

1989 No. 1129

COPYRIGHT

The Copyright Tribunal Rules 1989

<i>Made</i> - - - -	<i>4th July 1989</i>
<i>Laid before Parliament</i>	<i>10th July 1989</i>
<i>Coming into force</i> -	<i>1st August 1989</i>

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The Lord Chancellor in exercise of the powers conferred upon him by sections 150 and 152(2) and (3) of, and paragraph 34 of Schedule 1 to, the Copyright, Designs and Patents Act 1988(a), after consultation with the Lord Advocate, with the approval of the Treasury as to the fees chargeable under these Rules in respect of proceedings before the Copyright Tribunal, and after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971(b), hereby makes the following Rules:—

Preliminary

1. These Rules may be cited as the Copyright Tribunal Rules 1989 and shall come into force on 1st August 1989.

Citation and
commence-
ment

2.—(1) In these Rules, unless the context otherwise requires—

Interpretation

“the Act” means the Copyright, Designs and Patents Act 1988;

“applicant” means a person or organisation who has made a reference or application to the Tribunal;

“the Chairman” means the Chairman of the Tribunal or a deputy chairman or any other member of the Tribunal appointed to act as chairman;

“costs”, in relation to proceedings in Scotland, means “expenses”;

“credentials” means—

(a) the validity of an organisation's claim to be representative of a class of persons, or

(b) the possession by an intervener of a substantial interest in the matter in dispute;

“intervener” means a person or organisation who has applied under rule 7, 23, 26, 30, 33, 37, 41 or 44 to be made a party to proceedings;

“the office” means the office for the time being of the Tribunal;

“proceedings” means proceedings in respect of a reference or an application before the Tribunal;

(a) 1988 c.48.

(b) 1971 c.62.

“the Secretary” means the Secretary for the time being of the Tribunal; and
“the Tribunal” means the Copyright Tribunal.

(2) A rule or schedule referred to by number means the rule or schedule so numbered in these Rules; a form referred to by number means a form in Schedule 3 so numbered, and a requirement in these Rules for the service of a notice in a specified form shall be taken to have been complied with if the service of the notice is in a form which is substantially in accordance with the form so specified.

References and applications with respect to licensing schemes

Commence-
ment of
proceedings
(Forms 1 & 2)

3.—(1) Proceedings in relation to a reference or an application with respect to a licensing scheme shall be commenced by the service on the Secretary by the applicant of a notice—

- (a) in Form 1 in the case of a reference under section 118, 119 or 120 of the Act,
- (b) in Form 2 in the case of an application for the grant of a licence or a review of the Tribunal’s order under section 121 or 122 of the Act,

together with a statement of the applicant’s case.

(2) As soon as practicable after receipt of the notice, the Secretary shall serve a copy of the same (with a copy of the applicant’s statement) on the operator of the licensing scheme named in the notice and, in the case of a further reference under section 120 of the Act or an application for a review of an order under section 122 of the Act, as the case may be, on every person who was a party to the proceedings when the order of the Tribunal was made.

(3) In the case of a reference under section 118 of the Act the Tribunal shall, as soon as practicable after the receipt of the applicant’s notice, decide whether to entertain the reference and may for that purpose, at its discretion, allow representations in writing to be made by the applicant or the operator of the scheme or both and if, after considering the reference and representations (if any), the Tribunal—

- (a) decides to entertain the reference, it shall give such directions as to the taking of any steps required or authorised under these Rules, or as to any further matter (including any order as to costs) as the Tribunal thinks fit, and
- (b) declines to entertain the reference, it shall direct that no further proceedings shall be taken by any party in connection with the reference, otherwise than in relation to any order for costs which the Tribunal may make under rule 48.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and the operator of the licensing scheme.

Application for
special leave
(Form 3)

4.—(1) An application under section 120 of the Act for the special leave of the Tribunal on a further reference under that section or an application under section 122 of the Act for the special leave of the Tribunal to review its order under that section shall be made by the service on the Secretary by the applicant of a notice in Form 3, together with a statement of the grounds for the application. The applicant shall serve a copy of the notice and statement on every person who was a party to the reference or application on which the Tribunal made the last previous order with respect to the licensing scheme.

(2) Within 14 days of the service upon him of such notice, any such party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on the applicant and inform the Secretary of the date of such service.

(3) The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made such representations an opportunity of being heard, shall grant or dismiss the application (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules, or as to any further matter as the Tribunal thinks fit.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and any party who made representations.

5.—(1) Except where the Tribunal has declined to entertain a reference under section 118 of the Act, or the Chairman in any other case otherwise directs, the Secretary shall give notice by advertisement in such manner as the Chairman may think fit of every reference or application under section 118, 119, 120, 121 or 122 of the Act.

Advertisement
of reference or
application

(2) An advertisement shall state—

- (a) the names and addresses of the applicant and any organisation or person on whom a copy of the notice of reference or application has been served in accordance with rule 3;
- (b) the nature of the reference or application;
- (c) the time, not being less than 21 days from the date of publication of the advertisement, within which—
 - (i) an objection to the applicant's credentials may be made in accordance with rule 6, and
 - (ii) any other organisation or person may apply to the Tribunal to be made a party to the proceedings in accordance with rule 7.

6.—(1) Any organisation or person intending to object to the applicant's credentials shall, within the time specified under rule 5(2)(c), serve on the Secretary a notice of objection in Form 4:

Objections to
applicant's
credentials
(Form 4)

Provided that the Tribunal or the Chairman may give leave, subject to such conditions as the Tribunal or Chairman may think fit, to serve such notice notwithstanding the expiration of the time specified under that rule.

(2) If notice of objection to the applicant's credentials has been served on the Secretary in accordance with this rule or if the Tribunal intends to make such objection of its own motion, the Secretary shall, on the expiration of the time specified in the advertisement under rule 5(2)(c), serve upon every party to the proceedings a notice of the same, and the proceedings shall (unless the Tribunal or the Chairman shall otherwise direct on the grounds that no reasonable cause of objection has been disclosed) be stayed from the date of such notice until further order.

(3) As soon as practicable after service of the notice under paragraph (2) above, the Chairman shall give directions for the making of representations in writing for the purpose of the consideration by the Tribunal of the objection. After consideration of the representations by the Tribunal the Chairman may, if he thinks fit, give the applicant, any objector and any other party an opportunity of being heard at a hearing to be appointed by the Chairman.

(4) If, after considering the objection and any written or oral representations, the Tribunal is not satisfied of the applicant's credentials, it shall direct that no further proceedings shall be taken by any party in connection with the reference or application, otherwise than in relation to any order for costs which the Tribunal may make under rule 48.

(5) If, after considering the objection and any written or oral representations, the Tribunal is satisfied of the applicant's credentials it shall direct that the reference or application shall proceed and the Tribunal or the Chairman may give such consequential directions as to the taking of any steps required or authorised under these Rules, or as to any further matter as the Tribunal or Chairman may think fit.

(6) When the Tribunal has arrived at its decision on the objection, or where the objection has been withdrawn or is not proceeded with, the Secretary shall serve notice of the same on every party to the proceedings.

7.—(1) An application to the Tribunal by a person or organisation to be made a party to a reference or an application referred to in rule 3 may be made by serving on the Secretary, within the time specified under rule 5(2)(c), a notice of intervention in Form 5, together with a statement of his interest:

Intervener's
application
(Form 5)

Provided that the Tribunal or the Chairman may give leave, subject to such conditions as the Tribunal or Chairman may think fit, to serve such notice notwithstanding the expiration of the time specified under that rule.

