

<p>Approved by decision of the Scientific and Technical Council of the State Service of Intellectual Property and Innovation under the Government of the Kyrgyz Republic of July 3, 2014 № 10</p>		<p>Approved by order of the State service of intellectual property and innovation under the Government of the Kyrgyz Republic of July 7, 2014 №107</p>
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Order

on record keeping activity according to the conclusion of license contracts with users for the right of use of objects of copyright and related rights, their registration, the accounting of the used works, collecting, distribution and payment of award

This Order developed in accordance with Law of the Kyrgyz Republic “On Copyright and Related Rights” and with Provision “Настоящий Порядок разработан в соответствии с Законом Кыргызской Республики "Об авторском праве и смежных правах" и Положением "On minimal rates of authors remuneration for use objects of copyright and related rights”, approved by the resolution of the Government of the Kyrgyz Republic of July 22, 2002 № 488.

I. General provisions

1. List of abbreviation

Law - The Law of the Kyrgyz Republic “On Copyrights and Related Rights”;

Provision- Provision on minimal rates of authors remuneration for use objects of copyright and related rights, approved by resolution of the Government of the Kyrgyz republic of July 22, 2002 № 488;

Regulations - The regulations of distribution of award for use of objects of copyright and related rights approved by the order of State service of intellectual

property and innovation under the Government of the Kyrgyz Republic of August 12, 2013 No. 135;

License contract - The license contract with the user for the right of use of object of copyright and related rights (for entertaining institutions, catering establishments, specialized trade enterprises; broadcasting companies, theaters, philharmonic halls, producers of soundtracks; for seasonal catering establishments and entertaining institutions);

Kyrgyzpatent – State service of intellectual property and innovation under the Government of the Kyrgyz Republic;

Department of Copyright and Related rights – The department of copyright and related rights of the State service of intellectual property and innovation under the Government of the KR;

User - any private and legal bodies, using objects of copyright and related rights;

Division of inspection – division of inspection at department of copyright and related rights;

Sector of objects of copyright – sector of objects of copyright of Management author's and related rights;

Division of implementation of intellectual property rights – division of implementation of intellectual property rights of Department of the right;

Division of the right and international treaties – division of the right and international treaties of Department of the right.

II. Record keeping activity on registration licensing contracts

2. Within framework of implementation of activity of the Kyrgyzpatent according of the article 47 of the Law the inspector:

- introduce acquaints the User with the Law "About Copyright and Allied Rights" on what the leaf acquaintance (appendix 1) is formed;

- after five working days from the date of acquaintance, the inspector draws up the statement of use of objects of copyright and allied rights (appendix 2);
- in case of refusal from signing of the act of use of objects of copyright and allied rights, the inspector draws up the statement of refusal of signing of the document (appendix 3);
- sends the letter signed by the supervising head Kyrgyzpatent on need to sign the license contract within five working days from the moment of obtaining the letter;
- in case of refusal the user from the conclusion of the license contract, the inspector according to provisions of the section IV of the real Order prepares materials and reports to department of implementation of intellectual property rights for further consideration in court.

3. Conclusion of the license contract

The license contract is signed by inspectors of department of inspection in duplicate one of which is control.

The license contract signed by the inspector supervising the southern regions with the cover letter is transferred by mail to a human resources department and Kyrgyzpatent's office-works.

On the cover letter Kyrgyzpatent's stamp is put and the entering number and date of receipt is put down. After registration the cover letter and the license contract is transferred to Management author's and allied rights with putting down in "The magazine of registration of license contracts" of the signature accepting and dates of reception.

4. Verification of the contents of the license contract

Verification of the contents of the license contract is carried out:

- manager of department of inspection;
- head of department author's and allied rights;

At verification of the contents of the license contract the following is checked:

- copies of the certificate on compliance of the state registration;
- financial conditions, a procedure of payments and providing documentation where the size, percent or the fixed rate according to Situation makes a reservation;
- legal addresses and details of the parties;
- signatures of the parties.

