

*Status: Point in time view as at 06/04/2017.*

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

## SCHEDULES

### SCHEDULE 1

#### COPYRIGHT: TRANSITIONAL PROVISIONS AND SAVINGS

##### Modifications etc. (not altering text)

- C1** Sch. 1 applied (with modifications) by [S.I. 1989/1293, art. 4\(4\)\(5\)\(6\)](#)
- C1** Sch. 1 applied (with modifications)(4.5.1993) by [S.I. 1993/942, arts. 2\(3\), 5, Sch. 4](#) (with art. 6)
- C1** Sch. 1 applied (4.5.1993) by [S.I. 1993/942, arts.4, 5, Sch. 4](#) (with art. 6)
- C1** Sch. 1 applied (with modifications) (22.7.1999) by [S.I. 1999/1751, arts. 2\(3\), 3, 4\(3\)-\(5\), 6, Sch. 5](#) (subject to [arts. 5, 7](#)) (as amended (22.4.2003) by [S.I. 2003/774, arts. 2-5](#))
- C1** Sch. 1 extended in part (with modifications) by [The Copyright \(Bermuda\) Order 2003 \(S.I. 2003/1517\), art. 2, Sch.](#) (the amendment coming into force in accordance with art. 1 of the amending S.I.)
- C1** Sch. 1 extended in part (with modifications) by [The Copyright \(Gibraltar\) Order 2005 \(S.I. 2005/853\), art. 2, Sch.](#) (the amendment coming into force in accordance with art. 1 of the amending S.I.)

##### *Subsistence of copyright*

- 5 (1) Copyright subsists in an existing work after commencement only if copyright subsisted in it immediately before commencement.
- (2) Sub-paragraph (1) does not prevent an existing work qualifying for copyright protection after commencement—
- (a) under section 155 (qualification by virtue of first publication), <sup>F1</sup>...
  - (b) by virtue of an Order under section 159 (application of Part I to countries to which it does not extend) [<sup>F2</sup>, or]
  - <sup>F3</sup>(c) where the work is an artistic work in which copyright subsists as a result of the disapplication of paragraph 6(1) by paragraph 6(1A)]

##### Textual Amendments

- F1** Word in [Sch. 1 para. 5\(2\)\(a\)](#) omitted (6.4.2017) by virtue of [The Copyright \(Amendment\) Regulations 2016 \(S.I. 2016/1210\), regs. 1, 2\(2\)\(a\)](#)
- F2** Word in [Sch. 1 para. 5\(2\)\(b\)](#) substituted (6.4.2017) by [The Copyright \(Amendment\) Regulations 2016 \(S.I. 2016/1210\), regs. 1, 2\(2\)\(b\)](#)
- F3** [Sch. 1 para. 5\(2\)\(c\)](#) inserted (6.4.2017) by [The Copyright \(Amendment\) Regulations 2016 \(S.I. 2016/1210\), regs. 1, 2\(2\)\(c\)](#)

- 6 (1) Copyright shall not subsist by virtue of this Act in an artistic work made before 1st June 1957 which at the time when the work was made constituted a design capable of registration under the <sup>M1</sup>Registered Designs Act 1949 or under the enactments repealed by that Act, and was used, or intended to be used, as a model or pattern to be multiplied by an industrial process.

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[<sup>F4</sup>(1A) Sub-paragraph (1) does not apply to an artistic work which was on 1st July 1995 protected under the law of another EEA state relating to copyright or related rights.]

(2) For this purpose a design shall be deemed to be used as a model or pattern to be multiplied by any industrial process—

- (a) when the design is reproduced or is intended to be reproduced on more than 50 single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set of articles as defined in section 44(1) of the Registered Designs Act 1949, or
- (b) when the design is to be applied to—
  - (i) printed paper hangings,
  - (ii) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces,
  - (iii) textile piece goods, or textile goods manufactured or sold in lengths or pieces, or
  - (iv) lace, not made by hand.

#### Textual Amendments

**F4** Sch. 1 para. 6(1A) inserted (6.4.2017) by [The Copyright \(Amendment\) Regulations 2016 \(S.I. 2016/1210\)](#), regs. 1, 2(3)

#### Marginal Citations

**M1** 1949 c. 88.

- 7 (1) No copyright subsists in a film, as such, made before 1st June 1957.
- (2) Where a film made before that date was an original dramatic work within the meaning of the 1911 Act, the new copyright provisions have effect in relation to the film as if it was an original dramatic work within the meaning of Part I.
- (3) The new copyright provisions have effect in relation to photographs forming part of a film made before 1st June 1957 as they have effect in relation to photographs not forming part of a film.
- 8 (1) A film sound-track to which section 13(9) of the 1956 Act applied before commencement (film to be taken to include sounds in associated sound-track) shall be treated for the purposes of the new copyright provisions not as part of the film, but as a sound recording.
- (2) However—
- (a) copyright subsists in the sound recording only if copyright subsisted in the film immediately before commencement, and it continues to subsist until copyright in the film expires;
  - (b) the author and first owner of copyright in the film shall be treated as having been author and first owner of the copyright in the sound recording; and
  - (c) anything done before commencement under or in relation to the copyright in the film continues to have effect in relation to the sound recording as in relation to the film.

[<sup>F59</sup> No copyright subsists in—

- (a) a wireless broadcast made before 1st June 1957, or

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(b) a broadcast by cable made before 1st January 1985;  
and any such broadcast shall be disregarded for the purposes of section 14(5)  
(duration of copyright in repeats).]

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**Textual Amendments**

**F5** Sch. 1 para. 9 substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), {Sch. 1 para. 16(a)} (with regs. 31-40)

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