(2) As soon as practicable after receipt of a notice served under this rule the Secretary shall—

- (a) serve a copy of the notice on every other party to the proceedings, and
- (b) serve on the intervener a copy of the applicant's reference or application and statement of case, together with any other notice of intervention which has been served upon him.

Objections to
intervener's
credentials
(Form 6)

8.—(1) Any party intending to object to an intervener's credentials shall, within 14 days of being served with a copy of the notice of intervention under rule 7, serve on the Secretary a notice of objection in Form 6.

(2) The Secretary shall, as soon as practicable after receipt of any notice of objection, serve on every other party to the proceedings a copy of the same.

(3) If the Tribunal intends of its own motion to object to an intervener's credentials, the Secretary shall, on the expiration of the time specified under rule 5(2)(c), serve on the intervener and every other party notice of that intention with a statement of the Tribunal's reasons for the objection.

(4) An objection to an intervener's credentials shall not, subject to any direction to the contrary that the Chairman may give under rule 11(2)(vii), operate as a stay of the proceedings and shall be considered by the Tribunal at the same time as the reference or application in question.

Written
response by
operator of
scheme or
intervener

9.—(1) Except where otherwise directed under rule 3(3)(a), the operator of the licensing scheme shall, within 28 days of the service on him of a copy of the applicant's statement of case in accordance with rule 3(2), serve on the Secretary a written answer to the applicant's statement setting out his case.

(2) Within 21 days of the expiration of the time specified under rule 5(2)(c), an intervener shall serve on the Secretary a statement of the case he intends to make.

(3) The Secretary shall serve a copy of such case or answer on every other party to the proceedings within 10 days of the receipt thereof.

Amendment of
statement of
case and
answer

10.—(1) Subject to paragraph (3) of this rule, a party may at any time amend his statement of case or answer by serving on the Secretary the amended statement or answer.

(2) On being served with an amended statement of case or answer, the Secretary shall as soon as practicable serve a copy thereof on every other party.

(3) No amended statement of case or answer shall, without the leave of the Chairman, be served after such date as the Chairman may direct under rule 11(2)(iii).

Chairman's
directions

11.—(1) Upon the expiration of the time specified by rule 9(2) for the service on the Secretary of a statement of case or answer, the Chairman shall appoint a date and place for the attendance of the parties for the purpose of his giving directions as to the further conduct of the proceedings, and the Secretary shall serve on every party and every person whose application under rule 7(1) has not been determined not less than 21 days' notice of such date and place.

(2) On the appointed day, the Chairman shall afford every party attending the appointment an opportunity of being heard and, after considering any representations made orally or in writing, give such directions as he thinks fit with a view to the just, expeditious and economical disposal of the proceedings and, without prejudice to the generality of the foregoing, may give directions as to—

- (i) the date and place of any oral hearing requested by any party or which the Chairman for any reason considers necessary, and the procedure (including the number of representatives each party may appoint for the purpose of such hearing) and the timetable (including the allocation of time for the making of representations by each party) to be followed at such a hearing;
- (ii) the procedure to be followed with regard to the submission and exchange of written arguments;

- (iii) the date after which no amended statement of case or answer may be served without leave;
- (iv) the preparation and service by each party, or any one party if all other parties agree, of a schedule setting out the issues to be determined by the Tribunal and brief particulars of the contentions of each party in relation thereto;
- (v) the admission of any facts or documents, and the discovery and inspection of documents;
- (vi) the giving of evidence on affidavit; and
- (vii) the consideration by the Tribunal of whether any objection made to an intervener's credentials under rule 8 shall operate as a stay of the proceedings.

(3) The Chairman may postpone or adjourn to a later date to be appointed by him the giving of any directions under this rule and, at any time after directions have been given under this rule the Chairman may, whether or not any application on that behalf has been made under rule 12, give such further directions as he may think fit.

(4) If any party fails to comply with any direction given or order made under this rule or rule 12, the Chairman may, without prejudice to the making of any order under rule 53, give such consequential directions as may be necessary and may order such a party to pay any costs occasioned by his default.

12.—(1) A party may, at any stage of the proceedings, apply to the Tribunal for directions with respect to any issue or other matter in the proceedings and, except where the Tribunal (whether generally or in any particular case) otherwise directs or these Rules otherwise provide, every such application shall be disposed of by the Chairman.

Application
for directions

(2) The application shall be made by the service of a notice on the Secretary (stating the grounds upon which it is made) and, unless the notice is accompanied by the written consent of all parties to the proceedings, the party making the application shall serve a copy of the application on every other party to the proceedings and inform the Secretary of the date of such service.

(3) Any party who objects to the application may, within 7 days after being served with the copy thereof, serve a notice of objection (stating the grounds of objection) on the Secretary and he shall serve a copy of the same on the applicant and any other party to the proceedings and inform the Secretary of the date of such service.

(4) After considering the application and any objection thereto and, if he considers necessary, after having given all parties concerned an opportunity of being heard, the Chairman may make such order in the matter as he thinks fit and give such consequential directions as may be necessary.

13. Where there is pending before the Tribunal more than one reference under section 118, 119, or 120 of the Act, or more than one application under section 121 or 122 of the Act relating to the same licensing scheme, the Chairman may if he thinks fit, either of his own motion or on an application made under rule 12, order that some or all of the references or applications, as the case may be, shall be considered together, and may give such consequential directions as may be necessary:

Consolidation
of proceedings

Provided that the Chairman shall not make an order under this rule of his own motion without giving all parties concerned a reasonable opportunity of objecting to the proposed order.

14.—(1) Every party to a reference or application which is considered at an oral hearing before the Tribunal shall be entitled to attend the hearing, to address the Tribunal, to give evidence and call witnesses.

Procedure
and evidence
at hearing

(2) Except where the Tribunal or the Chairman otherwise orders in the case of an application for directions under rule 12, the hearing shall be in public.

(3) Evidence before the Tribunal shall be given orally or, if the parties so agree or the Tribunal or the Chairman so orders, by affidavit, but the Tribunal may at any stage of the

proceedings require the personal attendance of any deponent for examination and cross-examination.

Representation and rights of audience

15.—(1) Subject to paragraph (5) of this rule, a party may at any stage of the proceedings appoint some other person to act as agent for him in the proceedings.

(2) The appointment of an agent shall be made in writing and shall not be effective until notice thereof has been served on the Secretary, and a copy of the same has been served on every other party and the Secretary informed of the date of such service.

(3) Only one agent shall be appointed to act for a party at any one time.

(4) For the purpose of service on a party of any document, or the taking of any step required or authorised by these Rules, an agent appointed by a party shall be deemed to continue to have authority to act for such a party until the Secretary and every other party has received notice of the termination of his appointment.

(5) A party or an agent appointed by him under paragraph (1) of this rule may be represented at any hearing, whether before the Tribunal or the Chairman, by a barrister, or in Scotland an advocate, or a solicitor, or by any other person allowed by the Tribunal or the Chairman to appear on his behalf or may, save in the case of a corporation or unincorporated body, appear in person.

