

Status: Point in time view as at 01/02/2006.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Reception and re-transmission of wireless broadcast by cable. (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](#))

[^{F1}Reception and re-transmission of [^{F2}wireless broadcast by cable]]

Textual Amendments

- F1** Crossheading substituted (1.10.1996) by [1996 c. 55, s. 138, Sch. 9 para. 5](#) (with [s. 43\(6\)](#)); [S.I. 1996/2120, art. 4\(1\)](#), [Sch. 1](#)
- F2** Words in heading preceding Sch. 2 para. 19 substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I.2003/2498\)](#), [reg. 22\(3\)\(a\)](#) (with [regs. 31-40](#))

[^{F3}19 (1) This paragraph applies where a [^{F4}wireless] broadcast made from a place in the United Kingdom is, [^{F5}received and immediately re-transmitted by cable].

(2) The rights conferred by [^{F6}this Chapter] in relation to a performance or recording included in the broadcast are not infringed if and to the extent that the broadcast is made for reception in the area in which [^{F7}it is re-transmitted by cable]; but where the making of the broadcast was an infringement of those rights, the fact that the broadcast was re-transmitted [^{F8}by cable] shall be taken into account in assessing the damages for that infringement.

(3) Where—

- (a) the [^{F9}re-transmission by cable] is in pursuance of a relevant requirement, but
- (b) to any extent, the area in which the [^{F10}re-transmission by cable takes place] (“the cable area”) falls outside the area for reception in which the broadcast is made (“the broadcast area”),

the [^{F11}re-transmission by cable] (to the extent that it is provided for so much of the cable area as falls outside the broadcast area) of any performance or recording included in the broadcast shall, subject to sub-paragraph (4), be treated as licensed by the owner of the rights conferred by [^{F6}this Chapter] in relation to the performance or recording, subject only to the payment to him by the person making the broadcast of such reasonable royalty or other payment in respect of the [^{F12}re-transmission by cable of the broadcast] as may be agreed or determined in default of agreement by the Copyright Tribunal.

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- (4) Sub-paragraph (3) does not apply if, or to the extent that, the [^{F13}re-transmission of the performance or recording by cable] is (apart from that sub-paragraph) licensed by the owner of the rights conferred by [^{F6}this Chapter] in relation to the performance or recording.
- (5) The Secretary of State may by order—
- (a) provide that in specified cases sub-paragraph (2) is to apply in relation to broadcasts of a specified description which are not made as mentioned in that sub-paragraph, or
 - (b) exclude the application of that sub-paragraph in relation to broadcasts of a specified description made as mentioned in that sub-paragraph.
- (6) Where the Secretary of State exercises the power conferred by sub-paragraph (5) (b) in relation to broadcasts of any description, the order may also provide for sub-paragraph (3) to apply, subject to such modifications as may be specified in the order, in relation to broadcasts of that description.
- (7) An order under this paragraph may contain such transitional provision as appears to the Secretary of State to be appropriate.
- (8) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Expressions used in this paragraph have the same meaning as in section 73.]

Textual Amendments

- F3** Sch. 2 para. 19 substituted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 5** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**
- F4** Word in Sch. 2 para. 19(1) inserted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(b)(i)** (with regs. 31-40)
- F5** Words in Sch. 2 para. 19(1) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(b)(ii)** (with regs. 31-40)
- F6** Words in Sch. 2 para. 19(2)(3)(4) substituted (1.2.2006) by **The Performances (Moral Rights, etc.) Regulations 2006** (S.I. 2006/18), reg. 2, **Sch. para. 9** (with reg. 8)
- F7** Words in Sch. 2 para. 19(2) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S. I. 2003/2498), **reg. 22(3)(c)(i)** (with regs. 31-40)
- F8** Words in Sch. 2 para. 19(2) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(c)(ii)** (with regs. 31-40)
- F9** Words in Sch. 2 para. 19(3)(a) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(d)(i)** (with regs. 31-40)
- F10** Words in Sch. 2 para. 19(3)(b) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(d)(ii)** (with regs. 31-40)
- F11** Words in Sch. 2 para. 19(3) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(d)(iii)** (with regs. 31-40)
- F12** Words in Sch. 2 para. 19(3) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(d)(iv)** (with regs. 31-40)
- F13** Words in Sch. 2 para. 19(4) substituted (31.10.2003) by **The Copyright and Related Rights Regulations 2003** (S.I. 2003/2498), **reg. 22(3)(e)** (with regs. 31-40)

[^{F14}19A(1) An application to settle the royalty or other sum payable in pursuance of sub-paragraph (3) of paragraph 19 may be made to the Copyright Tribunal by the owner of the rights conferred by [^{F15}this Chapter] or the person making the broadcast.

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- (2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.
- (3) Either party may subsequently apply to the Tribunal to vary the order, and the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.
- (4) An application under sub-paragraph (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that sub-paragraph.
- (5) An order under sub-paragraph (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.]

Textual Amendments

- F14** Sch. 2 para. 19A inserted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 6** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**
- F15** Words in Sch. 2 para. 19A(1) substituted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006](#) (S.I. 2006/18), reg. 2, **Sch. para. 9** (with reg. 8)

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