



*Play*Right<sup>®</sup>

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**GENERAL REGULATIONS APPROVED  
BY THE GENERAL ASSEMBLY OF 17 JUNE 2019**

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## TITLE I - GENERAL PROVISIONS

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### SECTION 1. CONDITIONS FOR ADMISSION

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**Article 1 :** Shall be eligible for a shareholding in, or membership of, the society - Any performing artist who is entitled to a statutory remuneration for an artistic performance rendered in the capacity of performing artist of a literary or artistic work susceptible for protection under author's right, of a circus- or variety act or of a folkloristic act.

**Article 2 :** A performing artist is any natural person who performs, sings, recites, declaims, dances, acts or in any other way executes or interprets a literary or artistic work, circus or variety act or a folkloristic act, to the exclusion of any supplementary artists who are recognised as such according to professional customs.

**Article 3 :** The society shall process membership applications within two months following the applicant's duly completed and signed agreement of affiliation and fiduciary assignment.

After examination of the application, the society shall be at liberty to accept, reject or suspend it. Rejections or suspensions shall be confirmed in writing.

### SECTION 2. COMPLAINTS AND DISPUTES

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**Article 4 :** Complaints regarding the distribution of rights shall be made in writing and sent to the registered office of the society within six months of payment. After expiry of this period, complaints can no longer be taken into consideration.

**Article 5 :** In cases of rights disputes among associated and/or affiliated members, the society can suspend payment of the rights, or part thereof, until such time as the associated and/or affiliated members involved have come to an agreement or the matter has been settled by the courts. The associated and/or affiliated members concerned shall be notified in writing of the temporary blocking of the rights.

In that case the society can also take the protective measure to suspend payment of the rights of an associated and/or affiliated member until the associated and/or affiliated member concerned has settled all his debts vis-à-vis the society. Furthermore, the society shall be at liberty to offset the debts of the associated and/or affiliated member concerned against any rights the latter shall be entitled to in the future. The associated and/or affiliated member concerned shall be notified in writing of any such protective and compensatory measures.

**Article 6 :** In the event of dispute between an associated or affiliated member and the society in relation to the merits of the associated or affiliated member's claim to rights for certain performances, the procedure the society has introduced to that purpose, as published on the society's website, shall applied

In such cases the associated or affiliated member concerned can apply for mediation, which application shall be in writing and delivered by registered letter with acknowledgment of receipt. The parties shall then in mutual consultation select a lawyer or an academic specialised in author's rights and neighbouring rights as mediator, or any other person who, considering his professional expertise and the nature of the declarations to be treated, both parties accept as an authority on the matter. If both parties fail to reach agreement on a mediator, two mediators shall be appointed: one by the chairman of the Board of Directors of the society and one by the other party.

## TITLE II - ALLOCATION AND DISTRIBUTION OF RIGHTS

### FIRST CHAPTER: PROVISIONS GOVERNING BOTH THE 'MUSIC' AND THE 'DRAMATIC ARTS AND DANCE' GROUPS

**Article 7 :** The rights collected shall be distributed in accordance with the level of use that is made of the musical or audio-visual repertoire concerned. Only repertoire qualifying for rights under the law shall be taken into consideration for distribution. In the absence of any details about the repertoire that was used, the society shall, for distribution purposes, take into consideration the information that is most relevant to the musical or audio-visual usage in the relevant category.

**Article 8 :** Still subject to the data the society can reasonably have at its disposal, the duration of the performed work and/or a broadcast frequency indicator thereof shall be taken into account for rights distribution purposes. The amount allocated to the use of the work shall subsequently be proportionally distributed on the basis of the number of performing artists who took part in the performance, the role(s) of said performing artists in the performance, always in fairness and, insofar as necessary, with reservation of a share for performing artists in relation to whom information is still lacking.

**Article 9 :** The Board of Directors can propose to the General Assembly, on compelling economic and/or technical grounds which must be conclusively proven and objectively justified, to allocate part of the rights for any given reference year to another year.

**Article 10 :** The net result of the collections executed for each of the rights described in the third chapter of the present title shall be distributed among the eligible associated and affiliated members, according to a distribution calendar to be approved annually by the Board of Directors. The distribution calendar shall be published on the society's website.

Unless otherwise determined by law, and unless objective reasons recognised by law were to render adherence to this final deadline impossible, the rights shall be slated for distribution and paid in full or in part within nine months of the end of the year in which the society collected them, in accordance with the provisions of the third chapter of the present title.