Withdrawal of reference or application

16.—(1) The applicant may withdraw his reference or application made under rule 3 at any time before it has been finally disposed of by serving a notice thereof on the Secretary, but such withdrawal shall be without prejudice to the Tribunal's power to make an order as to the payment of costs incurred up to the time of service of the notice. The applicant shall serve a copy of the notice on every other party to the proceedings and inform the Secretary of the date of such service.

(2) Any party to the proceedings upon whom a copy of the notice of withdrawal is served under this rule may, within 14 days of such service, apply to the Tribunal for an order that, notwithstanding such withdrawal, such reference or application should proceed to be determined by the Tribunal, and if the Tribunal decides, at its discretion, to proceed with such reference or application it may for that purpose substitute such party as the applicant to the proceedings and give such consequential directions as may be necessary.

Decision of Tribunal

17. The final decision of the Tribunal on a reference or an application made under rule 3 shall be given in writing and shall include a statement of the Tribunal's reasons and, where on any further reference or application for review of the Tribunal's order under section 120 or 122 of the Act the Tribunal has varied the licensing scheme, there shall be annexed to the decision a copy of the scheme as so varied, and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision.

Publication of decision

18. The Secretary shall cause a copy of the Tribunal's decision to be made available at the office for public inspection during office hours and, if the Chairman so directs, shall cause to be advertised, in such manner as the Chairman thinks fit, short particulars of the decision.

Effective date of order

19. Except where the operation of the order is suspended under rule 42 or 43, the order of the Tribunal shall take effect from such date, and shall remain in force for such period, as shall be specified in the order.

References and applications with respect to licensing by licensing bodies

Commencement of proceedings (Forms 7 & 8)

20.—(1) Proceedings with respect to licensing by licensing bodies shall be commenced by the service on the Secretary by the applicant of a notice—

(a) in Form 7 in the case of a reference under section 125 or 126 of the Act,

(b) in Form 8 in the case of an application for a review of an order under section 127 of the Act,

together with a statement of the applicant's case.

(2) As soon as practicable after receipt of the notice, the Secretary shall serve a copy of the same (with a copy of the applicant's statement) on the licensing body named in the notice under paragraph (1)(a) above, and in the case of an application for review of an order under section 127, on any person named in the notice under paragraph (1)(b) above.

(3) In the case of a reference under section 125 of the Act the Tribunal shall, as soon as practicable after the receipt of the applicant's notice, decide whether to entertain the reference and may for that purpose, at its discretion, allow representations in writing to be made by the applicant or the licensing body or both and if, after considering the reference and representations (if any) the Tribunal—

(a) decides to entertain the reference, it shall give such directions as to the taking of any steps required or authorised under these Rules, or as to any further matter (including any order as to costs) as the Tribunal thinks fit, and

(b) declines to entertain the reference, it shall direct that no further proceedings shall be taken by any party in connection with the reference, otherwise than in relation to any order for costs which the Tribunal may make under rule 48.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and the licensing body.

21.—(1) An application under section 127(2) of the Act for the special leave of the Tribunal for the review of its order under that section shall be made by the service on the Secretary by the applicant of a notice in Form 3 together with a statement of the grounds for the application. The applicant shall serve a copy of the notice and statement on every person who was a party to the reference on which the Tribunal made the last previous order with respect to the licence.

Application
for special
leave (Form 3)

(2) Within 14 days of the service upon him of such notice, any such party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on the applicant and inform the Secretary of the date of such service.

(3) The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made such representations an opportunity of being heard, shall grant or dismiss the application (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules or as to any further matter as the Tribunal thinks fit.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and on any party who made representations.

22.—(1) Except where otherwise directed under rule 20(3), the licensing body or other person shall, within 21 days of the service of the notice under rule 20(2), serve on the Secretary his written answer to the applicant's statement, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.

Procedure, and
decision of
Tribunal

(2) Rules 10 to 16 shall apply to proceedings in respect of a reference or application under rules 20 and 21 as they apply to proceedings in respect of a reference or an application under rule 3.

(3) The final decision of the Tribunal on a reference or an application under rule 20 shall be given in writing and shall include a statement of the Tribunal's reasons and there shall be annexed to the decision a copy of the order and, where the Tribunal has varied a previous order, a copy of that order as varied.

(4) The Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rules 18 and 19 shall apply with regard to the publication and the effective date of the decision.

Intervener's
application
(Forms 5 & 6)

23.—(1) A person or organisation who claims to have a substantial interest in proceedings in respect of a reference or an application under rule 20 may apply to the Tribunal to be made a party to that reference or application by serving on the Secretary a notice of intervention in Form 5, together with a statement of his interest.

(2) As soon as practicable after receipt of a notice under this rule the Secretary shall—

- (a) serve a copy of the notice on every other party to the proceedings, and
- (b) serve on the intervener a copy of the applicant's reference or application and statement of case, together with any other notice of intervention which has been served on him.

(3) Within 14 days of the service upon him of the notice, a party intending to object to an intervener's credentials shall serve on the Secretary a notice of objection in Form 6 and shall serve a copy of the same on the intervener and inform the Secretary of the date of such service.

(4) The Tribunal, after considering the intervener's application and any objection to his credentials and, if it considers necessary, after having given the intervener and any party who has served a notice of objection an opportunity of being heard, shall, if satisfied of the substantial interest of the intervener, grant the application and may thereupon give such directions or further directions as to the taking of any steps required or authorised under these Rules or as to any further matter as may be necessary to enable the intervener to participate in the proceedings as a party.

(5) Subject to any direction to the contrary that the Chairman may give under rule 11(2)(vii) an objection to an intervener's credentials shall not operate as a stay of proceedings and shall be considered by the Tribunal at the same time as the reference or application in question.

Appeals against orders made by the Secretary of State

Commence-
ment of appeal
proceedings
(Forms 9 & 10)

24. An appeal to the Tribunal under section 139 of the Act against an order made by the Secretary of State may be made within 6 weeks of the making of the order or such further period as the Tribunal may allow—

- (a) in the case of an order under section 137 of the Act, by the service by the copyright owner on the Secretary of a notice in Form 9, together with a statement of his case, and by serving a copy thereof on the licensing body and any person or organisation who was given notice under that section; and
- (b) in the case of an order under section 138, by the copyright owner or any person or organisation who was given notice under that section and who made representations, by the service on the Secretary of a notice in Form 10, together with a statement of his case, and by serving a copy thereof on any other person or organisation who made representations under that section.

Procedure, and
decision of
Tribunal

25.—(1) Within 21 days of the service of the notice upon him under this rule a person or organisation shall serve on the Secretary a written answer to the appellant's statement setting out his case, and shall serve a copy thereof on the appellant and any other person served with notice under this rule and inform the Secretary of the date of such service.

(2) Rules 10 to 16 shall apply to proceedings in respect of an appeal under rule 24 as they apply to proceedings in respect of an application under rule 3.

(3) The final decision of the Tribunal on an appeal under rule 24 shall be given in writing and shall include a statement of the Tribunal's reasons and, where the Tribunal varies any previous order or makes any other order, there shall be annexed to the decision a copy of that order as varied or, as the case may be, that other order; and the Secretary shall as soon as practicable serve on every party to the appeal a copy of the Tribunal's decision. Rules 18 and 19 shall apply with regard to the publication and the effective date of the decision.

