

Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER IX

QUALIFICATION FOR AND EXTENT OF COPYRIGHT PROTECTION

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** Pt. 1: power to extend conferred (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. 118(1), **119(7)(8)(a)**

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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 ^{F1} . . . , the country from which the broadcast was made ^{F1} . . . (see section 156).
- (2) Subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright (see sections 163 to [^{F2}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)
- 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)

- C10** Ss. 153, 154 extended by [S.I. 1989/988](#), [art. 2\(1\)](#)
- C11** S. 153 extended (1.7.1992) by [S.I. 1992/1313](#), [art. 2](#)
- C12** 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, [^{F3}a national of another EEA state,] 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 ^{M1}British Nationality Act 1981, or

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- [^{F4}(b) an individual domiciled or resident in the United Kingdom or another EEA state 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
- [^{F5}(c) a body incorporated under the law of a part of the United Kingdom or another EEA state 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 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),
- [^{F6}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—
- 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;
 - 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—
- in the case of a sound recording or film, when it was made;
 - in the case of a broadcast, when the broadcast was made;
 - ^{F7}
 - 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) 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(1)(a)**, 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)
- 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** 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)
- F6** Paragraph in s. 154(3) substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(3)** (with Pt. III)
- F7** 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)

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Modifications etc. (not altering text)

C13 Ss. 153, 154 extended by S.I. 1989/988, **art. 2(1)**

C14 S. 154 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C15 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**)

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^{F8}, another EEA state, the Channel Islands, the Isle of Man or Gibraltar], or
 - (b) in ^{F9}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.

Textual Amendments

F8 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**)

F9 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**)

Modifications etc. (not altering text)

C16 S. 155 extended with modifications by S.I. 1989/1293, **arts. 2(1), 3, 5, 6, Schs. 1, 2, 3, 4**

C17 S. 155 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C18 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) ^{F10}A broadcast qualifies for copyright protection if it is made from . . . a place in—
 - (a) the United Kingdom^{F11}, another EEA state, the Channel Islands, the Isle of Man or Gibraltar], or
 - (b) [^{F12}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 ^{F10}. . . also qualifies for copyright protection if it is made from ^{F10}. . . a place in a country to which the Order relates.

Textual Amendments

- F10** 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)
- F11** 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)
- F12** 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)

- C19** S. 156 extended (1.7.1992) by [S.I. 1992/1313](#), [art.2](#)
- C20** 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](#))

Extent and application of this Part

157 Countries to which this Part extends.

- (1) This Part extends to England and Wales, Scotland and Northern Ireland.
- (2) Her Majesty may by Order in Council direct that this Part shall extend, subject to such exceptions and modifications as may be specified in the Order, to—
 - (a) any of the Channel Islands,
 - (b) the Isle of Man, or
 - (c) any colony.
- (3) That power includes power to extend, subject to such exceptions and modifications as may be specified in the Order, any Order in Council made under the following provisions of this Chapter.
- (4) The legislature of a country to which this Part has been extended may modify or add to the provisions of this Part, in their operation as part of the law of that country, as the legislature may consider necessary to adapt the provisions to the circumstances of that country—
 - (a) as regards procedure and remedies, or
 - (b) as regards works qualifying for copyright protection by virtue of a connection with that country.

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- (5) Nothing in this section shall be construed as restricting the extent of paragraph 36 of Schedule 1 (transitional provisions: dependent territories where the ^{M2}Copyright Act 1956 or the ^{M3}Copyright Act 1911 remains in force) in relation to the law of a dependent territory to which this Part does not extend.

Modifications etc. (not altering text)

- C21** S. 157(2)(c) extended (8.4.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. **46(4)**, 47(2)(c)
C22 S. 157(2)(c): power to extend conferred (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. 118(1), **119(9)**

Marginal Citations

- M2** 1956 c. 74.
M3 1911 c. 46.

158 Countries ceasing to be colonies.

- (1) The following provisions apply where a country to which this Part has been extended ceases to be a colony of the United Kingdom.
- (2) As from the date on which it ceases to be a colony it shall cease to be regarded as a country to which this Part extends for the purposes of—
- (a) section 160(2)(a) (denial of copyright protection to citizens of countries not giving adequate protection to British works), and
 - (b) sections 163 and 165 (Crown and Parliamentary copyright).
- (3) But it shall continue to be treated as a country to which this Part extends for the purposes of sections 154 to 156 (qualification for copyright protection) until—
- (a) an Order in Council is made in respect of that country under section 159 (application of this Part to countries to which it does not extend), or
 - (b) an Order in Council is made declaring that it shall cease to be so treated by reason of the fact that the provisions of this Part as part of the law of that country have been repealed or amended.
- (4) A statutory instrument containing an Order in Council under subsection (3)(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[^{F13}159 Application of this Part to countries to which it does not extend

- (1) Where a country is a party to the Berne Convention or a member of the World Trade Organisation, this Part, so far as it relates to literary, dramatic, musical and artistic works, films and typographical arrangements of published editions—
- (a) applies in relation to a citizen or subject of that country or a person domiciled or resident there as it applies in relation to a person who is a British citizen or is domiciled or resident in the United Kingdom,
 - (b) applies in relation to a body incorporated under the law of that country as it applies in relation to a body incorporated under the law of a part of the United Kingdom, and
 - (c) applies in relation to a work first published in that country as it applies in relation to a work first published in the United Kingdom.