**Article 11 :** Any rights transferred by foreign management companies under the reciprocal agreements concluded with them, shall be distributed among the associated and affiliated members, in accordance with the distribution rules of the foreign management society in question and on the basis of the repertoire declared by the associated and affiliated members at the moment of distribution. The society shall only be obliged to provide data and information pertaining to that particular distribution insofar as the same was effectively received from the foreign management society concerned.

**Article 12 :** Payments are effected in euro only, by bank transfer into the personal account of the associated or affiliated member, with the exception of payments to similar foreign companies on whose behalf the society collects and distributes rights under reciprocal agreements. Payments not exceeding the amount of 200 euro due to associated or affiliated members outside of the IBAN system shall be credited to the account of the associated or affiliated member concerned and carried over to a next payment, unless the associated or affiliated member concerned explicitly insists on immediate payment.

**Article 13 :** Until such time and insofar as objective reasons recognised by law were to render adherence to the term described in article 10 impossible, the rights collected and slated for distribution shall be reserved for the performing artists concerned for a period not exceeding three years. This period shall run from 1 January of the year in which (the first) payments for the year in which the performance of the relevant work generated rights were made until the end of the subsequent second year. Upon expiry of this period, the current distribution shall be deemed concluded, whereupon the subsequent General Assembly shall decide on the appropriation of any remaining funds, in accordance with the relevant statutory provisions.

**Article 14 :** The society is entitled to claim back any rights that were incorrectly paid to an associated or affiliated member or to offset them against any future payments.

Rights recovered via legal proceedings shall be included in the relevant and then current distribution or, if said distribution were already concluded, in the subsequent distribution. They shall be distributed in accordance with the prevailing rules at that particular moment.

**Article 15 :** Lawful payment to the authorised representative of an estate shall release the society from any and all liability vis-à-vis the successors in title to the estate. Lawful payment made in accordance with the relevant statutory provisions into the personal account of a minor shall release the society from any and all liability vis-à-vis the parent(s) or guardian of the minor in question.

## SECOND CHAPTER: DECLARATIONS

**Article 16 :** Every associated and affiliated member is obliged to individually declare all his performances embodied in a sound or audio-visual recording in the prescribed manner, by post or online, no later than 30 June of the year after the year in which the performances were rendered. Complaints about the processing of declarations submitted by post shall be taken into consideration only if these declarations were delivered by registered letter with acknowledgment of receipt.

Incomplete declarations, even when filed within the term determined in article 13 of the present general regulations, cannot generate any rights for the period the payments pertain to.

**Article 17 :** Declarations shall be dated and signed (or validated online) by the associated or affiliated member claiming the rights or the latter's representative (expressly authorised to that effect by the associated or affiliated member in question with a written power of attorney) or, in the case of an underage associated or affiliated member, by the latter's parents or guardian. For collective performances by musicians, singers and conductors of classical music in ensemble, a collective declaration can be submitted by post or e-mail using the appropriate standard form.

**Article 18 :** Performing artists of the group 'Music' shall comply with the declaration requirements for musical performances. If so requested, they shall enclose proof of their participation in a sound recording (e.g. copies of contracts, invoices or payslips) and/or copies of information documents of the recording in question (sleeve- and label info) with their duly completed declaration. As the case may be, they shall also complete a declaration in relation to their performances in audio-visual recordings.

Performing artists of the group 'Dramatic Arts and Dance' shall comply with the declaration requirements for audio-visual performances. If so requested, they shall enclose proof of their participation in an audio-visual recording (e.g. call sheets, copies of contracts, invoices or payslips) and/or copies of information documents of the recording in question (sleeve- and casting info) with their duly completed declaration.

The society is free to collect additional information about the identity of the performing artists whose performances generate rights in any way it sees fit and to fairly reserve, pending their declaration, a share of the rights for them.

## THIRD CHAPTER: SPECIAL PROVISIONS ON RIGHTS COLLECTED BY THE SOCIETY

### SECTION 1. EQUITABLE REMUNERATION

**Article 19 :**

#### § 1. General distribution rules

Distribution is effected on the basis of the monies collected from the debtors of the equitable remuneration: taking into account the playlists and the stations' broadcast frequency indicators, and sales figures, surveys, studies and random samples.

