

REGULATIONS CONCERNING THE APPLICATION OF THE COPYRIGHT ACT TO WORKS CONNECTED WITH OTHER COUNTRIES

Laid down by Royal Decree of 25 April 1997 pursuant to section 59 of Act No. 2 of 12 May 1961 relating to copyright in literary, scientific and artistic works. Issued by the Ministry of Cultural Affairs.

Agreement on the European Economic Area (the EEA agreement)

§ 1. The provisions of Act No. 2 of 12 May 1961 relating to copyright in literary, scientific and artistic works (the Copyright Act) shall, to the same extent as they apply to Norwegian nationals and companies connected with Norway, apply correspondingly to works and subject matter of related rights dealt with in chapter five of the Act by

- a) a person who is a national of or resident in a country belonging to the European Economic Area (EEA), or
- b) a company that has its registered office in a country belonging to the EEA.

The provisions of sections 42 and 45 of the Copyright Act concerning the right of distribution shall also apply to sound and cinematographic fixations made in a country belonging to the EEA.

The provisions of this section do not extend the protection of photographic depictions of persons pursuant to section 45c, cf. section 58, third paragraph, of the Copyright Act.

The Berne Convention (the Berne Union), WTO/TRIPS

§ 2. The provisions of the Copyright Act shall, with the exception of section 41a, chapter five and section 45c, apply to works that are not connected with Norway in the manner prescribed in section 57 of the Act, provided that the work is connected in a corresponding manner with a country that is a member of the International Union for the Protection of Literary and Artistic Works (the Berne Union) or to a country that has acceded to the Agreement on the establishment of the World Trade Organization (WTO), including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

§ 3. The duration of the protection accorded by section 2 shall not exceed the term of protection applicable to works of the category in question in the work's country of origin.

The country where the work was first published is deemed to be the country of origin pursuant to this section if the said country is a member of the Berne Union or the WTO. For works published simultaneously in more than one member country, the country of origin is the country that has the shortest term of protection. If the work is published simultaneously in a member country and in a country that is not a member, only the member country is the country of origin. Publication within 30 days of the work first being published in another country is equated, with simultaneous publication.

For unpublished works and for works first published in a country that is not a member of the Berne Union or the WTO, the member country in which the author is domiciled is deemed to be the country of origin unless it is otherwise provided by the fourth or fifth paragraph.

For cinematographic works whose producer has his registered office or is resident in a member country, the said country is deemed to be the work's country of origin.

For works of architecture erected in a member country and for artistic works and photographic works inlaid into a building in a member country, the said country is deemed to be the work's country of origin.

§ 4. The provisions of section 39f, second and third paragraphs, of the Copyright Act concerning assignment of the right to use a work for a film shall apply to cinematographic works protected by section 2 of these regulations. If in the country where the film producer has his registered office or is resident there is a statutory provision to the effect that an agreement concerning such an assignment shall be in writing in order to have the effect prescribed by section 39f, second paragraph, of the Copyright Act, the said provision shall be applied. The provision in section 57, third paragraph, applies correspondingly.

The Universal Copyright Convention

§ 5. The provisions of the Copyright Act shall, with the exception of section 41a, chapter five and section 45c, apply to

- a) works first published in a country that is a party to the Universal Copyright Convention (UCC).
- b) works of an author who is a national of a country that is a party to the UCC.
- c) works of an author who is resident in a country that is a party to the UCC if according to the domestic legislation of the country in question residence is equated with nationality in the implementation of the UCC, and
- d) works of a stateless person or refugee who has his usual abode in a country that is a party to protocol 1 annexed to the UCC.

§ 6. The duration of the protection accorded by section 5 shall not exceed the term of protection applicable to a work of the category in question in the work's country of origin.

