
STATUTORY INSTRUMENTS

2003 No. 2498

The Copyright and Related Rights Regulations 2003

PART 3

SAVINGS AND TRANSITIONAL PROVISIONS

General provisions

Introductory

30.—(1) In this Part—

“commencement” means the date upon which these regulations come into force;

“extended copyright” means any copyright in sound recordings which subsists by virtue of section 13A of the 1988 Act (as amended by regulation 29) after the date on which it would have expired under the 1988 provisions;

“prospective owner” includes a person who is prospectively entitled to extended copyright in a sound recording by virtue of such an agreement as is mentioned in regulation 37(1);

“the 1988 Act” means the Copyright, Designs and Patents Act 1988; and

“the 1988 provisions” means the provisions of the 1988 Act as they stood immediately before commencement (including the provisions of Schedule 1 to that Act continuing the effect of earlier enactments).

(2) Expressions used in this Part which are defined for the purposes of Part 1 or 2 of the 1988 Act have the same meaning as in that Part.

General rules

31.—(1) Subject to regulation 32, these Regulations apply to—

- (a) copyright works made,
- (b) performances given,
- (c) databases, in which database right vests, made, and
- (d) works, in which publication right vests, first published,

before or after commencement.

(2) No act done before commencement shall be regarded as an infringement of any new or extended right arising by virtue of these Regulations.

Savings for certain existing agreements

32.—(1) Nothing in these Regulations affects any agreement made before 22nd December 2002.

(2) No act done after commencement, in pursuance of an agreement made before 22nd December 2002, shall be regarded as an infringement of any new or extended right arising by virtue of these Regulations.

Special provisions

Permitted acts

33. The provisions of Chapter 3 of Part 1 (acts permitted in relation to copyright works) and Schedule 2 (rights in performances: permitted acts) in the 1988 provisions shall continue to apply to anything done after commencement in completion of an act begun before commencement which was permitted by those provisions.

Performers' rights: making available to the public

34.—(1) Those parts of section 182D in the 1988 provisions which confer a right to equitable remuneration in relation to the making available to the public in the way mentioned in section 182CA(1) (regulation 7) of a commercially published sound recording shall cease to apply on commencement.

(2) Any assignment made before commencement under the provisions of section 182D(2) shall, on commencement, cease to apply insofar as it relates to the new making available to the public right conferred by section 182CA (regulation 7).

Exercise of rights in relation to performances

35.—(1) The new right conferred by section 182CA (consent required for making available to the public) (in regulation 7) is exercisable as from commencement by the performer or (if he has died) by the person who immediately before commencement was entitled by virtue of section 192A(2) to exercise the rights conferred on the performer by Part 2 in relation to that performance.

(2) Any damages received by a person's personal representatives by virtue of the right conferred by paragraph (1) shall devolve as part of that person's estate as if the right had subsisted and been vested in him immediately before his death.

Ownership of extended copyright in sound recordings

36. The person who is the owner of the copyright in a sound recording immediately before commencement is as from commencement the owner of any extended copyright in that sound recording.

Prospective ownership of extended copyright in sound recordings

37.—(1) Where by an agreement made before commencement in relation to extended copyright in a sound recording, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the extended copyright (wholly or partially) to another person, then, if on commencement the assignee or another person claiming under him would be entitled as against all other persons to require the copyright to be vested in him, the copyright shall vest in the assignee or his successor in title by virtue of this paragraph.

(2) A licence granted by a prospective owner of extended copyright in a sound recording is binding on every successor in title to his interest (or prospective interest) in the right, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in Part 1 of the 1988 Act to doing anything with, or without, the licence of the copyright owner shall be construed accordingly.

Extended copyright in sound recordings: existing licences, agreements, etc.

38.—(1) Any copyright licence or any term or condition of an agreement relating to the exploitation of a sound recording which—

- (a) subsists immediately before commencement in relation to an existing sound recording, and
- (b) is not to expire before the end of the copyright period under the 1988 provisions,

shall continue to have effect during the period of any extended copyright in that sound recording, subject to any agreement to the contrary.

(2) Any copyright licence, or term or condition relating to the exploitation of a sound recording, imposed by order of the Copyright Tribunal which—

- (a) subsists immediately before commencement in relation to an existing sound recording, and
- (b) is not to expire before the end of the copyright period under the 1988 provisions,

shall continue to have effect during the period of any extended copyright, subject to any further order of the Tribunal.

Duration of copyright in sound recordings: general saving

39. Copyright in an existing sound recording shall continue to subsist until the date it would have expired under Regulation 15 of the Duration of Copyright and Rights in Performances Regulations 1995 (SI 1995/3297) if that date is later than the date on which copyright would expire under the provisions of section 13A of the 1988 Act as amended by regulation 29.

Sanctions and remedies

40.—(1) Section 296 in the 1988 provisions (devices designed to circumvent copy-protection) shall continue to apply to acts done in relation to computer programs or other works prior to commencement.

(2) Section 296 as substituted by regulation 24(1) (circumvention of technical devices applied to computer programs), and sections 296ZA (circumvention of technological measures) and 296ZD (rights and remedies in respect of devices designed to circumvent technological measures), introduced by regulation 24(1), shall apply to acts done in relation to computer programs or other works on or after commencement.

(3) Sections 107(2A), 198(1A) and 296ZB(1) and (2) (offences) do not have effect in relation to any act committed before commencement.