

Decree No. 95-385 of April 10, 1995, Concerning the Regulatory Part of the Intellectual Property Code*

(as last amended by Decree No. 97-1316 of December 23, 1997)

ANNEX

Intellectual Property Code (Regulatory Part)

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Art. 1. The provisions annexed to this Decree shall constitute the Intellectual Property Code (Regulatory Part).

Art. 2. The references contained in the provisions of a regulatory nature referring to provisions repealed by Article 5 of this Decree shall be replaced by references to the corresponding provisions of the Intellectual Property Code (Regulatory Part).

Art. 3. The provisions of the Intellectual Property Code (Regulatory Part) that quote articles from other codes, by reproducing them, shall automatically be amended by the effect of subsequent amendments to those articles.

Art. 4. This Decree shall apply to the overseas territories and to the territorial entity of Mayotte.

Art. 5. There shall be repealed:

- the Decree of 20 May 1903 concerning the formalities to be complied with to obtain international protection for trademarks;
- the Decree of 10 March 1914 concerning the establishment of the date of creation of industrial designs in application of **Article 4** of the Law of 14 July 1909;
- the Decree of 17 December 1920 as amended concerning the conditions for exercising the resale right of authors of graphic and three-dimensional works;
- the Decree of 2 August 1922 applying to the typeface font industry the provisions of the Decree of 10 March 1914 concerning establishment of priority use of industrial designs;
- the Decree of 9 May 1923 applying to the bottle making industry the provisions of the Decree of 10 March 1914 concerning the establishment of priority of use of industrial designs;
- the Decree of 15 April 1924 applying to various industries the provisions of the Decree of 10 March 1914 concerning the establishment of priority use of industrial designs;
- the Decree of 21 January 1933 extending to the lithographic printing industry the effect of the provisions of the Decree of 10 March 1914 implementing **Article 4** of the Industrial Designs Law of 14 July 1909;

¹ For Books IV to VII (concerning Industrial Property) of the Intellectual Property Code (Regulatory Part), see *Industrial Property Laws and Treaties*, FRANCE—Text 1-002 - (Editor's note).

- the Decree of 23 February 1938 extending to the leather goods, traveling goods and saddlemaking industry and to the related industries the effect of the provisions of the Decree of 10 March 1914 implementing [Article 4](#) of the Industrial Designs Law of 14 July 1909;
- Decree No. 47-845 of 8 May 1947 as amended establishing an Industrial Property Council;
- Decree No. 51-1469 of 22 December 1951 as amended setting up the organization of the National Institute of Industrial Property;
- Decree No. 58-446 of 19 April 1958 establishing a public administration regulation for the implementation in the overseas departments of Law No. 57-298 of 11 March 1957 on Literary and Artistic Property;
- Decree No. 58-447 of 19 April 1958 establishing a public administration regulation for the implementation in the overseas territories of Law No. 57-298 of 11 March 1957 on Literary and Artistic Property;
- Decree No. 65-464 of 10 June 1965 concerning the choice of experts in disputes concerning patents for invention;
- [Articles 1 to 3](#) of Decree No. 67-181 of 6 March 1967 to implement Law No. 64-689 of 8 July 1964 on the implementation of the principle of reciprocity in copyright protection;
- Decree No. 69-190 of 15 February 1969 concerning the procedure for infringement seizure with respect to patents for invention;
- Decree No. 69-975 of 18 October 1969 concerning compulsory licenses, *ex officio* licenses, the expropriation of inventions and various procedural provisions;
- Decree No. 70-441 of 26 May 1970 concerning contracts with foreign parties for the acquisition or assignment of industrial property rights and of all intellectual elements of scientific and technical assistance;
- Decree No. 71-454 of 7 June 1971 on the Committee for New Plant Variety Protection;
- Decree No. 71-764 of 9 September 1971 as amended concerning applications for new plant variety certificates, the grant and renewal of such titles, with the exception of its [Article 58](#);
- Decree No. 71-765 of 9 September 1971 as amended establishing the list of plant species for which plant variety certificates may be issued and, for each species, the duration and scope of the breeder's right;
- Decree No. 78-1010 of 10 October 1978 as amended on the implementation of Law No. 77-682 of 30 June 1977 on the application of the Patent Cooperation Treaty done at Washington on 19 June 1970;