For legal entities the signature of his head with the indication of a position has to be witnessed by the press.

For natural persons, are specified First name, middle initial, last name, signed the license contract.

In case of identification of shortcomings of registration of the license contract, the last comes back to the inspector to completion.

The control copy of the checked license contract is vided:

- inspector of department;
- manager of department of inspection;
- head of department author's and allied rights;

5. Transfer of the license contract for registration

The department of inspection transfers to registration the license contract (in duplicate) to department of the right and international treaties. The fact of transfer is fixed in "The magazine for license contracts with users" of department of inspection.

6. Reception of the license contract for registration

The employee of department of the right and international treaties adopts from department of inspection the license contract (in duplicate) thus:

- checks existence of the visas specified in point 4 presents of the Order;
- also the signature about receiving in "The magazine for registration of license contracts with users" of department of inspection dates.

The department of the right and international treaties doesn't adopt on registration the license contract in which there are no visas.

In department of the right and international treaties the license contract is fixed in "The magazine for registration of license contracts with users for the right of use of objects of copyright and allied rights".

7. Registration of the license contract

Registration of the license contract is carried out within five working days from the date of its receipt votdet the right and international treaties.

The registration number including is assigned to the license contract:

- type of the contract;
- number;
- year of registration;

For example: A.2020/14, where:

And - the license contract according to copyright,
2020/-registration number of the license contract,
14 - 2014god.

The control copy of the registered license contract is vided by the manager of department of the right and international treaties, the manager of department of implementation of intellectual property rights, the employee of department of the right and international treaties registering the license contract and is signed by the supervising Kyrgyzpatent's head with putting down of the press.

8. Transfer of the registered license contract

The control copy of the registered license contract remains in department of the right and international treaties. The second copy of the license contract is transferred to department of inspection. The fact of transfer is fixed in "The magazine for registration of license contracts with users for the right of use of objects of copyright and allied rights" of department of the right and international treaties.

9. Transfer of the license contract to the user

Transfer of the license contract to the user is carried out by department of inspection of the delivery-acceptance certificate (appendix 5). The copy of the license contract and the delivery-acceptance certificate remains in department.

10. The introduction of the license contract in force

The license contract comes into force from the date specified in the license contract.

III. A record keeping order according to the accounting of the used works, collecting, distribution and payment of award

11. Users provide to inspectors of department of inspection:

- theaters, organizers of concerts, and users of public executions - the program-raportichku and the pay sheet;
- broadcasting companies - the report on the used works and the pay sheet.

12. The inspector supervising the southern regions monthly reports to check to the manager of department of inspection the reporting documentation prepared according to requirements of the real Order.

13. The inspector checks existence in reporting documentation the following data:

In the program-raportichke:

- the name and location of a platform on which execution is carried out;
- name of group of performers;

- First name, middle initial, last name organizer of action;
- date of execution of works;
- execution genre, name of work;
- First name, middle initial, last name and nationality of authors of music and text of work;
- number of executions;
- the signature of the author of the program-raportichki with interpretation First name, middle initial, last name;
- sum of gross collecting;
- royalties rate;
- fee sum.

In the pay sheet:

- the period for which the pay sheet is submitted;
- name of the organization of payment;
- place and date place and date of action (concert, performance, etc.);
- sum of gross collecting;
- charge percent;
- royalties sum;
- First name, middle initial, last name author;
- the signature of the head and accountant of a scenic platform (organizer of action) with interpretation First name, middle initial, last name;
- payer's press;
- First name, middle initial, last name inspectors;

- date of drawing up the pay sheet.

The report of broadcasting companies consists of the pay sheet and the report on the used works.

In the pay sheet with the payer it is filled:

- the period for which the report is submitted;
- name and bank details of the payer;
- term of payment of the present pay sheet;
- the sum which is subject to payment.

