COPYRIGHT RULES, 2013

THE GAZETTE OF INDIA : EXTRAORDINARY 15. 16. 17. 18. 19. (t-TRT 45) (tTRT 47) -t 47) 47) (t.TRT 53) 11—SEC. 3(i)] 500 500 500 500 1200 $1 gi. qtF. 9-4/2012 MINISTRY OF HUMAN RESOURCE DEVELOPMENT (Department of Higher Education) NOTIFICATION New Delhi, the 14th March, 2013 GS.R. 172(E).—In exercise of the powers conferred by Section 78 of the Copyright Act, 1957, and in supersession of the Copyright Rules, 1958, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following Rules, namely : CIIAP'/'ER PRELIMINARY l. Short title, extent and commencement. (l) These rules ma_v be called the Copyright (2) "Fhev shall inlo l'orce on lhe dale 01' their publication in the ()fficial Gazelle. 2 Interpretations. -(1) In thcsc rules. unless the context otherwise requires. (a) • •Act means the Cop_vnght.Act_ 1957 (14 of 1957)- (b) • •Board noeen:c a Copyright Board as defined In sub-section (l) of section I • •copvri pht business" nieans the business of Issuinp or granting licence In respect of a rioht or set of rights In specific acls in respect of a or am substantial part thereof referred to in section 14 and includes the functions referred to in sub-section (3) of section 34 _ (d) • •l'orm- means a Form set out in the First Schedule. (e) - •Schedule means a Schedule to these rules: and (D "section-- means a section of' the Act (2) Word and expressions used herein but nol defined and defined in lhe Copyright Act, 1957. shall have the meanings respectivel.v assigned to them in that Act. 61 30)] CHAPTER 11 THE COPYRIGHT BOARD 3. Terms and conditions of the Office of the Chairman and members of the Board. (l) The Chairman and other members of the Board shall be appointed for such period not exceeding five years as the Central Government may in each case deems fit: Provided that the Chairman and the other member shall hold office as such after he has attained, (a) in the case of Chairman, the age of sixty-five years; and (b) in the case of any other Member, the age of sixty-two years. (2) (i) A person shall not be qualified for appointment as Chairman unless he (a) is, or has been a Judge ofa High Court; or (b) is qualified for appointment as a Judge ofa High Court; (ii) A person shall not be qualified for appointment as member unless he (a) is or has been a member of the Indian Legal Service and has held a post in Grade-I of that service for at least three years; or (b) has, for at least ten years, held a judicial office; or (c) is or has been a Member of a Tribunal or Civil Service not below the rank of a Joint Secretary to the Government of India with three years' experience in the field of Copyright; or (d) has, for at least ten years, been an advocate of a proven specialised experience in Copyright Law; (iii) The Chairman and other Members shall be appointed by the Central Government; and (iv) No person shall be appointed as Chairman except after consultation with the Chief Justice of India. The Chairman and other members of the Board shall, on the expiry of the period of (3) their appointment, be eligible for re-appointment. The Chairman or any other member of the Board may resign his office by giving (4) three months' notice in writing to the Central Government: Provided that the Chairman or any other member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry 62 THE GAZETTE OF NDIA : EXTRAORDINARY [PART 1b SEC. 3(i)] (5) The Chairman or any other member shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which the Chairman or the other member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges

CHAPTER 111 RELINQUISHMENT OF COPYRIGHT The author of a work desiring to relinquish under section 21 all or any of the rights 4. comprised in the copyright in the work shall give notice to the Registrar of Copyrights in

Form I or give public notice under sub-rule (2) of rule 5. (l)The Registrar of Copyrights shall, within fourteen days from the date of the 5. publication of the notification in the Official Gazette, post the notice on the website of the Copyright Office so as to remain the same in public domain for a period of not less than three years. (2)The author relinquishing the rights under rule 5 by giving public notice shall include in the notice the details as given below:— (a) Class of the works (given in sub-section (l) of section 13): (b) Title of the work; (c) Full narne, address and nationality of the author; (d) Language Offre work; (e) Name, address and nationality of the publisher, if publislrd, with year of publication and counW of first publication; (f) If copyright in the work is registered under section 45, the Registration number; (g) The right or rights to be relinquished; and (h) The date of relinquishment of the rights (3) The author may forward a copy of the public notice, along with proof of his identity, to the Registrar and on receiving such notice, the Registrar shall post the same on the website of the Copyright Office. Explanation.—For the purposes of this Chapter, the term "public notice" means— mentioning of notice on the work or cover of the work; or (i) publication in one issue of a daily newspaper in the English language having (ii) circulation in the major part of the countoz and also in one issue of any daily news paper in the same language of the work; or Posting the notice on the web site of the Copyright Office at the request ofåe (iii) author by giving the details as required under sub-rule (2). 63 CHAPTER IV COMPULSORY LICENCES IN WORKS WITHHELD FROM PUBLIC 6. Application for licence. — (l) An application for a licence under section 31 to re- publish the work or perform the work in public or communicate the work to the public by broadcast shall be made in Form 11 and shall be accompanied by the fee specified in the Second Schedule. (2) Every such application shall be made in respect of one work only. (3) Every application to re-publish the work or perform the work in public shall be accompanied with adequate evidence to show that the owner of copyright has refused to re-publish or has allowed the re-publication of the work or has refused to allow the performance of the work in public, and the reasons for such refusal. (4) Every application for communication of the work to the public by broadcast shall be accompanied with adequate evidence along with reasons or grounds to show that the owner of copyright has refused to allow— (a) the communication of the work by broadcast to the public; or (b) in the case of sound recording, the reasons for the applicant to consider the terms unreasonable

7. Notice of application.— (l) A copy of application under rule 6 along with the documents relied upon shall be served on the owner of the copyright by registered post. (2) The Board shall give an opportunity of being heard to the owner of the copyright and the applicant and also, wherever practicable, to any person claiming any interest in the copyright of the work, and shall take such evidence in respect of the application, as it deems fit. (3) The Board may, if satisfied, direct the Registrar of Copyright to grant licence applied for to the applicant or, if there are more than one, to such of the applicants as, in the opinion of the Board, would best serve the interest of the general public. (4) Every such licence shall be subject to the conditions provided in section 31 including the payment of compensation or royalties and shall specify— (a) the period for which the licence has been granted; (b) the quantum of compensation or the rate at which royalties are to be paid to the owner of the copyright in the work; and (c) such other terms and conditions as the Board may deems fit. GAZETTE OF NDIA : EXTRAORDINARY [PARI 11--SE(1 (5)The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and on the website of the Copyright Office and the Board and a copy of the licence shall be sent to the other parties concerned

8. Manner of determining compensation or royalties.— The Board shall determine the quantum of compensation or royalties payable to the owner of the copyright under section 31. The Board may while determining quantum of compensation or royalty shall take into consideration — (i) in case of re-publishing the work or performing the work in public— (a) the proposed retail price of a copy of the work or rate on which the work is performed in public; (b) the prevailing standards of royalties with regard to publication of works or performance of the work in public; and (c) such other matters as may be considered relevant by the Board. (ii) in case of communication of any work to the public by broadcast (a) time slot in which the broadcast takes place and different rates for different time slot including the repeat broadcast; (b) different rates for different classes of works; (c) the prevailing standards of royalties payable in this regard for such works; and (d) such other matters as may be considered relevant by the Board

9. Extension of the period of licence.—The Board may, on the application of the licensee and after notice to the owner of the copyright, whereve ed that the licensee was for sufficient

reasons unable to re-publish the work or perform the work in public or communication of the work to public by broadcast within the period specified in the licence, extend such period

10. Cancellation of licence.—The Board may, after giving an opportunity of being heard to the licensee, cancel the licence on any of the following grounds, namely:— (a) that the licensee has failed to re-publish the work or perform the work in public or communication of the work to public by broadcast within the time specified in the licence or within the time extended on the application of the licensee; (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; and (c) that the licensee has contravened any of the terms and conditions of the licence. 3(i)] 6 CHAPTER V COMPULSORY LICENCE TO PUBLISH OR COMMUNICATE TO THE PUBLIC THE WORK OR TRANSLATION THEREOF 11. Application for licence. — (l) An application for a licence under section 3 IA to publish or communicate to the public the work or translation thereof, in any language, any unpublished work or any work published or communicated to the public and the work is withheld from the public in India, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, shall be made by any person in