- Decree No. 78-1011 of 10 October 1978 as amended on the implementation of Law No. 77-683 of 30 June 1977 on the application of the European Patent Convention signed in Munich on 5 October 1973;
- Decree No. 79-797 of 4 September 1979 as amended on employee inventions;
- Decree No. 79-822 of 19 September 1979 as amended on applications for patents and utility certificates and the grant and maintenance in force of such titles, with the exception of its [Article 119-1](#);
- Decree No. 80-645 of 4 August 1980 relating to inventions by officials and public servants;
- Decree No. 81-599 of 15 May 1981 as amended relating to the fees levied by the National Institute of Industrial Property;
- Decree No. 86-27 of 3 January 1986 for the application of [Article 20](#) of Law No. 85-660 of 3 July 1985 relating to authors' rights and the rights of performers, phonogram and videogram producers and audiovisual communication enterprises;
- Decree No. 86-28 of 3 January 1986 for the application of [Article 34](#) of Law No. 85-660 of 3 July 1985 relating to authors' rights and the rights of performers, phonogram and videogram producers and audiovisual communication enterprises;
- Decree No. 86-260 of 18 February 1986 applying to the profession of patent agent Law No. 66-879 of 29 November 1966 concerning professional civil law companies;
- Decree No. 86-536 of 14 March 1986 applying [Article 14](#) of Law No. 85-660 of 3 July 1985 relating to authors' rights and the rights of performers, phonogram and videogram producers and audiovisual communication enterprises;
- Decree No. 86-537 of 14 March 1986 applying [Article 24](#) of Law No. 85-660 of 3 July 1985 relating to authors' rights and the rights of performers, phonogram and videogram producers and audiovisual communication enterprises;
- Decree No. 86-1074 of 26 September 1986 applying Title IV of Law No. 85-660 of 3 July 1985 relating to authors' rights and the rights of performers, phonogram and videogram producers and audiovisual communication enterprises;
- Decree No. 89-816 of 2 November 1989 as amended on the protection of topographies of semiconductor products;
- Decree No. 92-100 of 30 January 1992 as amended on trademarks and service marks, with the exception of its [Article 48](#);

- Decree No. 92-251 of 17 March 1992 on appeals to the appeals court from decisions by the Director of the National Institute of Industrial Property, with the exception of its **Articles 1, 2 and 11**;
- Decree No. 92-360 of 1 April 1992 concerning qualification and professional organization in relation to industrial property, with the exception of its **Articles 35 to 38**;
- Decree No. 92-792 of 13 August 1992 as amended relating to registered industrial designs;
- Decree No. 93-1105 of 17 September 1993 applying to the profession of industrial property attorney Law No. 90-1258 of 31 December 1990 relating to exercise of liberal professions in the form of companies subject to a statutory or regulatory statute or of which the title is protected;
- Decree No. 93-1126 of 27 September 1993 relating to advertising by joint ventures of industrial property attorneys;
- Decree No. 94-836 of 27 September 1994 on the withholding of infringing goods by the customs administration and the organization of simplified deposit for industrial designs.

Art. 6. The Minister of State, Keeper of the Seals, Minister for Justice, the Minister for Foreign Affairs, the Minister for the Economy, the Minister for Industry, Posts and Telecommunications and Foreign Trade, the Minister for Enterprises and Economic Development, responsible for the small and medium-sized enterprises and for trade and handicrafts, the Minister for Culture and Francophony, the Minister for the Budget, the Minister for Agriculture and Fisheries and the Minister for the Overseas Departments and Territories shall be responsible, each as far as he is concerned, for the implementation of this Decree, which shall be published in the Official Journal of the French Republic.

BOOK I COPYRIGHT

Title I Subject of Copyright

Chapter I Nature of Copyright

Art. R. 111-1. The royalties referred to in **Article L. 111-4 (third paragraph)** of the Intellectual Property Code shall be paid to that one of the following bodies that is competent by reason of its statutory vocation, the nature of the work and the envisaged exploitation mode:

Centre national des lettres;

Société des gens de lettres;

Société des auteurs et compositeurs dramatiques;

Société des auteurs, compositeurs et éditeurs de musique;

Société pour l'administration du droit de reproduction mécanique des auteurs, compositeurs et éditeurs;

Société des auteurs des arts visuels.

If the competent body should not accept to collect the royalties concerned or in the absence of a competent body, the royalties shall be paid to the Deposit and Consignment Office.

