

This Statutory Instrument has been made in part to correct errors in S.I. 2016/1219 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2024 No. 193

**COPYRIGHT
RIGHTS IN PERFORMANCES**

**The Copyright and Performances (Application
to Other Countries) (Amendment) Order 2024**

Made - - - - 21st February 2024

Laid before Parliament 28th February 2024

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 21st day of February 2024

Present,

The King's Most Excellent Majesty in Council

His Majesty, in exercise of the powers conferred on him by sections 159(1), 206(2) and 208(3) of the Copyright, Designs and Patents Act 1988(4) (“the Act”), is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows.

His Majesty is satisfied, in relation to copyright in wireless broadcasts, to the extent that this Order relates to a country to which article 7 of the Copyright and Performances (Application to Other Countries) Order 2016(5) applies(6), that provision has been or will be made under the law of that country in respect of wireless broadcasts giving adequate protection to the owners of copyright under Part 1 of the Act.

Citation, commencement and extent

1.—(1) This Order may be cited as the Copyright and Performances (Application to Other Countries) (Amendment) Order 2024.

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- (1) 1988 c. 48; section 159 was substituted by section 22(4) of the Intellectual Property Act 2014 (c. 18).
(2) Section 206 was amended by section 22(5) to (7) of the Intellectual Property Act 2014 (c. 18), section 2(3) of the British Overseas Territories Act 2002 (c. 8) and regulations 2 and 22 of S.I. 2019/605.
(3) Section 208 was amended by section 22(8) of the Intellectual Property Act 2014 (c. 18).
(4) 1988 c. 48.
(5) S.I. 2016/1219, amended by S.I. 2019/605, 2021/636, 2021/1258, 2023/296.
(6) Article 7 applies to certain members of the World Trade Organisation (see article 7(1)).

(2) This Order comes into force on the day on which the CPTPP enters into force for the United Kingdom(7).

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

(4) In this article—

(a) “the CPTPP” means the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, signed at Santiago on 8 March 2018, including the UK Accession Protocol, as it has effect in the United Kingdom from time to time(8);

(b) “the UK Accession Protocol” means the Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, signed at Auckland and Bandar Seri Begawan on 16 July 2023(9).

Amendment of the Copyright and Performances (Application to Other Countries) Order 2016

2. The Copyright and Performances (Application to Other Countries) Order 2016(10) is amended in accordance with articles 3 to 6.

Literary, dramatic, musical and artistic works first published before 1st June 1957: replacement of restriction on the application of Part 1 of the Act to countries that are party to the Berne Convention or are WTO members

3. In article 2 (Berne Convention(11) parties and WTO members: restriction on the application of Part 1 of the Act to certain works first published before 1st June 1957), for paragraph (2) substitute—

“(2) Paragraph 5(1) of Schedule 1 to the Act (copyright: transitional provisions and savings) does not apply in relation to a literary, dramatic, musical or artistic work first published before 1st June 1957 in so far as its application would otherwise prevent the work from qualifying for copyright protection under section 154(12) (qualification by reference to author).”

Sound recordings: removal of restrictions on the application of Part 1 of the Act to countries that are party to the WPPT

4. In article 3 (WPPT parties: restrictions on the application of Part 1 of the Act to sound recordings)—

(a) in paragraph (1)—

(i) after “WPPT” insert “: sound recordings”;

(ii) for “restrictions” substitute “restriction”;

(b) in paragraph (2), omit sub-paragraphs (b) and (c).

(7) See Article 21 of the Protocol on the Accession of the United Kingdom of Great Britain and Northern Ireland to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, signed at Auckland and Bandar Seri Begawan on 16 July 2023.

(8) See <https://www.gov.uk/government/collections/the-uks-accession-to-the-comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp#full-publication-update-history> .

(9) See <https://www.gov.uk/government/publications/accession-protocol-of-the-uk-to-the-cptpp> .

(10) S.I. 2016/1219, amended by S.I. 2019/605, 2021/636, 2021/1258, 2023/296.

(11) Cm. 1212; “the Berne Convention” is defined in section 159(9) of the Copyright, Designs and Patents Act 1988 (c. 48).

(12) Section 154 was amended by regulations 4 and 5(3) of S.I. 1995/3297, section 22(1) of the Intellectual Property Act 2014 (c. 18), regulations 2 and 14 of S.I. 2019/605, section 2(3) of the British Overseas Territories Act 2002 (c. 8), and regulation 2(2) of, and Schedule 2 to, S.I. 2003/2498.