26. A person or organisation who claims to have a substantial interest in proceedings in respect of an appeal under rule 24 may, in accordance with rule 23, apply to the Tribunal to be made a party and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Intervener's
application
(Forms 5 & 6)

Application to settle the royalty or other sum payable

27. Proceedings in relation to an application under section 142 of the Act shall be commenced by the service on the Secretary by the copyright owner or the person claiming to be treated as licensed by him—

Commence-
ment of
proceedings
(Forms 11 & 12)

- (a) of a notice in Form 11, in the case of an application under subsection (1) of that section to settle the royalty or other sum payable in pursuance of section 66 of the Act, and
- (b) of a notice in Form 12, in the case of an application under subsection (3) of that section for a variation of an order of the Tribunal made under subsection (2) of that section,

together with a statement of the applicant's case, and by serving a copy thereof on the other party.

28.—(1) An application under section 142(4) of the Act for the special leave of the Tribunal for a variation of an order under that section shall be made by the service on the Secretary by the applicant of a notice in Form 3, together with a statement of the grounds for the application, and by serving a copy thereof on the other party.

Application for
special leave
(Form 3)

(2) Within 14 days of the service upon him of a copy of the notice under this rule, the other party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on the applicant and inform the Secretary of the date of such service.

(3) The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made such representations an opportunity of being heard, shall grant or dismiss the application (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules or as to any further matter as the Tribunal thinks fit.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and on every party who made representations.

29.—(1) Within 21 days of the service of the notice under rule 27 the other party shall serve on the Secretary his written answer to the applicant's statement, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.

Procedure, and
decision of
Tribunal

(2) Rules 10 to 16 shall apply to proceedings in respect of an application under rules 27 and 28 as they apply to proceedings in respect of an application under rule 3.

(3) The final decision of the Tribunal on an application under rule 27 shall be given in writing and shall include a statement of the Tribunal's reasons, and there shall be annexed to the decision a copy of the order and where the Tribunal has varied a previous order, a copy of that order as varied; and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rules 18 and 19 shall apply with regard to the publication and the effective date of the decision.

30. A person or organisation who claims to have a substantial interest in proceedings in respect of an application under rule 27 may, in accordance with rule 23, apply to the Tribunal to be made a party and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Intervener's
application
(Forms 5 & 6)

Application to settle terms of licence as of right

Commencement of proceedings (Form 13)

31. Proceedings in relation to an application by a person requiring a licence in the circumstances described in section 144(4) of the Act shall be commenced by the service on the Secretary by the applicant of a notice in Form 13 with a statement of the terms required and the reasons for the same, and he shall serve a copy of the same on the copyright owner.

Procedure, and decision of Tribunal

32.—(1) Within 21 days of the service of the notice under rule 31, the copyright owner may serve on the Secretary his written answer setting out the grounds of his objection and the terms of the licence which he considers the Tribunal should settle, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.

(2) Rules 10 to 16 shall apply to proceedings in respect of an application under rule 31 as they apply to proceedings in respect of an application under rule 3.

(3) The final decision of the Tribunal on an application under rule 31 shall be given in writing and shall include a statement of the Tribunal's reasons, and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rule 18 shall apply with regard to the publication of the decision.

Intervener's application (Forms 5 & 6)

33. A person or organisation who claims to have a substantial interest in proceedings in respect of an application under rule 31 may, in accordance with rule 23, apply to the Tribunal to be made a party and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Application for Tribunal's consent on behalf of performer

Commencement of proceedings (Form 14)

34. Proceedings under section 190 of the Act for the Tribunal's consent on behalf of the performer to the making of a recording from a previous recording of a performance shall be commenced by the service by the applicant on the Secretary of a notice in Form 14 together with a statement—

- (a)** where the identity or whereabouts of the performer cannot be ascertained, of the inquiries made by him in that respect and the result of those inquiries, or
- (b)** where the identity or whereabouts of the performer are known, of the grounds on which the applicant considers that the performer's withholding of consent is unreasonable, and by serving a copy thereof on the performer.

Inquiries by Tribunal

35.—(1) Where a notice has been served in accordance with rule 34(a), the Tribunal shall, after requiring of the applicant such further particulars as it may consider necessary, cause to be served on such persons as it considers are likely to have relevant information with regard to the identity or the whereabouts of the performer a notice seeking such information, and at the same time cause to be published, in such publications as it considers appropriate and at such intervals as it may determine, a notice setting out brief particulars of the application and requesting information on the identity or whereabouts of the performer.

(2) On the expiration of 28 days from the date of the publication of the notice, or the date of publication of the last such notice, the Tribunal may, on being satisfied that the identity or whereabouts of the performer cannot be ascertained, make an order giving its consent on such terms as it thinks fit.

Procedure, and decision of Tribunal

36.—(1) Within 21 days of the service of the notice under rule 34(b), the performer may serve on the Secretary his answer setting out his case and of the grounds for his withholding of consent, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.

(2) Rules 10 to 16 shall apply to proceedings in respect of an application under rule 34(b) as they apply to proceedings in respect of an application under rule 3.

(3) The final decision of the Tribunal on an application under rule 34 shall be given in writing and shall include a statement of the Tribunal's reasons and where the Tribunal has, in default of an agreement between the applicant and the performer, made an order as to the payment to be made to the performer in consideration of the consent given on his behalf by the Tribunal, there shall be annexed to the decision a copy of that order;

and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rules 18 and 19 shall apply with regard to the publication and the effective date of the decision.

37. A person or organisation who claims to have a substantial interest in proceedings in respect of an application under rule 34 may, in accordance with rule 23, apply to the Tribunal to be made a party, and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Intervener's application
(Forms 5 & 6)

Application for Tribunal's determination of royalty payable to the Hospital for Sick Children

38. Proceedings under paragraph 5 of Schedule 6 to the Act for the determination of the royalty or other remuneration to be paid to the Hospital for Sick Children shall be commenced by the service on the Secretary by the applicant of a notice—

Commencement of proceedings
(Forms 15 & 16)

(a) in Form 15, in the case of an application under paragraph 5(1) of Schedule 6 to the Act, and

(b) in Form 16, in the case of an application for a review of an order under paragraph 5(2) of that Schedule,

together with a statement of the applicant's case, and by serving a copy thereof on the other party.

39.—(1) An application for the special leave of the Tribunal for the review of an order under paragraph 5(3) of Schedule 6 to the Act shall be made by serving on the Secretary a notice in Form 3 together with a statement of the grounds for the application, and by serving a copy thereof on the person who was a party to the proceedings when the order of the Tribunal was made.

Application for special leave
(Form 3)

(2) Within 14 days of the service upon him of a copy of the notice under this rule, the other party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on every other party to the proceedings and inform the Secretary of the date of such service.

(3) The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made such representations an opportunity of being heard, shall grant or dismiss the application (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules or as to any further matter as the Tribunal thinks fit.

(4) The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and on any party who made representations.

40.—(1) Within 21 days of the service of the notice under rule 38, the other party shall serve on the Secretary a written answer to the applicant's statement, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.

Procedure, and decision of Tribunal

(2) Rules 10 to 16 shall apply to proceedings in respect of an application under rules 38 and 39 as they apply to proceedings in respect of an application under rule 3.

(3) The final decision of the Tribunal on an application under rule 38 shall be given in writing and shall include a statement of the Tribunal's reasons and where the Tribunal has varied a previous order there shall be annexed to the decision a copy of that order as varied; and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rule 18 shall apply with regard to the publication of the decision.