Art. R. 111-2. The amount of the monies to be paid by the user of a work shall be determined in accordance with usual practice in each of the categories of creation involved.

The payment of the monies and their use for purposes of general or professional interest shall be subject to controls by the Minister responsible for culture.

Chapter II Protected Works

No regulatory provision.

Chapter III Owners of Copyright

No regulatory provision.

Title II Authors' Rights

Chapter I Moral Rights

No regulatory provision.

Chapter II Economic Rights

Art. R. 122-1. The threshold for the levying of the resale right referred to in **Article L. 122-8** shall be set at a selling price of 100.

Art. R. 122-2. An artist who wishes to enjoy resale right either for the whole of his work or for one or more works, when they are included in a public sale, shall be required to have published in the Official Journal a statement of which the terms shall be laid down by ministerial order.

The artist concerned shall simultaneously address to the Minister responsible for culture a duplicate of his statement.

The statement may be made by the heirs or successors in title of the artist. The statement may mention the marks or particulars of any kind that may facilitate authentication of the artist's works.

Where the object results from the collaboration of more than one artist wishing to enjoy resale right, the statement may be made collectively by those artists or individually by each of them.

Such statement shall include the fact that there is agreement between the collaborators on the distribution of the royalty provided for by this Code and in what proportion they have agreed to proceed therewith.

Art. R 122-3. In the absence of the statement referred to in the preceding Article, the concerned party may enjoy the resale right when a given work is included in a public sale by requesting the public or ministerial officer, at the latest within 24 hours after the sale, to effect the levy referred to in [Article L. 122-8](#).

Where the object has resulted from the collaboration of more than one artist and in the absence of a statement as provided for in the preceding Article, a person or persons who wish to enjoy the resale right may assert that right in accordance with the preceding paragraph.

The notification addressed to the public or ministerial officer shall state whether there is agreement between the collaborators on distribution of the royalty and in what proportion they have agreed to proceed therewith.

Art. R. 122-4. The statements under [Articles R. 122-2](#) and [R. 122-3](#) may include the designation of a representative such as a company or association instructed to represent the interests of the artists, his heirs and cessionaries for the application of the provisions of [Article L. 122-8](#).

Such representative shall take all necessary steps to safeguard the rights of the artist, his heirs and cessionaries.

Art. R. 122-5. As from the inclusion in the Official Journal of the statement under [Article R. 122-2](#) or of receipt of the statement under [Article R. 122-3](#), the public or ministerial officer carrying out the public sale of the work of art that is the subject of such statement shall be required, at his personal liability, to levy on the selling price obtained the amount resulting from application of the tariff determined by [Article L. 122-8](#) and [Article R. 122-1](#).

Art. R. 122-6. Three clear days after a sale that has given rise to a levy, the monies shall be kept by the public or ministerial officer at the disposal of the concerned party. The monies shall be remitted either against proof by the concerned party of his identity or of his capacity to act or by a declaration of the representative and at his liability.

Where the object has resulted from the collaboration of more than one artist, in the absence of an agreement under [Articles R. 122-2](#) and [R. 122-3](#), the amount resulting from application of the tariff determined by [Articles R. 122-8](#) and [R. 122-1](#) shall be held for the benefit of the entitled persons until the issue of distribution has been amicably settled or a decision has been taken under the general rules of law. If, on expiry of the three-month period laid down by [Article R. 122-7](#), the conditions for distribution have not been fixed and notified by the parties concerned to the public or ministerial officer who has made the levy, the amount resulting from that levy shall be paid to the Deposit and Consignment Office for subsequent remittance to the entitled party.

Art. R. 122-7. If the monies have not been handed out after the sale, the public or ministerial officer shall hold the amount during a period of three months.

Before expiry of the first month, the public or ministerial officer shall inform by registered letter the artist, his heirs and cessionaries or his representative that he has made a levy for his benefit in application of [Article L. 122-8](#) and that the amount resulting is being kept at his disposal.

If no reply is received to this notification prior to expiry of the third month, the public or ministerial officer shall be released, after that time limit, from all liability on payment of the levied amount to the vendor.

The amount of the notification cost, which may not exceed one franc, shall be deducted from the amount of the monies paid to the artist or to the vendor.

