

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 exeptions 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 extend 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.

(1) 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.

(1) 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.

(1) 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.

(1) 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.