41. A person or organisation who claims to have a substantial interest in proceedings in respect of an application under rule 38 may, in accordance with rule 23, apply to the Tribunal to be made a party and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Intervener's application
(Forms 5 & 6)

Appeal to the Court from decision of Tribunal and suspension of Tribunal's orders

Notice of
appeal
(Form 17)

42.—(1) An appeal to the High Court or, in the case of proceedings of the Tribunal in Scotland, to the Court of Session under section 152 of the Act on a point of law arising from a decision of the Tribunal shall be brought within 28 days of the date of the decision of the Tribunal or within such further period as the court may, on an application to it, allow.

(2) A party so appealing to the court on a point of law shall as soon as may be practicable serve on the Secretary a notice in Form 17 of such an appeal, and shall serve a copy thereof on every person who was a party to the proceedings giving rise to that decision.

(3) Where an appeal has been lodged with the court, the Tribunal shall not make any further order on the reference or application which is the subject of the appeal until the court has given its decision thereon.

(4) On receipt of the notice of appeal by the Secretary the Tribunal may of its own motion suspend the operation of any order contained in its decision, and shall, if an order is so suspended, cause notice of the same to be served on every person affected by the suspension and may, if it thinks fit, cause notice of the suspension to be published in such manner as it may direct.

Application
for suspension
of order
(Form 18)

43.—(1) A party to the proceedings may, pending the determination of an appeal under rule 42, apply to the Tribunal to suspend the operation of an order made by it by serving on the Secretary a notice in Form 18 within 7 days of the receipt of the decision of the Tribunal together with a statement of the grounds for suspension, and he shall serve a copy of the same on every person who was a party to the proceedings giving rise to that decision and inform the Secretary of the date of such service.

(2) Within 14 days of the service of the notice under paragraph (1) above a party may serve on the Secretary a statement setting out the grounds of his objection to the applicant's case, and shall serve a copy of the same on every person who was a party to the proceedings giving rise to the decision and inform the Secretary of the date of such service.

(3) Rules 10 to 16 shall apply to proceedings in respect of an application under this rule as they apply to proceedings in respect of an application under rule 3.

(4) Where the Tribunal, after consideration of the application and any representations, refuses an application to suspend the operation of its order, the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision together with a statement of the Tribunal's reasons for refusal.

(5) Where any order of the Tribunal has been suspended upon the application of a party to the proceedings or by the court the Secretary shall serve notice of the suspension on all parties to the proceedings, and if particulars of the order have been advertised shall cause notice of the suspension to be advertised in the same manner, and rule 18 shall apply with regard to the publication of the decision.

Intervener's
application
(Forms 5 & 6)

44. A person or organisation who claims to have a substantial interest in proceedings in respect of an application under rule 43 may, in accordance with rule 23, apply to the Tribunal to be made a party, and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20.

Effect of
suspension of
order

45. If the operation of any order is suspended under rule 42 or 43, then, while the order remains suspended, sections 123 and 128 of the Act shall not have effect in relation to the order.

Miscellaneous and general

- 46.** The provisions of sections 12, 14, 17 and 26 of the Arbitration Act 1950^(a) (which are set out in Part 1 of Schedule 2), shall apply in the case of proceedings before the Tribunal in England and Wales, and the provisions of sections 13, 14, 16, 21 and 24 of, and paragraphs 4, 5 and 8 of Schedule 1 to, the Arbitration Act (Northern Ireland) 1937^(b) (which are set out in Part 2 of Schedule 2), shall apply in the case of proceedings before the Tribunal in Northern Ireland, as those provisions respectively apply to an arbitration where no contrary intention is expressed in the arbitration agreement. Application of Arbitration Acts
- 47.** Any decision of the Tribunal may be enforced in Scotland in like manner as a recorded decree arbitral. Enforcement of Tribunal's orders in Scotland
- 48.—(1)** The Tribunal may, at its discretion, at any stage of the proceedings make any order it thinks fit in relation to the payment of costs by one party to another in respect of the whole or part of the proceedings. Costs
- (2) Any party against whom an order for costs is made shall, if the Tribunal so directs, pay to any other party a lump sum by way of costs, or such proportion of the costs as may be just, and in the last mentioned case the Tribunal may assess the sum to be paid or may direct that it be assessed by the Chairman, or taxed by a taxing officer of the Supreme Court or the Supreme Court of Northern Ireland or by the Auditor of the Court of Session.
- 49.** The fees specified in Schedule 1 shall be payable in respect of the matters therein mentioned. Fees
- 50.—(1)** Any notice or other document required by these Rules to be served on any person may be sent to him by pre-paid post at his address for service, or, where no address for service has been given, at his registered office, principal place of business or last known address, and every notice or other document required to be served on the Secretary may be sent by pre-paid post to the Secretary at the office. Service of documents
- (2) Service of any notice or document on a successor in title or successor in interest of a party to any proceedings shall be effective if served or sent to him in accordance with this rule.
- (3) Any notice or other document required to be served on a licensing body or organisation which is not a body corporate may be sent to the secretary, manager or other similar officer.
- (4) The Tribunal or the Chairman may direct that service of any notice or other document be dispensed with or effected otherwise than in the manner provided by these Rules.
- (5) Service of any notice or document on a party's solicitor or agent shall be deemed to be service on such party, and service on a solicitor or agent acting for more than one party shall be deemed to be service on every party for whom such a solicitor or agent acts.
- 51.—(1)** Except in the case of the time limit imposed under rule 42(1), the time for doing any act may (whether it has already expired or not) be extended— Time
- (a) with the leave of the Tribunal or the Chairman, or
- (b) by the consent in writing of all parties, except where the Tribunal or Chairman has fixed the time by order or, if the time is prescribed by these Rules, has directed that it may not be extended or further extended without leave.
- (2) A party in whose favour time is extended by consent under paragraph (1)(b) above shall, as soon as may be practicable after the necessary consents have been obtained, serve notice thereof on the Secretary.

(a) 1950 c.27.

(b) 1937 c.8 (N.I.).

(3) Where the last day for the doing of any act falls on a day on which the office is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open.

Office hours **52.** The office shall be open between 10.00am and 4.00pm Monday to Friday, excluding Good Friday, Christmas Day and any day specified or proclaimed to be a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a).

Failure to comply with directions **53.** If any party fails to comply with any direction given, in accordance with these Rules, by the Tribunal or the Chairman, the Tribunal may, if it considers that the justice of the case so requires, order that such party be debarred from taking any further part in the proceedings without leave of the Tribunal.

Power of Tribunal to regulate procedure **54.** Subject to the provisions of the Act and these Rules, the Tribunal shall have power to regulate its own procedure.

Transitional provisions and revocation of previous Rules **55.—(1)** In relation to any proceedings which are pending under Part IV of the Copyright Act 1956(b) when these Rules come into force, these Rules shall apply subject to such modifications as the Tribunal or the Chairman may, in the circumstances, consider appropriate.

(2) The Performing Right Tribunal Rules 1965(c), and the Performing Right Tribunal (Amendment) Rules 1971(d) are hereby revoked, but without prejudice to anything done thereunder.

Mackay of Clashfern, C

27th June 1989

We approve the fees prescribed by these Rules in respect of proceedings before the Copyright Tribunal.