Art. R. 122-8. The public or ministerial officer who has paid into the hands of the vendor the amount levied and not claimed shall be required, on a simple request by the concerned parties, to communicate the amount of such money and the name, capacity and address of the vendor concerned, against whom those parties shall retain any statutory remedies.

Art. R. 122-9. If the public or ministerial officer who has made the levy prescribed by [Article L. 122-8](#) receives an opposition or a regular defense against payment before any payment is made to the concerned party of the resulting amount, that amount shall be paid, on expiry of the three-month period under [Article R. 122-7](#), to the Deposit and Consignment Office for remittance to the entitled party.

Art. R. 122-10. The public or ministerial officers shall keep a special register for the application of [Article L. 122-8](#). The register, of which the pages shall be numbered and which shall be initialed on the first and last pages, shall include in the order of each public sale a summary description of the work of art, the selling price, the name of the artist for whom the resale royalty has been levied, the name and address of the vendor. The register may be replaced by a receipt register of which one of the slips shall constitute the notification referred to in [Article R. 122-7](#) and of which the stub shall meet the requirements of this Article.

Art. R. 122-11. Artists of foreign nationality, their heirs and cessionaries shall enjoy resale right in the same circumstances and under the same conditions as French artists if their national legislation affords enjoyment of this right to French artists, but only during that time for which the artists are allowed to exercise the right in the country concerned.

However, artists of foreign nationality who, during their artistic career, have participated in French art life and who have had their place of residence in France for at least five years, even if not consecutive, may enjoy, without the requirement of reciprocity, the rights laid down in [Article R. 122-2](#).

The successors in title of such artists shall enjoy the same faculty. The artists concerned or their successors in title shall submit a request to the Minister responsible for culture who shall take a decision after having heard the opinion of a commission of which the composition and conditions of operation shall be laid down by an order issued by the Minister.

Art. R. 122-12. For the purposes of the application of the provisions of [item \(d\) of subparagraph 3 of Article L. 122-5](#), the catalogue of a sale of works of graphic or three-dimensional art means copies of a list, whether illustrated or not, distributed prior to a

sale at public auction, which, in order to inform potential purchasers, describes the works that will be disposed of in the course of the sale, and also the rules for the conduct of the said sale, which copies are made available free of charge or at cost price to all persons requesting them of the public or ministerial officer conducting the sale.

Chapter III Term of Protection

No regulatory provision.

Title III Exploitation of Rights

Chapter I

No regulatory provision.

Chapter II Special Provisions for Certain Contracts

Section 1 Publishing Contracts

No regulatory provision.

Section 2 Performance Contracts

No regulatory provision.

Section 3 Audiovisual Production Contracts

No regulatory provision.

Section 4 Commission Contracts for Advertising

Art. R. 132-1. The Committee referred to in [Article L. 132-32](#) shall meet either in plenary composition or in compositions specialized in one or more advertising modes. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the advertising writers and of representatives of the advertising producers.

Art. R. 132-2. The Committee shall comprise 12 representatives of the organizations representing the advertising writers and 12 representatives of the organizations representing the advertising producers, designated in accordance with the [first paragraph of Article L. 132-33](#).

One alternate shall be designated, in the same manner, for each full representative of the organizations representing the advertising writers and the advertising producers. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Art. R. 132-3. The Chairman and members of the Committee shall be designated for three years. Vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Art. R. 132-4. The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Art. R. 132-5. The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where this quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Art. R. 132-6. The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Art. R. 132-7. The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic at the initiative of the Minister responsible for culture.

Section 5 Pledging the Software Exploitation Right

Art. R. 132-8. Pledges in respect of the software exploitation right shall be entered in the Special National Register of Software kept by the National Institute of Industrial Property.

The entry shall contain for each computer program:

1. the identity of the holder of the right referred to in [Article L. 122-6](#) and of the pledgee, together with any changes concerning the their surnames, forenames, business names, legal form, domicile or headquarters;
2. a statement of the elements enabling the computer program to be identified, such as name, make, designation of the source code, operating documents and updates, together with any other characteristics of the program and, where appropriate, the reference of any deposit;
3. the deed establishing the pledge on all or a part of the software exploitation right;
4. the acts modifying ownership or enjoyment of the exploitation right;
5. the acts modifying the rights of the pledger;
6. court actions and final court decisions where they concern the rights that are the subject matter of the pledge;
7. corrections of material errors affecting the entries.