Form Ill and shall be accompanied by the fee specified in the Second Schedule: Provided that in case the desired author is dead such application for publication of the work can be made only if there is a failure to publish the work within the time specified by the Central Government as provided in sub-section (6) of section 3 IA. (2) Every such application shall be made in respect of one work only and in respect of translation ofa work into one language only. (3) The application other than an application under sub-section (7) of section 31A shall be accompanied by a newspaper containing the publication issued under sub-section (2) of section 31A and published in one issue of a daily newspaper in the English language having circulation in the major part of the country and where the application is for the publication of a translation in any language, in one issue of any daily newspaper in that language. (4) Ifthe Board is satisfied that the licence for publication or communication to the public or translation in any language of the work, applied for may be granted to the applicant, or if there are more applicants than one, to such applicants, as, in the opinion of the Board, would best serve the interest of the general public, it shall direct the Register of Copyright to grant the licence accordingly. (5) Every such licence shall be subject to the conditions provided in sub-section (7) of section 3 1 A, and shall specify — (a) the period within which such work shall be published, translated or communicated to the public; (b) the price at which the copies of such work are to be sold or charges to be collected for communicating the work to the public; (c) the amount of royalty to be deposited and the account in which it has to be deposited; (d) in case of translation of the work, the language in which the translation shall be produced and published; and Io 7 8 Gd)3- 9 66 THE GAZETTE OF TNDLA : EXTRAORDINARY [PART [I—spr. 3(i)] (e) in case of communication to thc public of the work the medium in which it is to be communicated to the public. (6) The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and on the website of the Copyright Office and the Board and a copy of the licence shall be sent to the other parties concerned

12. Manner of determining royalties.—The Board shall determine the amount of royalty to be deposited by the applicant. The Board may while determining the royalty shall take into consideration the following— (a) the prevailing standards of royalties with regard to such works; and (b) such other matters as may be considered relevant by the Board

13. Extension of the period of licences—The Board may, on the application of the licensee, if it is satisfied that the licensee was for sufficient reasons unable to produce and publish the translation or reproduce the work or communicate the work to the public within the period specified in the licence, extend such period

14. Cancellation of licence.—The Board may, after giving an opportunity to the licensee of being heard, cancel the licence on any of the fb!lowing grounds, namely:— (a) that the licensee has failed to produce and publish such work or communicate to the public the work within the time specified in the licence or within the time extended on the application of the licensee; (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; (c) that the licensee has contravened any of the terms and conditions.ofthe licence

15. Notice for termination of licence.—Notice for termination of licence under proviso to sub-section (l) or sub-section (2) of section 32B shall be served on the person holding the licence by the owner of copyright in

Form I V

16. Notice for publication of a work in case of death of original owner.— The Central Government, if decides to make a request under sub-section (6) of section 3 IA, shall specify a minimum period of six months and a maximum of one year for publication of work by the heirs, executors or legal representatives of the author of work

CHAPTER VI COMPULSORY LICENCE FOR BENEFIT OF DISABLED 17. Application for licence. — (l) An application for a licence under section 31B to publish any work in any format useful for person with disability shall be made in Form V and shall be accompanied by the fee specified in the Second Schedule. (2) Every such application shall be made in respect of one work only.

18. Notice of application.— (l) A copy of application under rule 17shall be served by registered post on the owner of copyright and if the owner of such copyright is not known or is not &aceable, a copy of the application shall be served by registered post on the publisher whose name appears on the work. (2) The Board shall give an opportuni+y of being heard to the owner of the copyright and the applicant and also, wherever practic+göh to any person claiming any interest in åe copyright of the work, and shall take such eviåence in respect of the application, as it deems fit. (3) Ifthe Board is satisfied that the licerce för publication of the work in the format applied for may be yanted to the applicant, or if thete are more applicants than one, to such of the applicants, as, in the opinion of thc Board, woald best serve the interest of the disabled persons it shall direct the Registnr of CopYTi@t tty grant licence accordingly. (4) Every such licence shall specify: (a) the period within which such work shall be published; (h) the medium and format in which the work shall be produced and published; (e) the number of copies that shali be produced; (d) the rate at which royalties in respect of the copies of such work sold to the disabled persons shall be paid to the owner of the copyright in the work; and (e) the person to whom such royalties shall be payable. (5) The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and the website of the Copyright Offce and the Board and a copy of the licence shall be sent to the other parties concemed

19. Manner of determining royalties.--- The Board Shal) detennine the royalties payable to the owner of the copyright under sub-section (4) of section 31B. The Copyright Boud may while determining royalty shall take into consideration the icü,owing:--- (a) the proposed price at which a copy of such work shall be made available to disabled persons; (b) the prevailing standards of royalties in regard to such works taking into consideration; (c) the cost involved in making the accessible formats for the disabled person; and (d) such other matters as may be considered relevant by the Copyright Board

20. Extensi0Tfl of the period of licence.---_The Board may, on the application of the licensee and after notice to the owner of the copyrighc wherever practicable, if it is satisfied that the licensee was fer sufficient reasons unable to produce and publish the work within the period specified in the licence, extend such period

21. Cancellation of licence, —The Board may, after giving an opportunity of being heard to the licensee, cancel the licence on any of the following grounds, namely:— (a) that the licensee has failed to produce and publish such work within the time specified in the licence or within the time extended on the application of the licensee; THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11-—sæ. 3(i)] (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; (c) that the licensee has contravened. any of the terms and conditions of the licence; (d) the owner of the copyright has satisfied the requirement of the disabled person by publishing in the same format with same or lower price for which compulsory licence was granted

22. Notice for termination of licence.— Notice for termination of licence granted under sub-section (3) of section 31B shall be served on the person holding the licence by the owner of copyright in Fonn IV. CHAPTER STATUTORY LICENCE FOR COVER VERSIONS Ze Notice for making Cover Version. - (l) Any person intending to make a cover version, being a sound recording in respect of any literary, dramatic or musical work under sub- section (l) of section 3 IC shall give a notice of such intention to the owner of the copyright in such works and to the Regimr of Copyrights at least fifteen days in advance of making the cover version and shall pay to the owner of the copyright in the original literary, dramatic and musical works, along with the notice, the amount of royalties due in respect of a minimum of fifty thousand copies and if the number is over version to be made, at the rates

detemined by the Board in this regard under rule 27 and provide copies of all covers and labels with which the cover version is to be sold. Provided that in respect of works in a particular language or dialect for which the Board by order has fixed a lower minimum as per proviso to sub-section (4) of section 31 C, the a*ant shall pay the royalty for the lower minimum fixed by the Board and if the number is more, for all the copies of the cover version. Provided further that any person intending to make a cover version shall give a notice under Chapter only after the royalty to be paid is detennined by the Board under rule 27 and published in the Official Gazette and in the website of the Copyright Office and the Board. Explanation: For the purpose of this rule "cover version" means a sound recording made in accordance with section 3 IC and this rule. (2) Such notice shall contain the following information, namely:— (a) the particulars of the work in respect of which cover version is to be made; (b) alterations, if any, which are proposed to be made for the adaptation of the work to the cover version and the evidence of consent of the author of work, if required, for making such alteration; (c) the name, address and nationality of the owner of the copyright in the work; (d) particulars of the sound recording made previously of the work; 3(i)] (e) the total number of copies of the cover version and the calendar year in which it is proposed to be made; (O the mediun in which the sound recording was last made and fre version is proposed to be made; (g) the price at which the cover version is proposed to be sold; and (h) the details of the advance payment of royalties paid as determined by åe Board in this regard under rule 27

24. Conditions to be followed while making cover version.HI) While making the cover version the producer shall maintain the integrity of the original literary, dramatic or musical works, except to the extent as may be technically necessary•for the purpose of making die cover version. (2)The cover version shall not be issued in any form of packaging or with any cover or label including any label or carton or inlay card or website having design or colour scheme or layout or getup similar to that of the original sound recording which is likely to or confuse the public as to the identity of the original sound recording. (3) The cover version shall not use the label of the original sound recording and shall state in bold letters on the cover that it is a cover version made under section 3 IC. (4)The cover version shall prominently display the names of performers and shall not contain the name or depict in any way any performer of an earlier pund recording of the same work or any cinematograph film in which such sound recording was incorporated

25. Notice for making additional copies of Cover version person who made cover version under a license granted under section 3 IC after giving notice and intends to make additional copies during the period for which he gave notice for making cover version under section 3 IC or desiring to continue with the making of cover version shall give fresh advance notice under rule 23 and comply with all the conditions including the payment of advance royalties determined by the Board in this regard under rule 27

26. Maintaining of records.-—(l) The person making cover version shall maintain at its principal place of business a register containing the details of total of copies made, sold and number of copies remaining in stock, except in the case of sale by on-line downloads. (2) The person making such cover version shall maintain separate books of accounts containing particulars about the total expenditure in making cover version under diffaent heads of expenditure along with total income derived from the sale of number of copies of such cover version. THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—-SEC. (3) The records, registers and books of accounts kept at the principal place of business of the person making cover version shall be open for inspection to the owner of rights or his duly authorised agent or representative on his behalf during the busiiess hours with prior pennission of the person making such cover version and, if needed, they may obtain copies of relevant extracts at their own cost

27. Manner of determining royalties.— (l) The Board shall immediately after its constitution either suo motu or on receipt of a request from any interested person give public notice of its intention to fix royalties for making cover version under section 31C and may invite suggestions for determining the same. (2) The notice under sub-section (l) shall be published by the Board in the Official Gazette and the same to be re-published in two daily news papers having circulation in the major part of the country and shall post the same on the website of the Copyright Office and the Board. (3)Any owner of copyright or any person involved in the business of making cover version or any other interested person may within thirty days from the date of publication of public notice under sub-rule (l) may give suggestions with adequate evidence as to the rate of royalties to be fixed including different rates for different works, languages,

media and formats. (4) The Board shall, after giving an opportunity of being heard to the persons who made relevant suggestions under sub-rule (3), consider such suggestions, as it deems fit. (5) The Board shall within a period of two months from the last date of receipt of the suggestions, detennine the royalties payable to the owner of the copyright under sub- section (2) of section 3 IC . The Board while detennining the royalty shall take into consideration the following factors, namely: (a) the retail price of the earlier sound recording; (b) the prevailing standards of royalties with regard to literary, dramatic or musical work for making such recordings; (c) the nature and class of the work, language, fonnat and medium in which it is to be sold; and (d) such other matters as may be considered relevant by the Board. (6) The Board may revise the rates of royalties periodically, at least once in a year, keeping in view of the provisions of this rule

