



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

#### [<sup>F1</sup>CHAPTER 2

#### ECONOMIC RIGHTS

#### <sup>X1</sup> *Exceptions to rights conferred*

#### <sup>X1</sup>[<sup>F1</sup>190 Power of tribunal to give consent on behalf of performer in certain cases.

[ The Copyright Tribunal may, on the application of a person wishing to make a copy of  
<sup>F2</sup>(1) a recording of a performance, give consent in a case where the identity or whereabouts of the person entitled to the reproduction right cannot be ascertained by reasonable inquiry.]

(2) Consent given by the Tribunal has effect as consent of [<sup>F3</sup>the person entitled to the reproduction right] for the purposes of—

- (a) the provisions of [<sup>F4</sup>this Chapter] relating to performers' rights, and
- (b) section 198(3)(a) (criminal liability: sufficient consent in relation to qualifying performances),

and may be given subject to any conditions specified in the Tribunal's order.

(3) The Tribunal shall not give consent under subsection (1)(a) except after the service or publication of such notices as may be required by rules made under section 150 (general procedural rules) or as the Tribunal may in any particular case direct.

<sup>F5</sup>(4) .....

(5) In any case the Tribunal shall take into account the following factors—

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*Changes to legislation:* There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 190. (See end of Document for details)

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- (a) whether the original recording was made with the performer's consent and is lawfully in the possession or control of the person proposing to make the further recording;
- (b) whether the making of the further recording is consistent with the obligations of the parties to the arrangements under which, or is otherwise consistent with the purposes for which, the original recording was made.
- (6) Where the Tribunal gives consent under this section it shall, in default of agreement between the applicant and [<sup>F6</sup>the person entitled to the reproduction right], make such order as it thinks fit as to the payment to be made to [<sup>F7</sup>that person] in consideration of consent being given.]

#### Editorial Information

- X1** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Textual Amendments

- F1** Ss. 182-205B become Pt. 2 Ch. 2 (1.2.2006) by virtue of [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [reg. 4\(4\)](#) (with reg. 8)
- F2** S. 190(1) substituted (1.12.1996) by [S.I. 1996/2967](#), [reg. 23\(2\)](#) (with Pt. III)
- F3** Words in s. 190(2) substituted (1.12.1996) by [S.I. 1996/2967](#), [reg. 23\(3\)](#) (with Pt. III)
- F4** Words in s. 190(2)(a) substituted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [reg. 2](#), [Sch. para. 8](#) (with reg. 8)
- F5** S. 190(4) omitted (1.12.1996) by virtue of [S.I. 1996/2967](#), [reg. 23\(4\)](#) (with Pt. III)
- F6** Words in s. 190(6) substituted (1.12.1996) by [S.I. 1996/2967](#), [reg. 23\(5\)\(a\)](#) (with Pt. III)
- F7** Words in s. 190(6) substituted (1.12.1996) by [S.I. 1996/2967](#), [reg. 23\(5\)\(b\)](#) (with Pt. III)

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 190.