

Changes to legislation: Copyright, Designs and Patents Act 1988, Cross Heading: Diligent searches is up to date with all changes known to be in force on or before 21 July 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1} SCHEDULE ZA1

CERTAIN PERMITTED USES OF ORPHAN WORKS

Annotations:

Amendments (Textual)

- F1** Sch. ZA1 inserted (29.10.2014) by [The Copyright and Rights in Performances \(Certain Permitted Uses of Orphan Works\) Regulations 2014 \(S.I. 2014/2861\)](#), reg. 3(5), Sch. para. 1

PART 1

GENERAL PROVISIONS

Diligent searches

5. (1) For the purposes of establishing whether a relevant work is an orphan work, a relevant body must ensure that a diligent search is carried out in good faith in respect of the work by consulting the appropriate sources for the category of work in question.
- (2) The relevant body must carry out the diligent search prior to the use of the relevant work.
- (3) The sources that are appropriate for each category of relevant work must as a minimum include—
- (a) the relevant databases maintained by the Office for Harmonization in the Internal Market; and
 - (b) where there is no record that the relevant work is an orphan work in the databases referred to in paragraph (a), the relevant sources listed in Part 2 of this Schedule for that category.
- (4) The Comptroller-General of Patents, Designs and Trade Marks may issue guidance on the appropriate sources to be consulted under this paragraph for any particular category of work.
- (5) Subject to sub-paragraphs (6) to (8), a search of the sources mentioned in sub-paragraph (3)(b) must be carried out in the member State in which the relevant work was first published or broadcast.
- (6) If the relevant work is a cinematographic or audiovisual work and the producer of the work has his or her headquarters or habitual residence in a member State, the search must be carried out in the member State of the headquarters or habitual residence.

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- (7) If the relevant work falls within paragraph 2(4), the search must be carried out in the member State where the organisation that made the work publicly accessible with the consent of the rightholders is established.
- (8) If there is evidence to suggest that relevant information on rightholders is to be found in other countries, a relevant body carrying out a search in accordance with subparagraph (3)(b) must also consult the sources of information available in those other countries.
- (9) A relevant body that makes use of orphan works in accordance with this Schedule must maintain records of its diligent searches and must provide the following information to the Office for Harmonization in the Internal Market—
 - (a) the results of the diligent searches which the relevant body has carried out and which first established that a work is an orphan work;
 - (b) the use that the relevant body makes of the orphan works;
 - (c) any change, pursuant to paragraph 7, of the orphan work status of a relevant work that the relevant body has used and in respect of which the relevant body has been supplied with evidence by a rightholder in accordance with paragraph 7(2); and
 - (d) the contact information for the relevant body.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 249(1A) inserted by [2007 c. 15 s. 143\(3\)\(b\)](#)