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STATUTORY INSTRUMENTS

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**2013 No. 1782**

**The Copyright and Duration of Rights  
in Performances Regulations 2013**

**PART 3**

Savings, transitional and review provisions

Rights in performances

**Rights in performances: interpretation**

**22.**—(1) In the provisions of this Part relating to rights in performances—

“existing protected performance” means a performance in a sound recording in relation to which rights under Part II of the Act (rights in performances) subsisted immediately before commencement,

“a new right” means a right arising by virtue of regulation 9 in relation to an assignment of a performer’s property rights in a sound recording.

References in this Part to performers’ rights are to the rights given by section 180(1)(a) of the Act.

**Rights in performances: application of new provisions**

**23.** The new provisions relating to the duration of performers’ rights in sound recordings and rights in relation to an assignment of performers’ rights in a sound recording apply—

- (a) to performances taking place after commencement;
- (b) to existing performances which first qualify for protection under Part II of the 1988 Act after commencement; and
- (c) to existing protected performances.

**Extended performance rights**

**24.** In the following provisions of this Part “extended performance rights” means rights under Part II of the Act which subsist by virtue of the new provisions after the date on which they would have expired under the 1988 provisions.

**Entitlement to extended performance rights and new rights**

**25.**—(1) Any extended performance rights and any new rights are exercisable as from commencement by the performer or (if he or she has died) the person entitled to exercise those rights by virtue of section 191B(1) or 192A of the Act.

(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 or her immediately before his or her death.

#### **Extended performance rights: existing consents, agreements, &c.**

**26.** Subject to the provisions of sections 191HA(5) and 191HB(7) and (9), any consent, or any term or condition of an agreement, relating to the exploitation of an existing protected performance which—

- (a) subsists immediately before commencement, and
- (b) is not to expire before the end of the period for which rights under Part II of the Act subsist in relation to that performance,

shall continue to subsist during the period of any extended performance rights, subject to any agreement to the contrary.

#### **Review**

**27.**—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of regulations 4 to 26,
- (b) set out the conclusions of the review in a report, and
- (c) lay the report before Parliament.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive (which is implemented by means of regulations 4 to 26) is implemented in other Member States and must in particular—

- (a) consider whether and if so, to what extent certain producers should be subject to the obligation to pay the annual payment referred to in section 191HB of the Act (as inserted by regulation 9) having regard to the provisions of Recital (12) of the Directive, and
- (b) consider whether to implement the provision set out in Article 10a, paragraph 2 of [Directive 2006/116/EC](#)(1) as inserted by Article 1(4) of the Directive.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) In this Regulation—

“Directive” means Directive 2011/77/EU(2) of the European Parliament and of the Council of 27th September 2011 amending [Directive 2006/116/EC](#) on the term of protection of copyright and related rights;

“Review period” means—

- (a) the period of five years beginning with the day on which regulations 4 to 26 come into force, and
- (b) subject to paragraph (5), each successive period of five years.

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(1) OJ No L 372, 27.12.2006, p12.

(2) OJ No L 265, 11.10.2011, p1.

(5) If a report under this regulation is laid before Parliament before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is laid.