28. Complaint in respect of non-payment of royalties—Al) The owner of a copyright in any literary, dramatic or musical works included in original sound recording may make a complaint to the Board in case of non-payment of royalty in full, as determined by the Board, in respect of the cover version purported to be made. 71 (2) Ifthe Board is prima facie satisfied as to the genuineness of the complaint, it may pass an interim order directing the person making the cover version to cease from making further copies. (3) The Board may, after holding such enquiry as it considers necessary and after giving an opportunity of being heard to the owner of rights in any literary, dramatic or musical works included in original sound recording, make such further order, as it deems fit, incldding an order for payment of royalty

CHAPTER VIII STATUTORY LICENCE FOR BROADCASTING OF LITERARY AND MUSICAL WORKS AND SOUND RECORDING 29. Notice to owner for communication to the public of literary and musical works and sound recordings.— (l) Any broadcasting organisation desirous of communicating to the public by way of broadcast or by way of performance of a published literary or musical work and sound recording under sub-section (l) of section 3 ID shall give a notice of its intention to the owner of the copyright and to the Registrar of Copyrights before a period of five days in advance of such communication to the public and shall pay to the owner of the copyright, in the literary or musical work or sound recording or any combination thereof, the amount of royalties due at the rate fixed by the Board in this regard: Provided that in case of communication fo the public by way of broadcast or by way of performance of a newly published literary or musical work or sound recording or any combination thereof, which has been published within the said period of five days of such communication and which do not form part of the scheduled programmes, the notice shall, be given before such communication to the public: Provided further that in case of communication to the public by way of broadcast or by way of performance of any published literary or musical work and sound recording or any combination thereof, in unforeseen circumstances, the notice shall, be given within twenty- four hours of such communication to the public. Provided also that any broadcasting organisation shall give a notice under this Chapter only after the royalty to be paid is determined by the Board under rule 31 and published in the Official Gazette and in the website of the Copyright Office and the Board. (2) Every such notice shall be in respect of works belonging to one owner only. (3) Separate notices shall be given for communication to public by way of radio broadcast or television broadcast or by way of performance of a literary or musical woü and sound recording which has already been published. (4) The notice under sub-rule (l) shall contain the following partieulars, namely:— THE GAZEITE OF : EXTRAORDNARY (a) Name of the channel; [PART 11----SFC. 3(i)] (b) Territorial coverage where communication to public by way of radio broadcast, television broadcast or performance under sub-rule (3) is to be made; (c) Details necessary to identify the work which is proposed to be communicated to the public by way of radio broadcast, television broadcast or performance under sub-rule (3); (d) Year of publication of such work, if any; (e) Name, address and nationality of the owner of the copyright in such works; (f) Names of authors and principal performers of such works; (g) alterations, if any, which are proposed to be made for the communication to the public by way of radio broadcast, television broadcast or performance of the works, reasons thereof, and the evidence of consent of the owners of rights, if required, for making such alteration; (h) Mode of the proposed communication to public, i.e. radio, television or performance; (i) Name, if any, of the programme in which the works are to be included; (j) Details of time slots, duration and period of the programme in which the works are to be included; (k) Details of the payment of royalties

at the rates fixed by the Board; and (l) Address of the place where the records and books of accounts are to be maintained for inspection by the owner of rights

30. Maintaining of records.—(l) Records containing the details of the owners in respect of total number of works broadcast, the details of such works and the time slot, duration and period of the broadcast shall be maintained by the broadcasting organisation at its principal place of business and shall be open to inspection on prior notice by the owner of rights or his duly authorised agent or representative in the works during business hours and may obtain copies of relevant extracts from such records at their cost. The broadcasting organisation shall maintain separate records for radio broadcasting and television broadcasting. (2) The broadcasting organisation shall maintain separate books of accounts for communication to public_by way of broadcast containing such details as may be determined by the Board at the time of fixing the rate of royalty and render to the owners of rights such reports and accounts. — (l) The Board shall immediately after its 31, Manner of determining royalties. constitution either suo motu or on receipt of a request from any interested person, give public notice of its intention to fix royalties for communication to the public of literary or musical work and sound recording under section 3 ID and may invite suggestions for determining the same. Such notice shall be given separately for radio and television broadcasting. 73 3(i)] (2) The notice under subrule (i) shali be published by the Board in the Official Gazette and Shal! be re-published in two daily news papers having circulation in the major part of the country arid shall be posted on the website of the Copyright Office and the Board. (3) Any owner of copyright or any broadcasting organisation or any other interested person may within thirty days from the date of publication of public notice under sub-rule (l) shall give suggestions with adequate evidence as to the rate of royalties to be fixed including different rates for different works and different formats. (4) Thc Board shall after giving an opportunity being heard to the persons who made relevant suggestions under sub-rule (3), consider such suggestions, as it deems fit. (5)The Board shall within a period of two months from the last date of receipt of suggestions, determine separate rates of royalty to be paid to the owners of literary or musical work and sound recording for radio and television broadcasting respectively. (6)The Hoard shall determine the royalties payable to the owner of the copyright under sub-section (2) of section 31 D for radio and television broadcast separately. (7) The Board while determining the royalty shall take into consideration the following factors, namely: (a) time slot in which the broadcast takes place and different rates for different time slot including repeat broadcast; (b) different rates for different class of works; (c) ditTerent rates for different nature of use of work; (d) the prevailing standards of royalties with regard to such works; (e) the terms and conditions included in the Grant of Permission Agreement (GOPA) between Ministry of Information and Broadcasting and the broadcaster for Operating Frequency Modulation (FM) Radio Broadcasting Service; and (f) such other matters as may be considered relevant by the Board. (8) The Board while determining the payment of royalties under sub-rule (5)shall take into consideration, the following factors, namely: (a) works included in the scheduled programmes; (b) works newly published and not included in the scheduled programme; (c) works communicated to the pub!ic on unexpected circumstances; and (d) use of works in excess of the duration, different time slot ot tetTitorial coverage than mentioned in the notice (9) The Board may revise the rates of royalties periodically, at least once in a year keeping in view the provisions of these rules, 74 THE GAZETTE OF INDIA : EXTRAOPDINARY CHAPTER IX LICENCES FOR TRANSLATIONS 32. Application for licence. — (l) An application for a licence under section 32 to produce and publish a translation of a literary or dramatic work in any language shall be made in

Form VI and shall be accompanied by the fee specified in Second Schedule. (2) Every such application shall be in respect of one work only and for translation of that work into one language only

33. Notice of application.— (l) When any such application has been made, the Board shall, as soon as possible, give notice of the application in the Official Gazette and also, if the Board thinks fit, in one or two newspapers and shall send a copy of the notice to the owner of the Copyright, wherever practicable. (2) Every such notice shall contain the following particulars, namely: (a) the date of the application; (b) the name, address and nationality of the applicant; (c) particulars of the work which is to be translated; (d) the date and country of the first publication of the work; (e) the name, address and nationality of the owner of the copyright as stated in the application; (f) the language in which the work is to be translated; and (g) the registration number of the work in the Register of Copyrights, if any

34. Consideration of the application.— (l) The Board shall consider the application after the expiry of not less than one hundred and twenty days from the date of the publication of the notice in the Official Gazette. (2) The Board shall give an opportunity to the applicant and also, wherever practicable to any person claiming any interest in the Copyright of the work, to be heard and may take such evidence in respect of the application. as it thinks fit. (3) If more than one application for translation of the work in the same language is pending before the Board at the expiry of one hundred and twenty days after the publication in the Official Gazette of the notice of the application first received, all such applications shall be considered together. (4) [f' the Board is satisfied that the licence for a translation of the work in the language applied for may be granted to the applicant or, if there are more applicants than one to such one of the applicants as, in the opinion of the Board, would best serve the interests of the general public. it shall grant a licence accordingly (5) Every such licence shall be subject to the condit.ion provided in sub-section (4) of section 32 relating to the payment of royalties and shall specify— (a) the period within which the translation shall be produced and published; (b) the language in which the translation shall be produced and published; 75 (c) the rate at which royalties in respect of the copies of the translation of the work sold to the public shall be paid to the owner of the copyright in the work; and (d) the person or persons to whom such royalties shall be payable. (6) The grant of every such licence shall, as soon as possible, be not;fied in the Official Gazette and in the newspapers, if any, in which the notice under rule 33 was published and a copy of the licence shall be sent to the other parties concerned and posted on the official website of copyright office and the Board

