
STATUTORY INSTRUMENTS

1995 No. 3297

**The Duration of Copyright and Rights
in Performances Regulations 1995**

Part II

Amendments of the Copyright, Designs and Patents Act 1988

Copyright

Duration of copyright in sound recordings and films

6.—(1) For section 13 (duration of copyright in sound recordings and films) substitute—

“13A Duration of copyright in sound recordings.

(1) The following provisions have effect with respect to the duration of copyright in a sound recording.

(2) Copyright expires—

- (a) at the end of the period of 50 years from the end of the calendar year in which it is made, or
- (b) if during that period it is released, 50 years from the end of the calendar year in which it is released;

subject as follows.

(3) For the purposes of subsection (2) a sound recording is “released” when it is first published, played in public, broadcast or included in a cable programme service; but in determining whether a sound recording has been released no account shall be taken of any unauthorised act.

(4) Where the author of a sound recording is not a national of an EEA state, the duration of copyright is that to which the sound recording is entitled in the country of which the author is a national, provided that does not exceed the period which would apply under subsections (2) and (3).

(5) If or to the extent that the application of subsection (4) would be at variance with an international obligation to which the United Kingdom became subject prior to 29th October 1993, the duration of copyright shall be as specified in subsections (2) and (3).

13B Duration of copyright in films.

(1) The following provisions have effect with respect to the duration of copyright in a film.

(2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the death occurs of the last to die of the following persons—

- (a) the principal director,

- (b) the author of the screenplay,
- (c) the author of the dialogue, or
- (d) the composer of music specially created for and used in the film;

subject as follows.

(3) If the identity of one or more of the persons referred to in subsection (2)(a) to (d) is known and the identity of one or more others is not, the reference in that subsection to the death of the last of them to die shall be construed as a reference to the death of the last whose identity is known.

(4) If the identity of the persons referred to in subsection (2)(a) to (d) is unknown, copyright expires at—

- (a) the end of the period of 70 years from the end of the calendar year in which the film was made, or
- (b) if during that period the film is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available.

(5) Subsections (2) and (3) apply if the identity of any of those persons becomes known before the end of the period specified in paragraph (a) or (b) of subsection (4).

(6) For the purposes of subsection (4) making available to the public includes—

- (a) showing in public, or
- (b) being broadcast or included in a cable programme service;

but in determining generally for the purposes of that subsection whether a film has been made available to the public no account shall be taken of any unauthorised act.

(7) Where the country of origin is not an EEA state and the author of the film is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (6).

(8) In relation to a film of which there are joint authors, the reference in subsection (7) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.

(9) If in any case there is no person falling within paragraphs (a) to (d) of subsection (2), the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the film was made.

(10) For the purposes of this section the identity of any of the persons referred to in subsection (2)(a) to (d) shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if the identity of any such person is once known it shall not subsequently be regarded as unknown.”

(2) In Chapter III of Part I (acts permitted in relation to copyright works), after section 66 insert—

“Miscellaneous: films and sound recordings

Films: acts permitted on assumptions as to expiry of copyright, &c.

66A.—(1) Copyright in a film is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—

- (a) it is not possible by reasonable inquiry to ascertain the identity of any of the persons referred to in section 13B(2)(a) to (d) (persons by reference to whose life the copyright period is ascertained), and

(b) it is reasonable to assume—

(i) that copyright has expired, or

(ii) that the last to die of those persons died 70 years or more before the beginning of the calendar year in which the act is done or the arrangements are made.

(2) Subsection (1)(b)(ii) does not apply in relation to—

(a) a film in which Crown copyright subsists, or

(b) a film in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than 70 years.”.

(3) In section 79(4), 81(5) and 85(2) (exceptions to moral rights: acts which would not infringe copyright) for “section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author)” substitute “section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.)”.

(4) In section 105(2) (presumptions relevant to films), after paragraph (a) insert—

“(aa) that a named person was the principal director, the author of the screenplay, the author of the dialogue or the composer of music specifically created for and used in the film,”.