

**Japan Academic Association for Copyright Clearance
Royalty Fee Rules**

CHAPTER I GENERAL PROVISIONS

1. Purpose

The purposes of these Rules are to stipulate the scope of use and royalty fees for the domestic works managed by the Japan Academic Association for Copyright Clearance (hereinafter referred to as JAACC) and the works managed by an overseas organization.

2. Definition

The following terms shall have the following meanings when used in these Rules.

- 1) "Copying" shall mean reprographic reproduction of works in the form of paper or film.
- 2) "Transfer" shall mean offering of copied materials to the public.
- 3) "Transmission" shall mean a public transmission of works by a facsimile machine pertaining to "copying."
- 4) "Digitization for the purpose of copying" shall mean the creation of files of works by image input and the storage of such files in a computer for the purpose of copy uses of the works.
- 5) "Reprographic rights, etc." shall mean the rights pertaining to "copying," "transfer," "transmission," and "digitization for the purpose of copying."
- 6) "Consignment" shall mean the consignment of exercise of "reprographic rights, etc."
- 7) "A small part of a publication" shall mean either 30% or 60 pages of the entire publication, whichever lesser. "A small number of sets" shall mean 20 sets or less.

3. Conclusion of agreement

With respect to the domestic works whose reprographic rights, etc. (in part or in whole and likewise hereinafter) are consigned to JAACC and the works managed by an overseas organization, those who intend to use the works involving copying (hereinafter referred to as "copy use") shall conclude a license agreement of which types and formulas are prescribed hereunder concerning the copy use with JAACC, unless otherwise stipulated in the Copyright Law.

4. Classification

With respect to the works whose reprographic rights, etc. are consigned to JAACC, the royalty fees shall be determined in accordance with the following classification:

- 1) Copying of the domestic works (CHAPTER II)
 - (1) Copying of the works not for the purpose of distribution (offering to a third party) of the copied works (CHAPTER II, 1)

- (a) Copying of a small part of a publication and a small number of sets
 - (b) Other copying [copying exceeding the scope of (a)]
- (2) Copying of the works for the purpose of distribution (offering to a third party) of the copied works (CHAPTER II, 2)
- (3) Digitization of the works for the purpose of copying and the use of digitized works (CHAPTER II, 3)
- 2) Copying of the works managed by an overseas organization (CHAPTER III)
 - (1) Copying of the works for the purpose of distribution (offering to a third party) of the copied works (CHAPTER III, 1)
 - (a) Copying under the types of agreement of an individual license and an individual license for a given period (Transactional Reporting Service/TRS)
 - (2) Copying of the works not for the purpose of distribution (offering to a third party) of the copied works (CHAPTER III, 2)
 - (a) Copying under the type of survey/annual authorizations service (AAS)

5 Methods of determining royalty fee based on survey

- 1) Method of determining the royalty fee by business category by conducting survey [applying to CHAPTER II, 2. 1] (3) and CHAPTER III, 2.1] (3) (a)]
 - (1) A survey on the number of pages copied will be conducted for five weeks for each user. Based on the results, the number of pages copied (A) will be aggregated within a business category to which a user belongs. The aggregated number will be multiplied by 10 (50 weeks = 1 year) to compute the total annual number of pages copied (ΣA) by each business category.
 - (2) In parallel with the survey on the number of pages copied, a survey on the number of copying persons will be also conducted for each user. The number of copying persons submitted by each user (B) will be aggregated to compute the total number of copying persons (ΣB) in each business category.
 - (3) The total annual number of pages copied in each business category divided by the total number of copying persons in each business category ($\Sigma A / \Sigma B$) will be the annual average number of pages copied per person in each business category.
 - (4) The annual average number of pages copied per person in each business category will be multiplied by the unit price per page of a work to determine the annual royalty fee per copying person of each business category (C), which will be notified to a user.
 - (5) The annual royalty fee of a user shall be the amount of the annual royalty fee per copying person in a business category to which the user belongs (C) multiplied by the number of copying persons at the user (B).

