subsections (1) - (2).

Chapter 8

Scope of Application of this Act

Copyright

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

- (i) works of Danish nationals or of persons having their habitual residence in Denmark;
- (ii) works first published in Denmark, or first published simultaneously in Denmark and in another country;
- (iii) cinematographic works, the maker of which has his headquarters or his habitual residence in Denmark;
- (iv) buildings erected in Denmark; and
- (v) works of art incorporated in a building or other structure in Denmark.

(2) Where subsection (1)(ii) is applied, publication shall be considered as simultaneous if the work is published in Denmark 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 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 or who have their habitual residence in a country within the European Economic Area; or
- (ii) companies with headquarters in a country within the European Economic Area.

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

Other Rights

Section 86.-(1) The provisions of Sections 65, 66 and 68 shall apply to performances and sound recordings which have taken place in Denmark.

(2) The provisions of Sections 65 and 66 concerning recording and copying shall, however, apply to all sound recordings.

(3) The provision of Section 67 shall apply to recordings of moving pictures that have taken place in a country within the European Economic Area.

(4) The provision of Section 69 shall apply to

(i) broadcasts which have taken place in Denmark; and

(ii) broadcasters having their headquarters in Denmark.

(5) The provision of Section 70 shall apply to

(i) photographs made by persons who are nationals 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 catalogues made by

(i) persons who are nationals or have their habitual residence in a country within the European Economic Area; or

(ii) companies with 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.

Special Provisions on Satellite Broadcasting

Section 87.-(1) Satellite broadcasting shall be deemed to occur in Denmark if the program-carrying signals intended for reception by the public under the control and responsibility of the 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 enjoy the level of protection as laid down in Chapter II of Council Directive 93/83/EEC of 27 September 1993 on coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmissions in the following cases

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

*Application of this Act
vis-a-vis other Countries, etc.*

Section 88.-(1) By Royal Decree the application of this Act may be extended to other countries conditional upon reciprocity.

(2) By Royal Decree the Act may also be made applicable to works first published by international organisations and to unpublished works which such organisations are entitled to publish.

Chapter 9
*Coming into Force
and Transitional Provisions*

Section 89.-(1) This Act shall come into force on 1 July 1995.

(2) Simultaneously the following acts shall be repealed:

(i) Act on Copyright in literary and Artistic Works, cf. Statutory Order No. 1170 of 21 December 1994; and

(ii) Act on the Rights in Photographic Pictures, cf. Statutory Order No. 715 of 8 September 1993.

(3) Regulations issued according to the previous statutes shall remain in force until repealed or replaced by regulations issued in accordance with this present Act. Violation of the rules shall be punished in accordance with the rules previously in force.

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

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

(3) Where prior to the effective date of the Act reproduction was commenced or essential preparations were made to produce copies of works or of performances or productions etc., which were not protected according to the previous provisions, reproduction may to the necessary and usual extent be completed within the planned framework, however, not later than until 1 January 2000. Copies made on the basis of the provision of the first paragraph may be distributed to the public and be exhibited in public. The provision of the third paragraph of subsection (2) shall apply correspondingly.

(4) Where works, performances or productions etc., are included in a recording made with a view to be broadcast and which is made at the time when the said works or performances or productions were not protected or which is made in accordance with subsection (3) such recordings may continue to be used for broadcasting until 1 January 2000. The provision of the first paragraph of this subsection (4) shall apply correspondingly to public performance of film recordings.

(5) 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 those provisions shall apply. The provision of Section 63(4) shall, however, always apply.

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

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

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

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

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

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

Section 93. This Act shall not extent to the Faeroe Islands and Greenland but may by Royal Decree be brought into full or partial operation in the Faeroe Islands and Greenland, subject to such modifications as are deemed appropriate having regard to the special conditions obtaining in those territories.