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- (2) Where a country is a party to the Rome Convention, this Part, so far as it relates to sound recordings and broadcasts—
 - (a) applies in relation to that country as mentioned in paragraphs (a), (b) and (c) of subsection (1), and
 - (b) applies in relation to a broadcast made from that country as it applies to a broadcast made from the United Kingdom.
- (3) Where a country is a party to the WPPT, this Part, so far as relating to sound recordings, applies in relation to that country as mentioned in paragraphs (a), (b) and (c) of subsection (1).
- (4) Her Majesty may by Order in Council—
 - (a) make provision for the application of this Part to a country by subsection (1), (2) or (3) to be subject to specified restrictions;
 - (b) make provision for applying this Part, or any of its provisions, to a specified country;
 - (c) make provision for applying this Part, or any of its provisions, to any country of a specified description;
 - (d) make provision for the application of legislation to a country under paragraph (b) or (c) to be subject to specified restrictions.
- (5) Provision made under subsection (4) may apply generally or in relation to such classes of works, or other classes of case, as are specified.
- (6) Her Majesty may not make an Order in Council containing provision under subsection (4)(b) or (c) unless satisfied that provision has been or will be made under the law of the country or countries in question, in respect of the classes to which the provision under subsection (4)(b) or (c) relates, giving adequate protection to the owners of copyright under this Part.
- (7) Application under subsection (4)(b) or (c) is in addition to application by subsections (1) to (3).
- (8) Provision made under subsection (4)(c) may cover countries that become (or again become) of the specified description after the provision comes into force.
- (9) In this section—
 - “the Berne Convention” means any Act of the International Convention for the Protection of Literary and Artistic Works signed at Berne on 9 September 1886;
 - “the Rome Convention” means the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations done at Rome on 26 October 1961;
 - “the WPPT” means the World Intellectual Property Organisation Performances and Phonograms Treaty adopted in Geneva on 20 December 1996.
- (10) A statutory instrument containing an Order in Council under this section is subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

F13 S. 159 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\(4\), 24\(1\)](#); S.I. 2016/1139, arts. 2, 3 (with art. 4)

160 Denial of copyright protection to citizens of countries not giving adequate protection to British works.

- (1) If it appears to Her Majesty that the law of a country fails to give adequate protection to British works to which this section applies, or to one or more classes of such works, Her Majesty may make provision by Order in Council in accordance with this section restricting the rights conferred by this Part in relation to works of authors connected with that country.
- (2) An Order in Council under this section shall designate the country concerned and provide that, for the purposes specified in the Order, works first published after a date specified in the Order shall not be treated as qualifying for copyright protection by virtue of such publication if at that time the authors are—
 - (a) citizens or subjects of that country (not domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend), or
 - (b) bodies incorporated under the law of that country;
 and the Order may make such provision for all the purposes of this Part or for such purposes as are specified in the Order, and either generally or in relation to such class of cases as are specified in the Order, having regard to the nature and extent of that failure referred to in subsection (1).
- (3) This section applies to literary, dramatic, musical and artistic works, sound recordings and films; and “British works” means works of which the author was a qualifying person at the material time within the meaning of section 154.
- (4) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Supplementary

161 Territorial waters and the continental shelf.

- (1) For the purposes of this Part the territorial waters of the United Kingdom shall be treated as part of the United Kingdom.
- (2) This Part applies to things done in the United Kingdom sector of the continental shelf on a structure or vessel which is present there for purposes directly connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources as it applies to things done in the United Kingdom.
- (3) The United Kingdom sector of the continental shelf means the areas designated by order under section 1(7) of the ^{M4}Continental Shelf Act 1964.

Modifications etc. (not altering text)

C23 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by [S.I. 1996/2967, reg. 17\(4\)](#) (with Pt. III)

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Marginal Citations

M4 1964 c. 29.

162 British ships, aircraft and hovercraft.

(1) This Part applies to things done on a British ship, aircraft or hovercraft as it applies to things done in the United Kingdom.

(2) In this section—

“British ship” means a ship which is a British ship for the purposes of the [F14Merchant Shipping Act 1995] otherwise than by virtue of registration in a country outside the United Kingdom; and

“British aircraft” and “British hovercraft” mean an aircraft or hovercraft registered in the United Kingdom.

Textual Amendments

F14 Words in s. 162(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 84(a) (with s. 312(1))

Modifications etc. (not altering text)

C24 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, reg. 17(4) (with Pt. III)

Changes to legislation:

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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. 182B(3A) inserted by [S.I. 2019/265 reg. 4\(4\)\(c\)](#)
- s. 206(1)(b) omitted by [S.I. 2019/605 reg. 22](#)
- s. 249(1A) inserted by [2007 c. 15 s. 143\(3\)\(b\)](#) (Amendment not applied: 2007 c. 15, s. 143 was repealed (6.4.2015) by Intellectual Property Act 2014 (c. 18), ss. 10(11), 24(1); S.I. 2015/165, art. 3)