

**2005 No. 852**

**COPYRIGHT**

**RIGHTS IN PERFORMANCES**

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

*Made* - - - - - *22nd March 2005*  
*Laid before Parliament* *4th April 2005*  
*Coming into force* - - - *1st May 2005*

At the Court at Buckingham Palace, the 22nd day of March 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty is satisfied that provision has been or will be made giving adequate protection for British performances and to the owners of British copyright works under the laws of the Isle of Man and for British performances under the laws of Gibraltar.

Her Majesty is further satisfied that provision has been or will be made giving adequate protection to the owners of the copyright in British sound recordings and wireless broadcasts under the laws of Indonesia and Malaysia and to the owners of the copyright in British sound recordings under the laws of Bangladesh, Botswana, Gabon, Georgia, Ghana, Guinea, India, Jordan, Kazakhstan, Mali, Mongolia, New Zealand, Pakistan, Senegal, Taiwan, Thailand and the United States of America.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority conferred upon Her by sections 159 and 208 of the Copyright, Designs and Patents Act 1988(a) and by section 2(2) of the European Communities Act 1972(b), is pleased to order, and it is hereby ordered as follows:

**Introductory**

**1.**—(1) This Order may be cited as the Copyright and Performances (Application to Other Countries) Order 2005 and shall come into force on 1st May 2005.

(2) In this Order “the Act” means the Copyright, Designs and Patents Act 1988.

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(a) 1988 c.48, section 159 was amended by regulation 2(2) of, and Schedule 2 to, the Copyright and Related Rights Regulations 2003 (SI 2003/2498).  
(b) 1972 c. 68.

## **Literary, dramatic, musical and artistic works, films and the typographical arrangement of published editions**

2.—(1) All the provisions of Part 1 of the Act, insofar as they relate to literary, dramatic, musical and artistic works, films and the typographical arrangement of published editions, apply in relation to the countries indicated in the second column of the table set out in the Schedule so that those provisions apply—

- (a) in relation to persons who are citizens or subjects of, or are domiciled or resident in, those countries as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom,
- (b) in relation to bodies incorporated under the laws of those countries as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, and
- (c) in relation to works first published in those countries as they apply in relation to works first published in the United Kingdom,

subject to paragraph (2).

(2) Where a literary, dramatic, musical or artistic work was first published before 1st June 1957 it shall not qualify for copyright protection by reason of section 154 (qualification by reference to author).

## **Sound recordings**

3.—(1) Except for the provisions listed in paragraph (2)(a), all the provisions of Part 1 of the Act, insofar as they relate to sound recordings, apply in relation to the countries indicated in the third column of the table set out in the Schedule so that those provisions apply—

- (a) in relation to persons who are citizens or subjects of, or are domiciled or resident in, those countries as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom,
- (b) in relation to bodies incorporated under the laws of those countries as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, and
- (c) in relation to works first published in those countries as they apply in relation to works first published in the United Kingdom.

(2) Where in the third column of the table set out in the Schedule the entry for a country—

- (a) includes an asterisk (\*), the following provisions of Part 1 of the Act, insofar as they relate to sound recordings, also apply to that country—
  - (i) section 18A (infringement by rental or lending of work to the public)(a) in so far as it applies to lending;
  - (ii) section 19 (infringement by playing of work in public)(b);
  - (iii) section 20 (infringement by communication to the public)(c);
  - (iv) section 26 (secondary infringement: provision of apparatus for infringing performance, &c); and
  - (v) section 107(2A) and (3) (criminal liability for communicating to the public or playing a sound recording)(d);
- (b) includes a hash (#), the following provisions of Part 1 of the Act, insofar as they relate to sound recordings, also apply to that country—

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(a) Section 18A of the Act was inserted by regulation 10(2) of the Copyright and Related Rights Regulations 1996 (SI 1996/2967).

(b) Section 19 of the Act was amended by regulation 2(1) of, and paragraph 3(1) of Schedule 1 to, the Copyright and Related Rights Regulations 2003.

