

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

## SCHEDULES

### SCHEDULE 2

#### RIGHTS IN PERFORMANCES: PERMITTED ACTS

##### Modifications etc. (not altering text)

- C1** Sch. 2 continued (31.10.2003) by virtue of [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#) , [reg. 33](#) (with [regs. 31-40](#) )

##### *Recordings of folksongs*

- 14 (1) A recording of a performance of a song may be made for the purpose of including it in an archive maintained by a [<sup>F1</sup>body not established or conducted for profit] without infringing any of the rights conferred by [<sup>F2</sup>this Chapter] , provided the conditions in sub-paragraph (2) below are met.
- (2) The conditions are that—
- (a) the words are unpublished and of unknown authorship at the time the recording is made,
  - (b) the making of the recording does not infringe any copyright, and
  - (c) its making is not prohibited by any performer.
- [<sup>F3</sup>(3) A single copy of a recording made in reliance on sub-paragraph (1) and included in an archive referred to in that sub-paragraph may be made and supplied by the archivist without infringing any right conferred by this Chapter, provided that—
- (a) the copy is supplied in response to a request from a person who has provided the archivist with a declaration in writing which includes the information set out in sub-paragraph (4), and
  - (b) the archivist is not aware that the declaration is false in a material particular.
- (4) The information which must be included in the declaration is—
- (a) the name of the person who requires the copy and the recording which is the subject of the request,
  - (b) a statement that the person has not previously been supplied with a copy of that recording by any archivist, and
  - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (5) Where an archive makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

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- (6) Where a person (“P”) makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—
- (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
  - (b) the copy supplied to P is to be treated as an illicit recording for all purposes.
- (7) In this paragraph references to an archivist include a person acting on behalf of an archivist.
- (8) Expressions used in this paragraph have the same meaning as in section 61.]

#### **Textual Amendments**

- F1** Words in Sch. 2 para. 14(1) substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **7(3)**
- F2** Words in Sch. 2 para. 14(1)(3) substituted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), reg. 2, **Sch. para. 9** (with reg. 8 )
- F3** Sch. 2 para. 14(3)-(8) substituted (1.6.2014) for Sch. 2 para. 14(3)(4) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **7(4)**

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