35. Manner of determining royalties.—The Board shall determine the royalties payable to the owner of the copyright under sub-section (4) of section 32. The Board while determining the royalty shall take into consideration the following, namely:— (a) the proposed retail price of a copy of the translation of the work; (b) the prevailing standards of royalties with regard to translation of works; and (c) such other matters as may be considered relevant by the Board

36. Extension of the period of licence.—The Board may, on the application of the licensee and after notice to the owner of the copyright, wherever practicable, if it is satisfied that the licensee was for sufficient reasons unable to produce and publish the translation within the period specified in the licence, extend such period

37. Cancellation of licence.—The Board may, after giving the licensee an opportunity of being heard, cancel the licence on any of the following grounds, namely:— (a) that the licensee has failed to produce and publish the translation within the time specified in the licence or within the time extended on the application of the licensee; (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; and (c) that the licensee has contravened any of the terms and conditions of the licence

CHAPTER X LICENCE FOR PUBLICATION, TRANSLATION AND RE-PRODUCTION OF WORK 38. Application for licence. — (l) An application for a licence under sub-section (IA) of section 32 and section 32A to publish or to translate any work in any language or to reproduce any published work shall be made in Form VII and shall be accompanied by the fee specified in the Second Schedule. (2) Every such application shau be in respect of one work only and in respect of translation of a work into one language only. 76 THE GAZETTE OF INDIA EXTR 39. Notice of application. — (l) A copy of such application shall be served by registered post on the owner of copyright (2) The Board shall give an opportunity of being to the applicant and also, wherever practicable, to any person claiming any interest in the copyright of the work, and may take the application, as it may deem fit. (3)

If the Board is satisfied that the licence for a translation of the work in the language or for publication or for reproduction of the work, applied för may be granted to the applicant, or if there are tnore applicants than one, to such of the appli ?Jants, as in the opinion of the Board, would best serve the interest of the generål public, shall grant a licence within a period of two months. (4) Every such licence shall be subject to the conditions pro't0(ed in clause (i) of sub- section (4) of section 32 and clause (i) of sub-section (4) of section 'V2A of the Act relating to payment of royalties and shall specify : (a) the period within which such work shall be pnblished: (b) the rate at which royalties in respect of the copies of such work sold to the public shall be paid to the owner of the copyright in the work; (c) in the case of translation of the work, the language in which the translation shall be pcoduced and published; and (d) the person or persons to whom such royalties shall be payable. (5) The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and shall be posted on the website of the Copyright Office and the Board and a copy of the licence shall be sent to the other parties concerned

40. Manner of determining royalties.—The Board shall determine the royalties payable to the owner of the copyright under clause (i) of sub-section (4) of section 32 and clause (i) of sub-section (4) of section 32/'\ of the Act. The Board may while determining the royalty shall take into consideration the töllowing, namely: (a) the proposed retail price ofa copy of such work; (b) the prevailing standards of royalties with regard to such works; and (c) such other matters as may be considered relevant by the Board

41. Extensi\ the period of iicence.—The Board may, on the aoplicatict,n of the licensee it is satisfied that the and after notice to lhe owner of the copyright, wherever nracticab)e, r suffic ent reasons unable to produce and pub}isn the translation or för publish or reproduce the: work wicbin the period specified in lhe hicepue, extend such period, he Board may, after giving the licensee an opportunity of 42. Cancellation of licence, being heard, cancel the {icence •n any of the following grounds, namely: (a) that the licensee ha,Y zeiled to produce and publish such work within the time within the time extended on the application of the licensee; specified in the I 77 (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; and (c) that the licensee has contravened any of the terms and conditions of the licence

43. Notice for termination of licence.—Notice for termination of licence under proviso to sub-section (l) or sub-section (2) of section 32-B shall be served on the person holding the licence by the owner of copyright in

SCHEDULES

Form IV of the First Schedule annexed to these rules

CHAPTER X1 COPYRIGHT SOCIETIES 44. Conditions for submission of application for registration of copyright society. — (l) Any association of persons, having an independent legal personality, comprising seven or more authors and other owners of rights (hereinafter referred to as "the applicant") formed for the purpose of carrying on the business of issuing or granting licences in respect ofa right or set of rights in specific categories of works may file with the Registrar of Copyrights an application in

Form VI {l for submission to the Central Government for grant of permission to calTY on such business and for its registration as a copyright society. The Central Government may grant registration of the society for a period of five years under sub-section (3A) of section 33. (2) An application under sub-rule (l) of rule 44 shall be signed by the Chairman, all other members of the Governing Council (by whatever name called) with such number of persons elected from among the members of the society consisting of equal number of authors and other owners of right, if any, for the purpose of the administration of the society and the Chief Executive Officer of the applicant (who need not be a member). (?) The business of issuing or granting licence in respect of literary, dramatic, musical and artistic works incorporated in a cinematograph film or sound recording shall be carried out only through a copyright society duly registered under section 33 of the Act, 45. Membership of Copyright Society. —Membership of every copyright society shall be open to all the authors and other owners of a right or set of rights in specific categories of works for which it is registered

46. Conditions for grant of permission to carry on copyright business.—-(l) An applicant referred to in rule 44 for registration of it as a copyright society shall not be eligible to be considered for such registration unless— (i) the instrument by which the applicant is established or incorporated creates a commitment on it to deal with only the business of issuing or granting licences in respect of a right or set of rights in specific categories of works and other activities ancillary thereto; and 78 THE GAZETTE OF INDIA : EXTRAORDINARY [PARF -SEC. 3(i)] (ii) the applicant is willing to comply with the provisions of the Act and the rules made thereunder. (2) The applicant shall not carry out the business by way of sub-licensing or transferring the rights of collection and distribution of royalties in respect of a right or set of rights in specific categories of works to any other person or copyright society: Provided that the applicant may enter into agreement with any foreign society or organisation administering rights corresponding to the right or set of rights administered by the applicant to entrust to such foreign society or organisation the administration in any foreign country of the right or set of rights administered by the applicant, or for administering in India the rights administered in a foreign country by such foreign society or organisation under sub-section (2) of section 34 of the Act. Explanation: For the purpose of this chapter "instrument" means the memorandum and articles of association, 47. Application and conditions for re-registration or renewal of existing copyright society. —(1) A Copyright society registered section 33 and desirous of carrying on the business as a copyright society shall submit an application for re-registration in

Form-IX -to the Registrar of Copyrights within a period two months from the date of Coming into force of these rules. (2) A copyright society registered under this chapter may apply for renewal of its registration within a period of three months before the expiry of its registration. The application for such renewal shall be made to the Registrar of Copyrights in Form-IX for submission to the Central Government for grant of permission to continue with its business and the Central Government may renew the registration of the society for a further period of five years after considering the report of the Registrar of Copyrights on the working of the copyright society. (3) In case of renewal of registration the applicant shall submit a copy of resolution passed by the General Body declaring that all the royalties collected till the previous accounting year have been distributed to all accessible members and no complaint in this regard is pending. (4) The applicant in case of re-registration or renewal of registration shall submit necessary documents indicating re-election to the Governing Council including its Chaiman

48. Documents accompanying applications.—Every application made under rule 44 and 47 shall be accompanied by (a) a true copy of the instrument by which the applicant is established or incorporated; (b) the consent in writing of the individuals named in the application to act as members of the Governing Council of the applicant; 11 3(i)] (c) a declaration containing the objectives of the applicant, the bodies through which it will function and arrangements for accounting and auditing; (d) an undertaking to the effect that the instrument by which the applicant is established or incorporated provides for conforming the same to the provisions of the Act and these rules; (e) a copy of the Register of authors and owners containing the list of the-authors and other owners of rights, their names and addresses; (f) a statement as to the changes, if any, made in the instrument since the last General Body in case of application made under rule 47; and copies of various schemes as mentioned in this chapter as approved by the (g) General Body in case of application made under rule 47

49. Conditions for registration of a copyright society.— (l) When an application for registration is submitted to the Central Government through the Registrar of Copyrights, that Government may, within a period of sixty days from the date of its receipt by the Registrar of Copyrights either register the applicant as a copyright society or, if— (i) the applicant has no professional competence to carry on its business or has no sufficient funds to manage its affairs; or (ii) there exists another copyright society registered under the Act for administering the same right or set of rights in the specific categories of works and it is well functioning ; or (iii) the Central Government has reason to believe that the members of the applicant are not bona fide copyright authors or other owners or they have not voluntarily signed the instrument setting up the applicant and the application for registration ; or (iv) the application is found to be incomplete in any respect, reject the application: Provided that no such application shall be rejected without giving an opportunity of being heard to the applicant. (2) Upon the registration of a copyright society by the Central Government, the Registrar of Copyrights shall issue a certificate of registration in

Form-X under his hand and seal. (3)On and from the date of its registration as specified in the certificate of registration, the copyright society shall be entitled to commence and carry on the permitted copyright business in the name by which it has been so registered and the applicant shall — (a) maintain its own website giving all information pertaining to its activities; and (b) have proper infrastructure such as office building and necessary officials for management such as Chief Executive Officer, licensing officers, legal officers and accountants and other required staff appointed at the time of applying for registration. THE OF INDIA : EXTRAORDINARY (4) The Copyright Society shall carry on business of issuing or granting licences only in respect of the right or the set of rights in the specific categories of works for which it is registered and shall not issue or grant licence in respect of any other right or set of rights in those or other categories of works for which it is not registered