(c) Section 20 of the Act was substituted by regulation 6(1) of the Copyright and Related Rights Regulations 2003.

(d) Section 107(2A) of the Act was inserted by regulation 26(1)(a) of the Copyright and Related Rights Regulations 2003 and section 107(3) of the Act was amended by regulation 2(1) of, and paragraph 9(2) of Schedule 1 to, those Regulations.

- (i) section 20 (infringement by communication to the public), except that references to communication to the public do not include the broadcasting of a sound recording; and
- (ii) section 107(2A) (criminal liability for communicating to the public), except that it does not apply in relation to the broadcasting of a sound recording.

### Wireless broadcasts

4.—(1) Except for the provisions listed in paragraph (2), all the provisions of Part 1 of the Act, insofar as they relate to wireless broadcasts, apply in relation to the countries indicated in the fourth column of the table set out in the Schedule so that those provisions apply—

- (a) in relation to persons who are citizens or subjects of, or are domiciled or resident in, those countries as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom,
- (b) in relation to bodies incorporated under the laws of those countries as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, and
- (c) in relation to broadcasts made from those countries as they apply in relation to broadcasts made from the United Kingdom,

subject to paragraphs (3) to (5).

(2) The following provisions of Part 1 of the Act, insofar as they relate to wireless broadcasts, also apply in relation to a country where its entry in the fourth column of the table set out in the Schedule does not include an asterisk (\*)—

- (a) section 18A (infringement by rental or lending of work to the public);
- (b) section 19 (infringement by showing or playing of work in public), but only insofar as it relates to broadcasts other than television broadcasts;
- (c) section 20 (infringement by communication to the public), except in relation to broadcasting by wireless telegraphy;
- (d) section 26 (secondary infringement: provision of apparatus for infringing performance, &c), but only insofar as it relates to broadcasts other than television broadcasts;
- (e) section 107(2A) (criminal liability for communicating to the public), except in relation to broadcasting by wireless telegraphy.

(3) The provisions of Part 1 of the Act do not apply in relation to a wireless broadcast made from a place in a country, referred to in paragraph (4), before the relevant date.

(4) The relevant date in relation to a country—

- (a) where its entry in the fourth column of the table set out in the Schedule includes an “(X)”, is 1st June 1957;
- (b) where its entry in the fourth column of the table set out in the Schedule includes a “(Y)”, is 1st January 1996; or
- (c) where there is a date next to its entry in the fourth column of the table set out in the Schedule, is that date.

(5) For the purposes of section 14(5) of the Act (duration of copyright in repeats)(a) any wireless broadcast which does not qualify for copyright protection shall be disregarded.

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(a) Section 14 of the Act was substituted by regulation 7(1) of the Duration of Copyright and Rights in Performances Regulations 1995 (SI 1995/3297) and it was subsequently amended by regulation 2(2) of, and Schedule 2 to, the Copyright and Related Rights Regulations 2003.

## Other broadcasts

5. All the provisions of Part 1 of the Act, insofar as they relate to broadcasts (other than wireless broadcasts), apply in relation to the countries indicated in the fifth column of the table set out in the Schedule so that those provisions apply—

- (a) in relation to persons who are citizens or subjects of, or are domiciled or resident in, those countries as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom,
- (b) in relation to bodies incorporated under the laws of those countries as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, and
- (c) in relation to broadcasts made from those countries as they apply in relation to broadcasts made from the United Kingdom.

## Performances

6.—(1) The countries in respect of which the word “designated” is included in the sixth column of the table set out in the Schedule are designated as enjoying reciprocal protection under Part 2 of the Act.

(2) The countries in respect of which the word “deemed” is included in the sixth column of the table set out in the Schedule shall be treated as if they were designated as enjoying reciprocal protection under Part 2 of the Act, except that—

- (a) in that Part the term “recording” shall be construed as applying only to sound recordings (and not to films);
- (b) the following provisions of Part 2 of the Act shall not apply—
  - (i) section 182C (consent required for rental or lending of copies to public), insofar as it relates to lending(a);
  - (ii) section 182D (right to equitable remuneration for exploitation of sound recording);
  - (iii) section 183 (infringement of performer’s rights by use of recording made without consent);
  - (iv) sections 185 to 188 (rights of person having recording rights);
  - (v) section 198(2) (criminal liability for playing or communicating to the public); and
- (c) where in the sixth column of the table set out in the Schedule the entry for a country includes an asterisk (\*), the following provisions of Part 2 of the Act shall also not apply—
  - (i) section 182CA (consent required for making available to the public)(b);
  - (ii) section 198(1A) (criminal liability for making available to the public).