Broadcasts: removal of restrictions on the application of Part 1 of the Act to countries that are party to the Rome Convention and countries that are WTO members

5.—(1) In article 6 (Rome Convention(13) parties: restrictions on the application of Part 1 of the Act to broadcasts)—

- (a) in paragraph (1), for “restrictions specified in paragraphs (2) and (3)” substitute “restriction specified in paragraph (3)”;
- (b) omit paragraph (2).

(2) In article 7(3) (WTO members: restrictions on the application of Part 1 of the Act to wireless broadcasts)—

- (a) in sub-paragraph (d), for “does not apply in so far as it relates” substitute “only applies in relation”;
- (b) omit sub-paragraph (f) and the “and” preceding it.

(3) In article 8(2)(14) (miscellaneous countries: application of Part 1 of the Act to wireless broadcasts), for “a member State” substitute “Malta”.

Performances: removal of restrictions on the application of Part 2 of the Act to certain countries that are party to the Rome Convention and certain countries that are party to the WPPT

6.—(1) In article 9(1) (certain Rome Convention parties: restrictions on the application of Part 2 of the Act), after “a country” insert “, other than Australia, Japan and Viet Nam,”.

(2) Omit article 10 (WPPT parties that are Rome Convention parties: application of Part 2 of the Act).

(3) In article 11 (WPPT parties that are not Rome Convention parties: application of Part 2 of the Act)—

- (a) in paragraph (3)(b)—
 - (i) omit paragraph (ii);
 - (ii) in paragraph (iv), at the end, insert “, in so far as it relates to an infringement under section 187(15)”;
- (b) in paragraph (4), after “applies” insert “, other than New Zealand and Singapore,”.

(4) In the Schedule, in Part 2(16) (WPPT parties and WTO members which are not Rome Convention parties: application of Part 2 of the Act), omit the entries for Belize, Canada, Qatar and Tunisia.

Richard Tilbrook
Clerk of the Privy Council

(13) Cm. 2425; “the Rome Convention” is defined in section 159(9) of the Copyright, Designs and Patents Act (c. 48).

(14) Article 8(2) was substituted by S.I. 2023/296.

(15) Section 187 was amended by regulation 2(1) of, and paragraphs 1 and 13(1)(b) of Schedule 1 to, S.I. 2003/2498.

(16) Part 2 of the Schedule was amended by S.I. 2021/636, 2023/296.

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

EXPLANATORY NOTE

(This note is not part of the Order in Council)

Part 1 of the Copyright, Designs and Patents Act 1988 (c. 48) (“the Act”) confers copyright on the creators of certain works. Part 1 applies to works originating from certain countries, and it is applied by the Copyright and Performances (Application to Other Countries) Order 2016 (S.I. 2016/1219) (“the 2016 Order”) to works originating from certain other countries. Part 2 of the Act confers rights on performers and persons having recording rights in relation to a performance. Part 2 applies to performances connected with certain countries, and it is applied by the 2016 Order to performances connected with certain other countries.

This Order amends the 2016 Order as follows.

Article 3 replaces, in relation to countries that are party to the Berne Convention for the Protection of Literary and Artistic Works (Cm. 1212) or are members of the World Trade Organisation (“WTO members”), the restriction imposed by the 2016 Order on the application of Part 1 of the Act to literary, dramatic, musical or artistic works first published before 1st June 1957. The effect of the replacement restriction is to enable such works to qualify for copyright protection by reference to the author.

Article 4 removes, in relation to countries that are party to the World Intellectual Property Organisation Performances and Phonograms Treaty (“the WPPT”, Cm. 8160), certain restrictions imposed by the 2016 Order on the application of Part 1 of the Act to sound recordings.

Article 5 removes, in relation to countries that are party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (“the Rome Convention”, Cm. 2425) or are WTO members, certain restrictions imposed by the 2016 Order on the application of Part 1 of the Act to broadcasts.

Article 6 removes, in relation to certain countries that are party to the Rome Convention and certain countries that are party to the WPPT, certain restrictions imposed by the 2016 Order on the application of Part 2 of the Act to performances. It also revokes article 10 of the 2016 Order which contained errors.

These changes are made in order to enable the United Kingdom to accede to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (including the UK Accession Protocol), and to implement other international obligations of the United Kingdom relating to copyright and performances.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

A copy of this instrument and the Explanatory Memorandum are available from the Intellectual Property Office, Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ. The Explanatory Memorandum is also available alongside this instrument on the Legislation UK website at www.legislation.gov.uk.