50. Order of inquiry, suspenSion of registration and appointment of Ifthe Central Government, on a complaint of the Registrar of Copyrights or a member of the copyright society, has reason to believe that the copyright society is being managed in a manner detrimental to the interests of its members concerned or for non-compliance of requirements under section 33A, sub-section (3) of section 35 and section 36 of the Actor any change carried out in the instrument by which the copyright society is established or incorporated and registered by the Central Governmcat, without prior notice to it shall, provide a copy of the complaint to the society and require the society to submit a written statement within fifteen working days.(2)If, after considering the written statement furnished by the society, the Central Government is primafacie satisfied:— (a) it shall order an inquiry under sub-section (4) of section 33, into the allegations and appoint an inquiry officer not below the rank of a Deputy Secretary to the Government of India for holding an inquiry. During inquiry, if the Central Government is of the opinion that in the interests of the members concerned, it is necessary so to do, it may, by order, suspend the registration of the society for a period not exceeding one year, and shall appoint an administrator to discharge the functions of the copyright society; or (b) it may, in the interests of the members concerned, suspend the registration of the society for a period not exceeding one year and appoint an administrator to discharge the functions of the copyright society and further order an inquiry as per clause (a). (3)The person appointed as administrator shall be a person with sufficient experience in administration or accounting of copyright matters

51. Procedure for holding Inquiry.— (l) The inquiry officer appointed under rule 50 shall conduct the inquiry having regard to the principles of natural justice. (2) The inquiry officer may, if he considers necessary, engage a chartered accountant or an audit officer in the office of the Comptroller and Auditor-General of India or any legal, financial, copyright consultant to assist him in the inquiry. (3) The copyright society concerned shall render all assistance and shall make available all such documents as may be called for by the inquiry officer to enable him to complete the inquiry within a period of three months or such further time as may be allowed by the Central Government. [•m 11 3(i)] 52. Powers and Functions of the Administrator.— (l) On appointment of the administrator under rule 50 read with sub-section (5) of section 33 of the Act, all powers of the copyright society shall vest in him and all other representative bodies or committees of the copyright society other than the general body shall stand dissolved. (2) The administrator shall arrange for the reconstitution of the dissolved bodies before the expiry of the period of suspension failing which, the bodies so superseded shall stand revived at the end of the period of suspension for their remaining term, excluding the period of suspension

53. Cancellation of registration of a copyright society.—The registration of a copyright society as such may be cancelled by the Central Government after giving the copyright society a reasonable opportunity of being heard, if— (a) any of the particulars furnished in the application for registration is, at any time, found to be untrue or incorrect and misleading in any manner; or (b) after holding an inquiry by an officer duly appointed by the Central Government, the Central Government is satisfied that— (i) the copyright society failed to cooperate with the inquiry officer; or (ii) the complaints against the copyright society are found to be true; or (iii) the copyright society is being managed in a manner detrimental to the interests of the members concerned; or (iv) the copyright society persistently fails to manage its affairs properly; or (v) the copyright society failed to distribute the royalties as per the scheme; or (vi) the copyright society persistently fails to properly maintain its accounts and get them audited; or (vi) the copyright society utilises its funds for purposes other than those mentioned in the instrument; or (c) the society has not complied with— (i) section 33A of the ion of Tariff scheme by the copyright

society; or (ii) sub-section 3 of section 35 of the Act regarding equal representation of authors and other owners of rights in the Governing Council of copyright society as specified in rule 44; or (iii) section 36 of the Act-regarding submission of returns and reports to the Registrar of Copyrights by copyright society; or (iv) the procedure for obtaining approval of authors and other owners of right for collection and distribution of royalty; or (d) the society is issuing or granting licence in respect of the right or set of rights in the specific category of works for which it is not registered. / 078 GJ//3-(/ 81 82 OF : EXTRAORDINARY [PARI 11 SEC. 3(i)] rlQyräght society may accept authorisation and an 54, Conditions subject to w} author or other owner of rights yvithdraw such authorisation.— (I)A copyright society Enay accept from an autv€yge other mvner of rights or his duly authorised agent, exclusiv• authorisation to adminisær the right or set of rights in the specific categories of works for wh;ch the copyright society is Egistered, if such author or other owner or such agent enters into an agreement, writing, witb the copyright society specifying the rights to be administered, the duration for which such Tights are authorised to be administered, the quantum of royalty agreed to and the frequency at which such royalty shall be paid by the copyright society in accordance with its scheme of Tariff and Distribution: Provided that in case of literary or musical works inc.\vdecé in a c*nematograph film or sound of the yvock along with the recording the of royaity other ü;an for commtaucüü:on cinematograph film in a cinema hall shall be equal basis between the author of the work and the owner of film sound xecordiflg, as the case may be. (2) The ccpvright society Shai! not imijese icr distribution of royalties collected to authcr cr other ovvner of rights- pxudice tn the rights under the (3) The author or other owner of o' sixt« dayo, be free to withdraw agreement subject to the condition of such authorisation case the copyright soot!) to fdifil its cornunitments as laid down in the agreement, (4) The rivhl to receive royalty, for any cal inciuded in the cinematograph film, shared on equal basis with the assignee Gf copyright the utilisation of such work in any form other than for the commwaication to the public or duo work along with the cinematograph film in a cinema hall shahi not be assigned to any other copyright society other than to the society for which it is intended to be registered. (5) The right to receive royalty, for any literary or musical work included in the sound recording which does not form part of any cinematograph film, shared on equal basis for any utilisation of such works with the assignee of copyright shall not be assigned to any other copyright society other than to the society for which it is intended to be registered

55. Conditions subject to which a copyright society may issue licences, collect royalties and distribute such royalties.— (l) A copyright society may issue licences and collect royalties in accordance with Tariff Scheme in relation to the right or the set of rights in the specific categories of works for which the copyright society is registered as it has been authorised to administer in writing by the members for the period for which it has been so authorised, (2) The royalty so collected shall be distributed in accordance with the Distribution Scheme subject to a deduction not exceeding fifteen per cent. of the annual total collection on 83 account of administrative expenses uncurred by the copyright society and a further deduction not exceeding five per cent. for the Welfare Scheme under rule 71. Provided that a copyright society ynay ajiitia\ period of two years of its cnnual total collection on account of registration deduct up to twenty per cent. cl administrative expenses incurred by ine society

56. Tqriff Scheme (l) As soon as may be, case later than three months from the date on whickl a oopyright society has become entitied commence its copyright business, it shali frame scheme of tariff to be called ' O me" under section 33A of the Act proposes to collect in respect of setting out the nature and quantum ot rou right or the sct of rights in the specific categoßf)z of administered by it.(2) h •very copyright society Shal! display is Tacif{ scheme by posting it on its website. (3)I'he Tariff Scheme shall indicate the separate Mtes fOr— (v) däkVerent categories of users; (h) ZliFerent media of exploitation, sucti broadcast or internet; (c) different types of exploitation 'by an individual or by groups siö%le or multiple use or for advertisingt (d) different durations of use and territory, and (e) any other differentiation factor indicsted by the society, as it may deem fit. the (4)While fixing the tariff the copyright society t the guiÆelines issued by any court or the Board, if any, and may consult the usec (5)The copyright society shall collect the royalties licensee advance where the Tariff Scheme provides for lump sum payment of royaltiins, rases whete the Tariff Scheme provides for payments in installments, each atstahmerd shall be v •dlected in advance. However, in case: where the Tariff Scheme provides for the payment of royalties based on actual use, the copyright society may collect an advance at the time of issue of licence and settle the final pay t the end of the period for which the

licence is issued or panted. Provided that the copyright society shall not receive any payment in the nature of minimum guarantee from a licensee whose royalty payments are based on actual use which are to be settled with the society at the end of the licence period except where, any exceptional circumstances are specifically included Oariff Scheme and the individual case has been approved by the Governing Council (6)The copyright society may revise the Tariff Scheme periodically but not earlier than a period of twelve months by following the rules. It shall publish the date of coming imo of the revised Tariff Scheme at least before two morfhs in advance and the same shall be on its website. GAZETTE OF INDIA • EXTRAORDINARY [PART 11-—SEC. 3(i)] 57. Appeal to the Board on Tariff Scheme .—— (l)Any person aggrieved by the Tariff 33A along with the fee specified in the Scheme may appeal to the Board under section Second Schedule. (2) The Board, if satisfied with the grounds ofthe appeal, shall— (a) serve a copy of the appeal to the copyright society; and (b) give an opportunity to the appellant and also, to the copyright society, to be heard and may take such evidence in respect of the appeal, as it may deem fit. (3) The appellant shall pay to the copyright society any interim tariff fixed by the Board that has fallen due before filing an appeal to the Board. (4)The Board may after hearing the parties fix an interim tariff and direct the appellant to make the payment accordingly pending disposal of the appeal. (5)The Board shall determine the Tariff Scheme of the copyright society under section 33A, after taking into consideration: (a) the prevailing standards of royalties in regard to such commercial exploitation of works; and (b) such other matters as may be considered relevant by the Board. (6)The Board shall dispose of the appeal within a period of three months from the date of its filing