Denmark

Ordinance No. 964 of 12 December 1995

**Ordinance on the Application of the Act on Copyright
with Respect to Other Countries**

Since Denmark has acceded to

- the Berne Convention for the Protection of Literary and Artistic Works, as revised at Paris on 24 July 1971,
- The Universal Copyright Convention, as revised at Paris on the same date,
- the European Agreement of 22 June 1960, on the Protection of Television Broadcasts
- the International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention), and
- the Agreement of 15 April 1994 on Establishment of the World Trade Organization (WTO) containing an Agreement on Trade Related Intellectual Property Rights (TRIPS),

the following is laid down pursuant to Section 88 of Act No. 395 of 14 June 1995 on Copyright as regard the application of the provisions of the Act in relation to other countries:

Copyright
Berne Convention

Section 1. The provisions of Chapters 1 to 4 and 6 to 9, with the exception of Sections 39 to 46 of the Copyright Act shall be applied subject to the deviations following from Sections 2 to 4, and Sections 9 and 10 of this Ordinance to

- (i) works by persons who are nationals of or who have their habitual residence in countries that have acceded to the International Union for the Protection of Literary and Artistic Works (the Berne Union);
- (ii) other works published for the first time in another country of the Union or published in such a country simultaneously with or within 30 days after their first publishing in a country outside the Union;
- (iii) cinematographic works, the maker of which has his headquarters or his habitual residence in an other country of the Union;
- (iv) works of architecture erected in an other country of the Union;
- (v) works of art which have been incorporated in buildings or structures in an other country of the Union.

Section 2. When the term of protection for a work has expired according to the legislation in force in the country of origin of the work, the work shall not enjoy protection under the provisions of the Copyright Act.

(2) For works which are first published within the Berne Union, the country of origin shall be considered to be the country of the Union in which the work is published. For works published simultaneously with or within 30 days in two or more countries of the Union with different terms of protection, the country of origin shall be considered to be the one which has the shortest term of protection. For works published in a country of the Union simultaneously with or within 30 days after the first publishing in a country outside the Union, the country of the Union shall be regarded as the country of origin.

(3) The country of origin for unpublished works or for works which are not comprised by the provisions of subsection (2) shall be considered to be the country of the Union of which the author is a national or where he has his habitual residence. For works of architecture erected in a country of the Union and works of art incorporated in buildings or structures in a country of the Union, that country shall be considered to be the country of origin. For cinematographic works the country of the Union in which the maker has his headquarters or habitual residence shall be considered the country of origin.

- (4) The provisions of subsections (1) to (3) shall not apply to
- (i) works of persons who are nationals of or who have their habitual residence in countries within the European Economic Area;
 - (ii) cinematographic works, the maker of which has his headquarters or his habitual residence within the European Economic Area; and
 - (iii) other works published simultaneously with or within 30 days in a country within the European Economic Area and in a country that has acceded to the Berne Convention.

Section 3. For such works of applied art and industrial designs and models which in the country of origin are solely protected as design and models, protection shall solely be given under the Danish law on designs.

Section 4. The provision of Section 38 of the Copyright Act (*droit de suite*) shall apply solely to

- (i) works of persons who are nationals of or have their habitual residence in a country within the European Economic Area, cf. Section 85(4) of the Act;
- (ii) works of other persons who are nationals of or have their habitual residence in countries of the Union which have implemented a *droit de suite* provision as mentioned in Article 14ter of the Berne Convention.

Universal Copyright Convention

Section 5. The provisions of Chapters 1 to 4 and 6 to 9 of the Copyright Act, with the exception of the provisions of Sections 38 to 46 shall be applied subject to the deviations following from Sections 6 to 10 of this Ordinance to

- (i) works by persons who are nationals of countries that are parties to the Universal Copyright Convention of 1952 or the Convention as revised in Paris on 24 July 1971;
- (ii) other works published for the first time in a foreign Contracting State;
- (iii) works by persons who have their habitual residence in an other Contracting State provided that this State, in its legislation, accords such persons equal treatment with its own nationals in respect to the application of the Universal Copyright Convention;
- (iv) works by stateless persons and refugees who have their habitual residence in countries that have acceded to Protocol 1 annexed to the Universal Copyright Convention.

Section 6. When the term of protection for a work has expired according to the legislation in force in the country of origin, the work shall not enjoy protection under the provisions of the Copyright Act.

