



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

#### [<sup>F1</sup>CHAPTER 3

#### MORAL RIGHTS

#### *[<sup>F1</sup>Right to object to derogatory treatment*

#### Textual Amendments

- F1** Ss. 205C-205N and cross-headings inserted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [art. 6](#) (with [reg. 8](#)) (which inserted provisions accordingly become Pt. 2 Ch. 3 (1.2.2006) by virtue of [S.I. 2006/18](#), [art. 4\(6\)](#) (with [reg. 8](#)))

#### **205F Right to object to derogatory treatment of performance**

- (1) The performer of a qualifying performance has a right which is infringed if—
- (a) the performance is broadcast live, or
  - (b) by means of a sound recording the performance is played in public or communicated to the public,
- with any distortion, mutilation or other modification that is prejudicial to the reputation of the performer.
- (2) This section has effect subject to section 205G (exceptions to right).

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

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## **205G Exceptions to right**

- (1) The right conferred by section 205F (right to object to derogatory treatment of performance) is subject to the following exceptions.
- (2) The right does not apply in relation to any performance given for the purposes of reporting current events.
- (3) The right is not infringed by modifications made to a performance which are consistent with normal editorial or production practice.
- (4) Subject to subsection (5), the right is not infringed by anything done for the purpose of—
  - (a) avoiding the commission of an offence,
  - (b) complying with a duty imposed by or under an enactment, or
  - (c) in the case of the British Broadcasting Corporation, avoiding the inclusion in a programme broadcast by them of anything which offends against good taste or decency or which is likely to encourage or incite crime or lead to disorder or to be offensive to public feeling.
- (5) Where—
  - (a) the performer is identified in a manner likely to bring his identity to the notice of a person seeing or hearing the performance as modified by the act in question; or
  - (b) he has previously been identified in or on copies of a sound recording issued to the public,
 subsection (4) applies only if there is sufficient disclaimer.
- (6) In subsection (5) “sufficient disclaimer”, in relation to an act capable of infringing the right, means a clear and reasonably prominent indication—
  - (a) given in a manner likely to bring it to the notice of a person seeing or hearing the performance as modified by the act in question, and
  - (b) if the performer is identified at the time of the act, appearing along with the identification,
 that the modifications were made without the performer's consent.

## **205H Infringement of right by possessing or dealing with infringing article**

- (1) The right conferred by section 205F (right to object to derogatory treatment of performance) is also infringed by a person who—
  - (a) possesses in the course of business, or
  - (b) sells or lets for hire, or offers or exposes for sale or hire, or
  - (c) distributes,
 an article which is, and which he knows or has reason to believe is, an infringing article.
- (2) An “infringing article” means a sound recording of a qualifying performance with any distortion, mutilation or other modification that is prejudicial to the reputation of the performer.]

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Right to object to derogatory treatment.