58. Distribution Scheme (l) A copyright society shall frame a scheme to be called the Scheme" setting out the procedure for distribution of royalties specified in the Tariff Scheme among the members whose names are entered in the Register of Authors and Owners maintained under clause (i) of rule 59 for the approval of the General Body of the society, as soon as may be, but in no case later than three months from the date on which a copyright society has become entitled to commence its copyright business.(2) The distribution shall, reasonably, be in proportion to the royalty income of the copyright society derived from the grant of licences for right or set of rights in the specific categories of works for which it is administering each author and other owners ofright. (3) There shall be no discrimination between authors and other owners of rights in the diüibution of royalties by the copyright society. (4)While distributing the royalties the copyfight society shall inform all members about the basis on which such amount of royalties are being distributed. (5) The Distribution Scheme shall aim to ensure that all royalty distributions are fair, accurate, cost effective and without any unknown or hidden cross-subsidies. (6) The society shall fix parameters in a transparent manner fâr determining the share of distribution of its members and reveal the details of the same in a manner that is easily understandable to its members. (7) The distribution of royalties shall be based on actual use or reliable statistical data that fairly represent the commercial exploitation of the iicensed rights. (8) The Distribution Scheme shall ensure that the royalties to all members are distributed at least once in a quarter. (9) The copyright society shall not make any payment in the nature of minimum guarantee to its members against the share of royalties due to its members. (IO) The royalties collected based on the Tariff Scheme for the licensing of the rights in the literary or musical works included in a cinematograph film or sound recording shall be shared on an equal basis with the authors of literary or musical works and the owners of rights in cinematograph film or sound recording under sub-section (l) of section 18

59. Management of Copyright (l)Every copyright society shall have—(a) a General Body consisting of all the authors and other owners of right or set of rights in the specific categories of works for which the copyright society has been authorised to issue or grant licences; (b) a Goveming Council with a Chairman and a minimum of six other members; and (c) a Chief Executive Officer (who may or may not be a member of the society). (2) The General Body shall be the decision makinu body of the society. All the powers necessary for the purpose of effective management of the society shall be with the General Body and the Goveming Council may act as per the directions of the Goveming Body. (3)The Chairman shall be elected by two third of the majority of all the members present and voting idthe General Body meeting of the Copyight Society. (4)The Chainnan of the Goveming Council shall chair the General Body. (5)The Chairman shall have the right to vote in the General Body and the Goveming Council. (6) 'Ihe members other than the Chaiman ofthe Goveming Council shall represent equally from authors and other owners, elected from the General Body by the sent and voting in the General Body

meeting of the Copyright Society. 86 THE GAZETTE OF INDIA : [PARF 11---SEC. (7)The Chairman and other members of-the Governing Council shall be elected for a period of two years and the members shall not be eligible for re-election for a period of two years from the date of completion of their term as members. (8)The General Body may create sub-committees for preparing Tariff Scheme, Distribution Scheme, Welfare Scheme and Such other matters relating thereto, under the supervision of the Governing Council. (9)The General Body shall approve the instrument of the society including any subsequent changes made to it. 60, Approval of Schemes (l) The copyright society shall call a General Body meeting to approve any Scheme, as soon as it has been prepared by the Goveming Council in these (2)A notice of not less than twenty-one days for the meeting shall be given to every member and a copy of the proposed Scheme together with a note explaining the guiding principles followed in the making of the said Scheme shall be annexed to the notice and the same shall be posted on the website of the society. (3)The notice under sub-rule (2) shall specify that any member who objects to the Scheme shall be entitled to withdraw the authorisation given to the copyright society to administer any right in his work from the date of commencement of the said Scheme. (4)The copyright society shall keep a record of the members who have given their approval and those who have objected thereto. (5)Approval of the Schemes shall be by a majority of members present in person and voting. (6)The copyright society shall not amend any approved Scheme except with the prior approval of the General Body

61. Meetings of the Society (l) Every copyright society shall hold a General Body meeting of all its members as its annual General Body meeting before the 3 ISt day of March every year.(2) A special meeting of the General Body called extra ordinary General Body meeting of all its members may also be held, if considered necessary, by two thirds majority of the Governing Council. (3)The meetings of General Body and Goveming Council shall be held in the town or city in which its registered office is situated or such other convenient place as decided by the Chairman of the society. 11—aoz 3(i)] (4) The notice for General Body meeting shall be issued before twenty-one days of the meeting and it shall and speciW the agenda, time, date and address of the venue of the meeting and the same shall be posted on the website of the society. (5) Every member of the society shall have equal voting rights in the General Body meetings. (6) There shall be no discrimination between members who are authors and other owners of right. (7) Quorum for meetings of the General Body shall be one third of the total members and in case of lack of quorum the meeting may be adjourned for thiny minutes and then members present shall constitute quorum. (8) Quorum for the meetings of the Governing Council shall be one third of its tctel members other than the Chairman with equal number of authors and other owners. (9)The Registrar of Copyrights shall be invited as an observer to all General Body meetings. The Registrar or his authorised representative on his behalf may attend the said meeting

62. Documents to be presented in the annual General Body meeting .-— Every copyright society shall place before its annual General Body meeting the following documents, namely:— an up-to-date list of the authors and other owners of right or the set of rights in (i) the specific categories of works for which the copyright society has been authorised to issue or grant licences, their names and addresses as recorded in the Register of Authors and Owners maintained. by the copyright society, as provided in sub-rule (i) of rule 64; audited accounts of the society for the previous year; (ii) the Tariff Scheme and the Distribution Scheme or any other scheme including (iii) the decision of the Copyright Board on the said Schemes, if any; (iv) annual report as approved by the Governing Council, giving full and detailed account of all its activities during the previous years; (v) Budget estimates along with programme of action as approved by the Governing Council for the succeeding year; (vi) the agreements, if any entered with foreign copyright societies under sub- section (2) section 34 of the Act; (vii) any changes made in the instrument of registration of the society; and (viii) any other document relating to the society that require approval of the General Body. 63 Accounts and audit .—— (l) Every copyright society shall maintain proper accounts of the royalties collected in a financial year, payments made out of such collections to the members 87 88 THE GAZETTE OF INDIA : EXIRAORDINARY [PART 11—SEC. 30)] and other recurring and non-recurring expenditure incurred for meeting the administrative and related matters, including the cost of litigations. (2) The books of accounts shall be kept in the registered office of the society and shall be open for inspection of the members from time to time as per the conditions laid down by the General Body. (3) Every copyright society shall get its accounts audited by a chartered accountant annually. . —Every copyright society shall 64. Records t ight societies maintain the following

registers at its registered or administrative office— (1) a register of authors and other owners to be called the "Register of Authors and Other Owners" in respect of right or set of rights in the specific categories of works for which the copyright society has been authorised to issue or grant licences. The register shall contain the names of the authors and other owners, their addresses, the nature of rights authorised to be administered by the copyright society, year of publication of the work, the date on which the copyright society becomes entitled to issue or grant licences and the duration of such entitlement, the territory\ for which the authorization has been given and the rights that have been so authorised; (iD a register to be called the "Register of Agreements" containing a copy of every agreement entered into by the copyright society with the authoris and other owners for the purpose; (iii) a register to be called the "Register of Royalties" containing particulars of royalties and mentioning the names of persons or organisations and copy of the licence agreements from whom the royalties have been realised, and the amount so realised including the date of realisation; (iv) a register to be called the "Disbursement Register" containing details of disbursement of royalties made to each author or other owner of right or set of rights in the specific categories of works, category-wise, mentioning the name of the author or other owner, nature of his right and the date and amount of disbursement of royalty made to him

65. Returns to be filed by the copyright societies with the Registrar of Copyrights .—- Every copyright society shall file a return called the annual retum with the Registrar of Copyrights within one month from the date of conclusion of each annual General Body meeting setting out the following details, namely :— 89 (i) the date of the annual General Body meeting held immediately preceding the filing of the annual return, the number of members who attended the meeting, agenda and the minutes of such meeting ; (iD the up-to-date list of the members, their names and addresses as recorded in the Register of Authors and Owners maintained by the copyright society, as provided in rule 64; (iii) audited accounts of the copyright society; (iv) the Tariff Scheme, Distribution Scheme and other Schemes, if any; (v) annual report approved by the General Body giving full and detailed account of all its activities during the year; (vi) the list of the members to whom royalties are not distributed and the reasons for the same; and (vii) the list of the members to whom royalties have been distributed together with the amounts so distributed

