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STATUTORY INSTRUMENTS

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**2005 No. 852**

**The Copyright and Performances  
(Application to Other Countries) Order 2005**

**Savings**

7.—(1) For the purposes of this article an act is an “excluded act” where—

(a) a person (A) has incurred any expenditure or liability in connection with the act; and

(b) he—

(i) began in good faith to do the act, or

(ii) made in good faith effective and serious preparations to do the act,

at a time when the act neither infringed nor was restricted by the relevant rights in the work or performance.

(2) Where another person (B) acquires those relevant rights pursuant to this Order, A has the right —

(a) to continue to do the excluded act, or

(b) to do the excluded act,

notwithstanding that the excluded act infringes or is restricted by those relevant rights.

(3) Where B, or his exclusive licensee, pays reasonable compensation to A paragraph (2) no longer applies.

(4) Where—

(a) B offers to pay compensation to A under paragraph (3); but

(b) A and B cannot agree on what compensation is reasonable,

either person may refer the matter to arbitration.

(5) In this article “relevant rights” means copyright, the rights conferred by Chapter 4 of Part 1 of the Act and the rights conferred by Part 2 of the Act.