*David Maclean
Stephen Dorrell*

4th July 1989

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Rule 49

TABLE OF FEES

(1) On serving notice in Forms 1, 2, 7, 8, 12, 14, 15 or 16	£30
(2) On serving notice in Forms 3, 4, 5, 6, 9, 10, 11, 13, 17 or 18	£15
(3) On every application for directions under rule 12	£10

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- (a) 1971 c.80.
(b) 1956 c.74.
(c) S.I. 1965/1506.
(d) S.I. 1971/636.

SCHEDULE 2

Rule 46

PROVISIONS OF ARBITRATION ACTS

PART 1

Provisions of the Arbitration Act 1950 which apply in the case of proceedings before the Tribunal in England and Wales.

Sections 12, 14, 17 and 26 shown below—

12.—(1) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrator or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrator or umpire all documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrator or umpire may require.

Conduct of proceedings, witnesses, &c.

(2) Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the witnesses on the reference shall, if the arbitrator or umpire thinks fit, be examined on oath or affirmation.

(3) An arbitrator or umpire shall, unless a contrary intention is expressed in the arbitration agreement, have power to administer oaths to, or take the affirmations of, the parties to and witnesses on a reference under the agreement.

(4) Any party to a reference under an arbitration agreement may sue out a writ of subpoena ad testificandum or a writ of subpoena duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action, and the High Court or a judge thereof may order that a writ of subpoena ad testificandum or of subpoena duces tecum shall issue to compel the attendance before an arbitrator or umpire of a witness wherever he may be within the United Kingdom.

(5) The High Court or a judge thereof may also order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before an arbitrator or umpire.

(6) The High Court shall have, for the purpose of and in relation to a reference, the same power of making orders in respect of—

- (a) security for costs;
- (b) discovery of documents and interrogatories;
- (c) the giving of evidence by affidavit;
- (d) examination on oath of any witness before an officer of the High Court or any other person, and the issue of a commission or request for the examination of a witness out of the jurisdiction;
- (e) the preservation, interim custody or sale of any goods which are the subject matter of the reference;
- (f) securing the amount in dispute in the reference;
- (g) the detention, preservation or inspection of any property or thing which is the subject of the reference or as to which any question may arise therein, and authorising for any of the purposes aforesaid any persons to enter upon or into any land or building in the possession of any party to the reference, or authorising any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence; and
- (h) interim injunctions or the appointment of a receiver;

as it has for the purpose of and in relation to an action or matter in the High Court:

Provided that nothing in this subsection shall be taken to prejudice any power which may be vested in an arbitrator or umpire of making orders with respect to any of the matters aforesaid.

14. Unless a contrary intention is expressed therein, every arbitration agreement shall, where such a provision is applicable to the reference, be deemed to contain a provision that the arbitrator or umpire may, if he thinks fit, make an interim award, and any reference in this Part of this Act to an award includes a reference to an interim award.

Interim awards

17. Unless a contrary intention is expressed in the arbitration agreement, the arbitrator or umpire shall have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Power to correct slips

Enforcement
of award

26.—*(1) An award on an arbitration agreement may, by leave of the High Court or a judge thereof, be enforced in the same manner as a judgment or order to the same effect, and where leave is so given, judgment may be entered in terms of the award.

(2) If—

- (a) the amount sought to be recovered does not exceed the county court limit, and
- (b) a county court so orders,

it shall be recoverable (by execution issued from the county court or otherwise) as if payable under an order of that court and shall not be enforceable under subsection (1) above.

(3) An application to the High Court under this section shall preclude an application to a county court and an application to a county court under this section shall preclude an application to the High Court.

(4) In subsection (2)(a) above 'the county court limit' means the amount which for the time being is the county court limit for the purposes of section 16 of the County Courts Act 1984 (money recoverable by statute).

PART 2

Provisions of the Arbitration Act (Northern Ireland) 1937 which apply in the case of proceedings before the Tribunal in Northern Ireland.

A. Sections 13, 14, 16, 21 and 24 shown below—

Powers of
arbitrators

13. The arbitrators or umpire acting under a reference in an arbitration agreement shall, unless the arbitration agreement or the reference thereunder expresses a contrary intention, have power to administer oaths to or take the affirmations of the parties and witnesses appearing, and to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Attendance of
witnesses

14. Any party to a reference under an arbitration agreement may sue out a writ of subpoena ad testificandum, or a writ of subpoena duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action:

Provided that no writ shall issue under this section unless the arbitrator has entered on the reference or has been called on to act by notice in writing from a party to the reference and has agreed to do so.

Entry of
judgment in
terms of award

16. An award on a reference under an arbitration agreement may, by leave of the court, be entered as a judgment in terms of the award, and shall thereupon have the same force and effect as a judgment or order of the court.

Additional
powers of
court

21.—(1) The court shall have, for the purpose of and in relation to a reference, the same power of making orders in respect of any of the matters set out in the Second Schedule to this Act as it has for the purpose of and in relation to an action or matter in the court:

Provided that nothing in the foregoing provision shall be taken to prejudice any power which may be vested in an arbitrator or umpire of making orders with respect to any of the matters aforesaid.

(2) Where relief by way of interpleader is granted and it appears to the court that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, applies, the court may direct the issue between the claimants to be determined in accordance with the agreement.

(3) Where an application is made to set aside an award the court may order that any money made payable by the award shall be brought into court or otherwise secured pending the determination of the application.

Additional
powers to
compel
attendance of
witnesses

24.—(1) The court may order that a writ of subpoena ad testificandum or of subpoena duces tecum shall issue to compel the attendance of a witness before any referee, arbitrator or umpire.

(2) The court may also order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before any referee, arbitrator or umpire.

* Section 26 was amended by section 17(2) of the Administration of Justice Act 1977 (c.38) and section 148(1) of, and paragraph 22 of Schedule 2 to, the County Courts Act 1984 (c.28).

B. First Schedule (provisions to be implied in arbitration agreements), paragraphs 4, 5 and 8 shown below—

4. The parties to the reference and all persons claiming through them respectively shall, subject to any legal objection, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

5. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

8. The arbitrators or umpire may, if they think fit, make an interim award.

C. Second Schedule (matters in respect of which court may make orders) referred to in section 21(1), shown below—

1. Security for costs.

2. Discovery of documents and interrogatories.

3. The giving of evidence by affidavit.

4. Examination on oath of any witnesses before an officer of the court or any other person, and the issue of a commission or request for the examination of a witness out of the jurisdiction.

5. The preservation, interim custody, or sale, of any goods which are the subject matter of the reference.

6. Securing the amount in dispute in the reference.

7. The detention, preservation or inspection of any property or thing which is the subject of the reference or as to which any question may arise therein, and authorising for any of the purposes aforesaid any persons to enter upon or into any land or building in the possession of any party to the reference, or authorising any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence.

8. Interim injunctions or the appointment of a receiver.

SCHEDULE 3

Rule 2(2)

FORM 1

Rule 3(1)(a)

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Notice of Reference under Section 118, 119 or 120

To,
The Secretary to the Tribunal

1. TAKE NOTICE that

Reference
under s.118

***Whereas**
[state name and address of *organisation*] ("the Applicant"), being representative of persons claiming that they require licences [describe case(s) for which licence is required] to which the licensing scheme proposed (specified below) would apply;

Reference
under s.119

***Whereas**
*[state name and address of *person*] ("the Applicant") claims that a licence [describe case for which licence is required] is required

*[state name and address of *organisation*] ("the Applicant"), being representative of persons claiming that they require licences [describe case(s) for which licence is required]

to which the licensing scheme (specified below) applies;

Further
reference
under s.120

***Whereas**
*[state name and address of *operator of scheme*] ("the Applicant"), is the operator of the scheme (specified below)

*[state name and address of *person*] ("the Applicant") claims that a licence [describe case for which licence is required] is required to which the licensing scheme (specified below) applies

*[state name and address of *organisation*] ("the Applicant"), being representative of persons claiming that they require licences [describe case(s) for which licence is required] to which the licensing scheme (specified below) applies;

the Applicant hereby refers to the Tribunal the licensing scheme, particulars of which are-
[state name and address of operator of scheme and the scheme].....

