



# 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**

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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**
- 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 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
  - an individual domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend, or
  - 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),
- [<sup>F2</sup>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—
- 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;
  - 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—
- in the case of a sound recording or film, when it was made;
  - in the case of a broadcast, when the broadcast was made;

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- (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**)

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## **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.

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### **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](#))

**Status:**

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