## 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.

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(a) Sections 182B to 182D were inserted by regulation 20(2) of the Copyright and Related Rights Regulations 1996.

(b) Section 182CA and section 198(1A) of the Act were inserted by regulations 7(1) and 26(3) of the Copyright and Related Rights Regulations 2003 respectively.

(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.

### **Revocations**

8. The following Orders are revoked—

- (a) the Copyright (Application to the Isle of Man) Order 1992(a);
- (b) the Copyright (Application to Other Countries) Order 1999(b);
- (c) the Performances (Reciprocal Protection) (Convention Countries and Isle of Man) Order 2003(c);
- (d) the Copyright (Application to Other Countries)(Amendment) Order 2003(d).

*K Galloway*  
Clerk of the Privy Council

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(a) SI 1992/1313.  
(b) SI 1999/1751.  
(c) SI 2003/773.  
(d) SI 2003/774.

## SCHEDULE

Articles 2 to 6

<i>Country</i>	<i>Article 2 (literary, dramatic, musical and artistic works, films and typographical arrangements)</i>	<i>Article 3 (sound recordings)</i>	<i>Article 4 (wireless broadcasts)</i>	<i>Article 5 (other broadcasts)</i>	<i>Article 6 (performances)</i>
Albania	Applies	Applies (*)	Applies (1st September 2000)		Designated
Algeria	Applies	Applies			
Andorra	Applies	Applies (*)	Applies (25th May 2004)		Designated
Angola	Applies	Applies	Applies (*) (23rd November 1996)		Deemed (*)
Antigua and Barbuda	Applies	Applies	Applies (*)(Y)		Deemed (*)
Argentina	Applies	Applies (*)	Applies (2nd March 1992)		Designated
Armenia	Applies	Applies (*)	Applies (31st January 2003)		Designated
Australia (including Norfolk Island)	Applies	Applies (*)	Applies (30th September 1992)		Designated
Austria	Applies	Applies (*)	Applies (X)	Applies	
Azerbaijan	Applies	Applies			
Bahamas	Applies	Applies			
Bahrain	Applies	Applies	Applies (*)(Y)		Deemed (*)
Bangladesh	Applies	Applies (*)	Applies (*)(Y)		Deemed (*)
Barbados	Applies	Applies (*)	Applies (18th September 1983)		Designated
Belarus	Applies	Applies (*)	Applies (27th May 2003)		Designated

Belgium	Applies	Applies (*)	Applies (X)	Applies
Belize	Applies	Applies	Applies (*) (*) (Y)	Deemed (*)
Benin	Applies	Applies	Applies (*) (22nd February 1996)	Deemed (*)
Bhutan	Applies	Applies		
Bolivia	Applies	Applies (*)	Applies (24th November 1993)	Designated
Bosnia and Herzegovina	Applies	Applies		
Botswana	Applies	Applies (#)	Applies (*) (*) (Y)	Deemed
Brazil	Applies	Applies (*)	Applies (29th September 1965)	Designated
Brunei Darussalam	Applies	Applies	Applies (*) (*) (Y)	Deemed (*)
Bulgaria	Applies	Applies (*)	Applies (31st August 1995)	Designated
Burkina Faso	Applies	Applies (*)	Applies (14th January 1988)	Designated
Burundi	Applies	Applies	Applies (*) (*) (Y)	Deemed (*)
Cambodia	Applies	Applies	Applies (*) (13th October 2004)	Deemed (*)
Cameroon	Applies	Applies	Applies (*) (*) (Y)	Deemed (*)
Canada	Applies	Applies (*)	Applies (Y)	Designated
Cape Verde	Applies	Applies (*)	Applies (3rd July 1997)	Designated
Central African Republic	Applies	Applies	Applies (*) (*) (Y)	Deemed (*)
Chad	Applies	Applies	Applies (*) (19th October 1996)	Deemed (*)
Chile	Applies	Applies (*)	Applies (5th September 1974)	Designated

