STATUTORY INSTRUMENTS

# 2016 No. 370

# COPYRIGHT

## The Copyright (Cayman Islands) (Amendment) Order 2016

*Made - - - - 15th March 2016*

*Coming into force in accordance with article 1*

At the Court at Buckingham Palace, the 15th day of March 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, in exercise of the powers conferred on Her by section 157(2) of the Copyright, Designs and Patents Act 1988(**a**) makes the following Order:

**Citation and Commencement**

**1.** This Order may be cited as the Copyright (Cayman Islands) (Amendment) Order 2016 and shall come into force on such date as the Governor of the Cayman Islands may appoint by proclamation published in the Gazette of the Cayman Islands.

**Amendments to the Schedule to the Copyright (Cayman Islands) Order 2015**

**2.**—(1) Part 1 of the Schedule to the Copyright (Cayman Islands) Order 2015(**b**) is amended as follows.

(2) In paragraph 1(a) omit "73A,".

**3.** Part 2 of the Schedule to the Copyright (Cayman Islands) Order 2015 is amended as follows.

**4.** In paragraph 3 insert after (b)—

"(c) references to "educational establishments" are to be read as references to "educational institutions".".

**5.** Insert after paragraph 3—

"**3A.** Section 13A(**c**) applies with the omission in subsection (2) of the words "and section 191(HA)(4).".".

**6.** In paragraph 8 for (b) substitute—

(**a**) 1988 c.48.
(**b**) S.I. 2015/795.
(**c**) Section 13A was amended by S.I. 1995/3297 regulation 6(1), S.I. 2003/2498 regulations 2(2), 3, 29, Schedule 2 and S.I. 2013/1782 regulations 3, 6.

"(b) with the substitution for subsection (7) of—

"(7) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**7.** In paragraph 13 for (b) substitute—

"(b) with the substitution for subsection (5) of—

"(5) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**8.** For paragraph 14 substitute—

"**14.** Section 53(**a**) applies—

(a) with the omission in subsection (1)(a)—

(i) of sub-paragraph (ii); and

(ii) of the words "or, in a case of registration under the Community Design Regulation, that the person registered as the right holder was not the right holder of the design for the purposes of the Regulation";

(b) with the omission of subsections (3) and (4); and

(c) with references to the Registered Designs Act 1949(**b**) being read as references to the enactments relating to the registration of designs in force in the Cayman Islands.".

**9.** Omit paragraph 15.

**10.** In paragraph 16 for (b) substitute—

"(b) with the substitution for subsection (4) of—

"(4) Orders made under this section are subject to affirmative resolution, as provided in section 28(2) of the Interpretation Law (1995 Revision).""

**11.** In paragraph 17 for subsection 69(4)(**c**) as modified substitute—

"(4) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".

**12.** For paragraph 18 substitute—

"**18.** Section 73(**d**) applies—

(a) with the substitution for subsections (6), (7) and (8) of the following—

"(6) In this section, "qualifying service" means a service prescribed by Cabinet under subsection (8).

(7) In this section, "relevant requirement" means a requirement imposed by a licence relating to a "must-carry service" (within the meaning of such Law as may be for the time being in force in Cayman Islands in relation to broadcasting), the setting of which is authorized by that Law.

(8) Cabinet may by order prescribe a qualifying service, which may be identified by type of institution providing the service.";

(b) with the substitution in subsections (9), (10) and (11) for the words "Secretary of State" of the word "Cabinet"; and

(c) with the substitution for subsection (12) of the following—

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(**a**) Section 53 was amended by the Intellectual Property Act 2015 (c.23) section 5, S.I. 2001/3949 regulation 9(1) Schedule 1 paragraph 16.

(**b**) 1949 c.88.

(**c**) Section 69(4) was amended by the Communications Act 2003 (c.21) section 406(1) and Schedule 17, paragraph 91.

(**d**) Section 73 was substituted by the Broadcasting Act 1996 (c.55), section 138 and Schedule 9 paragraph 1 and amended by the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 92 and S.I. 2003/2498.

"(12) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**13.** For paragraph 20 substitute—

"**20.** Section 81(6) applies—

(a) with the insertion at the end of paragraph (a) of the word "or";

(b) with the omission of the word "or" at the end of paragraph (b); and

(c) with the omission of paragraph (c).".

**14.** In paragraph 22 omit the words "under the Commissions of Enquiry" where they first appear.

**15.** In paragraph 24 for (c) substitute—

"(c) with the substitution for subsection (6) of—

"(6) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**16.** In paragraph 27 for sub-paragraph (d) substitute—

"(d) with the omission of subsection (6)".

