
STATUTORY INSTRUMENTS

2016 No. 1219

**The Copyright and Performances
(Application to Other Countries) Order 2016**

PART 5

PERFORMANCES

Saving

13.—(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) A—

(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 as a consequence of the provisions of this Order on or after its coming into force, 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, as the case may be, B’s exclusive licensee in respect of the relevant rights pays reasonable compensation to A, paragraph (2) no longer applies.

(4) Where—

(a) B or, as the case may be, B’s exclusive licensee offers to pay compensation to A under paragraph (3), but

(b) A and B or, as the case may be, B’s exclusive licensee cannot agree on what compensation is reasonable,

either person may refer the matter to arbitration.

(5) In this article—

(a) “exclusive licensee” means a licensee under an exclusive licence (as defined in section 92(1) or 191D(1)(1)); and

(b) “relevant rights” means copyright, the rights conferred by Chapter 4 of Part 1 of the Act (moral rights) and the rights conferred by Part 2 of the Act.

Status: *This is the original version (as it was originally made).*
