



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

#### [<sup>F1</sup>CHAPTER 3

#### MORAL RIGHTS

#### *[<sup>F1</sup>Right to be identified as performer*

#### Textual Amendments

- F1** Ss. 205C-205N and cross-headings inserted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [art. 6](#) (with [reg. 8](#)) (which inserted provisions accordingly become Pt. 2 Ch. 3 (1.2.2006) by virtue of [S.I. 2006/18](#), [art. 4\(6\)](#) (with [reg. 8](#)))

#### **205C Right to be identified as performer**

- (1) Whenever a person—
- (a) produces or puts on a qualifying performance that is given in public,
  - (b) broadcasts live a qualifying performance,
  - (c) communicates to the public a sound recording of a qualifying performance, or
  - (d) issues to the public copies of such a recording,
- the performer has the right to be identified as such.
- (2) The right of the performer under this section is—
- (a) in the case of a performance that is given in public, to be identified in any programme accompanying the performance or in some other manner likely to bring his identity to the notice of a person seeing or hearing the performance,

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*Status: Point in time view as at 01/02/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Right to be identified as performer. (See end of Document for details)*

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- (b) in the case of a performance that is broadcast, to be identified in a manner likely to bring his identity to the notice of a person seeing or hearing the broadcast,
  - (c) in the case of a sound recording that is communicated to the public, to be identified in a manner likely to bring his identity to the notice of a person hearing the communication,
  - (d) in the case of a sound recording that is issued to the public, to be identified in or on each copy or, if that is not appropriate, in some other manner likely to bring his identity to the notice of a person acquiring a copy,
- or (in any of the above cases) to be identified in such other manner as may be agreed between the performer and the person mentioned in subsection (1).
- (3) The right conferred by this section in relation to a performance given by a group (or so much of a performance as is given by a group) is not infringed—
    - (a) in a case falling within paragraph (a), (b) or (c) of subsection (2), or
    - (b) in a case falling within paragraph (d) of that subsection in which it is not reasonably practicable for each member of the group to be identified,
 if the group itself is identified as specified in subsection (2).
  - (4) In this section “group” means two or more performers who have a particular name by which they may be identified collectively.
  - (5) If the assertion under section 205D specifies a pseudonym, initials or some other particular form of identification, that form shall be used; otherwise any reasonable form of identification may be used.
  - (6) This section has effect subject to section 205E (exceptions to right).

### **205D Requirement that right be asserted**

- (1) A person does not infringe the right conferred by section 205C (right to be identified as performer) by doing any of the acts mentioned in that section unless the right has been asserted in accordance with the following provisions so as to bind him in relation to that act.
- (2) The right may be asserted generally, or in relation to any specified act or description of acts—
  - (a) by instrument in writing signed by or on behalf of the performer, or
  - (b) on an assignment of a performer's property rights, by including in the instrument effecting the assignment a statement that the performer asserts in relation to the performance his right to be identified.
- (3) The persons bound by an assertion of the right under subsection (2) are—
  - (a) in the case of an assertion under subsection (2)(a), anyone to whose notice the assertion is brought;
  - (b) in the case of an assertion under subsection (2)(b), the assignee and anyone claiming through him, whether or not he has notice of the assertion.
- (4) In an action for infringement of the right the court shall, in considering remedies, take into account any delay in asserting the right.

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## **205E Exceptions to right**

- (1) The right conferred by section 205C (right to be identified as performer) is subject to the following exceptions.
- (2) The right does not apply where it is not reasonably practicable to identify the performer (or, where identification of a group is permitted by virtue of section 205C(3), the group).
- (3) The right does not apply in relation to any performance given for the purposes of reporting current events.
- (4) The right does not apply in relation to any performance given for the purposes of advertising any goods or services.
- (5) The right is not infringed by an act which by virtue of any of the following provisions of Schedule 2 would not infringe any of the rights conferred by Chapter 2—
  - (a) paragraph 2(1A) (news reporting);
  - (b) paragraph 3 (incidental inclusion of a performance or recording);
  - (c) paragraph 4(2) (things done for the purposes of examination);
  - (d) paragraph 8 (parliamentary and judicial proceedings);
  - (e) paragraph 9 (Royal Commissions and statutory inquiries).]

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