Art. R. 132-9. The request for entry shall be submitted by one of the parties to the pledge or by a representative having powers of attorney. Unless otherwise provided, such powers shall extend to the requests for entry referred to in [Articles R. 132-10 to R. 132-13](#) and [R. 132-15](#), to the receipt of the notifications referred to in [Article R. 132-14](#) and to the request for cancellation referred to in [Article R. 132-16](#).

Art. R. 132-10. The request for entry of a pledge shall be effected by filing a memorandum whose form shall be determined by decision of the Director General of the National Institute of Industrial Property.

The memorandum shall contain the following particulars:

1. the surnames, forenames, domicile or business names, legal form and headquarters of the creditor and the debtor;
2. the designation of the software by means of its name, mark, with a precise statement of all the elements that identify and characterize it, such as the designation of the source code, the operating documents and the updates together with, where appropriate, any references to a deposit of the software;
3. the nature and date of the deed of pledge;
4. the amount of the debt covered by the deed, its exigibility, the conditions relating to interest and the accessory costs.

This memorandum shall be accompanied by:

- one original of the deed of pledge;
- one reproduction of the above-mentioned deed if the requester wishes the original or the authentic copy to be returned to him;
- proof of payment of the prescribed fee;
- where appropriate, the powers of the representative.

Art. R. 132-11. Any acts modifying or canceling the published rights of the debtor and of the creditor, such as, in particular, transfer, assignment of an exploitation right, transfer of the pledge or renunciation thereof, together with court actions and final court decisions relating to the rights, shall be entered at the request of one of the parties to the act.

The request shall contain:

1. a memorandum requesting entry whose form shall be determined by decision of the Director General of the National Institute of Industrial Property;
2. one of the originals of the private deed or, as appropriate, an authentic copy of the deed or of the act instituting proceedings;
3. a copy of the above-mentioned deed where the requester wishes the original or the authentic copy to be returned to him;
4. proof of payment of the prescribed fee;
5. where appropriate, the powers of the representative.

Art. R. 132-12. Any change in the surnames, forenames or domicile of the natural persons or any change in the business names, legal form or headquarters of the legal persons shall be entered at the request of any person concerned.

The request shall contain:

1. a memorandum requesting entry whose form shall be determined by a decision of the Director General of the National Institute of Industrial Property;
2. any document required to ascertain the changes or modifications in the civil status or domicile of natural persons or the name, legal status and headquarters of legal persons;
3. proof of payment of the prescribed fee;
4. where appropriate, the powers of the representative.

Art. R. 132-13. Requests for correction of material errors in acts already published in the Register may be submitted by any party to the acts concerned in accordance with the procedure under [Article R. 132-12](#). They shall be accompanied by all the necessary documents.

Art. R. 132-14. If a request for entry is not in conformity, a reasoned notification shall be made to the requester. He shall be given a period of two months to regularize his request or to submit observations. Failing regularization or the submission of observations enabling the objection to be lifted, the request shall be rejected by a decision of the Director General of the National Institute of industrial Property.

The notification may be accompanied by a proposal for regularization. In such case, the proposal shall be deemed accepted if the requester does not contest it within the two-month period afforded to him.

Art. R. 132-15. An entry shall cease to have effect if it is not renewed under the procedure set out in [Article R. 132-10](#) prior to expiry of a period of five years computed from the date of entry of the pledge.

Art. R. 132-16. Cancellation of an entry may be requested by the creditor or the debtor by furnishing proof of the extinction of the pledged debt or by producing the act giving release from the entry.

Cancellation may also be effected as a result of a final court decision.

Art. R. 132-17. All entries made in the Special National Register of Software shall be notified in the Official Bulletin of Industrial Property.

Any person concerned may obtain from the Institute:

- (a) a reproduction of the entries in the Register;
- (b) a certificate attesting to the fact that there is no entry.

BOOK II

NEIGHBORING RIGHTS

Sole Title

Chapter I General Provisions

No regulatory provision.

Chapter II Rights of Performers

Art. R. 212-1. The Committee referred to in **Article L. 212-9** shall meet either in plenary composition or in compositions specialized in one or more sectors of activity. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the employees and representatives of the employers.

Art. R. 212-2. The Committee shall comprise 12 representatives of the employees' organizations and 12 representatives of the employers' organizations. The organizations called upon to designate representatives and the number of representatives of each such organization shall be laid down by an order issued by the Minister responsible for culture.

