

# 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 166) 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.

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#### **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

*Status: Point in time view as at 01/01/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Qualification for copyright protection. (See end of Document for details)*

**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)

## 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 <sup>M1</sup>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),
  - section 12(1) and (2) (duration of copyright; dependent on life of author unless work of unknown authorship), and section 9(4) (meaning of "unknown authorship") so far as it applies for the purposes of section 12(2), 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.

### 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

*Status: Point in time view as at 01/01/1993.*

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**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)

#### 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)

### 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)

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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**)

**Status:**

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**Changes to legislation:**

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