



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART II

RIGHTS IN PERFORMANCES

^{x1} *Exceptions to rights conferred*

Editorial Information

- X1** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

189 ^{x2} **Acts permitted notwithstanding rights conferred by this Part.**

The provisions of Schedule 2 specify acts which may be done notwithstanding the rights conferred by this Part, being acts which correspond broadly to certain of those specified in Chapter III of Part I (acts permitted notwithstanding copyright).

Editorial Information

- X2** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

^{x3} **190 Power of tribunal to give consent on behalf of performer in certain cases.**

[^{F1}(1) The Copyright Tribunal may, on the application of a person wishing to make a copy of a recording of a performance, give consent in a case where the identity or whereabouts

Status: Point in time view as at 01/12/1996.

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

of the person entitled to the reproduction right cannot be ascertained by reasonable inquiry.]

(2) Consent given by the Tribunal has effect as consent of [^{F2}the person entitled to the reproduction right] for the purposes of—

- (a) the provisions of this Part relating to performers' rights, and
- (b) section 198(3)(a) (criminal liability: sufficient consent in relation to qualifying performances),

and may be given subject to any conditions specified in the Tribunal's order.

(3) The Tribunal shall not give consent under subsection (1)(a) except after the service or publication of such notices as may be required by rules made under section 150 (general procedural rules) or as the Tribunal may in any particular case direct.

^{F3}(4)

(5) In any case the Tribunal shall take into account the following factors—

- (a) whether the original recording was made with the performer's consent and is lawfully in the possession or control of the person proposing to make the further recording;
- (b) whether the making of the further recording is consistent with the obligations of the parties to the arrangements under which, or is otherwise consistent with the purposes for which, the original recording was made.

(6) Where the Tribunal gives consent under this section it shall, in default of agreement between the applicant and [^{F4}the person entitled to the reproduction right], make such order as it thinks fit as to the payment to be made to [^{F5}that person] in consideration of consent being given.

Editorial Information

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Textual Amendments

- F1** S. 190(1) substituted (1.12.1996) by S.I. 1996/2967, **reg. 23(2)** (with Pt. III)
- F2** Words in s. 190(2) substituted (1.12.1996) by S.I. 1996/2967, **reg. 23(3)** (with Pt. III)
- F3** S. 190(4) omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 23(4)** (with Pt. III)
- F4** Words in s. 190(6) substituted (1.12.1996) by S.I. 1996/2967, **reg. 23(5)(a)** (with Pt. III)
- F5** Words in s. 190(6) substituted (1.12.1996) by S.I. 1996/2967, **reg. 23(5)(b)** (with Pt. III)

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