



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER IX

##### QUALIFICATION FOR AND EXTENT OF COPYRIGHT PROTECTION

##### *Qualification for copyright protection*

#### **153 Qualification for copyright protection.**

- (1) Copyright does not subsist in a work unless the qualification requirements of this Chapter are satisfied as regards—
  - (a) the author (see section 154), or
  - (b) the country in which the work was first published (see section 155), or
  - (c) in the case of a broadcast <sup>F1</sup> . . . , the country from which the broadcast was made <sup>F1</sup> . . . (see section 156).
- (2) Subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright (see sections 163 to [<sup>F2</sup>166D]) or to copyright subsisting by virtue of section 168 (copyright of certain international organisations).
- (3) If the qualification requirements of this Chapter, or section 163, 165 or 168, are once satisfied in respect of a work, copyright does not cease to subsist by reason of any subsequent event.

#### **Textual Amendments**

- F1** Words in s. 153(1)(c) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), reg. 2(2), [Sch. 2](#) (with regs. 31-40)

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

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- F2** Word in s. 153(2) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 25](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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

- C1** Pt. 1 applied (with modifications) (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 4](#) (with art. 13)
- C2** Pt. 1 restricted (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 6](#) (with art. 13)
- C3** Pt. 1 restricted (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 9](#) (with art. 13)
- C4** Pt. 1 applied (with modifications) (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 7](#) (with art. 13)
- C5** Pt. 1 restricted (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 2](#) (with art. 13)
- C6** Pt. 1 restricted (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 3](#) (with art. 13)
- C7** Pt. 1 applied (with modifications) (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 5, Sch. Pt. 1](#) (with art. 13)
- C8** Pt. 1 applied (with modifications) (6.4.2017) by [The Copyright and Performances \(Application to Other Countries\) Order 2016 \(S.I. 2016/1219\), arts. 1\(1\), 8](#) (with art. 13)
- C9** Ss. 153, 154 extended by [S.I. 1989/988, art. 2\(1\)](#)
- C10** S. 153 extended (1.7.1992) by [S.I. 1992/1313, art. 2](#)
- C11** Ss. 153, 154 applied (with modifications) (4.5.1993) by [S.I. 1993/942, arts. 2, 3, 4, 5, Sch. 4](#) (with art. 6)
- Ss. 153-155 applied (with modifications) (22.7.1999) by [S.I. 1999/1751, arts. 2\(1\)\(2\), 5, Sch. 1, Sch. 5](#) (as amended 22.4.2003 by [S.I. 2003/774, arts. 2-5](#))
- Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by [S.I. 1999/1751, arts. 2\(1\)\(2\), 3, 5, Sch. 1, Sch. 2, Sch. 5](#) (as amended 22.4.2003 by [S.I. 2003/774, arts. 2-5](#))
- Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by [S.I. 1999/1751, arts. 4\(1\)\(2\)\(5\), 5](#) (as amended 22.4.2003 by [S.I. 2003/774, arts. 2-5](#))

## 154 Qualification by reference to author.

- (1) A work qualifies for copyright protection if the author was at the material time a qualifying person, that is—
- (a) a British citizen,<sup>F3</sup> ... a British Dependent Territories citizen, a British National (Overseas), a British Overseas citizen, a British subject or a British protected person within the meaning of the<sup>M1</sup> British Nationality Act 1981, or
  - [<sup>F4</sup>(b) an individual domiciled or resident in the United Kingdom<sup>F5</sup> ... or in the Channel Islands, the Isle of Man or Gibraltar or in a country to which the relevant provisions of this Part extend,] or
  - [<sup>F6</sup>(c) a body incorporated under the law of a part of the United Kingdom<sup>F7</sup> ... or of the Channel Islands, the Isle of Man or Gibraltar or of a country to which the relevant provisions of this Part extend.]
- (2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a work also qualifies for copyright protection if at the material time the author was a citizen or subject of, an individual

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domiciled or resident in, or a body incorporated under the law of, a country to which the Order relates.

- (3) A work of joint authorship qualifies for copyright protection if at the material time any of the authors satisfies the requirements of subsection (1) or (2); but where a work qualifies for copyright protection only under this section, only those authors who satisfy those requirements shall be taken into account for the purposes of—

section 11(1) and (2) (first ownership of copyright; entitlement of author or author’s employer),

[<sup>F8</sup>section 12 (duration of copyright), and section 9(4) (meaning of “unknown authorship”) so far as it applies for the purposes of section 12, and]

section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author).

- (4) The material time in relation to a literary, dramatic, musical or artistic work is—
- (a) in the case of an unpublished work, when the work was made or, if the making of the work extended over a period, a substantial part of that period;
  - (b) in the case of a published work, when the work was first published or, if the author had died before that time, immediately before his death.
- (5) The material time in relation to other descriptions of work is as follows—
- (a) in the case of a sound recording or film, when it was made;
  - (b) in the case of a broadcast, when the broadcast was made;
  - (c) <sup>F9</sup> .....
  - (d) in the case of the typographical arrangement of a published edition, when the edition was first published.