The country where the work is first published is deemed to be the country of origin pursuant to this section if the said country is a party to the UCC. If the work is published simultaneously or within a period of 30 days in two or more such countries which have different terms of protection, the country that has the shortest term of protection is the country of origin. For works that are first published only in a country that is not a party to the UCC and for unpublished works, the country where the author is domiciled is the country of origin.

The protection given by section 5 does not apply to works produced before the Convention came into force in the foreign country in question unless the said country protects Norwegian works produced before that date.

§ 7. The provisions of sections 5 and 6 shall not apply to works covered by the provisions of section 2 or to works from a country that has withdrawn from the Berne Union after 1 January 1951 unless the said country has rights as a developing country pursuant to the provisions of the UCC.

§ 8. The provisions of the Copyright Act shall, with the exception of section 41a, chapter five and section 45c, apply to works first published by the United Nations (UN), the UN's special organizations or by the Organization of American States, as well as to unpublished works of these organizations.

The Rome Convention, cf. WTO/TRIPS

§ 9. Section 42 of the Copyright Act shall, with the exception of the right of distribution therein referred to, apply, regardless of the performing artist's nationality, to a performance that takes place in a country that is a party to the Convention of 21 October 1961 for the protection of

performers, producers of phonograms, and broadcasting organizations (the Rome Convention) or to a country that has acceded to the Agreement on the establishment of the World Trade Organization (WTO), including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The same applies when a sound fixation of the performance has been made and the producer of the sound fixation is domiciled in another Rome Convention country or WTO country, or when the first fixation of the sound is made in another such country, or when the first publication of the sound fixation was done in another such country.

The same also applies when the performance, though no sound fixation of it is made, is included in a broadcast transmission that is protected in accordance with article 6 of the Rome Convention, on condition that, in accordance with the Norwegian reservation in regard to the said article, the broadcasting organization has its registered office in another Convention country and the broadcast transmission was made from a transmitter in the same Convention country.

The provision in this section applies correspondingly to performing artists if a connection of the type here mentioned exists with a country that has acceded to the WTO Agreement.

§ 10. The provisions of section 42 of the Copyright Act concerning the rental of sound fixations are applicable if the sound fixation reproduces a performance of a performing artist who has a connection of the type referred to in section 9 with a country that has acceded to the WTO agreement.

The provisions of section 45 of the Copyright Act concerning the rental of sound fixations are applicable if the producer of the sound fixation is domiciled in a country that has acceded to the WTO agreement.

§ 11. Section 45a of the Copyright Act shall cover a broadcast transmission from a broadcasting organization that has its registered office in a country that is a party to the Rome Convention or the WTO Agreement if the transmission takes place from a transmitter in the same country. This provision does not cover retransmission by wire.

§ 12. The provisions of section 45b of the Copyright Act shall apply to all sound fixations that are made by any person who is domiciled in a country that is a party to the Rome Convention provided that the said country grants performing artists or producers of sound fixations a right to remuneration pursuant to the provisions of article 12 of the Rome Convention. The right to remuneration for the retransmission a broadcast transmission is not covered by this provision.

The duration of the right to remuneration pursuant to the first paragraph shall not exceed the term for which Norwegian sound fixations are granted corresponding rights of remuneration in the country where the producer is domiciled.

The European Agreement on the protection of television broadcasts

§ 13. Section 45a of the Copyright Act shall cover

- a) television broadcasts from a broadcasting organization that has its registered office in a country that is a party to the European Agreement of 22 June 1960 on the protection of television broadcasts, and
- b) television broadcasts from the territory to a country that is a party to the European Agreement of 22 June 1960 on the protection of television broadcasts.

Commencement etc.

§ 14. These regulations shall come into force immediately. From the same date regulation No. 5 of 10 April 1964 concerning the implementation of the international copyright conventions and regulation No. 1288 of 22 December 1989 concerning the implementation of the Convention for the protection of performers, producers of phonograms and broadcasting organizations (the Rome Convention) and of the European Agreement on the protection of television broadcasts, shall be repealed.