One alternate shall be designated, in the same manner, for each of the full representatives of the employees' and employers' organizations. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Art. R. 212-3. The Chairman and members of the Committee shall be designated for three years. Vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Art. R. 212-4. The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Art. R. 212-5. The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where this quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Art. R. 212-6. The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Art. R. 212-7. The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions on the Committee shall be published in the Official Journal of the French Republic on the initiative of the Minister responsible for culture.

Chapter III Rights of Phonogram Producers

No regulatory provision.

Chapter IV Provisions Common to Performers and Phonogram Producers

Art. R. 214-1. The Committee referred to in [Article L. 214-4](#) shall meet in either plenary composition or in compositions specialized in one or more sectors of activity. Each such composition shall be chaired by the Chairman of the Committee and shall comprise an equal number of representatives of the beneficiaries of the right to remuneration and the representatives of the users of phonograms.

Art. R. 214-2. The Committee shall comprise 12 representatives of the organizations of beneficiaries of the right to remuneration and 12 representatives of the organizations of users of phonograms designated in accordance with the [second paragraph of Article L. 214-4](#).

One alternate shall be designated, in the same manner, for each of the full representatives of the organizations of beneficiaries of the right to remuneration and of the users of phonograms. The alternate members of the Committee shall not attend its sessions and shall not participate in its discussions save for the absence of the full representative for whom they are the alternate.

Art. R. 214-3. The Chairman and members of the Committee shall be designated for three years. Any vacancies occurring during their term of office shall be filled by designation for the remainder of the current term.

Art. R. 214-4. The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocations shall be *ex officio* where requested, with a specific agenda, either by the Minister responsible for culture or by one third of the members of the Committee.

Art. R. 214-5. The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present. Where the quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Art. R. 214-6. The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Art. R. 214-7. The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic on the initiative of the Minister responsible for culture.

Chapter V Rights of Videogram Producers

No regulatory provision.

Chapter VI Rights of Audiovisual Communication Enterprises

No regulatory provision.

**BOOK III
GENERAL PROVISIONS**

**Title I
Remuneration for Private Copying**

Sole Chapter

Art. R. 311-1. The Committee referred to in **Article L. 311-5** shall meet in either plenary composition or in either of two compositions specialized, in the first case, in phonograms, and in the second case, in videograms. Each of these compositions shall be chaired by the Chairman of the Committee and shall comprise, for one half, the representatives of the beneficiaries of the right to remuneration, for one quarter, the representatives of the manufacturers or importers or of persons who effect intracommunity acquisition of mediums and, for one quarter, of representative of the consumers.

Art. R. 311-2. The representative of the State, Chairman of the Committee, shall be appointed by order of the Minister responsible for culture.

The Committee shall further comprise 24 members representing the categories referred to in the **first paragraph of Article L. 311-5** and designated as provided in the second paragraph of the aforementioned Article.

One alternate shall be designated, in the same manner, for each of the full members. The alternate members shall not attend the sessions and shall not participate in the deliberations save in the absence of the full representative for whom they are the alternate.

Art. R. 311-3. The Chairman and the members of the Committee shall be designated for three years. Any vacancies occurring during the term of office shall be filled by designation for the remainder of the current term.

Art. R. 311-4. The Chairman shall convene and set the agenda for the Committee and its specialized compositions.

Convocation shall be *ex officio* where requested, with a specific agenda, by either the Minister responsible for culture or by one third of the members of the Committee.

Art. R. 311-5. The deliberations of the Committee and its specialized compositions shall be valid only if three quarters of the members or their regular alternates are present.

If the quorum is not achieved, the Committee shall be reconvened within eight days; it may then deliberate whatever the number of members present.

Art. R. 311-6. The members of the Committee shall be under an obligation of discretion with regard to the elements, documents and information of which they obtain knowledge.

Art. R. 311-7. The secretariat of the Committee shall be provided by the services of the Minister responsible for culture.

The sessions of the Committee shall not be public. However, the Committee may hear any person as it deems useful.

The Committee shall establish its rules of procedure.

The decisions of the Committee shall be published in the Official Journal of the French Republic at the initiative of the Minister responsible for culture.