2) Method of determining the user-specific royalty fees by conducting survey [applying to CHAPTER III, 2. 1] (3) (b)]

- (1) In the case where the annual royalty fee per copying person per business category is difficult to determine, the number of pages copied by a user that was obtained by a five-week survey will be multiplied by 10, by which the unit price per page of a work will be multiplied. The amount obtained by this computation will be the annual royalty fee of the user.
- (2) In the case of determining the royalty fees for the second year of the agreement, the computed value based on the result of the survey of the first year and the computed value for the second year will be averaged, which will be invoiced as the annual royalty fee for the said year. The same computation will be applied for the following year thereafter.

The value will be computed as follows.

- (a) In the case of conducting a survey: The number of pages copied that was obtained from a five-week survey will be multiplied by 10, on which the unit price per page of a work will be further multiplied. The value thereof shall be the royalty fee.
- (b) In the case of not conducting a survey: Out of the data obtained from a survey of the previous year, the number of pages copied corresponding to a consigned work for that year will be multiplied by 10, on which the unit price per page of the work will be further multiplied. The value thereof shall be the royalty fee.

3) Basics of copy survey [applying to CHAPTER II, 2. 1) (3) and CHAPTER III, 2. 1) (3) (a) and (b)]

- (1) A user must cooperate with JAACC for a copy survey (hereinafter referred to as the "survey") to be conducted by JAACC.
- (2) The target of the survey shall be on the number of pages copied and on the number of copying persons.
- (3) The period of the survey shall be five weeks.
- (4) The survey shall be conducted once every two years in principle.
- (5) JAACC, after requesting a user to conduct the survey, may inspect the survey conditions on site, if necessary, so that the survey will be conducted accurately.

CHAPTER II COPYING OF DOMESTIC WORKS

(The “works” referred to in this CHAPTER shall be the domestic works whose rights are consigned to JAACC.).

1. Copying of works not for the purpose of distribution (offering to a third party) of the copied works

1) Copying of a small portion of a publication and a small number of sets

(1) Types of agreement

A user shall conclude any one of the following types of license agreement:

- (a) Individual license agreement: A type in which a user obtains a license from JAACC each time copying of a work (or works) is made and pays the royalty fee thereof.
- (b) Blanket license agreement: A type in which copying for a certain period of time is licensed comprehensively. There are two formulas as follows:
 - (i) Actual amount formula: Formula in which the royalty fee for a certain period will be computed and paid based on the survey on the copy use during the said period;
 - (ii) Fixed amount survey formula: Formula in which royalty fee will be computed and paid based on the survey conducted in advance to estimate the quantity of copies of a work (or works) during a certain period .

(2) Royalty fee

(a) Individual license agreement

Royalty fee = 2 yen times the number of pages of a work (or works) to be copied times the number of sets to be copied

(b) Blanket license agreement

- (i) Actual amount formula: Royalty fee for the agreement term = 2 yen times the quantity of copies during the term
- (ii) Fixed amount by survey formula: royalty fee for the agreement term = 2 yen times the estimated quantity of copies during the term

However, in the case of copying required for facsimile transmission and facsimile transmission only in both (a) and (b) above, 10 yen instead of 2 yen shall be applied.

2) Other copying [copying exceeding the scope of CHAPTER I, 2. 7]]

(1) Types of agreement

A user shall conclude either an individual license agreement or a blanket license agreement stipulated in 1) (1) of the foregoing Paragraph.

(2) Royalty fee

The royalty fees regarding an individual license agreement or a blanket license agreement stipulated in 1) (2) of the foregoing Paragraph shall be applied by changing the unit price to 10 yen from 2 yen.

