

## **COPYRIGHT DECREE (21.4.1995/574) (Unofficial translation)**

### **Amendments up to 18.12.2008/1004 included**

#### **Use of works and other protected materials in archives, libraries and museums (15.12.2005/1036)**

##### **Section 1 (14.10.2005/1036)**

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act (404/1961) in the manner referred to in section 16, section 16a(1–2), and section 16d of the Copyright Act and distribute it to the public:

1. collectors of archives as defined in paragraphs 1–3 and 5 of section 1(1) of the Archives Act (831/1994);
2. the Archives of the President of the Republic;
3. Government Archives;
4. War Archives;
5. National Archives;
6. Provincial Archives;
7. archives referred to in the Act on State-subsidised Private Archives (998/1974);
8. Archives of the Evangelical Lutheran Church;
9. archives of public authorities in the Province of Aaland.

##### **Section 2 (15.12.2005/1036)**

(1) The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16, section 16a(1–2), and section 16d:

1. the Library of Parliament;
2. libraries of universities referred to in the Universities Act (645/1997); (3.1.2008/1)
3. scientific libraries operating in connection with archives referred to in the Act on State-subsidised Private Archives;
4. other scientific libraries maintained by the State;
5. the Central Library of Public Libraries;
6. provincial libraries;
7. the Library for the Visually Impaired.

(2) The following institutions shall have the right to make and distribute to the public copies of works protected by the Copyright Act in the manner referred to in section 16, section 16a(1), and section 16d:

1. the National Repository Library;
2. libraries of polytechnics referred to in the Polytechnics Act (351/2003).

##### **Section 3 (15.12.2005/1036)**

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16, section 16a(2), and section 16d:

1. state-owned museums;
2. national specialist museums referred to in section 2 of the Museums Decree (1312/1992);

3. provincial museums;
4. regional art museums;
5. museums receiving state subsidy referred to in the Museums Act (729/1992).

#### **Section 4 (3.1.2008/1)**

The following institutions shall have the right to make and distribute to the public copies of material protected by the Copyright Act in the manner referred to in section 16d:

1. libraries referred to in the Act on Collecting and Preserving Cultural Material (1433/2007);
2. the National Audiovisual Archive;
3. public libraries referred to in the Libraries Act (904/1998).

*Sections 5 and 6 were repealed by Act on December 15, 2005 /1036.*

#### **Making works available for the handicapped (15.12.2005/1036)**

##### **Section 7**

(1) The Library for the Visually Impaired, as defined in the Act on the Library for the Visually Impaired (638/1996), the Finnish Federation of the Visually Impaired (Näkövammaisten Keskusliitto ry), and the Finnish Deafblind Association (Suomen Kuurosokeat ry) shall have the right defined in section 17(2) of the Copyright Act to produce talking books.

(2) The Cultural Service for the Visually Impaired (Näkövammaisten Kulttuuripalvelu ry), the Jyväskylä School for the Visually Impaired (Jyväskylän näkövammaisten koulu), the Swedish School for the Visually Impaired (Svenska skolan för synskadade), and the Invalid Foundation (Invalidisäätiö) shall have the right defined in section 17(2) of the Copyright Act to produce teaching materials in the form of talking books. (18.12.2008/1004)

(3) The name of the author of the work and the performing artist shall be indicated on the talking books produced.

##### **Section 7a (15.12.2005/1036)**

The Finnish Association of the Deaf (Kuurojen Liitto ry) shall have the right defined in section 17(3) of the Copyright Act to produce copies of works for the deaf and hearing impaired.

*Sections 8 to 12 were repealed by A on December 15, 2005 / 1036.*

#### **Prohibition of action prejudicial to a work**

##### **Section 13**

The prohibition specified in section 53 of the Copyright Act shall be pronounced by the Ministry of Education.

*The subheading was repealed by Decree on December 15, 2005 / 1036.*

*Sections 14 and 15 were repealed by Decree on December 15, 2005 / 1036. Section 16 was repealed by Decree on 15 March, 1996 / 160.*

*Section 17 was repealed by Decree on December 15, 2005 / 1036.*

## **Copyright Council**

### **Section 18**

(1) Upon proposal by the Ministry of Education the Government shall appoint to the Copyright Council, for a period of three years at a time, a chairman, a vice-chairman, and at most fifteen other members, and a personal substitute member for each of them.

(2) The Copyright Council shall have a secretary, who shall be a civil servant appointed by the Ministry of Education. (15.12.2005/1036)

### **Section 19**

(1) Most relevant holders of the rights prescribed in the Copyright Act and users of the protected items shall be represented in the Copyright Council.

(2) The chairman, the vice-chairman and at least one other member of the Copyright Council and their substitute members shall be persons who hold a Master of Laws degree and are well-versed in copyright law and who cannot be regarded as representing the interests of the right holders or users of protected items referred to in subsection 1.

### **Section 20**

(1) The decision-making power of the Copyright Council may, in matters specified by the Council, be exercised by a section appointed by the Council for the handling of a certain matter or matters relating to a certain field.

(2) A section shall be composed of a chairman, whom the Council shall appoint from among the members referred to in section 19(2), and the necessary number of other members.

### **Section 21**

(1) The Copyright Council shall be deemed to constitute a quorum when the chairman or vice-chairman of the Council and at minimum five other members are present.

(2) A section shall be deemed to constitute a quorum when the chairman of the section and at minimum one other member are present.

### **Section 22** (15.12.2005/1036)

The Ministry of Education shall decide on remunerations for attending meetings paid to the chairman of the Copyright Council and its sections, members and secretaries, as well as experts heard by the Council or its sections.

