



Copyright Act 1956

1956 CHAPTER 74 4 and 5 Eliz 2

PART I

COPYRIGHT IN ORIGINAL WORKS

8 Special exception in respect of records of musical works

- (1) The copyright in a musical work is not infringed by a person (in this section referred to as “the manufacturer”) who makes a record of the work or of an adaptation thereof in the United Kingdom, if—
- (a) records of the work, or, as the case may be, of a similar adaptation of the work, have previously been made in, or imported into, the United Kingdom for the purposes of retail sale, and were so made or imported by, or with the licence of, the owner of the copyright in the work;
 - (b) before making the record, the manufacturer gave to the owner of the copyright the prescribed notice of his intention to make it;
 - (c) the manufacturer intends to sell the record by retail, or to supply it for the purpose of its being sold by retail by another person, or intends to use it for making other records which are to be so sold or supplied; and
 - (d) in the case of a record which is sold by retail, the manufacturer pays to the owner of the copyright, in the prescribed manner and at the prescribed time, a royalty of an amount ascertained in accordance with the following provisions of this section.
- (2) Subject to the following provisions of this section, the royalty mentioned in paragraph (d) of the preceding subsection shall be of an amount equal to six and one-quarter per cent. of the ordinary retail selling price of the record, calculated in the prescribed manner:

Provided that, if the amount so calculated includes a fraction of a farthing, that fraction shall be reckoned as one farthing, and if, apart from this proviso, the amount of the royalty would be less than three-farthings, the amount thereof shall be three-farthings.

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- (3) If, at any time after the end of the period of one year beginning with the coming into operation of this section, it appears to the Board of Trade that the ordinary rate of royalty, or the minimum amount thereof, in accordance with the provisions of the last preceding subsection, or in accordance with those provisions as last varied by an order under this subsection, has ceased to be equitable, either generally or in relation to any class of records, the Board may hold a public inquiry in the prescribed manner; and if, in consequence of such an inquiry, the Board are satisfied of the need to do so, the Board may make an order prescribing such different rate or amount, either generally or in relation to any one or more classes of records, as the Board may consider just:

Provided that—

- (a) no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament; and
 - (b) where an order comprising a class of records (that is to say, either a general order or an order relating specifically to that class, or to that class together with one or more other classes of records) has been made under this subsection, no further order comprising that class of records shall be made thereunder less than five years after the date on which the previous order comprising that class (or, if more than one, the last previous order comprising that class) was made thereunder.
- (4) In the case of a record which comprises (with or without other material, and either in their original form or in the form of adaptations) two or more musical works in which copyright subsists—
- (a) the minimum royalty shall be three-farthings in respect of each of those works, or, if a higher or lower amount is prescribed by an order under the last preceding subsection as the minimum royalty, shall be that amount in respect of each of those works ; and
 - (b) if the owners of the copyright in the works are different persons, the royalty shall be apportioned among them in such manner as they may agree or as, in default of agreement, may be determined by arbitration.
- (5) Where a record comprises (with or without other material) a performance of a musical work, or of an adaptation of a musical work, in which words are sung, or are spoken incidentally to or in association with the music, and either no copyright subsists in that work or, if such copyright subsists, the conditions specified in subsection (1) of this section are fulfilled in relation to that copyright, then if—
- (a) the words consist or form part of a literary or dramatic work in which copyright subsists, and
 - (b) such previous records as are referred to in paragraph (a) of subsection (1) of this section were made or imported by, or with the licence of, the owner of the copyright in that literary or dramatic work, and
 - (c) the conditions specified in paragraphs (b) and (d) of subsection (1) of this section are fulfilled in relation to the owner of that copyright,

the making of the record shall not constitute an infringement of the copyright in the literary or dramatic work:

Provided that this subsection shall not be construed as requiring more than one royalty to be paid in respect of a record; and if copyright subsists both in the musical work and in the literary or dramatic work, and their owners are different persons, the royalty shall be apportioned among them (or among them and any other person entitled to a

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share thereof in accordance with the last preceding subsection) as they may agree or as, in default of agreement, may be determined by arbitration.

- (6) For the purposes of this section an adaptation of a work shall be taken to be similar to an adaptation thereof contained in previous records if the two adaptations do not substantially differ in their treatment of the work, either in respect of style or (apart from any difference in numbers) in respect of the performers required for performing them.
- (7) Where, for the purposes of paragraph (a) of subsection (1) of this section, the manufacturer requires to know whether such previous records as are mentioned in that paragraph were made or imported as therein mentioned, the manufacturer may make the prescribed inquiries; and if the owner of the copyright fails to reply to those inquiries within the prescribed period, the previous records shall be taken to have been made or imported, as the case may be, with the licence of the owner of the copyright.
- (8) The preceding provisions of this section shall apply in relation to records of part of a work or adaptation as they apply in relation to records of the whole of it:

Provided that subsection (1) of this section—

- (a) shall not apply to a record of the whole of a work or adaptation unless the previous records referred to in paragraph (a) of that subsection were records of the whole of the work or of a similar adaptation, and
- (b) shall not apply to a record of part of a work or adaptation unless those previous records were records of, or comprising, that part of the work or of a similar adaptation.
- (9) In relation to musical works published before the first day of July, nineteen hundred and twelve, the preceding provisions of this section shall apply as if paragraph (a) of subsection (1), paragraph (b) of subsection (5), subsections (6) and (7), and the proviso to the last preceding subsection, were omitted:

Provided that this subsection shall not extend the operation of subsection (5) of this section to a record in respect of which the condition specified in paragraph (b) of that subsection is not fulfilled, unless the words comprised in the record (as well as the musical work) were published before the first day of July, nineteen hundred and twelve, and were so published as words to be sung to, or spoken incidentally to or in association with, the music.

- (10) Nothing in this section shall be construed as authorising the importation of records which could not lawfully be imported apart from this section; and accordingly, for the purposes of any provision of this Act relating to imported articles, where the question arises whether the making of a record made outside the United Kingdom would have constituted an infringement of copyright if the record had been made in the United Kingdom, that question shall be determined as if subsection (1) of this section had not been enacted.
- (11) In this section “prescribed” means prescribed by regulations made under this section by the Board of Trade; and any such regulations made for the purposes of paragraph (d) of subsection (1) of this section may provide that the taking of such steps as may be specified in the regulations (being such steps as the Board consider most convenient for ensuring the receipt of the royalties by the owner of the copyright) shall be treated as constituting payment of the royalties in accordance with that paragraph.