66. Code of Conduct for copyright societies .—Every copyright society shall conform to the following Code of Conduct as follows:— (l)Every Society shall make available on its website— (a) certificate of registration as a Copyright Society; (b) basic documents of governance such as memorandum of association, articles of association, constitution or charter; (c) list of all members of General Body; (d) names and address of Chairman, other members of the Governing Council and other officers of the society; (e) right or set of rights in the specific categories of works for which the copyright society has been authorised to issue or grant licences; (f) all schemes of the society; (g) annual report and audited accounts as approved by the General Body; (h) licence agreement formats; (i) details of all existing licences other than those clauses in the licence having commercial sensitivity; (j) foreign societies with whom there are agreements to collect royalties and the details of the agreement other than those clauses having commercial sensitivity; (k) details of the complaint or Grievances Cell; and (l) the code of conduct. (2)The members shall be— (a) treated fairly, honestly, impartially, courteously, and ensure that its dealings with them are more transparent; [07 g GJ//3 - / z 90 THE GAZETTE OF INDIA : EXTRAORDINARY [PARI* 11--SEG. 3(i)] (b) provided with a copy of its basic documents of governance such as memorandum of association, articles of association, constitution, charter, Tariff Scheme and Distribution Scheme at the time of joining and or at any time on request; (c) provided with a copy of the document enumerating the powers and responsibilities of each member including Chairman and members of the Governing Council; and (d) provided with— (i) the basis for calculating royalties to be paid to the members; (ii) the manner and frequency of payments to the members; and (iii) the general nature of deduction out of total income before distribution . (3) Every society shall distribute payments to its members in accordance with its Distribution Scheme. (4) Every society shall treat licensees fairly, honestly, impartially and courteously and ensure that its dealings with licensees are more transparent. (5) Every society shall observe the following while fixing the Tariff Scheme, namely:— (a) licence fee to be fair and reasonable; (b) take note of the value of the rights of the works; (c) the purpose and manner in which the rights are to be exploited; (d) any relevant decisions of the Board; and (e) in case the Tariff Scheme is for the use by an industry the important role played by that industry in promoting. dissemination of works and their contribution to the far as possible in consultation wilh

licensees. (6) Every society shall provide for the ficility tor on4ine application, payment of royalties and tor issue of licence online, as får as it is practicable, (7) Every society shall ensure— (a) that the Governing Counci! members are accountable to the General (h) maintenance of proper and complete financial records, including the collection and distribution of royalties and expenses; and (c) annual auditing of its accounts by a qualified Chartered Accountant (8) Every society shall comply with procedure för dealing with complaints and grievances as 9•-TRd : (a) constitute a complaint or grievances cell and shall post the same in its website; (b) information regarding how to make the complaint and reasonable assistance in the formulation and lodging ofa complaint; (c) acknowledgement of the receipt of the complaint immediately upon receipt of the complaint; (d) verify the nature of the complaint and the details of the complainant; (e) examine the complaint and, if necessary give an opportunity of hearing to the complainant; (f) dispose of the complaint, with a period of two months and provide a written response to the complainant; (g) make available adequate resources for handling and resolving complaints; and (h) periodical review of complaints handling and resolving procedures and their mechanism

67. Welfare fund of copyright society .—Every Copyright society may frame a scheme for the welfare of its members as determined by its General Body and keep not more than five per cent. of its total royalties collected for implementing the scheme effectively and the amount that could not be distributed on account of non-accessibility of the members concerned. CHAPTER Performers' Society 68. Registration and management of Performers' Society. — (1) For the purpose of carrying on the business of issuing or granting licences in respect of performer's rights under sub-section (l) and proviso to sub-section (2) of section 38A and section 39A , there Shail be a separate performers' society for each class of performers such as actors, singers, musicians, dancers, acrobats, jugglers, conjurers, snake charmers, persons delivering lectures or any other group of persons who can make a performance: Provided that the Central Government may allow registration of a society for performers' of different classes of performers' in cases where the performances are inter-connected or closely related to each other. (2) Such society shall be called as Performers' Society of that specific categorye (3) In accordance with the provisions of section 39A, any Performers' Society as mentioned in sub-rule (l), having an independent legal personality comprising seven or more performers (hereinafter referred to as "the applicant") may file with the Registrar of Copyrights an application in Form --XI, for submission to the Central Government for grant of permission to carry on such business and for its registration as a Performer's Society. 91 92 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11 SEC. 3(i)] (4)Chapter XI of these rules relating to Copyright Societies except sub-rule (l) of rule 44 shall with necessary adaptations and modifications shall apply to a Performer's Society also. Explanation 1.—The royalty collected from enjoyment of the performer's right in (i) to (v) of clause (a) of sub-section (l) and proviso to sub-section (2) of section 38A, shall be shared equally between the performer and other owner of copyright. Explanation 2.—Commercial use as mentioned in proviso to sub section (2) of section 38A, means the exploitation of the performers right by way of reproduction, issue of copies or distribution, communication to public including broadcasting and commercial rental of the cinematograph film. Explanation 3.— For the purpose of this chapter performance includes recording of visual or acoustic presentation of a performer in the sound and visual records in the studio or otherwise

CHAPTER XIII REGISTRATION OF COPYRIGHT (l) The Register of Copyrights shall be kept in 69. Form of Register of Copyrights physical and electronic

form in six parts, namely:— Part I - Literary works other than computer programmes, tables and compilations including computer data bases and dramatic works. Part 11 -Musical works Part Ill - Artistic works Part IV - Cinematograph films Part V -Sound recordings Part VI - Computer programmes, tables and compilations including computer data bases. (2) The Register of Copyrights shall contain the particulars specified in Form-Xlll

70. Application for Registration of Copyright .— (l) Every application for registration of copyright shall be made in Form•XIV and every application for registration of changes in the particulars of copyright entered in the Register of Copyright shall be made in

Form-XV. (2) Every such application shall be in respect of one work only, and shall be accompanied by the fee specified in the Second Schedule in this behalf. (.3) Every application shou!d be signed only by the applicant, who may be an author or owner of right. If the application is submitted by the owner of copyright, it shall be enclosed with an original copy of no objection certificate issued by the author in his favour. (4) Every application for registration of an unpublished work shall be accompanied by two copies of the work. 93 (5) Every application for registration of a computer programme shall be accompanied by the source and object code. (6) Every application for registration in respect of an artistic work which is used or is capable of being used in relation to any goods, such application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in section 3 of the Trade Marks Act, 1999, to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant. (7) Every application for registration in respect of an artistic work which is capable of being registered as a design under the Designs Act, 2000, such application shall be accompanied by a statement in the form of an affidavit containing the following, namely:-— (a) it has not been registered under the Designs Act, 2000; and (b) it has not been applied to an article through industrial process and reproduced more than fifty times. (8) Every such application can be filed in the Copyright Office by person or by post or by online filing facility as provided on the website of the Copyright Office. (9) The person applying for registration shall give notice of his application to every person who claims or has any interest in the subject-matter of the copyright or disputes the rights of the applicant to it. (IO) If no objection to such registration is received by the Registrar of Copyrights within thirty days of the receipt of the application, the Registrar of Copyrights shall, if satisfied about the correctness of the particulars given in the application, enter such particulars in the Register of Copyrights. (l l) Ifthe Registrar of Copyrights receives any objections for such registration within the time specified in sub-rule (7), or, if he or she i' not satisfied about the correctness of the particulars given in the application, he or she may, after holding such inquiry as he or she deems fit, enter such particulars of the work in the Register of Copyrights as he or she considers necessary. (12)The Registrar of Copyrights shall give an opportunity of hearing before rejecting the any application filed for registration of any work. (13) The process of registration is deemed to be completed only when a copy of the entries made in the Register of Copyrights is signed and issued by Registrar of Copyrights or by Deputy Registrar of Copyrights, to whom such authority is delegated. THE GAZETTE OF INDIA : EXTRAORDINARY [PART IL-SEC. 3(i)] (14) The Registrar of Copyrights shall, as soon as may be, send, wherever practicable, a copy of the entries made in the Register of Copyrights to the parties concemed

71. Correction and rectification of entries in the Register of Copyrights .(l)The Registrar of Copyrights may, either suo motu or on application of any interested person, amend, or alter the Register of Copyrights for the entries specified in section 49, after giving, wherever practicable, to the person affected by such amendment or alteration, an opportunity to show cause against such amendment or alteration, and communicate to such person the amendment or alteration so made. (2) 'The Registrar of Copyrights shall rectify the entries made in the Register of Copyrights after an order is being passed by the Board on an application made by the Registrar of the Copyrights in this behalf under section 50

72. Indexes .— (l) There shall be kept at the Copyright Office the following indexes both in physical and electronic form for each part of the Register of Copyrights, namely: (i) a general Author Index; (ii) a general Title Index; (iii) an Author Index of works in each language; and (iv) a Title Index of works in each language. (2) Every Index shall be arranged alphabetically in the form of cards

73. Inspection of the Register of Copyrights and Indexes .— The Register of Copyrights and Indexes thereof shall at all reasonable time be open to inspection by any person in such manner and subject to such conditions as the Registrar of Copyrights may specify. The online search or inspection of the Register of Copyrights and Indexes can be utilised by making online payment of fee as specified in the Second Schedule