### **Section 23**

More detailed provisions regarding the activities of the Copyright Council can be issued in the Rules of Procedure of the Council, which shall be confirmed by the Ministry of Education upon proposal by the Council.

## **Compensation for the reproduction of a work for private use (14.12.2006/1173)**

### **Section 24**

*Subsection 1 was repealed by Act on December 14, 2006 / 1173.*

(2) Any uncut tape suitable for recording sound or images shall also be regarded as a device defined in Section 26a of the Copyright Act.

(3) An entirely or partly recorded audio or video tape or other device shall also be regarded as a device defined in subsection 1 if it can be judged from the technical properties of the device, from the outer appearance or packaging of the device, from the smaller than usual proportion of recorded material on the device to the playing time of the device, from the quality of the recorded material, from the importation or sales price of the device, or from other circumstances that the device was evidently intended for use in the same manner as an unrecorded device.

### **Section 25 (14.12.2006/1173)**

The levy referred to in section 26a of the Copyright Act shall be based on the playing time, calculated by the minute or full megabyte or gigabyte.

### **Section 26**

(1) In the event that the playing time of a device referred to in section 26a of the Copyright Act can be determined by the user or varies otherwise, the levy shall be collected by using as the basis the average playing time of the device.

(2) In cases defined above in section 24(3) the levy shall be collected on the basis of the total playing time of the device.

### **Section 27**

Any device referred to in section 26a of the Copyright Act shall be regarded as having been manufactured when it has been transported away from the place of manufacture, however at the latest when it has been transferred from the ownership of the manufacturer. The area in which the final manufacture of the product takes place, as well as the manufacturer's storage in the immediate vicinity of such an area, shall be regarded as the place of manufacture.

### **Section 28**

Any device referred to in section 26a of the Copyright Act shall be regarded as having been imported when it has been handed over from the customs. If the device has been imported from a Member State of the European Union, it shall be regarded as having been imported when it has been transported across the border.

### **Section 29**

Any device referred to in section 26a of the Copyright Act shall be regarded as having been exported when the vehicle into which the device has been loaded has finally, having passed the customs clearance, left the country, and, in the case of export to a Member State of the European Union, at the time when the device otherwise verifiably has left the country. If the device is exported by post, it shall be regarded as exported when it has been accepted for being transported by the post.

**Section 30** (14.12.2006/1173)

(1) Any activity

1. which is continuing and regular, which is carried out for the purpose of gain, and in which recordings are made to be further conveyed to the public; or
2. in which recording is a prerequisite for the activity or otherwise important to the activity and pertains to the line of business of the recorder, shall be regarded as professional production of copies of a work referred to in paragraph 2 of section 26e(1) of the Copyright Act.

(2) Any activity which is continuing and regular and carried out for the purpose of gain shall be regarded as professional activity referred to in paragraph 4 of section 26e(1) of the Copyright Act.

**Section 31** (14.12.2006/1173)

An organisation referred to in section 26b of the Copyright Act shall submit an annual statement of accounts to the Ministry of Education regarding the costs of administration of the levy and the use of proceeds from the levy.

**Section 32** (14.12.2006/1173)

The functions of collecting the levy shall include the collecting of levy from those obliged to pay, surveillance of the fulfilment of the prescribed payment obligation, keeping the levy sums until accounting, granting refunds and purchase authorisations referred to in section 26e of the Copyright Act, accounting levy funds in accordance with the plan for the use of the funds referred to in section 26b of the Copyright Act, and submitting the statement of accounts referred to in section 31 of this Decree.

**Section 33**

The funds accruing from the levy shall be kept on separate accounts and be invested against safe securities and with appropriate interest in the proportion allowed by the liquidity presupposed by the collection of the levy sums and by the plan for their use.

*Section 34 was repealed by Decree on December 14, 2006 / 1173.*

**Section 35**

The organisation shall reserve for the Ministry of Education an opportunity to inspect the accounting, administration and use of funds of the organisation insofar as attending to the functions referred to in section 32 is concerned.

**Section 36** (14.12.2006/1173)

The matters referred to in sections 31—35 above shall be indicated in the decision concerning the approving of the collecting organisation under section 26b of the Copyright Act.

**Section 37**

The plan for the use of the levy funds, referred to in section 26b of the Copyright Act, shall be approved by the Ministry of Education annually after the expiration of the period for requesting the repayment under section 26e(2) of the Act.

**Section 38** (14.12.2006/1173)

The plan for the use of the levy funds, referred to in section 26b of the Copyright Act, shall indicate

1. the proportion in which the funds shall be used for direct compensation to the authors and direct compensations to the authors for their common purposes referred to in section 26a of the Copyright Act;
2. administrative costs;
3. the bodies to which funds shall be paid; and
4. the share of each body and the purposes the funds are used for.

**Section 39**

The promotion of music, film, television and video culture, including purposes advancing the employment of authors and the production of cultural services, as well as training and research, shall be regarded as included among the joint purposes under section 26a of the Copyright Act.

**Section 40**

(1) This Decree shall come into force on May 1, 1995.

(2) This Decree abrogates the Copyright Decree of August 25, 1961 (No. 441/61), as well as later amendments.

**Coming into force and application of the Decrees:**

**March 15, 1996 / 160:**

This Decree shall come into force on March 25, 1996.

**December 15, 2005 / 1036:**

This Decree shall come into force on January 1, 2006.

**December 14, 2006 / 1173:**

This Decree shall come into force on January 1, 2007.

**January 3, 2008 / 1:**

This Decree shall come into force on January 14, 2008.

**December 18, 2008 / 1004:**

This Decree shall come into force on January 1, 2009.