Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER IX

QUALIFICATION FOR AND EXTENT OF COPYRIGHT PROTECTION

Qualification for copyright protection

153 Qualification for copyright protection.

(1) Copyright does not subsist in a work unless the qualification requirements of this Chapter are satisfied as regards—

(a) the author (see section 154), or

(b) the country in which the work was first published (see section 155), or

(c) in the case of a broadcast or cable programme, the country from which the broadcast was made or the cable programme was sent (see section 156).

(2) Subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright (see sections 163 to [F1166B]) or to copyright subsisting by virtue of section 168 (copyright of certain international organisations).

(3) If the qualification requirements of this Chapter, or section 163, 165 or 168, are once satisfied in respect of a work, copyright does not cease to subsist by reason of any subsequent event.

Textual Amendments

F1 Words in s. 153(2) substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(3)** (with s. 95); S.I. 1999/3209, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C1 Ss. 153, 154 extended by S.I. 1989/988, **art. 2(1)**

C2 S. 153 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C3 Ss. 153, 154 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts. 2, 3, 4, 5, **Sch. 4** (with art. 6)

Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, **arts. 4(1)(2)(5)**, 5 (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

154 Qualification by reference to author.

(1) A work qualifies for copyright protection if the author was at the material time a qualifying person, that is—

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas), a British Overseas citizen, a British subject or a British protected person within the meaning of the [M1]British Nationality Act 1981, or

(b) an individual domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend, or

(c) a body incorporated under the law of a part of the United Kingdom or of another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a work also qualifies for copyright protection if at the material time the author was a citizen or subject of, an individual domiciled or resident in, or a body incorporated under the law of, a country to which the Order relates.

(3) A work of joint authorship qualifies for copyright protection if at the material time any of the authors satisfies the requirements of subsection (1) or (2); but where a work qualifies for copyright protection only under this section, only those authors who satisfy those requirements shall be taken into account for the purposes of—

section 11(1) and (2) (first ownership of copyright; entitlement of author or author's employer),

[[F2]section 12 (duration of copyright), and section 9(4) (meaning of "unknown authorship") so far as it applies for the purposes of section 12, and**]**

section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author).

(4) The material time in relation to a literary, dramatic, musical or artistic work is—

(a) in the case of an unpublished work, when the work was made or, if the making of the work extended over a period, a substantial part of that period;

(b) in the case of a published work, when the work was first published or, if the author had died before that time, immediately before his death.

(5) The material time in relation to other descriptions of work is as follows—

(a) in the case of a sound recording or film, when it was made;

(b) in the case of a broadcast, when the broadcast was made;

(c) in the case of a cable programme, when the programme was included in a cable programme service;

(d) in the case of the typographical arrangement of a published edition, when the edition was first published.

Textual Amendments

F2 Paragraph in s. 154(3) substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(3)** (with Pt. III)

Modifications etc. (not altering text)

C4 Ss. 153, 154 extended by S.I. 1989/988, **art. 2(1)**

C5 S. 154 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C6 Ss. 153, 154 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts. 2, 3, 4, 5, **Sch. 4** (with art. 6)
Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)
Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)
Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 4(1)(2)(5), 5, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Marginal Citations

M1 1981 c. 61.

155 Qualification by reference to country of first publication.

(1) A literary, dramatic, musical or artistic work, a sound recording or film, or the typographical arrangement of a published edition, qualifies for copyright protection if it is first published—

(a) in the United Kingdom, or

(b) in another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), such a work also qualifies for copyright protection if it is first published in a country to which the Order relates.

(3) For the purposes of this section, publication in one country shall not be regarded as other than the first publication by reason of simultaneous publication elsewhere; and for this purpose publication elsewhere within the previous 30 days shall be treated as simultaneous.

Modifications etc. (not altering text)

C7 S. 155 extended with modifications by S.I. 1989/1293, arts. 2(1), 3, 5, 6, Schs. 1, 2, 3, **4**

C8 S. 155 extended (1.7.1992) by S.I. 1992/1313, **art.2**

C9 S. 155 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts.2, 3, 5, **Sch. 4** (with art. 6)
Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)
Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Status: *Point in time view as at 02/12/1999.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter IX. (See end of Document for details)*

156 Qualification by reference to place of transmission.

(1) A broadcast qualifies for copyright protection if it is made from, and a cable programme qualifies for copyright protection if it is sent from, a place in—
  (a) the United Kingdom, or
  (b) another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a broadcast or cable programme also qualifies for copyright protection if it is made from or, as the case may be, sent from a place in a country to which the Order relates.

Modifications etc. (not altering text)

C10 S. 156 extended (1.7.1992) by S.I. 1992/1313, **art.2**

C11 S. 156 applied (with modifications) (4.5.1993) by S.I. 1993/942, art.4, 5, **Sch. 4** (with art. 6)
Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, **arts. 4(1)(2)(5)**, 5 (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Extent and application of this Part

157 Countries to which this Part extends.

(1) This Part extends to England and Wales, Scotland and Northern Ireland.

(2) Her Majesty may by Order in Council direct that this Part shall extend, subject to such exceptions and modifications as may be specified in the Order, to—
  (a) any of the Channel Islands,
  (b) the Isle of Man, or
  (c) any colony.

(3) That power includes power to extend, subject to such exceptions and modifications as may be specified in the Order, any Order in Council made under the following provisions of this Chapter.

