
STATUTORY INSTRUMENTS

1996 No. 2967

The Copyright and Related Rights Regulations 1996

PART III

TRANSITIONAL PROVISIONS AND SAVINGS

General provisions

Introductory

25.—(1) In this Part—

“commencement” means the commencement of these Regulations; and

“existing”, in relation to a work or performance, means made or given before commencement.

(2) For the purposes of this Part a work of which the making extended over a period shall be taken to have been made when its making was completed.

(3) In this Part a “new right” means a right arising by virtue of these Regulations, in relation to a copyright work or a qualifying performance, to authorise or prohibit an act.

The expression does not include—

(a) a right corresponding to a right which existed immediately before commencement, or

(b) a right to remuneration arising by virtue of these Regulations.

(4) Expressions used in this Part have the same meaning in relation to copyright as they have in Part I of the Copyright, Designs and Patents Act 1988⁽¹⁾, and in relation to performances as in Part II of that Act.

General rules

26.—(1) Subject to anything in regulations 28 to 36 (special transitional provisions and savings), these regulations apply to copyright works made, and to performances given, before or after commencement.

(2) No act done before commencement shall be regarded as an infringement of any new right, or as giving rise to any right to remuneration arising by virtue of these Regulations.

Saving for certain existing agreements

27.—(1) Except as otherwise expressly provided, nothing in these Regulations affects an agreement made before 19th November 1992.

(2) No act done in pursuance of any such agreement after commencement shall be regarded as an infringement of any new right.

(1) 1988 c. 48.

*Special provisions***Broadcasts**

- 28.** The provisions of—
- regulation 5 (place where broadcast treated as made) and
 - regulation 6 (safeguards in relation to certain satellite broadcasts),
- have effect in relation to broadcasts made after commencement.

Satellite broadcasting: international co-production agreements

- 29.**—(1) This regulation applies to an agreement concluded before 1st January 1995—
- (a) between two or more co-producers of a film, one of whom is a national of an EEA state, and
 - (b) the provisions of which grant to the parties exclusive rights to exploit all communication to the public of the film in separate geographical areas.
- (2) Where such an agreement giving such exclusive exploitation rights in relation to the United Kingdom does not expressly or by implication address satellite broadcasting from the United Kingdom, the person to whom those exclusive rights have been granted shall not make any such broadcast without the consent of any other party to the agreement whose language-related exploitation rights would be adversely affected by that broadcast.

New rights: exercise of rights in relation to performances

- 30.**—(1) Any new right conferred by these Regulations in relation to a qualifying performance is exercisable as from commencement by the performer or (if he has died) by the person who immediately before commencement was entitled by virtue of section 192(2) to exercise the rights conferred on the performer by Part II in relation to that performance.
- (2) Any remuneration or damages received by a person's personal representatives by virtue of a right conferred on them by paragraph (1) shall devolve as part of that person's estate as if the right had subsisted and been vested in him immediately before his death.

New rights: effect of pre-commencement authorisation of copying

- 31.** Where before commencement—
- (a) the owner or prospective owner of copyright in a literary, dramatic, musical or artistic work has authorised a person to make a copy of the work, or
 - (b) the owner or prospective owner of performers' rights in a performance has authorised a person to make a copy of a recording of the performance, any new right in relation to that copy shall vest on commencement in the person so authorised, subject to any agreement to the contrary.

New rights: effect of pre-commencement film production agreement

- 32.**—(1) Sections 93A and 191F (presumption of transfer of rental right in case of production agreement) apply in relation to an agreement concluded before commencement.

As section 93A so applies, the restriction in subsection (3) of that section shall be omitted (exclusion of presumption in relation to screenplay, dialogue or music specifically created for the film).

- (2) Sections 93B and 191G (right to equitable remuneration where rental right transferred) have effect accordingly, but subject to regulation 33 (right to equitable remuneration applicable to rental after 1st April 1997).

Right to equitable remuneration applicable to rental after 1st April 1997

33. No right to equitable remuneration under section 93B or 191G (right to equitable remuneration where rental right transferred) arises—

- (a) in respect of any rental of a sound recording or film before 1st April 1997, or
- (b) in respect of any rental after that date of a sound recording or film made in pursuance of an agreement entered into before 1st July 1994, unless the author or performer (or a successor in title of his) has before 1st January 1997 notified the person by whom the remuneration would be payable that he intends to exercise that right.

Savings for existing stocks

34.—(1) Any new right in relation to a copyright work does not apply to a copy of the work acquired by a person before commencement for the purpose of renting or lending it to the public.

(2) Any new right in relation to a qualifying performance does not apply to a copy of a recording of the performance acquired by a person before commencement for the purpose of renting or lending it to the public .

Lending of copies by libraries or archives

35. Until the making of regulations under section 37 of the Copyright, Designs and Patents Act 1988⁽²⁾ for the purposes of section 40A(2) of that Act (lending of copies by libraries or archives), the reference in section 40A(2) (and in paragraph 6B of Schedule 2) to a prescribed library or archive shall be construed as a reference to any library or archive in the United Kingdom prescribed by paragraphs 2 to 6 of Part A of Schedule 1 to the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989⁽³⁾.

Authorship of films

36.—(1) Regulation 18 (authorship of films) applies as from commencement in relation to films made on or after 1st July 1994.

(2) It is not an infringement of any right which the principal director has by virtue of these Regulations to do anything after commencement in pursuance of arrangements for the exploitation of the film made before 19th November 1992.

This does not affect any right of his to equitable remuneration under section 93B.

(2) 1988 c. 48.

(3) S.I.1989/1212.