(2) When a work is published for the first time in a Contracting State, this State is to be considered the country of origin of the work. In the case of a work being published simultaneously with or within 30 days in two or more Contracting States with different terms of protection, the country of origin shall be considered to be the one which has the shortest term of protection.

(3) When a work is published for the first time in a non-Contracting State, the country of origin of the work shall be considered to be the State of which the author is a national.

(4) For an unpublished work, the country of origin shall be considered to be the country of which the author of the work is a national.

Section 7. The provision of Section 5 shall not apply to works produced before the effective date of the Convention for the foreign Contracting State unless that State protects Danish works created before that time.

Section 8. The provisions of Sections 5 to 7 shall not apply with respect to

- (i) works comprised by the rules of Section 2; and
- (ii) works whose country of origin which, after January 1, 1951, has withdrawn from the Berne Union, unless such country according to paragraph (b) of the Appendix Declaration Relating to Article XVII of the Convention text as revised in Paris in 1971, is considered to be a developing country and at the time of its withdrawal from the Berne Union has deposited with the Director General of UNESCO a notification to the effect that it considers itself to be a developing country.

Previously Unpublished Works

Section 9. The provision of Section 64 of the Copyright Act shall according to Section 85(5) of the Act apply only to publications ect. made by

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

Protection of Titles, etc.

Section 10. The provisions of Sections 73 to 75 of the Copyright Act shall in accordance with Section 85(6) of the Act apply to any work.

Publications of International Organizations

Section 11. The provisions of Chapters 1 to 4 and 6 to 9 of the Copyright Act with the exceptions of sections 38 to 46 shall apply to works which are first published by the United Nations (UN), by the Specialized Agencies attached to the UN or by the Organization of American States, and to unpublished works which the above organizations are entitled to publish.

Other Rights

Performers and Producers of Phonograms (the Rome Convention)

Section 12. The provisions of Sections 65, 66 and 68 of the Copyright Act and the provisions of the Act relating thereto, with the exceptions of the references in Sections 65 and 66 to Sections 39 to 46, shall with the deviations enumerated in subsections (2) to (5) below apply to performances and sound recordings which take place in foreign countries that have acceded to the International Convention of 26 October 1961, for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention) or in countries within the European Economic Area.

(2) The provisions of Sections 65 and 66 of the Copyright Act concerning recording and copying shall in accordance with Section 86(2) of the Act apply to all sound recordings.

(3) The provision of Section 68(2) on remuneration to producers of sound recordings and performers in case of the sound recording being used in radio and television broadcasts or if it is used in other public performances, shall apply only to

(i) recordings made for the first time in a country within the European Economic Area; and

(ii) recordings made for the first time in other countries that have acceded to the Rome Convention. The protection of such recordings shall be granted only to the extent and for the term the country in question protects sound recordings made for the first time in Denmark. The fact that the country in question does not protect either of the two groups of rightholders as mentioned in Section 68(2) shall not be considered to be a difference in the extent of the protection.

(4) The provisions of Sections 65(2) and (4) and Sections 66 of the Copyright Act, concerning distribution of recordings to the general public shall, with the exception of rental of sound recordings apply only to recordings made in a country within the European Economic Area.

(5) The provisions of Section 65(1) and (2), and (4) of the Copyright Act concerning making performances and recordings available to the public shall with regard to distribution over cable systems apply only to performances and recordings which have taken place in a country within the European Economic Area.

Broadcasters

(The Rome Convention, etc.)

Section 13. The provisions of Section 69 of the Copyright Act and the provisions of the Copyright Act relating thereto shall apply subject to the modifications mentioned in subsections (2) to (3) to

(i) radio- and television broadcasts taking place in other countries that have acceded to the Rome Convention or the European Agreement of 22

June 1960 on Protection of Television Broadcasts or in countries within the European Economic Area; and

(ii) broadcasters with headquarters in such countries.

(2) The provisions of Section 69(2) and (3) of the Copyright Act regarding distribution of copies of recordings to the public shall apply only to radio and television broadcasts which have taken place in a country within the European Economic Area or have been made by a broadcaster with headquarters in such a country.

(3) The provisions of Section 69(1) regarding distribution of radio and television broadcasts shall in so far as distribution through cable systems is concerned apply only to broadcasts that have taken place in a country within the European Economic Area or which have been made by a broadcaster with headquarters in such a country.