74. Copies and extracts of the Register of Copyrights and Indexes Any person shall be entitled to take copies of, or make extracts from, the Register of Copyrights or Indexes on payment of the fee as specified in the Second Schedule subject to supervision as the Registrar Of Copyrights may arrange.(2) The Registrar of Copyrights shall, on amapplication made in that behalf and on payment of

the fee specified in the Second Schedule, fumish a *certified copy of entries made in the Register of Copyrights and Indexes thereof. 95 CHAPTER XW STORAGE OF TRANSIENT OR INCIDENTAL COPIES OF WORKS 75. (l) Any uwner of copyright may give a complaint in writing under clause (c) of sub- section (l) of section 52, to a person who has facilitated transient or incidental storage of work for providing electronic links, access or integration to restrain from such storage of work. (2) The written complaint shall contain the following particulars, namely:— (a) the description of the work with adequate information to identify the work; (b) details establishing that the complainant is the owner or exclusive licensee of copyright in the work; (c) details establishing that the copy of the work which is the subject matter of transient or incidental storage is an infringing copy of the work owned by the complainant and that the allegedly infringing act is not covered under section 52 or any other act that is permitted under the Act; (d) details of the location where transient or incidental storage of the work is taking place; (e) details of the person, if known, who is responsible for uploading the work infringing the copyright of the complainant; and (f) undertaking that the complainant shall file an infringement suit in the competent court against the person responsible for uploading the infringing copy and produce the orders of the competent court having jurisdiction, within a period of twenty-one days from the date of receipt of the notice. (3) On receipt of the written complaint, the person responsible for the storage of the copy, if satisfied from the details provided in the complaint that the copy of the work is an infringed copy, within thirty-six hours, take measures to refrain from facilitating such access for a period of twenty-one days from the date of receipt of the complaint or till he receives an order from the competent court restraining him from facilitating access, whichever is earlier. (4) The person responsible for storage shall display a notice giving reasons for restraining such access to persons réquesting for access to the alleged infringing copy. THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. (5) The person responsible for storage may restore the storage of the work in case the complainant failed to produce the orders of the competent court having jurisdiction, restraining him from facilitating access. (6) In case the complainant fails to produce the orders of the competent court having jurisdiction within the stipulated period, the person responsible for storage shall not be obliged to respond to any further notice sent by the same complainant on the same work in the same location

CHAPTER XV MAKING OR ADAPTING THE WORK BY ORGANISATIONS WORKING FOR THE BENEFIT OF PERSONS WITH DISABILITIES 76. Maintenance of records .— The organisation working for the benefit of the persons with disabilities and intending to adapt, reproduce, issue of copies or communication to public of any work in any accessible format shall maintain at its principal place of business a register containing the following details, namely:— (a) the name of the work, author or owner or publisher along with year of publication; (b) the details of the accessible format in which the work is produced; (c) the nature of activity such as adaptation, reproduction, issue of copies or communication to the public; (d) total number of copies made, list of persons with disabilities to whom copies have been distributed ; and (e) price, if any, charged on the copies

77. Notice to be included in copies made in accessible formats .— The organisation working for the benefit of the persons with disabilities shall insert appropriate notices in the copies of works in accessible formats created by the orgnisations that— (a) the accessible format is created pursuant to the exception under clause (zb) of sub-section (l) of section 52; (b) the accessible format is intended solely for the use of persons with disabilities who cannot enjoy the normal format of the work; and (c) any distribution of the accessible format to any person who can enjoy the normal format of the work will lead to stopping the supply of further works in accessible formats and such other legal consequences as are applicable. Explanation.—For the purposes of this Chapter, the term "accessible format" shall include Braille, Daisy, large print, talking books, digital formats and all other formats that can be used by persons with disabilities

78. Contracts with third parties engaged by organisations working for persons with disabilities .--- An organisation working for persons with disabilities may engage any third 97 party as its agent to undertake any of the activities permitted under clause (zb) of sub-section (l) of section 52, on its behalf and shall enter into appropriate contracts with such third party to ensure that such third party undertakes such activities only on behalf of the organisation and not otherwise. CHAPTER WI IMPORTATION OF INFRIINGING COPIES 79. Importation of infringing copies. —--(l) Every notice, under sub-section (l) of section 53, shall be made to the Commissioner of Customs, or to any other officer authorised in this behalf, by the Central Board of Excise and Customs in accordance in

Form-XVI and shall be accompanied by fee as specified in the Second Schedule. (2) The person who gives notice under in sub-rule (l) shall deposit, within the time specified by the Commissioner, such amount as the Commissioner.may deem fit as security having regard to the likely expenses on demurrage, cost of storage and compensation to the importer in case it is found that the works are not infringing copies. (3) The Commissioner or the officer duly authorised in this behalf, on arrival of such works, if satisfied, shall suspend the clearance of such works for a period of fourteen days and shall inform the arrival and detention of work to the person who has given the notice. (4) At the request of the importer or his duly authorised agent, Commissioner or the officer duly authorised in this behalf, shall inform the name and address of the person who gave the notice. (5) The Commissioner or the officer duly authorised in this behalf, shall release the consignment on expiry ofa period of fourteen days, in case the person who gave notice failed to produce an order from the competent court having jurisdiction restraining him from releasing the suspended consignment of works. CHAPTER WII Technological Protection Measures 80. Maintaining of records .41) Any person who is permitted to circumvent technological protection measures under clause (a) of subsection (2) of section 65A of the Act may approach any person, who can assist him to circumvent the technological protection measures. (2) Any such person facilitating circumvention of technological protection measures for another person shall maintain a record containing details of the person who requested for assistance, containing the following details, namely: (a) the name, complete postal address, photograph, e-mail address and telephone number or other contact details of the person; THE GAZETTE OF NDIA : EXTRAORDINARY [PARr 11—Sæ. 3(i)] (b) the professional details of the person, if any, including the address of the place, where he is working at present; (c) the reasons and purpose for circumvention of the technological protection measures; and (d) an undertaking in writing from the person requesting assistance that he is entitled for circumvention of the technological protection measures and will be solely responsible for copyright infringement, if any, of the protected work. (3) The record may be maintained on-line or in any other format for a minimum period of three years, in the place from where he is facilitating circumvention. (4) Any such person maintaining records under sub-rule (2) shall disclose the details in the record only upon an Order of the court or to a police officer, not below the rank of a Sub-Inspector of Police, investigating a complaint under section 65A. CHAPTER xvlll NASCELLANEOUS 81. Mode of making applications, etc. .—— Every application, notice, statement or any other document to be made, given, filed or sent under the Act or under these rules may, unless otherwise directed by the authority concerned, be sent b/ hand or registered post or by online filing procedure made available on the website of the Copyright Offce or Copyright Board

82. Mode of communication by the Copyright Board, etc.— Even written intimation from the Copyright Board, the Copyright Office or the Registrar of Copyrights shall be deemed to have been duly communicated to any person if such intimation is sent to the known address of such person by registéred post

83. Fees .--—— (l) The fees payable under the Act in respect of any matter shall be as specified in the Second S&dule. (2) The fees may be paid to the Registrar of Copyrights, New Delhi, by a postal order or a bank draft issued by a Scheduled Bank as defined in the Reserve bank of India Act, 1934, or by deposit into a Government Treasury or a branch of the Reserve Bank of India or the State Bank of India under the head of account : Major Head —0070; 60 Other Services; Minor Head—113; Copyright Registration Fees" or by payment gateway provided in online—filing facility of the Copyright Office website (3) Postal orders and bank drafts shall be crossed and drawn in New Delhi. 11—7äuz 3(i)] ...TR7 : (4) Payment by bank drafts shall not be valid unless the amount of bank commission is included therein. (5) Where payment is made by deposit in a Government Treasury or a branch of the Reserve Bank of India or the State Bank of India, the challan evidencing the payment shall be sent to the authority concerned by pre-paid registered post. (6) No fee is required to be paid for taking extracts from Register of Copyrights or indexes for official purposes by the Central Government or the State Government In any proceedings before the Board or the Registrar of 84. Right of audience Copyrights any party may appear and be heard either in person or by a pleader or other person duly authorised by such party. . — The cost incidental to the proceedings before the Board or the Registrar of 85. Costs Copyrights shall be in the discretion of the Board or the Registrar of Copyrights, as the case may be

86. Repeal,—The Copyright Rules, 1958, are hereby repealed without prejudice to anything done under such rules before the coming into force of these rules. 100 GAZETTE OF : EXTRAORDINARY [PART - SEC. 3(i)] FIRST SCHEDULE

FORM-I Notice of Relinquishment of Copyright (See rule 4] To The Registrar of Copyrights, Copyright Office, New Delhi. Sir, In accordance with section 21 of the Copyright Act, 1957 (14 of 1957), I hereby give notice that, with effect from the date of this notice, I do relinquish, to the extent specified in the enclosed affidavit, my rights in the work described in the said affidavit. Yours faithfully, Date (Signature) Form of Affidavit referred to above 1 of (full name in block letters) . do hereby or (address) solemnly affirmation state that— (l) I am the author of the work described in the statement below; (2) I am the owner of the copyright in the said work to the extent specified in the said statement; and (3) I do hereby relinquish my rights in the said work to the extent specified in the said statement: STATErvENT Description of the work: (a) Class of the work (Literary, Dramatic, Musical, Artistic, Cinematograph Film, Sound Recording). (b) Title of the work, if any; (c) Full name, address and nationality of the author; (d) Language of the work, if any; (e) Name, address and nationality of the publisher, if any; (f) Year of first publication, if any;