China	Applies	Applies	Applies (*) (11th December 2001)	Deemed (*)
Columbia	Applies	Applies (*)	Applies (17th September 1976)	Designated
Comoros	Applies	Applies		
Congo	Applies	Applies (*)	Applies (18th May 1964)	Designated
Costa Rica	Applies	Applies (*)	Applies (9th September 1971)	Designated
Cote d'Ivoire	Applies	Applies	Applies (*)(Y)	Deemed (*)
Croatia	Applies	Applies (*)	Applies (20th April 2000)	Designated
Cuba	Applies	Applies	Applies (*)(Y)	Deemed (*)
Cyprus	Applies	Applies (*)	Applies (X)	Applies
Czech Republic	Applies	Applies (*)	Applies (X)	Applies
Democratic Republic of the Congo	Applies	Applies	Applies (*) (1st January 1997)	Deemed (*)
Denmark	Applies	Applies (*)	Applies (X)	Applies
Djibouti	Applies	Applies	Applies (*)(Y)	Deemed (*)
Dominica	Applies	Applies (*)	Applies (Y)	Designated
Dominican Republic	Applies	Applies (*)	Applies (27th January 1987)	Designated
Ecuador	Applies	Applies (*)	Applies (18th May 1964)	Designated
Egypt	Applies	Applies	Applies (*)(Y)	Deemed (*)
El Salvador	Applies	Applies (*)	Applies (29th June 1979)	Designated
Equatorial Guinea	Applies	Applies		
Estonia	Applies	Applies (*)	Applies (X)	Applies
Faeroe Islands	Applies	Applies	Applies (1st February 1962)	Designated



Fiji	Applies	Applies (*)	Applies (11th April 1972)	Designated
Finland	Applies	Applies (*)	Applies (X)	Applies
France (including Overseas Departments and Territories)	Applies	Applies (*)	Applies (X)	Applies
Gabon	Applies	Applies (#)	Applies (*)(Y)	Deemed
Gambia	Applies	Applies	Applies (*) (23rd October 1996)	Deemed (*)
Georgia	Applies	Applies (#)	Applies (*) (14th June 2000)	Deemed
Germany	Applies	Applies (*)	Applies (X)	Applies
Ghana	Applies	Applies (*)	Applies (*)(Y)	Deemed (*)
Gibraltar(a)				Designated
Greece	Applies	Applies (*)	Applies (X)	Applies
Greenland	Applies	Applies	Applies (1st February 1962)	Designated
Grenada	Applies	Applies	Applies (*) (22nd February 1996)	Deemed (*)
Guatemala	Applies	Applies (*)	Applies (14th January 1977)	Designated
Guinea	Applies	Applies (#)	Applies (*)(Y)	Deemed
Guinea-Bissau	Applies	Applies	Applies (*)(Y)	Deemed (*)
Guyana	Applies	Applies	Applies (*)(Y)	Deemed (*)
Haiti	Applies	Applies	Applies (*) (30th January 1996)	Deemed (*)
Holy See	Applies	Applies		
Honduras	Applies	Applies (*)	Applies (16th February 1990)	Designated
Hong Kong	Applies	Applies (*)	Applies (X)	Deemed (*)

(a) Part 1 of the Act will extend to Gibraltar by reason of the Copyright (Gibraltar) Order 2005 (SI 2005/[ ]).

