

Non-official Translation

Draft Law regarding the Deutsche Nationalbibliothek (DNBG)

The German Bundestag has adopted the following Law:

§ 1

Legal status, seat

- (1) The Deutsche Nationalbibliothek ("the Library") is the central archival library and national bibliographic centre for the Federal Republic of Germany.
- (2) The Library shall be a directly administered federal institution under public law having legal capacity and made up of the Deutsche Bücherei in Leipzig, the Deutsche Bibliothek in Frankfurt am Main and the Deutsches Musikarchiv. It shall have its seat in Frankfurt am Main.

§ 2

Functions, powers

The function of the Library shall be

1. to collect in the original, to inventory, to catalogue and bibliographically index, to permanently safeguard and to prepare for use by the general public
 - a) media works published in Germany from 1913 on and
 - b) German-language media works, translations of German-language media works into other languages and foreign-language media works about Germany published abroad from 1913 on

and to provide central library and national bibliographic services,

2. to administer the Deutsches Exilarchiv 1933 – 1945, the Anne-Frank-Shoah-Bibliothek and the Deutsches Buch- und Schriftmuseum,
3. to co-operate with specialist institutions in Germany and abroad and to collaborate in national and international specialist organisations.

§ 3

Media works

- (1) Media works shall be defined as all representations in text, image and sound that are distributed in material form or made accessible to the public in immaterial form.
- (2) Media works in material form shall be defined as all representations on paper, electronic data storage media and other media.
- (3) Media works in immaterial form shall be defined as all representations in public networks.
- (4) Cinematic works in which music is not to the fore and works exclusively transmitted by broadcasting services shall not be subject to the provisions of this Law.

§ 4

Statutes, use, mandatory fees

- (1) The Library shall draw up its own Statutes, which shall be adopted by the Administrative Council by a majority of three quarters of its members. The Statutes shall require the approval of the supreme federal authority responsible for culture and the media and shall be published in the *Bundesanzeiger (Federal Gazette)*.
- (2) The holdings of the Library shall be available to the general public in accordance with its Regulations for Users, which shall be adopted by the Administrative Council.

- (3) As a matter of principle, mandatory fees shall be charged for the use of the holdings and the Library's services. Details shall be regulated by a Schedule of Fees, which shall be adopted by the Administrative Council. The Schedule of Fees shall require the approval of the supreme federal authority responsible for culture and the media.

§ 5

Organs

The organs of the Library shall be

1. the Administrative Council,
2. the Director General,
3. the Advisory Committees.

§ 6

Administrative Council

- (1) The Administrative Council shall have 13 members. They shall be appointed in accordance with indents 1 to 4 below.
1. The German Bundestag shall delegate two persons;
 2. the German Federal Government shall delegate three persons, at least two of them from the supreme federal authority responsible for culture and the media;
 3. the Börsenverein des Deutschen Buchhandels (German Publishers and Booksellers Association) shall delegate three persons; and
 4. the Deutsche Forschungsgemeinschaft (German Research Foundation), the Deutscher Musikverlegerverband (German Music Publishers' Association), the Bundesverband der Phonographischen Wirtschaft (German Phonographic

Industry Association), the City of Frankfurt am Main and the City of Leipzig shall each delegate one person.

One substitute should be appointed for each member.

- (2) The chair shall be held by a member delegated by the German Federal Government who is in the service of the supreme federal authority responsible for culture and the media.
- (3) The Administrative Council shall be quorate when more than seven members are present. It shall take decisions by a simple majority vote, provided this Law stipulates no other requirements. Where there is tied vote, the Chairperson shall have the casting vote.
- (4) The Administrative Council shall decide on all matters that are of fundamental or significant economic importance to the Library and its development. In particular, it shall determine the budget, discharge the Director General of her or his responsibilities following the conclusion of the audit of the Library's accounts and comment on planned ordinances of the kind provided for by § 20. It shall monitor the performance of the Library's functions. In a given instance, the Administrative Council may transfer powers over matters specified in the first sentence of this paragraph to the Director General of the Library.
- (5) Details shall be regulated by the Statutes.
- (6) The Chairperson of the Administrative Council shall be the Library's "Oberste Dienstbehörde" (supreme administrative authority). She or he may transfer individual powers she or he holds by virtue of this position to the Director General of the Library.

§ 7

Director General

- (1) The Director General shall conduct the business of the Library. She or he shall decide on all matters relating to the Library, provided they are not the responsibility of the

Administrative Council or its Chairperson in her or his capacity as the Library's supreme administrative authority.

- (2) The Director General shall represent the Library in and out of court. She or he shall be the superior and superior with authority over personnel matters of the staff of the Library.

§ 8

Advisory Committees

- (1) The Advisory Committee shall advise the Administrative Council and the Director General on all matters affecting the Library. They shall be advised by the Advisory Committee for the Deutsches Musikarchiv on particular matters relating to the Deutsches Musikarchiv.
- (2) The Administrative Council shall nominate up to twelve experts as members of the Advisory Committee; half of the members of the Advisory Committee shall be appointed at the proposal of the Börsenverein des Deutschen Buchhandels. The Chairperson of the Advisory Committee for the Deutsches Musikarchiv shall also belong to the Advisory Committee.
- (3) The Administrative Council shall nominate up to twelve experts as members of the Advisory Committee for the Deutsches Musikarchiv; one quarter of the members of the Advisory Committee shall be nominated at the proposal of the Deutscher Musikverlegerverband and one quarter at the proposal of the Bundesverband der Phonographischen Wirtschaft. The Chairperson of the Advisory Committee shall also belong to the Advisory Committee for the Deutsches Musikarchiv.
- (4) Details shall be regulated by the Statutes.