2. Copying of works for the purpose of distribution (offering to a third party) of the copied works

1) Types of agreement

Those who intend to copy the domestic works managed by JAACC for the purpose of distribution (offering to a third party) of the copied works shall conclude any of the following three types of license agreements:

(1) Individual application type: A type in which a license agreement is concluded under the conditions that the royalty fee will be paid based on individual application by specifying a work (or works) for copy use.

(2) Fixed period lump sum type: A type in which a license agreement is concluded based on a user's advance application reflecting a summarized utilization plan for not more than three months of which the actual result of copy use will be reported by the user and the royalty fee thereof will be paid.

(3) Blanket type by business category: A type of license granted to specially permit distribution (offering to a third party) under the conditions that the annual royalty fee will be paid by business category [the method stipulated in CHAPTER I, 5. 1]]

2) Scope of license

(1) The scope JAACC grants a license to a user shall be in principle the copying of 60 pages or less and 100 sets or less of a work.

(2) Transmission of a work pertaining to copying of (1) above.

3) Royalty fees and its computation policy

(1) The royalty fee under a license agreement shall be 10 yen per copy per page of a work. This amount shall include the royalty fee for the reprographic right of the work and the right to distribute (offering to a third party) the copied works (transfer right).

(2) In the case of 1) (3) of this Section [CHAPTER II, 2], the royalty fee shall be determined by using the unit price of 10 yen per page of a work based on the method stipulated in CHAPTER I, 5. 1).

4) Labeling obligation in the case of distribution

- (1) A user shall include a copyright notice in the copied works to be distributed (offering of a third party) and specify that a secondary copying, etc. will not be permitted without a license.
- (2) The above statement shall be included in the copied materials for either gratuitous or onerous distribution (offering to a third party).

3. Digitization of works for the purpose of copying and its use

1) The scope of use

The scope of use to be granted to a user shall be as follows:

- (1) Creating a file by image input of a work (hereinafter referred to as the “image file”) and storing it in a user’s computer.
- (2) Preparing retrieval information necessary for the creating of copied materials and storing it in a computer.
- (3) Viewing the image file and creating the copied materials by a person belonging to a user within a premise of the user.
- (4) Transferring the copied materials created pursuant to (3) above to the public. However, the quantity of the copied materials to be transferred shall be kept to a minimum, and a copyright notice shall be included in the copied materials to be offered and it is necessary to specify thereon that a secondary copying, etc. will not be permitted without a license.
- (5) Transmitting a work pertaining to copying mentioned in (3) above.

2) Types of agreement

Those who intend to digitize the limited domestic works managed by JAACC for the purpose of copying and using the same shall conclude a license agreement stipulated in this Section [CHAPTER II, 3] with JAACC.

3) Prohibited actions

The scope of use stipulated in 1) of this Section [CHAPTER II, 3] shall not include the following action:

- (1) Modification of a work;
- (2) The use of the image file for purposes other than 1) (3) of this Section [CHAPTER II, 3];
- (3) Transfer or loan of the image file to a third party.

4) Royalty fee

The copyright royalty fees shall be as follows.

(1) Digitization fee: A royalty fee pertaining to 1) (1) of this Section [CHAPTER II, 3] shall be 30 yen per page of a work.

(2) Copying fee: A royalty fee pertaining to 1) (3) – (5) of this Section [CHAPTER II, 3] shall be 10 yen per copy per page of a work.

Of the use of 1) (3) of this Section [CHAPTER II, 3], however, the royalty fee shall not be required in the case of viewing the image file only.

5) Payment of the royalty fee

A user shall, based on the license agreement, report the actual quantity the user has copied for a work to JAACC on each closing date, and pay the royalty fee stipulated in 4) of this Section [CHAPTER II, 3].

CHAPTER III COPYING OF WORKS MANAGED BY OVERSEAS ORGANIZATIONS

(The “works” referred to in this CHAPTER shall be the works managed by an overseas organization whose rights are consigned to JAACC).