Hungary	Applies	Applies (*)	Applies (X)	Applies	
Iceland	Applies	Applies (*)	Applies (X)	Applies	Designated
India	Applies	Applies (*)	Applies (*) (Y)		Deemed (*)
Indonesia	Applies	Applies (*)	Applies (X)	Applies	Deemed
Ireland	Applies	Applies (*)	Applies (X)	Applies	
Isle of Man	Applies	Applies (*)	Applies (X)	Applies	Designated
Israel	Applies	Applies (*)	Applies (Y)		Designated
Italy	Applies	Applies (*)	Applies (X)	Applies	
Jamaica	Applies	Applies (*)	Applies (27th January 1994)		Designated
Japan	Applies	Applies (*)	Applies (26th October 1989)		Designated
Jordan	Applies	Applies (#)	Applies (*) (11th April 2000)		Deemed
Kazakhstan	Applies	Applies (#)			Deemed
Kenya	Applies	Applies	Applies (*) (Y)		Deemed (*)
Korea, Democratic People's Republic of	Applies	Applies			
Korea, Republic of	Applies	Applies	Applies (*) (Y)		Deemed (*)
Kuwait	Applies	Applies	Applies (*) (Y)		Deemed (*)
Kyrgyzstan	Applies	Applies (*)	Applies (20th December 1998)		Designated
Lao People's Democratic Republic	Applies	Applies			
Latvia	Applies	Applies (*)	Applies (X)	Applies	
Lebanon	Applies	Applies (*)	Applies (12th August 1997)		Designated
Lesotho	Applies	Applies (*)	Applies (26th January 1990)		Designated
Liberia	Applies	Applies			
Libyan Arab Jamahiriya	Applies	Applies			
Liechtenstein	Applies	Applies (*)	Applies (X)	Applies	Designated

Lithuania	Applies	Applies (*)	Applies (X)	Applies
Luxembourg	Applies	Applies (*)	Applies (X)	Applies
Macao	Applies	Applies	Applies (*) (Y)	Deemed (*)
Macedonia, The Former Yugoslav Republic of	Applies	Applies (*)	Applies (2nd March 1998)	Designated
Madagascar	Applies	Applies	Applies (*) (Y)	Deemed (*)
Malawi	Applies	Applies (*)	Applies (22nd June 1989)	Deemed (*)
Malaysia	Applies	Applies (*)	Applies (X)	Deemed (*)
Maldives	Applies	Applies	Applies (*) (Y)	Deemed (*)
Mali	Applies	Applies (#)	Applies (*) (Y)	Deemed
Malta	Applies	Applies (*)	Applies (X)	Applies
Mauritania	Applies	Applies	Applies (*) (Y)	Deemed (*)
Mauritius	Applies	Applies	Applies (*) (Y)	Deemed (*)
Mexico	Applies	Applies (*)	Applies (18th May 1964)	Designated
Micronesia, Federated States of	Applies	Applies		
Moldova, Republic of	Applies	Applies (*)	Applies (5th December 1995)	Designated
Monaco	Applies	Applies (*)	Applies (6th December 1985)	Designated
Mongolia	Applies	Applies (#)	Applies (*) (29th January 1997)	Deemed
Morocco	Applies	Applies	Applies (*) (Y)	Deemed (*)
Mozambique	Applies	Applies	Applies (*) (Y)	Deemed (*)
Myanmar	Applies	Applies	Applies (*) (Y)	Deemed (*)
Namibia	Applies	Applies	Applies (*) (Y)	Deemed (*)
Nepal	Applies	Applies	Applies (*) (23rd April 2004)	Deemed (*)
Netherlands	Applies	Applies (*)	Applies (X)	Applies