§ 9

Supervision over the legality of administrative actions

The supreme federal authority responsible for culture and the media shall exercise supervision over the legality of the Library's administrative actions.

§ 10

Civil servants

- (1) The Library shall possess the right to have public officials as provided for by § 121 of the Federal Civil Service Framework Law.
- (2) The Director General and her or his permanent representatives in Leipzig and Frankfurt am Main shall be appointed by the German Federal President at the proposal of the Administrative Council. This proposal shall require a majority of two thirds of the members of the Administrative Council.
- (3) The Chairperson of the Administrative Council shall appoint other civil servants, provided this power is not transferred to the Director General by the Statutes.

§ 11

Employees

The collective agreements and other provisions valid in each case for employees of the German Federation shall be applicable to the employment of salaried employees and wage earners. In case of insolvency, the German Federation shall make payments to them at the same level as the insolvency benefit to which they would be entitled.

§ 12

Housing support

The regulations of the German Federation on matters relating to building, housing and rental accommodation shall apply for the Library and its staff.

§ 13**Budget, audit of accounts**

- (1) The provisions valid for the German Federation shall find application to the Library's budgeting, cash management and accounting systems and the presentation and auditing of its accounts.
- (2) A majority of two thirds of the members of the Administrative Council shall be required for resolutions on the determination of the budget and the discharge of the Director General from her or his responsibilities following the completion of the audit of the Library's accounts. Decisions on budgetary matters shall require the approval of the representatives of the German Federal Government, while their votes on these matters may only be cast unanimously.
- (3) The budget shall require the approval of the supreme federal authority responsible for culture and the media.
- (4) The Library's budgetary funds shall be made available by the German Federation in compliance with the German Federal Budget.

§ 14**Mandatory deposit requirement**

- (1) Depositors shall deposit two copies of media works in material form of the kind specified in § 2(1)(a) in accordance with the first sentence of § 16. Depositors shall deposit single copies of pieces of sheet music that are only loaned or hired out (hire or loan materials) in accordance with the first sentence of § 16.
- (2) Depositors shall deposit single copies of media works of the kind specified in § 2(1)(b) in accordance with the first sentence of § 16, should any holder of the original right of distribution have their legal domicile, any business premises or their principle residence in Germany.
- (3) Depositors shall deposit single copies of media works in immaterial form of the kind

specified in § 2(1)(a) in accordance with the first sentence of § 16.

- (4) Should the mandatory deposit requirement not be fulfilled within one week from the date on which distribution began or the media work was made accessible to the public, the Library shall, after a warning has been issued and a further three weeks have passed fruitlessly, be entitled to acquire the media works through other channels at the expense of the depositors.

§ 15

Depositors

Any party that is entitled to distribute or make publicly accessible a media work and has their legal domicile, any business premises or their principle residence in Germany shall be subject to the mandatory deposit requirement.

§ 16

Deposit procedure

Depositors shall deposit media works, which shall be complete and in perfect condition, without time restrictions on their use and in a suitable condition for permanent archiving by the Library, with the Library or the body specified by the Library free of charge and at the depositors' expense within one week from the date on which distribution began or the work was made accessible to the public. Media works in immaterial form may also be made available for retrieval in accordance with the instructions issued by the Library.

§ 17

Duty to provide information

When media works are deposited, depositors shall, on request, supply the Library with the information necessary for the performance of the Library's functions free of charge. Should they fail to comply with this duty, the Library shall, following the passage of one month from the date on which distribution began or the media work was made accessible to the public,

be entitled to acquire this information through other channels at the expense of the parties required to provide information.

§ 18

Subsidies

On application, the Library shall grant depositors a subsidy towards the production costs of the copies of media works in material form that are to be deposited, should delivery free of charge represent an unacceptable burden. Details shall be regulated by an ordinance.

§ 19

Provisions on administrative fines

- (1) An administrative offence shall be committed by any party that,
 1. contrary to § 14(1), (2) or (3), fails to deposit a media work or fails to deposit it correctly, completely, in the prescribed fashion or promptly or,
 2. contrary to § 17(1), fails to provide information or fails to provide it correctly, in full or promptly.
- (2) An administrative offence shall be committed by any party that, as a commercially active depositor, negligently commits an act specified in paragraph 1.
- (3) Any such administrative offence may be punished with a fine of up to 10,000 euros.
- (4) The Library shall be the administrative authority in the sense of § 36(1)(1) of the Law on Administrative Offences.

§ 20

Delegated legislation

For the orderly implementation of the mandatory deposit requirement and in order to prevent unjustifiable expense on the part of the Library and avoid inequities, the member of the German Federal Government responsible for culture and the media shall be authorised to regulate the following matters through ordinances:

1. the restriction of the mandatory deposit requirement for, or duty to collect, particular genres of media works, should there be no public interest in their collection, inventory, cataloguing, safeguarding and preparation for use,
2. the characteristics of the media works subject to the mandatory deposit requirement and deposit in cases in which a media work is distributed or made publicly accessible in various editions or versions,
3. the procedure for the deposit of media works and
4. the preconditions and procedure for the granting of subsidies.

§ 21

Regulations under Land law

Regulations under Land law on the deposit of media works shall remain unaffected.

§ 22

Entry into force, expiry

This Law shall enter into force on the day following its promulgation. The Law regarding the Deutsche Bibliothek of 31 March 1969 (*BGBI. I* p. 265), most recently amended by Article 73 of the Ordinance of 29 October 2001 (*BGBI. I* pp. 2785, 2800), shall expire concurrently.