

2016 No. 1210

COPYRIGHT

The Copyright (Amendment) Regulations 2016

<i>Made</i>	- - - -	<i>8th December 2016</i>
<i>Laid before Parliament</i>		<i>16th December 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2017</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to matters relating to copyright(b).

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Copyright (Amendment) Regulations 2016 and come into force on 6th April 2017 (“the commencement date”).

Amendments to the Copyright, Designs and Patents Act 1988

2.—(1) The Copyright, Designs and Patents Act 1988(c) is amended as follows.

(2) In paragraph 5 of Schedule 1—

- (a) in sub-paragraph (2)(a) omit “or”;
- (b) at the end of sub-paragraph (2)(b) for the full-stop substitute “, or”;
- (c) after sub-paragraph (2)(b) insert—

“(c) where the work is an artistic work in which copyright subsists as a result of the disapplication of paragraph 6(1) by paragraph 6(1A)”.

(3) In paragraph 6 of Schedule 1 after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) does not apply to an artistic work which was on 1st July 1995 protected under the law of another EEA state relating to copyright or related rights.”.

Amendments to the Duration of Copyright and Rights in Performances Regulations 1995

3.—(1) The Duration of Copyright and Rights in Performances Regulations 1995(d) are amended as follows.

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- (a) 1972 c.68; by virtue of the amendment of section 1(2) of that Act by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) to implement obligations of the United Kingdom arising under the EEA Agreement.
 - (b) S.I. 1992/707 and S.I. 1993/595.
 - (c) 1988 c.48.
 - (d) S.I. 1995/3297; there are amendments not relevant for the purposes of these Regulations.

(2) In regulation 16 (duration of copyright: application of new provisions)—

- (a) at the end of paragraph (c) omit “and”;
- (b) at the end of paragraph (d) for the full-stop substitute “; and”;
- (c) after paragraph (d) insert—

“(e) to existing works which qualify for copyright protection as a result of the disapplication of paragraph 6(1) of Schedule 1 to the 1988 Act by sub-paragraph (1A) of paragraph 6 of Schedule 1 to the 1988 Act.”.

(3) Subject to regulation 4 of these Regulations, regulation 24 (revived copyright: use as of right subject to reasonable royalty) is revoked.

(4) Regulation 25 (revived copyright: application to Copyright Tribunal) is revoked.

(5) Subject to regulation 5 of these Regulations, regulation 34 (revived performance rights: use as of right subject to reasonable remuneration) is revoked.

(6) Regulation 35 (revived performance rights: application to Copyright Tribunal) is revoked.

Transitional provisions

4. Regulation 24 of the Duration of Copyright and Rights in Performances Regulations 1995 applies on or after the commencement date in relation to acts restricted by copyright done in relation to a work in which revived copyright subsists but only where, in relation to those acts, a royalty or remuneration is agreed or determined for the purposes of that regulation before the commencement date.

5. Regulation 34 of the Duration of Copyright and Rights in Performances Regulations 1995 applies on or after the commencement date in relation to acts which require the consent of the rights owner done in relation to a performance in which revived performance rights subsist but only where, in relation to those acts, remuneration is agreed or determined for the purposes of that regulation before the commencement date.

Neville-Rolfe

Minister of State for Energy and Intellectual Property
Department for Business, Energy and Industrial Strategy

8th December 2016

EXPLANATORY NOTE

(This note is not part of these Regulations)

Paragraph 6(1) of the Copyright, Designs and Patents Act 1988 prevents copyright from subsisting in an artistic work made before 1st June 1957 which at the time when the work was made constituted a design capable of registration under the Registered Designs Act 1949 or under the enactments repealed by that Act, and was used, or intended to be used, as a model or pattern to be multiplied by an industrial process.

These Regulations amend paragraph 6 to Schedule 1 of the Copyright, Designs and Patents Act 1988 in order to clarify how article 10 of Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 (O.J. No. L 372, 27.12.2006 p. 12) (“the Term Directive”) is implemented. A new sub-paragraph is inserted which provides that paragraph 6(1) does not apply to an artistic work which was on 1st July 1995 protected under the law of another EEA state relating to copyright or related rights.

Paragraph 5 of Schedule 1 to the Copyright, Designs and Patents Act 1988 is amended to be consistent with the changes to paragraph 6, so that a work is not prevented from qualifying for copyright protection under paragraph 5 as a result of the changes to paragraph 6.

These Regulations also amend regulation 16 of the Duration of Copyright and Rights in Performances Regulations 1995 as part of the implementation of the Term Directive. They revoke regulations 24 and 34 subject to transitional provisions and revoke regulations 25 and 35.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Intellectual Property Office, Concept House, Cardiff Road, Newport NP10 8QQ and is available with the explanatory memorandum alongside this instrument on the Legislation UK website at www.legislation.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

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