Netherlands Antilles and Aruba	Applies	Applies	Applies (*) (Y)		Deemed
New Zealand	Applies	Applies (*)	Applies (*) (Y)		Deemed (*)
Nicaragua	Applies	Applies (*)	Applies (Y)		Designated
Niger	Applies	Applies (*)	Applies (18th May 1964)		Designated
Nigeria	Applies	Applies (*)	Applies (29th October 1993)		Designated
Norway	Applies	Applies (*)	Applies (X)	Applies	Designated
Oman	Applies	Applies	Applies (*) (9th November 2000)		Deemed (*)
Pakistan	Applies	Applies (*)	Applies (*) (Y)		Deemed (*)
Panama	Applies	Applies (*)	Applies (2nd September 1983)		Designated
Papua New Guinea	Applies	Applies	Applies (*) (9th June 1996)		Deemed (*)
Paraguay	Applies	Applies (*)	Applies (26th February 1970)		Designated
Peru	Applies	Applies (*)	Applies (7th August 1985)		Designated
Philippines	Applies	Applies (*)	Applies (25th September 1984)		Designated
Poland	Applies	Applies (*)	Applies (X)	Applies	
Portugal	Applies	Applies (*)	Applies (X)	Applies	
Qatar	Applies	Applies	Applies (*) (13th January 1996)		Deemed (*)
Romania	Applies	Applies (*)	Applies (Y)		Designated
Russian Federation	Applies	Applies (*)	Applies (26th May 2003)		Designated
Rwanda	Applies	Applies	Applies (*) (22nd May 1996)		Deemed (*)

Saint Kitts and Nevis	Applies	Applies	Applies (*) (21st February 1996)		Deemed (*)
Saint Lucia	Applies	Applies (*)	Applies (Y)		Designated
Saint Vincent and the Grenadines	Applies	Applies	Applies (*) (Y)		Deemed (*)
Saudi Arabia	Applies	Applies			
Senegal	Applies	Applies (#)	Applies (*) (Y)		Deemed
Serbia and Montenegro	Applies	Applies (*)	Applies (10th June 2003)		Designated
Sierra Leone	Applies	Applies	Applies (*) (Y)		Deemed (*)
Singapore	Applies	Applies (#)	Applies (X)	Applies	Deemed
Slovak Republic	Applies	Applies (*)	Applies (X)	Applies	
Slovenia	Applies	Applies (*)	Applies (X)	Applies	
Solomon Islands	Applies	Applies	Applies (*) (26th July 1996)		Deemed (*)
South Africa	Applies	Applies	Applies (*) (Y)		Deemed (*)
Spain	Applies	Applies (*)	Applies (X)	Applies	
Sri Lanka	Applies	Applies	Applies (*) (Y)		Deemed (*)
Sudan	Applies	Applies			
Suriname	Applies	Applies	Applies (*) (Y)		Deemed (*)
Swaziland	Applies	Applies	Applies (*) (Y)		Deemed (*)
Sweden	Applies	Applies (*)	Applies (X)	Applies	
Switzerland	Applies	Applies (*)	Applies (X)	Applies	Designated
Syrian Arab Republic	Applies	Applies			
Taiwan	Applies	Applies (*)	Applies (*) (1st January 2002)		Deemed (*)
Tajikistan	Applies	Applies			
Tanzania, United Republic of	Applies	Applies	Applies (*) (Y)		Deemed (*)
Thailand	Applies	Applies (*)	Applies (*) (Y)		Deemed (*)
Togo	Applies	Applies (*)	Applies (Y)		Designated
Tonga	Applies	Applies			
Trinidad and Tobago	Applies	Applies	Applies (*) (Y)		Deemed (*)

Tunisia	Applies	Applies	Applies (*)(Y)	Deemed (*)
Turkey	Applies	Applies (*)	Applies (Y)	Designated
Uganda	Applies	Applies	Applies (*)(Y)	Deemed (*)
Ukraine	Applies	Applies (*)	Applies (12th June 2002)	Designated
United Arab Emirates	Applies	Applies (*)	Applies (10th April 1996)	Designated
United States of America (including Puerto Rico and all territories and possessions)	Applies	Applies (#)	Applies (*)(Y)	Deemed
Uruguay	Applies	Applies (*)	Applies (4th July 1977)	Designated
Uzbekistan	Applies	Applies		
Venezuela	Applies	Applies (*)	Applies (Y)	Designated
Viet Nam	Applies	Applies		
Zambia	Applies	Applies	Applies (*)(Y)	Deemed (*)
Zimbabwe	Applies	Applies	Applies (*)(Y)	Deemed (*)

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Part 1 of the Copyright, Designs and Patents Act 1988 (“the Act”) confers copyright on the creators of certain works. Part 2 of the Act confers rights on performers and persons having recording rights in relation to a performance. The purpose of this Order is to apply Part 1 of the Act to works originating from other countries and to confer on certain countries reciprocal protection under Part 2 of the Act. In this Order the term “country” includes territories, by reason of sections 178 and 211 of the Act.

