

Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version)

CHAPTER III

COMMON PROVISIONS

Article 11

Application in time

1 This Directive shall apply in respect of all copyright works, performances, phonograms, broadcasts and first fixations of films referred to in this Directive which were, on 1 July 1994, still protected by the legislation of the Member States in the field of copyright and related rights or which met the criteria for protection under this Directive on that date.

2 This Directive shall apply without prejudice to any acts of exploitation performed before 1 July 1994.

3 Member States may provide that the rightholders are deemed to have given their authorisation to the rental or lending of an object referred to in points (a) to (d) of Article 3(1) which is proven to have been made available to third parties for this purpose or to have been acquired before 1 July 1994.

However, in particular where such an object is a digital recording, Member States may provide that rightholders shall have a right to obtain an adequate remuneration for the rental or lending of that object.

4 Member States need not apply the provisions of Article 2(2) to cinematographic or audiovisual works created before 1 July 1994.

5 This Directive shall, without prejudice to paragraph 3 and subject to paragraph 7, not affect any contracts concluded before 19 November 1992.

6 Member States may provide, subject to the provisions of paragraph 7, that when rightholders who acquire new rights under the national provisions adopted in implementation of this Directive have, before 1 July 1994, given their consent for exploitation, they shall be presumed to have transferred the new exclusive rights.

7 For contracts concluded before 1 July 1994, the unwaivable right to an equitable remuneration provided for in Article 5 shall apply only where authors or performers or those representing them have submitted a request to that effect before 1 January 1997. In the absence of agreement between rightholders concerning the level of remuneration, Member States may fix the level of equitable remuneration.