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STATUTORY INSTRUMENTS

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**2016 No. 1139 (C. 78)**

**INTELLECTUAL PROPERTY**

**The Intellectual Property Act 2014 (Commencement  
No. 5 and Saving Provisions) Order 2016**

*Made - - - - 21st November 2016*

The Secretary of State, in exercise of the powers conferred by sections 23(1)(b) and 24(1) and (2) of the Intellectual Property Act 2014<sup>(1)</sup>, makes the following Order:

**Citation**

1. This Order may be cited as the Intellectual Property Act 2014 (Commencement No. 5 and Saving Provisions) Order 2016.

**Section 22 of the Intellectual Property Act 2014**

2. Section 22 (recognition of foreign copyright works and performances) of the Intellectual Property Act 2014 comes into force on 1st December 2016 for the purposes of making Orders in Council under the provisions which are amended by subsections (4), (5), (6), (7) and (8) of that section.

3. Section 22 of the Intellectual Property Act 2014 comes into force on 6th April 2017 for all remaining purposes.

**Saving**

- 4.—(1) For the purposes of this article an act is an “excluded act” where—
- (a) a person (A) has incurred any expenditure or liability in connection with the act; and
  - (b) A—
    - (i) began in good faith to do the act, or
    - (ii) made in good faith effective and serious preparations to do the act,at a time when the act neither infringed nor was restricted by the relevant rights in the work or performance.

(2) Where another person (B) acquires those relevant rights as a consequence of the provisions made by section 22 of the Intellectual Property Act 2014, on or after the coming into force of that section under article 3 of this Order, A has the right—

- (a) to continue to do the excluded act, or
- (b) to do the excluded act,

notwithstanding that the excluded act infringes or is restricted by those relevant rights.

(3) Where B or, as the case may be, B's exclusive licensee in respect of the relevant rights pays reasonable compensation to A, paragraph (2) no longer applies.

(4) Where—

- (a) B or, as the case may be, B's exclusive licensee offers to pay compensation to A under paragraph (3), but
- (b) A and B or, as the case may be, B's exclusive licensee cannot agree on what compensation is reasonable,

either person may refer the matter to arbitration.

(5) In this article—

- (a) "exclusive licensee" means a licensee under an exclusive licence (as defined in section 92(1) or 191D(1) of the Copyright, Designs and Patents Act 1988<sup>(2)</sup>); and
- (b) "relevant rights" means copyright (as defined in section 1 of the Copyright, Designs and Patents Act 1988), the rights conferred by Chapter 4 of Part 1 (moral rights) of that Act and the rights conferred by Part 2 of that Act.

(6) This article extends to England and Wales, Scotland and Northern Ireland.

*Neville-Rolfe*  
Minister of State for Energy and Intellectual  
Property  
Department for Business, Energy and Industrial  
Strategy

21st November 2016

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(2) 1988 c.48. Section 191D was inserted by regulations 4 and 21(1) of the Copyright and Related Rights Regulations 1996 S.I. 1996/2967.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force section 22 of the Intellectual Property Act 2014 which makes certain amendments to provisions of the Copyright, Designs and Patents Act 1988 (“the Act”) relating to the recognition of foreign copyright works and performances. Section 22 is brought into force on 1st December 2016 for the purpose of making Orders in Council under the provisions which are substituted by subsection (4) of that section (section 159 of the Act) and the provisions which are substituted, inserted or omitted by subsections (5), (6), (7) and (8) (which relate to the provisions in sections 206(1) and (4) to (6) and 208(5) of the Act). Section 22 is brought into force for remaining purposes on 6th April 2017.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	1st October 2014	2014/2330 (C.100)
Section 2	1st October 2014	2014/2330 (C.100)
Section 3	1st October 2014	2014/2330 (C.100)
Section 4	1st October 2014	2014/2330 (C.100)
Section 5	1st October 2014	2014/2330 (C.100)
Section 6	1st October 2014	2014/2330 (C.100)
Section 7	1st October 2014	2014/2330 (C.100)
Section 8	1st October 2014	2014/2330 (C.100)
Section 9(1)	1st October 2014	2014/2330 (C.100)
Section 10(1)	1st October 2014	2014/2330 (C.100)
Section 10(2) (partially)	15th July 2014	2014/1715 (C.74)
Section 10(2) (remaining purposes)	6th April 2015	2015/165 (C.6)
Section 10(3) to (11)	6th April 2015	2015/165 (C.6)
Section 11	1st October 2014	2014/2330 (C.100)
Section 12	1st October 2014	2014/2330 (C.100)
Section 13	1st October 2014	2014/2330 (C.100)
Section 14	1st October 2014	2014/2330 (C.100)
Section 15	1st October 2014	2014/2330 (C.100)
Section 16	1st October 2014	2014/2330 (C.100)
Section 17	1st October 2014	2014/2330 (C.100)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 18	1st October 2014	<a href="#">2014/2330 (C.100)</a>
Section 19 and the Schedule	1st October 2014	<a href="#">2014/2330 (C.100)</a>
Section 20	1st October 2014	<a href="#">2014/2330 (C.100)</a>
Section 21	1st October 2014	<a href="#">2014/2330 (C.100)</a>
Section 23	1st August 2014	<a href="#">2014/2069 (C.94)</a>