If no playlists, broadcast frequency indicators or sales figures are available, or if the distribution costs – in general or in respect of the performance of a certain work or the performances featuring in a certain broadcast – clearly outweigh the amount of the rights to be distributed; another playlist or other broadcast frequency indicators for repertoires of a similar genre, a similar category of performances and/or a similar period may be resorted to for distribution purposes. Where appropriate, the rights to be distributed for the performance of the work in question or for the performances featuring in the broadcast concerned can be added to the rights to be distributed for the repertoire of a similar genre.

Where necessary, the Board of Directors shall annually set the general distribution rules by analogy, on the basis of a representative sample of broadcasters' playlists and sales figures.

#### 2. Specific distribution rules

##### 1. Equitable remuneration payable by broadcasters

The annual rights collected shall be distributed on the basis of the broadcasters' playlists for the year in question or on the basis of playlists supplied by a specialist body.

If a radio broadcaster operates several stations broadcasting a different programme (regional unbundling), the annual amount of the rights to be distributed for the radio service in question shall be equally divided between the stations in question (provided playlists are available), or on the basis of broadcast frequency indicators insofar as supplied by a specialist body.

##### 2. Equitable remuneration payable by operators of establishments where recordings are played in public

The society shall distribute the annual amount of rights collected per source or sources used (broadcaster, cable, public lending, private copying), according to the statistics compiled on the basis of the data supplied by the debtors, broadcasters' playlists, sales lists, surveys, studies and random samples.

### 3. Flat-rate distribution – non-musical works

Each year, a fixed share of the rights shall be allocated to the performance of non-musical works (e.g. literary works, dramatic works, radio plays ...). This share shall be determined by the Board of Directors and may be amended on an annual basis. The amount available shall be divided between the number of

works that have been declared, and each eligible performing artist shall receive an equal share per work. The performing artist shall demonstrate that his performance is fixed on a commercially published phonogram and demonstrate to a reasonable degree that the phonogram has been broadcast.

## SECTION 2. REMUNERATION FOR PRIVATE COPYING

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### Article 20 :

#### 1. General distribution rules

Distribution is effected on the basis of the monies paid by the management society tasked with the collection of the rights in question: taking into account surveys and studies (if any) on the copying of performances in the music and audio-visual sectors, playlists and broadcast frequency indicators of the broadcasters and sales figures.

If no surveys, studies, playlists, broadcast frequency indicators or sales figures are available, or if the distribution costs, in general or in respect of the performance of a certain work, or the performances featuring in a certain broadcast clearly outweigh the rights to be distributed, another playlist or other broadcast frequency indicators for repertoires of a similar genre: a similar category of performances and/or a similar period may be resorted to for distribution purposes. Where appropriate, the rights to be distributed for the performance of the work in question or for the performances featuring in the broadcast concerned can be added to the rights to be distributed for the repertoire of a similar genre.

Where necessary, the Board of Directors shall annually set the general distribution rules by analogy, on the basis of a representative sample of broadcasters' playlists and sales figures.

#### 2. Specific distribution rules

##### 1. Rights for private copying pertaining to the music sector

The annual amount of rights available shall be subdivided into different categories, depending on the copy source used by users of blank carriers and recording equipment and on the basis of:

- with regard to the copy source "radio's", the playlists and the broadcast frequency indicators of the radio broadcasters.
- with regard to the copy source "pre-recorded carriers", the available sales figures.
- with regard to the copy source "internet", the data derived from studies or surveys on the copying of performances in the music sector or, failing these, the available sales figures.

##### 2. Rights for private copying pertaining to the audio-visual sector

The Board of Directors shall compile a list of the television channels to be taken into consideration and of the minimum number of viewers to be attained per individual audio-visual programme. Such list and such minimum may be amended on an annual basis and shall be published on the society's website. ratings and the duration of each audio-visual programme. The amount of rights available annually is broken down based on the distribution of the rights received for cable retransmission and the communication to the public via direct injection for the same year of collection, in proportion to the market share of the selected channel.

## SECTION 3. REMUNERATION FOR PUBLIC LENDING

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**Article 21 :** Distribution is effected on the basis of the monies paid by the management society tasked with the collection of the rights in question, taking into account the documentation provided by the lending bodies, and, where appropriate, on the

basis of surveys and studies. If such information is unavailable, the monies collected from the lending bodies shall be distributed in accordance with the distribution rules governing the remuneration for private copying (music and audio-visual).