1. Copying of works for the purpose of distribution (offering to a third party) of the copied works

1) Copying under the type of agreement of an individual license and the type of an individual license for a given period (Transactional Reporting Service/TRS)

(1) Types of agreement

(a) Individual license type: A type of license granted based on individual application by specifying a work (or works) for the copy use.

(b) Individual license for a given period of time (Transactional Reporting Service/TRS): A type of license granted based on the user’s report notifying the title(s) of work(s) copied and the quantity of copies every three months with a limited agreement term of less than one year.

(2) Scope of license

The scope of license shall include the following uses. In principle, the copy use shall be a small part of a work and a small number of sets, and within the scope deemed necessary. The use of the copied materials shall be limited in Japan.

(a) Copying of a work (or works) or the reproduced works on paper, film, etc.

(b) Distribution (offering to a third party) of copied materials of (a) above.

(c) Transmission of a work (or works) pertaining to copying of (a) above.

(3) Royalty fee

(a) The royalty fees shall be 80 yen per page and per set of a work.

However, among the works managed by an overseas organization, the

royalty fee of those designated by a consigner shall be the amount determined by the consigner.

- (b) A user shall, based on a license agreement, report the actual quantity the user has copied for a work (or works) to JAACC on each closing date, and pay the royalty fee stipulated in (3) (a) of this Section [CHAPTER III, 1].

(4) Labeling obligation in the case of distribution (offering to a third party)

A user shall include a copyright notice in the copied materials to be offered to a third party and specify that a secondary copying, etc. will not be permitted without a license.

However, if all of the following three conditions are met, the use for the purpose of the distribution (offering to a third party) may be included in the scope of copying license through the annual authorizations service (AAS).

- (a) No consideration is required in exchange for the distribution
- (b) Copying of a small part of a work and a small number of sets
- (c) Distribution shall not be made on a continuous and repetitive basis

2. Copying of works not for the purpose of distribution (offering to a third party) of the copied works

1) Copying under a survey/annual license type agreement (Annual Authorizations Service/AAS)

(1) Type of agreement

A type in which a license is granted under the conditions that the annual royalty fee for copying computed beforehand by the method stipulated in 1) (3) of this Section [CHAPTER III, 2] will be paid.

(2) Scope of license

The scope of license shall include the following uses and shall not include the use for the purpose of distribution (offering to a third party). In principle, the copy use shall be a small part of a work (or works) and a small number of sets.

- (a) Copying of a work or the reproduced materials of the work on paper and film, etc.
- (b) Transmission of a work required for copying of (a).

(3) Royalty fee and its computation policy

The annual royalty fee charged for copy use under this type of agreement shall be determined in accordance with the following methods:

- (a) Method of determining the royalty fee based on a survey to be conducted

by business category

- (i) In accordance with the unit price of 50 yen per page, the annual royalty fee will be determined based on the number of pages copied and the number of copying persons obtained from the survey conducted pursuant to the method of determining the royalty fee through a survey in each business category under CHAPTER I, 5. 1).
- (ii) In the case of concluding a license agreement which includes outside distribution stipulated in the proviso of 1) of the foregoing Section [CHAPTER III, 1], the annual royalty fee will be computed by multiplying the unit price of 80 yen per page of a work.

(b) Method of determining the royalty fee based on a user survey

- (i) In the case where the annual royalty fee per copying person in each business category is difficult to determine, the number of pages copied that was obtained by a five-week survey conducted pursuant to CHAPTER I, 5. 2) will be multiplied by 10 and further by the unit price of 50 yen to determine the annual royalty fee.

(4) Payment of the royalty fee

- (a) After a user's annual royalty fee is computed pursuant to 1) (3) of this Section [CHAPTER III, 2], JAACC shall invoice such annual royalty fee to the user. The user shall pay the said royalty fee within two months from the date of receipt of the invoice.

Supplementary Provision

This Royalty Fee Rules shall become effective on August 18, 2009.