*as confirmed/varied by the Tribunal by an Order dated and bearing the reference number

2. The Applicant is an organisation representing [here give particulars of the persons whom the Applicant claims to represent and the grounds on which it claims to represent them].

3. There is delivered herewith a statement of the Applicant's case.

4. All communications about this reference should be addressed to

- *[the Applicant at the address shown above]
- *[name and address of Applicant's solicitor/agent].

Signed

Status of signatory [Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application under Section 121 or 122

To,
The Secretary to the Tribunal

1. TAKE NOTICE that

*[name and address of person]

*[name and address of operator of licensing scheme]

("the Applicant") hereby applies to the Tribunal in connection with the licensing scheme (specified below)—

Application
under s.121(1)
or (2)

*being in a case covered by the scheme, for the grant of a licence in connection with the scheme which the operator of the scheme has *refused/failed to grant or procure the grant within a reasonable time

*being a case excluded from the scheme, the operator of the scheme has *refused/failed to grant or procure the grant within a reasonable time/has proposed terms for a licence which are unreasonable

Application
for review
under s.122

*for a review of its Order dated and bearing the reference number

2. The particulars of the licensing scheme are [name and address of operator of scheme and the case covered or excluded by the scheme].

3. Description of the case for which a licence is required

4. There is delivered herewith a statement of the Applicant's case.

5. All communications about this reference should be addressed to

*[the Applicant at the address shown above]

*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Application for Special Leave under Section 120, 122, 127 or 142 or Schedule 6, paragraph 5

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of person, organisation or operator of licensing scheme] ("the Applicant") hereby applies for the special leave of the Tribunal-

Application under s.120(2)

*to refer again to the Tribunal the licensing scheme which was *confirmed/varied by the Tribunal by an Order

Application under s.122(2)

*to review its Order as to entitlement to licence

Application under s.127(2)

*to review its Order as to licence

Application under s.142(4) or Sch. 6, para 5(3)

*to review its Order as to royalty or other sum/remuneration payable

dated..... and bearing reference number.....

2. There is delivered herewith a statement of the grounds for the application.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on every person who was a party to the proceedings to which the above Order of the Tribunal relates, namely [specify names and addresses of parties].

4. All communications about this application should be adressed to

*[the Applicant at the address shown above]

*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Objection to Applicant's Credentials

To,
The Secretary to the Tribunal

1. TAKE NOTICE that in connection with the proceedings commenced by notice of *reference/application dated..... served by [name of Applicant] [name and address of party making objection] ("the Objector"), being

*[*a person/an organisation on whom a copy of the aforementioned notice was served on [date of service]]

*[an intervener by virtue of a notice of intervention served on [date of service]]

objects to the Applicant's credentials.

2. The Objector's grounds for the objection are as follows [state grounds].

4. All communications about this objection should be addressed to

*[the Objector at the address shown above]

*[name and address of Objector's solicitor/agent].

Signed

Status of signatory[Objector,
an officer of Objector, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Intervention

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of intervener] ("the Intervener") wishes to be made a party to the proceedings commenced by notice of *reference/application/appeal dated.....

*[which was advertised in [name of publication and date of issue]].

2. The Intervener has a substantial interest in the matter for the following reasons [state reasons].

3. All communications about this reference should be addressed to

*[the Intervener at the address shown above]

*[name and address of Intervener's solicitor/agent].

Signed

Status of signatory[Intervener,
an officer of Intervener, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Objection to Intervener's Credentials

To,
The Secretary to the Tribunal

1. TAKE NOTICE that in connection with *proceedings commenced by notice of *reference/
application dated..... served by [name of Applicant], and with the notice of intervention
given by [name of Intervener] dated..... [name and address of party making objection] ("the
Objector"), being

*[the Applicant]

*[the licensing body named in the notice of *reference/application]

*[*a person/an organisation on whom the notice of *reference/application was served]

*[an intervener in the proceedings by virtue of a notice of intervention served on [date of
service]]

objects to the Intervener's credentials.

2. The Objector's grounds for the objection are as follows [state grounds].

3. All communications about this reference should be addressed to

*[the Objector at the address shown above]

*[name and address of Objector's solicitor/agent].

Signed

Status of signatory[Objector,
an officer of Objector, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Reference under Section 125 or 126

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of prospective licensee or licensee] ("the Applicant"),

Reference under s.125

*[being the prospective licensee under the terms of a licence to be granted by [name and address of licensing body]]

Reference under s.126

*[being a licensee under a licence granted by [name and address of licensing body], which licence is due to expire *by effluxion of time/as a result of a notice given by the licensing body on]

hereby-

*[refer to the Tribunal the terms on which the licensing body proposes to grant the licence]

*[apply to the Tribunal on the ground that it is unreasonable that the licence should cease to be in force].

2. There is delivered herewith a statement of the Applicant's case.

3. All communications about this reference should be addressed to

*[the Applicant at the address shown above]

*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory [Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application for Review of Order under Section 127

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of licensing body or person seeking review] ("the Applicant") hereby applies to the Tribunal for a review of its Order dated and bearing the reference number relating to the licence granted *to/by [name and address of licensee or licensing body].

2. There is delivered herewith a statement of the Applicant's case.

3. All communications about this application should be addressed to

*[the Applicant at the address shown above]

*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Appeal under Section 139 against Order under Section 137

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of appellant] ("the Appellant"), being the owner of the copyright in [describe the work] which is the subject of an Order by the Secretary of State under section 137 of the Act dated and bearing the reference number (a copy of which is attached) hereby appeals to the Tribunal against that Order.

2. There is delivered herewith a statement of the Apellant's case.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on the licensing body and any person or organisation who was given notice under section 137(3), namely [specify names and addresses of parties].

4. All communications about this appeal should be addressed to

- *[the Appellant at the address shown above]
- *[name and address of Appellant's solicitor/agent].

Signed

Status of signatory[Appellant,
an officer of Appellant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Appeal under Section 139 against Order under Section 138

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of appellant] ("the Appellant"), being
*[the owner of the copyright in [describe the work]]

*[*a person/an organisation who was given notice under section 138(3) and made representa-
tions in accordance with section 138(4)]

hereby appeals to the Tribunal against the Order by the Secretary of State dated
and bearing the reference number (a copy of which is attached).

2. There is delivered herewith a statement of the Appellant's case.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of
service] on every person or organisation who made representations under section 138, namely
[specify names and addresses of parties].

4. All communications about this appeal should be addressed to

*[the Appellant at the address shown above]
*[name and address of Appellant's solicitor/agent].