## SECTION 4. REMUNERATION FOR COMMERCIAL RENTALS

**Article 22 :** Distribution is effected on the basis of the monies collected from the commercial rental companies, taking into account the result of surveys and random samples on the basis of information furnished by commercial rental companies. If

such information is unavailable, the monies collected from the commercial rental companies shall be distributed in accordance with the distribution rules governing the remuneration for private copying (music and audio-visual).

## SECTION 5. CABLE RETRANSMISSION

**Article 23 :** The distribution of the rights collected to the cable companies, signal distributors and broadcasters for television channels is based on the distribution lists provided by them, indices of the duration of the programs and the audience rate of the broadcasts for each selected channels. The Board of Directors decides each year on the selection of selected channels.

disproportionate in the light of the rights to be distributed, use is made for the distribution of the distribution lists available to the company or other indices relating to the duration of the programs and the rates of audience, in proportion to the rights collected for these channels.

In the case where there is no playlist with indexes relating to the duration of the programs or audience rates available, or when the distribution fees for a given channel for the performance of a work or the performances recorded in a given program are clearly

The distribution of the rights collected from cable distributors, signal distributors and broadcasting organizations for radio stations shall be based on the special distribution rules set out in this Regulation for the distribution of the rights collected for the equitable remuneration of broadcasters.

## SECTION 6. EXTRA ANNUAL REMUNERATION FOR PERFORMERS OR PERFORMING ARTIST WITH A NON-REGULAR REMUNERATION

**Article 24 :** The allocation of amounts collected from producers of phonograms, is based on information provided by these producers on the income they obtained by the reproduction, distribution and provision of phonograms concerned. In case of such a division seems impossible for objective and justifiable

reasons (for example if the information targeted was not or not in time provided by the producers concerned), these amounts will be distributed according to the valid rules for the distribution of the Remuneration for private copying (music)

## SECTION 7. OTHER RIGHTS

**Article 25 :** Insofar as the society is responsible for the collection and distribution of other exclusive- or remuneration rights of performing artists (under the law, collective agreements or sectoral agreements), the distribution rules applicable to the monies collected on these grounds shall be set by the Board of

Directors per individual right. This may be either by comparison with the distribution rules prevailing in relation to other rights or not. These distribution rules may be amended on an annual basis and shall be published on the society's website.

### FOURTH CHAPTER: DISTRIBUTION RULES FOR THE GROUP 'MUSIC'

**Article 26 :** The distribution of the rights pertaining to performances rendered by performing artists as performer or interpreter of an audio work shall be effected as follows:

– by means of gestures of the simultaneous performance by a group numbering no less than 12 other performing artists, at the moment of the (recording of the) performance.

1. The amount of rights available for the performance of an audio work shall be proportionally divided among the performing artists who rendered performances therein, after addition of the points of all involved and pro rata the following point values per category:

2. A minimum of 30 % shall be reserved for performing artists in the first role category, to be proportionally distributed pro rata of their respective points values.

- FEATURED ARTIST/CONDUCTOR	15 points
NON-FEATURED ARTIST	5 points

A performing artist can feature in one role category only and – save for the provisions below with regard to the second role category – only once in each role category.

”Conductor” shall the performing artist tasked with the coordination – notably in terms of tempo and interpretation

A performing artist in the second role category who has rendered several performances shall be allocated 5 points for each performance in any one of the following 7 different groups: keyboards, string instruments, wind instruments, percussion, melodic percussion, mechanical instruments and vocals, with

a maximum of 3 instruments (i.e. a maximum of 15 points), whereby it is understood that vocals shall be counted as an instrument.

3. The main artists are not taken into account in the distribution of the extra annual remuneration for music performers with a non-regular remuneration, unless they can demonstrate that they have obtained from the producer a non-regular remuneration

for the handover of their rights to their performances integrated in phonograms and, in this case only to the extent that such non-regular remuneration concerning the complete handover of rights to reproduction, distribution and provision of phonograms; if it concerns only a couple of the above forms of exploitation, the amount due to such these artists will be reduced proportionately to the number of forms of exploitation not covered by the non-regular remuneration.

