This Statutory Instrument corrects an error in S.I. 2024/193 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2024 No. 1124

RIGHTS IN PERFORMANCES

COPYRIGHT

The Copyright and Performances (Application to Other Countries) (Amendment) (No. 2) Order 2024

Made - - - - *6th November 2024*

Laid before Parliament *13th November 2024*

Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the 6th day of November 2024

Present,

The King's Most Excellent Majesty in Council

His Majesty, in exercise of the powers conferred on him by sections 159(**a**) and 206(4)(**b**) of the Copyright, Designs and Patents Act 1988(**c**) and section 5(7) of the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2024(**d**), is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Copyright and Performances (Application to Other Countries) (Amendment) (No. 2) Order 2024.

(2) This Order, except for this article and article 2, comes into force on the day on which the CPTPP enters into force for the United Kingdom(**e**).

(3) This article and article 2 come into force immediately before the day mentioned in paragraph (2).

(**a**) 1988 c. 48; section 159 was substituted by section 22(4) of the Intellectual Property Act 2014 (c. 18).
(**b**) 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), section 5(3) of the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2024 (c. 6), and regulations 2 and 22 of S.I. 2019/605.
(**c**) 1988 c. 48.
(**d**) 2024 c. 6.
(**e**) 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.

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

(5) In this article—

"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(**a**);

"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(**b**).

Amendment of the Copyright and Performances (Application to Other Countries) (Amendment) Order 2024

2.—(1) The Copyright and Performances (Application to Other Countries) (Amendment) Order 2024(**c**) is amended as follows.

(2) In article 6 (amendments to Part 5 (performances) of the Copyright and Performances (Application to Other Countries) Order 2016), omit paragraph (1).

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

3. The Copyright and Performances (Application to Other Countries) Order 2016(**d**) is amended in accordance with articles 4 to 7.

Restriction on the application of Part 2 of the Copyright, Designs and Patents Act 1988 to the United Kingdom, the Channel Islands, the Isle of Man, Gibraltar and countries which are party to the Rome Convention

4. For article 9 (restrictions on the application of Part 2 of the Act to countries that have made certain declarations under the Rome Convention(**e**)) substitute—

"Restriction on the application of Part 2 of the Act to the United Kingdom, the Channel Islands, the Isle of Man, Gibraltar and countries which are party to the Rome Convention

9.—(1) This article applies to—

(a) the United Kingdom;

(b) the Channel Islands, the Isle of Man and Gibraltar; and

(c) a country which is a party to the Rome Convention.

(2) Where this article applies, Part 2 of the Act applies subject to the modification set out in paragraph (3).

(**a**) 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.

(**b**) CP 1017. See also https://www.gov.uk/government/publications/accession-protocol-of-the-uk-to-the-cptpp.

(**c**) S.I. 2024/193.

(**d**) S.I. 2016/1219, amended by S.I. 2019/605, 2021/636, 2021/1258, 2023/296, 2024/193. The amendments made by S.I. 2024/193 take effect on the day on which the Comprehensive and Progressive Agreement for Trans-Pacific Partnership enters into force for the United Kingdom.

(**e**) Cm. 2425; "the Rome Convention" is defined in section 206(6) of the Copyright, Designs and Patents Act (c. 48) (which was inserted by section 22(7) of the Intellectual Property Act 2014 (c. 18)).

(3) In section 182D(1)(**a**) (right to equitable remuneration for exploitation of sound recording), the reference to a qualifying performance shall be construed as a reference only to a performance which is a qualifying performance because it meets—

(a) Condition A or Condition B in section 181(**b**), or

(b) Condition C in that section by virtue of paragraph (a) of that Condition.".

Restriction on the application of Part 2 of the Copyright, Designs and Patents Act 1988 to countries which are party to WPPT but are not party to the Rome Convention

5. In article 11 (application of Part 2 of the Act to WPPT countries not party to the Rome Convention), after paragraph (3)(a) insert—

"(aa) in section 182D(1) (right to equitable remuneration for exploitation of sound recording), the reference to a qualifying performance shall be construed as a reference only to a performance which is a qualifying performance because it meets Condition A or Condition B in section 181;".