In the report on the used works by the payer it is filled:

- the name of the used pieces of music;
- First name, middle initial, last name authors;
- First name, middle initial, last name performer (or name of creative collective);
- number of executions for the reporting period;
- signatures of the head and the accountant with interpretation First name, middle initial, last name;
- press of the organization of the payer.

The format of the electronic document has to be compatible to the Microsoft Word 2007, Microsoft Office Excel 2007 format.

14. Filling of reporting documentation with Kyrgyzpatent

The inspector fills in the columns which are taken away for Kyrgyzpatent and according to requirements of Regulations puts down in programs-raportichkakh of concert and spectacular actions - shares to each author.

15. Search in databases

For check of reliability or specification of data on the used works and their authors by employees of sector of objects of copyright search in "Databases of authors and works" is run.

16. Checking of information mentioned in report documentation

At refuse of giving reports or in need of check of reliability of the data specified in reports the used works the inspector carries out the following:

- record of concert and spectacular action on audio-video the equipment with further record on CD,DVD a disk;
- verification of the data specified in the program-raportichke with the actual execution of works on concert and spectacular action.

17. Transfer of reporting documentation

Correctness of filling of the report and reliability of the data specified in it is confirmed and vided:

- inspector;
- manager of department of inspection;
- manager of sector of objects of copyright;
- head of department author's and allied rights;
- employee of department of accounting.

The inspector of department of inspection monthly transfers the vided programs-raportichki and pay sheets of concert and spectacular actions, for distribution and charge of award to department of accounting, and also makes and transfers the summary report on the supervised objects to department of accounting.

The summary report is vided:

- inspector;
- manager of department of inspection;

- employee of department of accounting;
- chief accountant.

The report of broadcasting companies on the used works is transferred to sector of objects of copyright for drawing up annual summary reports.

18. Distribution, charge and payment of award

Department of accounting:

- accepts the programs-reports and pay sheets of theaters, philharmonic halls of concert and spectacular actions of department of inspection vided according to point 17 of the real Order;
- accepts the annual summary reports of broadcasting companies processed by sector of objects of copyright;
- distributes and charges award according to requirements of Regulations;
- pays and distributes the collected sums of award.

19. Payment of award to foreign and national authors is made once a year.

By authors request division of accounting give information on use of works.

IV. Materials need to filing the claim in judicial authorities

21. In case of refuse of conclusion of license contract division of inspectors prepare and transfer to division of implementation of the rights of intellectual property the following materials necessary for giving about compulsion to conclude in court of the statement of claim the license contract for the right of use of objects of copyright and allied rights:

- the leaf of acquaintance with the current legislation in the field of intellectual property signed by the user;
- properly the issued act of use of objects of copyright and allied rights;

- properly the issued act of control record of use of objects of copyright and allied rights (appendix 4);
- in case of refusal the user from the signature of the act of use of objects of copyright and allied rights, the act of refusal of the signature properly issued;
- copies of the letters sent the user by the mail notification with the offer to sign the license contract with the indication of term;
- copies of certificates on the state registration of legal entity or about the state registration of the individual entrepreneur;
- the legal address, bank details (for legal entities);
- draft of the License contract (appendix 7).
- in case of possibility of submission of video, audio record of the appropriate quality confirming uses of objects of copyright and allied rights on the material carrier (a CD disk or etc.);

22. In case of non-execution by the user of conditions of the license contract the department of inspection prepares and transfers to department of implementation of intellectual property rights the following materials necessary for giving in court of the statement of claim about collecting award for use of objects of copyright and allied rights:

- copy of the license contract;
- copies of the letters sent the user by the mail notification on the offer of voluntary execution of terms of the contract on payment of award;
- calculation of the main debt and penalty fee;
- copies of certificates on the state registration of legal entity or about the state registration of the individual entrepreneur;
- the legal address, bank details (for legal entities);

- the act or other documents confirming refusal of payment of award or not execution of other points of the license contract.