**FIFTH CHAPTER: DISTRIBUTION RULES FOR THE GROUP ‘DRAMATIC ARTS AND DANCE’**

**Article 27 :**

1. Rights in respect of performances embodied in the soundtrack of an audio-visual work are distributed separately. To that effect, a percentage of the rights allocated to the audio-visual work in question shall be reserved. As of the distribution of rights for reference year 2015, a percentage of 20 % shall apply. The Board of Directors determines by type of work a rate between 0 and 25%, in proportion to the effective duration of the music within a work. The 25% rate corresponds to the presence of music throughout the duration of the work.

2. A soundtrack shall be construed as both the music played during the credits (opening and closing credits) and any other music used in an audio-visual work.

3. The amount available for the soundtrack shall be distributed among all the performing artists who took part in its performance, in accordance with the provisions of article 26 of the present general regulations.

**Article 28 :**

1. Notwithstanding the provisions of article 29 of the present general regulations, the balance of the rights for the performance of an audio-visual work following deduction of the share for the soundtrack shall be proportionally divided among the performing artists who rendered non-musical performances therein, after addition of the points of all involved and pro rata the following point values per category:

<b>ROLE A: LEADING ROLE</b>	<b>15 points</b>
<b>ROLE B: SUPPORTING ROLE</b>	<b>10 points</b>
<b>ROLE C: MINOR ROLE</b>	<b>5 points</b>

A role for which a performing artist is credited in the opening credits of an audio-visual work shall, save proof to the contrary, be deemed to be a leading role. All the other role categories shall be determined taking into consideration all the relevant elements that distinguish a role (e.g. screen time, ranking in the closing credits, number of days performed on set, ...).

2. A minimum of 30 % shall be reserved for performing artists in the first role category, to be proportionally distributed pro rata of their respective points values.

A performing artist can feature in one role category only and only once in each role category.

In the case of a series, the number of episodes featuring the performing artist concerned shall also be taken into account.

**Article 29 :**

1. The amount of rights for the performance of an audio-visual work for which performing artists rendered performances as a voice-over for dubbing purposes or in animated movies shall, also following deduction of the share for the soundtrack, be proportionally divided among all the performing artists concerned as follows:

*a. in case of dubbing:*

- 20% of the rights shall be distributed between the performing artists who dubbed the work in question, in accordance with the distribution key applicable to dubbed roles under the provisions of article 28 of the present regulations (but without the performing artists’ names needing to feature in the opening credits of the audio-visual work in question);
- 80% of the rights shall be distributed between the performing artists who appeared on screen, equally in accordance with the provisions of article 28 of the present regulations.

*b. in case of animated movies:*

100 % of the rights shall be equally distributed between the performing artists whose voices feature in the audio-visual work in question.

**Article 30 :** The rights for audio-visual works containing purely or largely musical performances (music shows, concert recordings, opera, music theatre, musicals, ...), shall – where appropriate, upon reservation of 5 % for the music played during the credits (opening and ending credits), distributed proportionally among the performing artists who provided performances, in accordance with the provisions of Article 26 of this Regulation in respect of music performances and in accordance with the provisions of Article 28 as regards non-musical performances.



## TITLE III - FINAL PROVISIONS

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**Article 31 :** The society shall, within the limits of the law, deduct management fees from the rights it collects. It shall also withhold the relevant statutory levies from any rights it distributes.

**Article 32 :** Provisions shall be made per individual source of rights, and, where appropriate, per individual section, so as to allow the society to meet any claims filed by associated or affiliated members and/or to redress material errors. The percentage rates of these provisions shall be determined by the General Assembly and may be amended on an annual basis.

**Article 33 :** The Board of Directors can allocate up to 5 % of the rights the society collects every year to social, cultural and/or educational activities. The rules governing the allocation of funds to these purposes shall also be set by the Board of Directors. The utmost objectivity shall be observed in the allocation of these funds. Eligible actions shall be geared towards performing artists whose performances are recorded. To that effect, the society

can collaborate with partners (natural or legal persons, associations with or without legal personality) on the condition that the latter operate independently, with respect for author's rights and neighbouring rights, and that they are completely apolitical both in terms of structure and orientation.

**Article 34 :** The present general regulations have been drawn up in both the Dutch and the French language. Both texts are equally authoritative. References therein to the masculine gender shall include the feminine gender.

**Article 35 :** Notwithstanding the provisions of article 27 §1, the present general regulations shall come into effect on 1 September 2015. They shall forthwith govern the distribution of rights for any reference year which has not yet been slated for distribution on said date and which, consequently, have not yet formed the object of any distribution, be it partial or otherwise.