(4) The legislature of a country to which this Part has been extended may modify or add to the provisions of this Part, in their operation as part of the law of that country, as the legislature may consider necessary to adapt the provisions to the circumstances of that country—
  (a) as regards procedure and remedies, or
  (b) as regards works qualifying for copyright protection by virtue of a connection with that country.

(5) Nothing in this section shall be construed as restricting the extent of paragraph 36 of Schedule 1 (transitional provisions: dependent territories where the [M2]Copyright Act 1956 or the [M3]Copyright Act 1911 remains in force) in relation to the law of a dependent territory to which this Part does not extend.

Modifications etc. (not altering text)

C12 S. 157(2)(c) extended (8.4.2010) by Digital Economy Act 2010 (c. 24), **ss. 46(4)**, 47(2)(c)

Marginal Citations

M2 1956 c. 74.

M3 1911 c. 46.

158 Countries ceasing to be colonies.

(1) The following provisions apply where a country to which this Part has been extended ceases to be a colony of the United Kingdom.

(2) As from the date on which it ceases to be a colony it shall cease to be regarded as a country to which this Part extends for the purposes of—

(a) section 160(2)(a) (denial of copyright protection to citizens of countries not giving adequate protection to British works), and

(b) sections 163 and 165 (Crown and Parliamentary copyright).

(3) But it shall continue to be treated as a country to which this Part extends for the purposes of sections 154 to 156 (qualification for copyright protection) until—

(a) an Order in Council is made in respect of that country under section 159 (application of this Part to countries to which it does not extend), or

(b) an Order in Council is made declaring that it shall cease to be so treated by reason of the fact that the provisions of this Part as part of the law of that country have been repealed or amended.

(4) A statutory instrument containing an Order in Council under subsection (3)(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

159 Application of this Part to countries to which it does not extend.

(1) Her Majesty may by Order in Council make provision for applying in relation to a country to which this Part does not extend any of the provisions of this Part specified in the Order, so as to secure that those provisions—

(a) apply in relation to persons who are citizens or subjects of that country or are domiciled or resident there, as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom, or

(b) apply in relation to bodies incorporated under the law of that country as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, or

(c) apply in relation to works first published in that country as they apply in relation to works first published in the United Kingdom, or

(d) apply in relation to broadcasts made from or cable programmes sent from that country as they apply in relation to broadcasts made from or cable programmes sent from the United Kingdom.

(2) An Order may make provision for all or any of the matters mentioned in subsection (1) and may—

(a) apply any provisions of this Part subject to such exceptions and modifications as are specified in the Order; and

(b) direct that any provisions of this Part apply either generally or in relation to such classes of works, or other classes of case, as are specified in the Order.

Status: *Point in time view as at 02/12/1999.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter IX. (See end of Document for details)*

(3) Except in the case of a Convention country or another member State of the European Economic Community, Her Majesty shall not make an Order in Council under this section in relation to a country unless satisfied that provision has been or will be made under the law of that country, in respect of the class of works to which the Order relates, giving adequate protection to the owners of copyright under this Part.

(4) In subsection (3) "Convention country" means a country which is a party to a Convention relating to copyright to which the United Kingdom is also a party.

(5) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

160 Denial of copyright protection to citizens of countries not giving adequate protection to British works.

(1) If it appears to Her Majesty that the law of a country fails to give adequate protection to British works to which this section applies, or to one or more classes of such works, Her Majesty may make provision by Order in Council in accordance with this section restricting the rights conferred by this Part in relation to works of authors connected with that country.

(2) An Order in Council under this section shall designate the country concerned and provide that, for the purposes specified in the Order, works first published after a date specified in the Order shall not be treated as qualifying for copyright protection by virtue of such publication if at that time the authors are—

(a) citizens or subjects of that country (not domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend), or

(b) bodies incorporated under the law of that country;

and the Order may make such provision for all the purposes of this Part or for such purposes as are specified in the Order, and either generally or in relation to such class of cases as are specified in the Order, having regard to the nature and extent of that failure referred to in subsection (1).

(3) This section applies to literary, dramatic, musical and artistic works, sound recordings and films; and "British works" means works of which the author was a qualifying person at the material time within the meaning of section 154.

(4) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Supplementary

161 Territorial waters and the continental shelf.

(1) For the purposes of this Part the territorial waters of the United Kingdom shall be treated as part of the United Kingdom.

(2) This Part applies to things done in the United Kingdom sector of the continental shelf on a structure or vessel which is present there for purposes directly connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources as it applies to things done in the United Kingdom.

(3) The United Kingdom sector of the continental shelf means the areas designated by order under section 1(7) of the [M4]Continental Shelf Act 1964.

Modifications etc. (not altering text)

C13 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Marginal Citations

M4 1964 c. 29.

162 British ships, aircraft and hovercraft.

(1) This Part applies to things done on a British ship, aircraft or hovercraft as it applies to things done in the United Kingdom.

(2) In this section—

"British ship" means a ship which is a British ship for the purposes of the **[**[F3]Merchant Shipping Act 1995**]** otherwise than by virtue of registration in a country outside the United Kingdom; and

"British aircraft" and "British hovercraft" mean an aircraft or hovercraft registered in the United Kingdom.

Textual Amendments

F3 Words in s. 162(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 84(a)** (with s. 312(1))

Modifications etc. (not altering text)

C14 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Status:
Point in time view as at 02/12/1999.

Changes to legislation:
There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter IX.