



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

#### [<sup>F1</sup>CHAPTER 4

#### QUALIFICATION FOR PROTECTION, EXTENT AND INTERPRETATION

#### <sup>X1</sup>[<sup>F1</sup> *Qualification for protection and extent*

##### Editorial Information

- X1** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

##### Textual Amendments

- F1** Ss. 206-212 become Pt. 2 Ch. 4 (1.2.2006) by virtue of [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [reg. 4\(7\)](#) (with [reg. 8](#))

#### <sup>X2</sup>206 **Qualifying countries, individuals and persons.**

(1) In this Part—

“qualifying country” means—

- (a) the United Kingdom,
- [<sup>F2</sup>(b) another EEA state,]
- [ the Channel Islands, the Isle of Man or Gibraltar,] or
- <sup>F3</sup>(ba) [ a country which is a party to the Rome Convention,] or

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<sup>F4</sup>(bb)

(c) to the extent that an Order under section 208 so provides, a country designated under that section as enjoying reciprocal protection;

“qualifying individual” means a citizen or subject of, or an individual resident in, a qualifying country; and

“qualifying person” means a qualifying individual or a body corporate or other body having legal personality which—

(a) is formed under the law of a part of the United Kingdom or another qualifying country, and

(b) has in any qualifying country a place of business at which substantial business activity is carried on.

(2) The reference in the definition of “qualifying individual” to a person’s being a citizen or subject of a qualifying country shall be construed—

(a) in relation to the United Kingdom, as a reference to his being a British citizen, and

(b) in relation to a colony of the United Kingdom, as a reference to his being a British Dependent Territories’ citizen by connection with that colony.

(3) In determining for the purpose of the definition of “qualifying person” whether substantial business activity is carried on at a place of business in any country, no account shall be taken of dealings in goods which are at all material times outside that country.

[<sup>F5</sup>(4) Her Majesty may by Order in Council—

(a) make provision for the application of this Part to a country by virtue of paragraph (bb) or (c) of the definition of “qualifying country” in subsection (1) to be subject to specified restrictions;

(b) amend the definition of “qualifying country” in subsection (1) so as to add a country which is not a party to the Rome Convention;

(c) make provision for the application of this Part to a country added under paragraph (b) to be subject to specified restrictions.

(5) 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.]

[<sup>F6</sup>(6) In this section, “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.]

#### Editorial Information

**X2** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Textual Amendments

**F2** Words in s. 206(1) 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\(5\)\(a\), 24\(1\)](#); [S.I. 2016/1139](#), [arts. 2, 3](#) (with [art. 4](#))

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- F3** Words in s. 206(1) 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(5)(b), 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)
- F4** Words in s. 206(1) 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(5)(c), 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)
- F5** S. 206(4)(5) 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(6), 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)
- F6** S. 206(6) 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(7), 24(1); S.I. 2016/1139, arts. 2, 3 (with art. 4)

### <sup>x3</sup>207 Countries to which this Part extends.

This Part extends to England and Wales, Scotland and Northern Ireland.

#### Editorial Information

- X3** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

### <sup>x4</sup>208 Countries enjoying reciprocal protection.

- (1) Her Majesty may by Order in Council designate as enjoying reciprocal protection under this Part—
  - (a) a Convention country, or
  - (b) a country as to which Her Majesty is satisfied that provision has been or will be made under its law giving adequate protection for British performances.
- (2) A “Convention country” means a country which is a party to a Convention relating to performers’ rights to which the United Kingdom is also a party.
- (3) A “British performance” means a performance—
  - (a) given by an individual who is a British citizen or resident in the United Kingdom, or
  - (b) taking place in the United Kingdom.
- (4) If the law of that country provides adequate protection only for certain descriptions of performance, an Order under subsection (1)(b) designating that country shall contain provision limiting to a corresponding extent the protection afforded by this Part in relation to performances connected with that country.
- (5) The power conferred by subsection (1)(b) is exercisable in relation to <sup>F7</sup>... any colony of the United Kingdom, as in relation to a foreign country.
- (6) 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.

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#### Editorial Information

- X4** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Textual Amendments

- F7** Words in s. 208(5) omitted (1.12.2016 for specified purposes, 6.4.2017 in so far as not already in force) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 22(8), 24(1)**; S.I. 2016/1139, arts. 2, 3 (with art. 4)

### <sup>x5</sup>209 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 <sup>M1</sup>Continental Shelf Act 1964.

#### Editorial Information

- X5** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Marginal Citations

- M1** 1964 c. 29.

### <sup>x6</sup>210 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 [<sup>F8</sup>Merchant 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.

#### Editorial Information

- X6** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on

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1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Textual Amendments

**F8** Words in s. 210(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 84(b)** (with s. 312(1))

### <sup>f9</sup> **210A Requirement of signature: application in relation to body corporate**

- (1) The requirement in the following provisions that an instrument be signed by or on behalf of a person is also satisfied in the case of a body corporate by the affixing of its seal—
  - section 191B(3) (assignment of performer's property rights);
  - section 191C(1) (assignment of future performer's property rights);
  - section 191D(1) (grant of exclusive licence).
- (2) The requirement in the following provisions that an instrument be signed by a person is also satisfied in the case of a body corporate by signature on behalf of the body or by the affixing of its seal—
  - section 205D(2)(a) (assertion of performer's moral rights);
  - section 205J(2) (waiver of performer's moral rights).]]

#### Textual Amendments

**F9** S. 210A inserted (1.2.2006) by **The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18)**, **reg. 7** (with **reg. 8**)

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