Restriction on the application of Part 2 of the Copyright, Designs and Patents Act 1988 to Malta

6.—(1) Article 12A (application of Part 2 of the Act to Malta) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) In that paragraph, after "is" insert ", subject to paragraphs (2) and (3),".

(4) After that paragraph insert—

"(2) Part 2 of the Act applies to Malta subject to the modification set out in paragraph (3).

(3) In section 182D(1) (right to equitable remuneration for exploitation of sound recording), the reference to a qualifying performance shall be construed as a reference only to a performance which is a qualifying performance because it meets—

(a) Condition A or Condition B in section 181, or

(b) Condition C in that section by virtue of paragraph (a) of that Condition.".

Saving

7.—(1) Article 13 (saving) is amended as follows.

(2) In paragraph (2), after "force," insert "or as a consequence of the amendments made to this Order by the Copyright and Performances (Application to Other Countries) (Amendment) Order 2024 on or after those amendments coming into force,".

Richard Tilbrook
Clerk of the Privy Council

(**a**) Section 182D was inserted by regulations 4 and 20(2) of S.I. 1996/2967, and amended by regulations 3 and 7(2) of S.I. 2003/2498, regulation 2 of, and paragraphs 1 and 3 of the Schedule to, S.I. 2006/18, and regulations 3 and 7 of S.I. 2013/1782.

(**b**) Section 181 was substituted by section 5(2) of the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2024 (c. 6), with effect from the day on which the Comprehensive and Progressive Agreement for Trans-Pacific Partnership enters into force for the United Kingdom (see section 7(1) of that Act).

EXPLANATORY NOTE

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

Part 2 of the Copyright, Designs and Patents Act 1988 (c. 48) ("the Act") confers rights on performers and persons having recording rights in relation to a performance. Part 2 of the Act applies to performances connected with 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 performances connected with certain other countries. Section 181 of the Act was substituted by the Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Act 2024 (c. 6) to add further grounds on which a performance can qualify as a qualifying performance for the purposes of Part 2 of the Act. That substitution takes effect on the day on which the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (including the UK Accession Protocol (CP 1017)) enters into force for the United Kingdom.

The Copyright and Performances (Application to Other Countries) (Amendment) Order 2024 (S.I. 2024/193) ("the 2024 Order") made certain amendments to the 2016 Order, with effect from the day on which the Comprehensive and Progressive Agreement for Trans-Pacific Partnership enters into force for the United Kingdom. Article 2 of this Order revokes one of those amendments before it takes effect, as that amendment is superseded by article 4 of this Order.

This Order also amends the 2016 Order as follows.

Article 4 revokes the restriction imposed by article 9 of the 2016 Order on the application of Part 2 of the Act to certain countries that are party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations ("the Rome Convention", Cm. 2425). Articles 4, 5 and 6 amend the 2016 Order to impose new restrictions on the application of Part 2 of the Act to the United Kingdom, the Channel Islands, the Isle of Man, Gibraltar, countries that are party to the Rome Convention, countries that are party to the World Intellectual Property Organisation Performances and Phonograms Treaty (the WPPT, Cm. 8160), and Malta. Those restrictions restrict the grounds on which a performance can qualify as a qualifying performance for the purpose of a performer's right under section 182D of the Act to equitable remuneration for exploitation of a sound recording.

The rights conferred by Part 2 of the Act (including the substituted section 181), and articles 9 to 12A of the 2016 Order, apply in relation to performances irrespective of the date of the performance. Accordingly, the amendments made by this Order to the 2016 Order also apply in relation to performances irrespective of the date of the performance (including performances taking place before the date on which this Order comes into force).

Article 7 amends the saving provision contained in article 13 of the 2016 Order, to ensure that it covers the acquisition of copyright and rights conferred by Part 2 of the Act as a consequence of the amendments made to the 2016 Order by the 2024 Order.

A de minimis impact assessment of the effect that this instrument will have is available from the Intellectual Property Office, Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ.

A copy of this instrument and the Explanatory Memorandum are available from the Intellectual Property Office at the above address. The Explanatory Memorandum is also available alongside this instrument on the Legislation UK website at www.legislation.gov.uk.

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£5.78

http://www.legislation.gov.uk/id/uksi/2024/1124

ISBN 978-0-34-826539-2

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