Title II

Royalty Collection and Distribution Societies

Chapter I General Provisions

Art. R. 321-1. The file addressed to the Minister responsible for culture pursuant to [Article L. 321-3](#) shall include the draft statutes and general regulations and all documents proving the professional qualifications of the founders, the human, material or financial means that the society intends to use for the effective collection of royalties and for the exploitation of their repertoire.

The file shall be communicated by registered mail with notification of receipt.

Art. R. 321-2. The documents referred to in [Article L. 321-5](#) shall be communicated, on written request, in accordance with the provisions of [Articles 40 to 42](#) of Decree No. 78-704 of July 3, 1978.

Any *de jure* or *de facto* administrator who refuses to communicate all or any of the documents referred to in the preceding paragraph shall be liable to the fine provided for third class offenses.

Art. R. 321-3. The members of the royalty collection and distribution societies may be convened by registered mail or by a notice published in at least two nationally distributed newspapers that are empowered to publish statutory notifications in the department in which the society has its registered offices and which are laid down in their statutes.

In addition to the particulars referred to in the [first paragraph of Article 40](#) of Decree No. 78-704 of July 3, 1978, the notification shall state the date and venue for the meeting of the assemblies; such notification shall be published 15 days at least before the date of the general meeting.

Where the statutes require certain general meetings to be held subject to specific conditions as to quorum or majority, those conditions shall be mentioned in the notification that convenes the meetings.

Art. R. 321-4. The date of the general meeting at which account is given, in accordance with [Article 1856](#) of the Civil Code, on the management of the society shall be laid down in the statutes.

If the general meeting cannot be held as laid down in the statutes, the members must be informed thereof at least 15 days beforehand, either by registered letter with notification of receipt or by a notification of postponement published in the manner laid down in [Article R. 321-3](#). The letter or the notification shall give the reasons for the postponement and the date at which the general meeting will be held.

Art. R. 321-5. Any member may request to be convened individually to general meetings or to certain of them by registered post with notification of receipt.

Where a meeting is convened by notification in the press, the cost of the registered post shall be borne by the party concerned.

Art. R. 321-6. Where a meeting concerns the rendering of accounts, the documents referred to in [Article 41](#) of Decree No. 78-704 of July 3, 1978 referred to above shall be communicated, by derogation from the provisions of the aforementioned Article, to those members only who have so requested in writing; such communication shall be made, in accordance with the conditions set out in the [third paragraph of Article 40](#) of the Decree, 15 days at least prior to the general meeting.

Art. R. 321-7. Users may obtain knowledge of the repertoire referred to in [Article L. 321-7](#) at the headquarters of the society or, where appropriate, at one of its regional agencies. At their request, they may be given a copy of the repertoire without any further claim on them other than an amount representing the cost of the copy.

Chapter II Approved Societies for the Administration of Reprographic Reproduction Rights

Art. R. 322-1. A society governed by [Title II of Book III](#) may be approved under [Article L. 122-10](#) if it satisfies the following conditions:

1. provide evidence of the diversity of the partners with respect to the categories and number of entitled persons, of its economic importance expressed in revenue or turnover and the diversity of editorial types of works. Such diversity should be expressed in the composition of its deliberative and executive organs;
2. provide proof, by any documentary means, of the qualification of its executives and representatives:
 - (a) their capacity as authors;
 - (b) or the type and level of their diplomas;
 - (c) or their professional experience in the field of publication or of the management of professional bodies;
3. provide all information concerning its administrative organization and the conditions of its installation and equipment. This information should concern the collection of data on reprographic practice, the collection of remuneration, the processing of the date required for distribution of the remuneration collected, the finance plan and the budget forecast for the three financial years following the request for approval;
4. provide in its statutes, its general regulations and in the model instruments binding each of the members, rules that guarantee the equitable nature of the conditions laid down for distribution of the remuneration to the authors and publishers.

Art. R. 322-2. The request for approval, accompanied by a file drawn up in accordance with [Article R. 322-1](#), shall be transmitted by registered letter to the Minister responsible for culture who shall issue a receipt. If the file is not complete, the Minister responsible for culture shall request by registered letter a supplementary file to be submitted in the same form within a period of one month as from the receipt of the letter.

Approval shall be given by order of the Minister responsible for culture, published in the Official Journal of the French Republic.

Approval shall be given for five years. It may be renewed subject to the same conditions as the initial approval.