By reason of section 153(3) of the Act this Order will not affect works in which copyright already subsists. Further, by reason of paragraph 35 of Schedule 1 to the Act, any work in which copyright subsisted under the Copyright Act 1956 (c. 74) is deemed to satisfy the requirements of qualification for copyright protection.

*Article 2* qualifies literary, dramatic, musical and artistic works, films and typographical arrangements of published editions for copyright protection where they are connected to the countries indicated in the second column in the Schedule. All of those countries are parties to the Berne Copyright Convention (Cmnd. 5002), to the Universal Copyright Convention (Cmnd. 4905) or to the Agreement establishing the World Trade Organisation (Cmnd. 2556-59) (including the Agreement on Trade-Related Aspects of Intellectual Property Rights (Cmnd. 2561-69, 2571-74)) or are member States of the European Community or the European Free Trade Agreement; or otherwise give adequate protection under their laws.

*Article 3* qualifies sound recordings for copyright protection where they are connected to the countries indicated in the third column of the Schedule. The protection extends to lending, playing in public or broadcasting if the country of origin is marked by an asterisk. All such countries are parties to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Cmnd. 2425) (“the Rome Convention”) or are member States of the European Community or the European Free Trade Agreement; or otherwise give adequate protection under their laws.

Different protection is given to those countries marked by a hash. All such countries are parties to the World Intellectual Property Organisation (WIPO) Performances and Phonograms Treaty (Cmnd. 3736) (“the WPPT”), but not parties to the Rome Convention. The United Kingdom has not ratified the WPPT, but it has agreed to ratify it along with the European Community and with the other member States in accordance with Council Decision 2000/278/EC (O.J. No L 89, 11.4.2000, p. 6). Protection is therefore accorded to contracting parties in anticipation of ratification on the basis that upon ratification those countries will provide protection under their laws.

*Article 4* qualifies wireless broadcasts for copyright protection where they are connected to the countries indicated in the fourth column of the Schedule. These countries are parties to the Rome Convention or are member States of the European Community or the European Free Trade Agreement; or otherwise give adequate protection under their laws.

Those countries marked by an asterisk, which receive more limited protection, are parties to the Agreement establishing the World Trade Organisation (including the Agreement on Trade-Related Aspects of Intellectual Property Rights), but not to the Rome Convention. Protection does not extend to wireless broadcasts made before the specified dates. By reason of paragraph 9(a) of Schedule 1 to the Act, protection never extends to such broadcasts made before 1st June 1957.

*Article 5* qualifies broadcasts (other than wireless broadcasts) for copyright protection where they are connected to the countries indicated in the fifth column of the Schedule. These countries are member States of the European Community or the European Free Trade Agreement or otherwise give adequate protection under their laws. By reason of paragraph 9(b) of Schedule 1 to the Act, protection does not extend to such broadcasts made before 1st January 1985.

*Article 6(1)* grants reciprocal protection to certain countries in respect of their performers and persons having recording rights. These countries are parties to the Rome Convention.

*Article 6(2)* applies where it is not possible to grant reciprocal protection, but the United Kingdom is obliged to grant limited protection to performers, by reason of both it and the European Community being party to the Agreement establishing the World Trade Organisation (including the Agreement on Trade-Related Aspects of Intellectual Property Rights). All such countries are marked with an asterisk.

This article also grants reciprocal protection to certain countries (those not marked with an asterisk) for the making available of a performance, by reason of the United Kingdom's and the European Community's undertaking to become a party to of the WPPT.

*Article 7* is a savings provision.

This Order uses powers given by the Act and by the European Communities Act 1972 to implement various Community obligations of the United Kingdom. The powers under the Act are also used to implement certain other international obligations.

This Order consolidates, and updates, those Orders revoked by *article 8*.

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