Producers of Recordings of Moving Pictures

Section 14. The provision of Section 67 of the Copyright Act and the provisions of the Act relating thereto shall in accordance with Section 86(3) of the Act apply only to recordings of moving pictures that have taken place in a country within the European Economic Area.

Producers of Photographic Pictures

Section 15. The provision of Section 70 of the Copyright Act and the provisions of the Act relating thereto, with the exception of the reference to Sections 39 to 46 of the Act shall in accordance with Section 86(5) of the Act apply only to

(i) photographs made by persons who are nationals of or have their habitual residence in a country within the European Economic Area;
and

- (ii) photographs incorporated in a building or structure in a country within the European Economic Area.

Producers of Catalogues, etc.

Section 16. The provision of Section 71 of the Copyright Act and the provisions of the Act relating thereto shall in accordance with Section 86(6) of the Act apply only to catalogues, etc., made by

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

(2) The provision of subsection (1) shall in accordance with Section 86(7) of the Copyright Act apply correspondingly to press releases as mentioned in Section 72 of the Act.

*Special Provisions on the Agreement on
the World Trade Organization (WTO), including
Agreement on Trade Related Intellectual Property Rights (TRIPS)*

Section 17. The provisions of Section 1 in this Ordinance, with the deviations following from Sections 2 to 4 and 9 and 10 shall apply correspondingly in relation to countries that have acceded to the Agreement on the World Trade Organization (WTO), including the agreement on trade related intellectual property rights (TRIPS).

(2) The provisions of Sections 12 and 13 shall with the deviations contained in those provisions apply correspondingly in relation to countries that have acceded to the agreement on the World Trade Organization (WTO), including the agreement on trade related intellectual property rights (TRIPS). The provisions of Section 65(2), Section

66(1), and Section 68 shall, however, concerning public performance of recordings apply only in relation to the countries mentioned in Section 12(1).

*Special Provisions on Payment of Remuneration in accordance
with Sections 39 to 46 of the Copyright Act on Remuneration
for Reproduction for Private Use*

Section 18. The provisions on payment of remuneration in Sections 39 to 46 of the Copyright Act shall apply to

- (i) works and photographic pictures made by persons who are nationals of or have their habitual residence in a country within the European Economic Area;
- (ii) works and photographic pictures made by other persons who are nationals of or have their habitual residence in other countries provided that in the country in question a remuneration scheme has been implemented for blank tapes which provides a possibility for payment of remuneration to Danish rightholders;
- (iii) cinematographic works by a maker of which has his headquarters or his habitual residence in a country within the European Economic Area;
- (iv) cinematographic works by a maker of which has his headquarters or his habitual residence is in other countries provided that in the country in question a remuneration scheme has been implemented for blank tapes which provides a possibility for payment of remuneration to Danish rightholders; and
- (v) works of art and photographic pictures incorporated in buildings or structures in a country within the European Economic Area.

(2) The provisions of subsection (1)(ii) and (iv) shall not apply when the term of protection for the work has expired in the country of origin.

Section 19. The provisions of Sections 65 and 66, cf. Sections 39 to 46 of the Copyright Act concerning payment of remuneration shall apply to

- (i) performances and sound recordings taking place in countries within the European Economic Area; and
- (ii) performances and sound recordings taking place in other countries provided that in the country in question a remuneration scheme has been implemented for blank tapes which provides a possibility for payment of remuneration to Danish rightholders.

(2) The provision of subsection (1)(ii) shall not apply when the term of protection for the performance or the sound recording has expired in the country in which the performance or the sound recording took place.

Coming into Force, etc.

Section 20. This Ordinance shall come into force the day following its publication in "Lovtidende".

(2) The provisions of Sections 1 to 16 of this Ordinance shall take effect on 1 July 1995.

(3) The provisions of Sections 17 to 19 of this Ordinance shall take effect on 1 January 1996.

(4) Ordinance No. 452 of 18 June 1990 on the Application of the Copyright Act and the Photography Act with Respect to Other Countries, etc., shall be revoked.