Approval may be withdrawn if a society fails to satisfy one of the conditions laid down in [Article R. 322-1](#) following service of notice or notification of the defects. The holder of approval shall have a one-month period to submit his observations. Withdrawal shall be pronounced by order of the Minister responsible for culture, published in the Official Journal of the French Republic.

Art. R. 322-3. Any change in the statutes or in the general rules, any termination of functions of a member of the executive and deliberative bodies of an approved society shall be communicated to the Minister responsible for culture within a period of 15 days as from the corresponding decision. Failure to make a declaration may lead to withdrawal of approval.

Art. R. 322-4. If, on the date of publication of a work, the author or his successor in title has not designated an approved royalty collection and distribution society, the society that has the largest number of administered works, determined in accordance with relevant professional usage, shall be deemed to represent the reprographic reproduction right.

The Minister responsible for culture shall designate each year one or more societies that fulfill the conditions set out in the preceding paragraph.

Title III

Procedure and Sanctions

Chapter I General Provisions

Art. R. 331-1. The agents designated by the National Center for Cinematography, by the professional bodies of authors and by the societies referred to in [Title II of this Book](#) shall be required, after having been approved by the Minister responsible for culture, to take an oath before the judge of the first instance court of their place of residence. The formulation of the oath shall be as follows: “I swear to carry out my duties correctly and faithfully and to neither reveal nor use anything of which I may obtain knowledge during the exercise of my duties.”

Chapter II Infringement Seizure

No regulatory provision.

Chapter III Seizure Order

No regulatory provision.

Chapter IV Resale Royalty Right

No regulatory provision.

Chapter V Penal Provisions

Art. R. 335-1. The request for withholding of goods by the customs administration referred to in **Article L. 335-10** shall include:

1. the surname and forenames or the company name of the requester, his place of residence or of business;
2. where appropriate, the name and address of a representative and proof of his powers;
3. the capacity of the requester with respect to the rights that he wishes to assert, attested to by any means;
4. all elements that will permit the infringing work or service to be identified;
5. a description of the allegedly infringing goods for which withholding is requested.

The request may be made prior to entry of the allegedly infringing goods onto the French territory. In such case it shall be valid for one year and may be renewed.

The conditions for submitting the request shall be detailed in an order issued by the Minister responsible for the budget.

Art. R. 335-2. Any publication or user's handbook concerning means of removing or circumventing any technical device protecting software, which does not bear a notice in clear characters that the unlawful use of such means is liable to the penalties laid down for cases of infringement shall incur the penalties laid down for offenses of the third class.

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BOOK VIII APPLICATION TO THE OVERSEAS TERRITORIES AND THE TERRITORIAL ENTITY OF MAYOTTE

Sole Title

Sole Chapter

Art. R. 811-1. The provisions of this Code shall apply to the overseas territories with the exception of:

1. **Articles R. 421-1 to R. 421-12, R. 422-1 to R. 422-63, R. 615-1 to R. 615-5;**
2. **Articles R. 512-2, R. 512-3, R. 512-13, R. 512-15, R. 513-1, R. 513-2, R. 612-2, R. 612-38, R. 613-46, R. 613-56, R. 613-58, R. 712-2, R. 712-13, R.**

² See footnote 1 (*Editor's note*).

712-14, R. 712-21, R. 712-24, R. 714-4, R. 714-6 only in so far as they concern industrial property attorneys.

Art. R. 811-2. The provisions of this Code shall apply to the territorial entity of Mayotte.

Art. R. 811-3. For the implementation of this Code and of the provisions it applies to the overseas territories and the territorial entity of Mayotte, the words listed below shall be replaced respectively by the following words:

- “tribunal de grande instance” by “tribunal de première instance”;
- “juge d’instance” by “juge du tribunal de première instance”;
- “région” by “territoire” and, in the case of the territorial entity of Mayotte, by “collectivité territoriale”;
- “cour d’appel” by “tribunal supérieur d’appel” and “commissaire de police” by “officier de police judiciaire” with respect to the territorial entity of Mayotte;
- “tribunal de commerce” by “tribunal de première instance statuant en matière commerciale” with respect to the territorial entity of Mayotte and “tribunal mixte de commerce” with respect to the territories of New Caledonia, French Polynesia and Wallis and Futuna;
- “conseil de prud’hommes” by “tribunal du travail”.