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STATUTORY INSTRUMENTS

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**1996 No. 2967**

**The Copyright and Related Rights Regulations 1996**

**PART II**

**AMENDMENTS OF THE COPYRIGHT, DESIGNS AND PATENTS ACT 1988**

*Rental and lending right*

**Right to equitable remuneration where rental right transferred**

**14.**—(1) In Chapter V of Part I (dealings with rights in copyright works), after section 93A (inserted by regulation 12) insert—

*“Right to equitable remuneration where rental right transferred*

**Right to equitable remuneration where rental right transferred.**

**93B.**—(1) Where an author to whom this section applies has transferred his rental right concerning a sound recording or a film to the producer of the sound recording or film, he retains the right to equitable remuneration for the rental.

The authors to whom this section applies are—

- (a) the author of a literary, dramatic, musical or artistic work, and
- (b) the principal director of a film.

(2) The right to equitable remuneration under this section may not be assigned by the author except to a collecting society for the purpose of enabling it to enforce the right on his behalf.

The right is, however, transmissible by testamentary disposition or by operation of law as personal or moveable property; and it may be assigned or further transmitted by any person into whose hands it passes.

(3) Equitable remuneration under this section is payable by the person for the time being entitled to the rental right, that is, the person to whom the right was transferred or any successor in title of his.

(4) The amount payable by way of equitable remuneration is as agreed by or on behalf of the persons by and to whom it is payable, subject to section 93C (reference of amount to Copyright Tribunal).

(5) An agreement is of no effect in so far as it purports to exclude or restrict the right to equitable remuneration under this section.

(6) References in this section to the transfer of rental right by one person to another include any arrangement having that effect, whether made by them directly or through intermediaries.

(7) In this section a “collecting society” means a society or other organisation which has as its main object, or one of its main objects, the exercise of the right to equitable remuneration under this section on behalf of more than one author.

**Equitable remuneration: reference of amount to Copyright Tribunal.**

**93C.—(1)** In default of agreement as to the amount payable by way of equitable remuneration under section 93B, the person by or to whom it is payable may apply to the Copyright Tribunal to determine the amount payable.

(2) A person to or by whom equitable remuneration is payable under that section may also apply to the Copyright Tribunal—

- (a) to vary any agreement as to the amount payable, or
- (b) to vary any previous determination of the Tribunal as to that matter; but except with the special leave of the Tribunal no such application may be made within twelve months from the date of a previous determination.

An order made on an application under this subsection has effect from the date on which it is made or such later date as may be specified by the Tribunal.

(3) On an application under this section the Tribunal shall consider the matter and make such order as to the method of calculating and paying equitable remuneration as it may determine to be reasonable in the circumstances, taking into account the importance of the contribution of the author to the film or sound recording.

(4) Remuneration shall not be considered inequitable merely because it was paid by way of a single payment or at the time of the transfer of the rental right.

(5) An agreement is of no effect in so far as it purports to prevent a person questioning the amount of equitable remuneration or to restrict the powers of the Copyright Tribunal under this section.”.

(2) In section 149 (jurisdiction of the Copyright Tribunal), before paragraph (a) insert—

“(zb) section 93C (application to determine amount of equitable remuneration under section 93B);”.