#### Textual Amendments

- F3** Words in s. 154(1)(a) omitted (31.12.2020) by virtue of [The Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/605\)](#), regs. 1(2), **14(a)** (with [reg. 38](#)) (as amended by [S.I. 2020/1050](#), regs. 1(2), 4); [2020 c. 1](#), Sch. 5 para. 1(1)
- F4** S. 154(1)(b) substituted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 22(1)(b)**, 24(1); [S.I. 2016/1139](#), arts. 2, 3 (with [art. 4](#))
- F5** Words in s. 154(1)(b) omitted (31.12.2020) by virtue of [The Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/605\)](#), regs. 1(2), **14(b)** (with [reg. 38](#)) (as amended by [S.I. 2020/1050](#), regs. 1(2), 4); [2020 c. 1](#), Sch. 5 para. 1(1)
- F6** S. 154(1)(c) substituted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 22(1)(c)**, 24(1); [S.I. 2016/1139](#), arts. 2, 3 (with [art. 4](#))
- F7** Words in s. 154(1)(c) omitted (31.12.2020) by virtue of [The Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/605\)](#), regs. 1(2), **14(b)** (with [reg. 38](#)) (as amended by [S.I. 2020/1050](#), regs. 1(2), 4); [2020 c. 1](#), Sch. 5 para. 1(1)
- F8** Paragraph in s. 154(3) substituted (1.1.1996) by [S.I. 1995/3297](#), **reg. 5(3)** (with Pt. III)
- F9** S. 154(5)(c) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 2\(2\)](#), **Sch. 2** (with regs. 31-40)

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

- C12** Ss. 153, 154 extended by [S.I. 1989/988](#), **art. 2(1)**
- C13** S. 154 extended (1.7.1992) by [S.I. 1992/1313](#), **art. 2**

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- C14** Ss. 153, 154 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts. 2, 3, 4, 5, **Sch. 4** (with art. 6)  
 Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, arts. 2-5)  
 Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, arts. 2-5)  
 Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 4(1)(2)(5), 5, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, arts. 2-5)

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#### Marginal Citations

- M1** 1981 c. 61.

### 155 Qualification by reference to country of first publication.

- (1) A literary, dramatic, musical or artistic work, a sound recording or film, or the typographical arrangement of a published edition, qualifies for copyright protection if it is first published—
  - (a) in the United Kingdom<sup>[F10, F11]</sup>... the Channel Islands, the Isle of Man or Gibraltar], or
  - (b) in <sup>[F12]</sup>a country] to which the relevant provisions of this Part extend.
- (2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), such a work also qualifies for copyright protection if it is first published in a country to which the Order relates.
- (3) For the purposes of this section, publication in one country shall not be regarded as other than the first publication by reason of simultaneous publication elsewhere; and for this purpose publication elsewhere within the previous 30 days shall be treated as simultaneous.

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#### Textual Amendments

- F10** Words in s. 155(1)(a) inserted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014](#) (c. 18), **ss. 22(2)(a)**, 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)
- F11** Words in s. 155(1)(a) omitted (31.12.2020) by virtue of [The Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/605), regs. 1(2), **15** (with reg. 38) (as amended by S.I. 2020/1050, regs. 1(2), 4); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in s. 155(1)(b) substituted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014](#) (c. 18), **ss. 22(2)(b)**, 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)

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

- C15** S. 155 extended with modifications by S.I. 1989/1293, arts. 2(1), 3, 5, 6, Schs. 1, 2, 3, 4
- C16** S. 155 extended (1.7.1992) by S.I. 1992/1313, **art.2**
- C17** S. 155 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts.2, 3, 5, **Sch. 4** (with art. 6)  
 Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, arts. 2-5)  
 Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, arts. 2-5)

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## 156 Qualification by reference to place of transmission.

- (1) <sup>F13</sup>A broadcast qualifies for copyright protection if it is made from . . . a place in—
- (a) the United Kingdom<sup>F14</sup>, <sup>F15</sup>... the Channel Islands, the Isle of Man or Gibraltar], or
  - (b) [<sup>F16</sup>a country] to which the relevant provisions of this Part extend.
- (2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a broadcast <sup>F13</sup>. . . also qualifies for copyright protection if it is made from <sup>F13</sup>. . . a place in a country to which the Order relates.

### Textual Amendments

- F13** Words in s. 156(1)(2) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), [Sch. 2](#) (with regs. 31-40)
- F14** Words in s. 156(1)(a) inserted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014 \(c. 18\)](#), [ss. 22\(3\)\(a\)](#), 24(1); [S.I. 2016/1139](#), arts. 2, 3 (with art. 4)
- F15** Words in s. 156(1)(a) omitted (31.12.2020) by virtue of [The Intellectual Property \(Copyright and Related Rights\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/605\)](#), regs. 1(2), [16](#) (with reg. 38) (as amended by [S.I. 2020/1050](#), regs. 1(2), 4); [2020 c. 1](#), Sch. 5 para. 1(1)
- F16** Words in s. 156(1)(b) substituted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by [Intellectual Property Act 2014 \(c. 18\)](#), [ss. 22\(3\)\(b\)](#), 24(1); [S.I. 2016/1139](#), arts. 2, 3 (with art. 4)

### Modifications etc. (not altering text)

- C18** S. 156 extended (1.7.1992) by [S.I. 1992/1313](#), [art.2](#)
- C19** S. 156 applied (with modifications) (4.5.1993) by [S.I. 1993/942](#), art.4, 5, [Sch. 4](#) (with art. 6)  
Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by [S.I. 1999/1751](#), [arts. 4\(1\)\(2\)\(5\)](#), 5 (as amended 22.4.2003 by [S.I. 2003/774](#), [arts. 2-5](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Qualification for copyright protection.