Signed

Status of signatory[Appellant,
an officer of Appellant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application to Settle Royalty or Other Sum Payable under Section 142

To,
The Secretary to the Tribunal

- 1. TAKE NOTICE that [name and address of applicant] ("the Applicant"), being
 * [the owner of the copyright in [describe the works]]
 * [The person claiming to be treated as licensed by the owner of the copyright in [describe the works]]

hereby applies to the Tribunal to settle the royalty or other sum payable in pursuance of section 66 of the Act.

2. There is delivered herewith a statement of the Applicant's case with respect to the royalty or other sum payable.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on [state name and address of other party].

- 4. All communications about this application should be addressed to
 * [the Applicant at the address shown above]
 * [name and address of Applicant's solicitor/agent].

Signed

Status of signatory [Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application for Review of Order under Section 142(3)

To,
The Secretary to the Tribunal

1. TAKE NOTICE that

- *[state name and address of owner of copyright]
- *[state name and address of person claiming to be treated as licensed by the owner of copyright]

("the Applicant") hereby applies to the Tribunal for a review of its Order dated and bearing the reference number in respect of the settlement of the royalty or other sum payable to [name and address of owner of copyright in respect of the work].

2. There is delivered herewith a statement of the Applicant's case.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on the other party [state name and address of other party].

4. All communications about this application should be addressed to

- *[the Applicant at the address shown above]
- *[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application to Settle Terms of Licence of Right under Section 144

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of applicant] ("the Applicant") hereby applies to the Tribunal to settle the terms of a licence available by virtue of section 144 of the Act in respect of [describe the works].

2. There is delivered herewith a statement setting out the terms required by the Applicant and the reasons for the same.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on the copyright owner, namely [state name and address of owner of copyright in the work].

4. All communications about this reference should be addressed to

- *[the Applicant at the address shown above]
- *[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application for Tribunal's Consent on behalf of Performer under Section 190

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of applicant] ("the Applicant") wishes to make a recording from a previous recording of [specify performance]

*[the identity or whereabouts of the performer(s) of which cannot be ascertained by reasonable inquiry]

*[the performer(s) of which unreasonably withhold his/their consent]

hereby applies to the Tribunal for its consent to the recording.

2. There is delivered herewith a statement setting out-

*[the inquiries made by the Applicant as to the identity or whereabouts of the performer(s) and the result of those inquiries]

*[the grounds on which the Applicant considers that the withholding of consent is unreasonable].

*3. [A copy of the Applicant's statement *has been/will be served on [date of service] on the performer(s) [state name(s) and address(es) of performer(s)]].

4. All communications about this reference should be addressed to

*[the Applicant at the address shown above]

*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application for Tribunal's Determination of Royalty Payable under Paragraph 5(1) of
Schedule 6

To,
The Secretary to the Tribunal

- 1. TAKE NOTICE that
*[the Trustees of The Hospital for Sick Children]
*[state name and address of person]

("the Applicant") hereby applies to the Tribunal to settle the royalty or other remuneration payable in respect of the *public performance/commercial publication/broadcasting/inclusion in a cable programme service of the *whole/part of "Peter Pan" or its adaptation.

- 2. There is delivered herewith a statement of the Applicant's case.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on *the other party [state name and address of other party]/the Trustees of The Hospital for Sick Children.

- 4. All communications about this application should be addressed to
*[the Applicant at the address shown above]
*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application for Review of Order under Paragraph 5(2) of Schedule 6

To,
The Secretary to the Tribunal

- 1. TAKE NOTICE that
 - *[the Trustees of The Hospital for Sick Children]
 - *[state name and address of person]

("the Applicant") hereby applies to the Tribunal for a review of its Order dated and bearing the reference number in respect of the determination of the royalty or other remuneration payable to the Trustees of The Hospital for Sick Children.

- 2. There is delivered herewith a statement of the Applicant's case.

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on *the other party [state name and address of other party]/the Trustees of The Hospital for Sick Children.

- 4. All communications about this application should be addressed to

- *[the Applicant at the address shown above]
- *[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Appeal on Point of Law under Section 152

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of appellant] ("the Appellant"), being a party to the proceedings on the *reference/application/appeal intends to appeal to the *High Court/Court of Session against the decision of the Tribunal dated and bearing the reference number on the following point(s) of law-

[state point(s) of law].

2. A copy of this Notice *has been/will be served on [date of service] on every person or organisation who was a party to the proceedings, namely [specify names and addresses of parties].

3. All communications about this appeal should be addressed to

- *[the Appellant at the address shown above]
- *[name and address of Appellant's solicitor/agent].

Signed

Status of signatory[Appellant,
an officer of Appellant, solicitor or agent]

Date

* Delete whichever is inappropriate

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Notice of Application to Suspend Order of Tribunal

To,
The Secretary to the Tribunal

1. TAKE NOTICE that [name and address of applicant] ("the Applicant"), being a party to the proceedings on the *reference/application/appeal [specify the proceedings] hereby applies to the Tribunal for the suspension of the operation of the Order of the Tribunal dated and bearing the reference number

2. There is delivered herewith a statement setting out the grounds for suspension-
[state grounds for suspension].

3. A copy of this Notice, together with the statement, *has been/will be served on [date of service] on every person or organisation who was a party to the proceedings, namely [specify names and addresses of parties].

4. All communications about this application should be addressed to
*[the Applicant at the address shown above]
*[name and address of Applicant's solicitor/agent].

Signed

Status of signatory[Applicant,
an officer of Applicant, solicitor or agent]

Date

* Delete whichever is inappropriate

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the procedure to be followed before the Copyright Tribunal, which replaces the Performing Right Tribunal established under the Copyright Act 1956 (now repealed), in the hearing and determination of applications and references to it under the Copyright, Designs and Patents Act 1988. These Rules re-enact, with modifications and drafting amendments, the Performing Right Tribunal Rules 1965 (which are revoked) and prescribe the procedure for additional matters in respect of which jurisdiction is conferred on the Copyright Tribunal under the Act.

The procedure before the Tribunal is set out in these Rules by reference to each function of the Tribunal and, accordingly—

- (1) rules 3 to 19 relate to references with respect to licensing schemes (proposed and those in operation) and to the grant of licences in connection with such schemes;
- (2) rules 20 to 23 relate to references or applications with respect to the terms of licences proposed or granted by licensing bodies;
- (3) rules 24 to 26 relate to appeals against orders made by the Secretary of State with regard to the extension of the coverage of schemes or licences and variations of such orders;
- (4) rules 27 to 30 relate to applications to settle the royalty or other sum payable for rental of sound recordings, films or computer programs;
- (5) rules 31 to 33 relate to the settlement of the terms of licences of right in consequence of reports of the Monopolies and Mergers Commission;
- (6) rules 34 to 37 relate to applications for the Tribunal's consent on behalf of a performer to make a recording from a previous recording of a performance where the identity of the performer is not known or where the performer unreasonably withholds his consent;
- (7) rules 38 to 41 relate to the determination of the royalty or other sum payable for the benefit of the Hospital for Sick Children, Great Ormond Street, London, in respect of the public performance, commercial publication or broadcast of "Peter Pan";
- (8) rules 42 to 45 relate to appeals from decisions of the Tribunal and for suspension of the Tribunal's orders pending appeals.

In each case provision is made for a person or organisation having a substantial interest in the matter to be made a party to the proceedings (rules 7, 23, 26, 30, 33, 37, 41 and 44). Rule 55(1) provides for proceedings pending under the Copyright Act 1956 to be dealt with under these Rules.

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