**17.** In paragraph 29 in (b), after "(3A)," insert "(3B,)".

**18.** In paragraph 30 for (b) substitute—

"(b) with the substitution for subsection (4) of—

"(4) Regulations made under this section are subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**19.** For paragraph 35 substitute —

"**35.** Section 116(**a**) applies—

(a) with the reference to subsidiaries in subsection (4) being read as references to subsidiary companies within the meaning of section 232 of the Companies Law (2013 Revision);

(b) with the reference to a holding company in subsection (4) being read as a reference to "a parent company" within the meaning of section 232 of the Companies Law (2013 Revision); and

(c) with the omission of subsection (5).".

**20.** For paragraph 37 substitute—

"**37.** Section 116D(**b**) applies with the substitution for subsections (4) and (5) of—

"(4) Regulations made under this section are subject to affirmative resolution, as provided in section 28(2) of the Interpretation Law (1995 Revision).""

**21.** In paragraph 39 for (b) substitute—

"(b) with the substitution for subsection (2) of—

"(2) An order made under this section is subject to affirmative resolution, as provided in section 28(2) of the Interpretation Law (1995 Revision).".".

**22.** In paragraph 41 for (b) substitute—

"(b) with the substitution for subsection (6) of—

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(**a**) Section 116 was amended by S.I. 2009/1941, article 2(1), Schedule 1, paragraph 98(a) and the Enterprise and Regulatory Reform Act 2013 (c.24) section 77(1), (4).

(**b**) Section 116D was inserted by the Enterprise and Regulatory Reform Act 2013 (c.24) section 77(1) and (3).

"(6) Regulations made under this section are subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**23.** In paragraph 42 for (b) substitute—

"(b) with the substitution for subsection (8) of—

"(8) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**24.** In paragraph 44—

(a) for sections 145(2) and (3)(**a**) as modified substitute—

"(2) The Copyright Tribunal shall consist of a chairman, a deputy chairman and not more than three other members, appointed by the Cabinet.

(3) A person is not eligible for appointment as chairman or deputy chairman unless—

(a) he is a barrister or attorney of at least five years' standing or he has held judicial office; or

(b) he has considerable experience of copyright matters."; and

(b) in section 148(1)(a) as modified omit the word "a" before "deputy".

**25.** In paragraph 45 for "paragraph (ca)" substitute "paragraphs (ca) and (f)".

**26.** In paragraph 46 for section 150(5) as modified substitute—

"(5) Rules made under this section are subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".

**27.** In paragraph 51 for sub-paragraph (c) substitute—

"(c) with the substitution for subsections (4) and (5) of—

"(4) In subsection (3) "Convention country" means a country which is a party to a Convention relating to copyright to which the United Kingdom is also a party and which the United Kingdom has extended to the Cayman Islands.

(5) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".".

**28.** In paragraph 52 for section 160(5) as modified substitute—

"(5) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".

**29.** For paragraph 53 substitute—

"**53.** Section 163(**b**) applies—

(a) with references to "Her Majesty" being read as "the Crown"; and

(b) with the substitution in subsection (6) for the words "to 166D" of the words "and 166".".

**30.** Paragraph 54 is amended as follows—

(a) for sub-paragraph (a) substitute—

"(a) with the substitution for the words "Acts and Measures" in the section heading of the word "Laws"";

(b) in section 164(1) as modified, for the words "Her Majesty" substitute "the Crown"; and

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(**a**) Section 145 was amended by the Courts and Legal Services Act 1990 s 71(2), Schedule 10 and paragraph 73; the Constitutional Reform Act 2005 section 59(5), Schedule 11, paragraph 5; the Tribunals, Courts and Enforcement Act 2007, section 50, Schedule 10, paragraph 20 and S.I. 1999/678 article 2(1), Schedule.

(**b**) Section 163 was amended by the Scotland Act 1998 (c.46), section 125 and Schedule 8, paragraph 25(4) and by the Government of Wales Act 2006 (c.32), section 160(1) and Schedule10, paragraphs 22 and 26.

(c) for sub-paragraph (c) substitute—

"(c) with the substitution in subsection (4) for the words "an Act or Measure" of the words "a Law"".

**31.** Paragraph 55 is amended as follows—

(a) for section 168(5) as modified substitute—

"(5) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision)."; and

(b) for section 169(6) as modified substitute—

"(6) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".

**32.** After paragraph 55 insert—

"**55A.** Section 170(**a**) applies—

(a) with the reference in subsection (2)to the Secretary of State being read as a reference to the Cabinet as defined in section 44 of the Constitution of the Cayman Islands;

(b) with the omission in subsection (3)(a) of the words "laid down by Directive 2006/116/EC";

(c) with the substitution for subsection (6) of the following—

"(6) Regulations made under this section are subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision)."; and

(d) with the omission of subsection (7).".

**33.** In paragraph 56 for sub-paragraph (c) substitute—

"(c) with the substitution in subsection (5) for the words "Acts, Measures" of the word "Laws"".

**34.** In paragraph 57 for section 174(7) as modified substitute—

"(7) An order made under this section is subject to negative resolution, as provided in section 28(3) of the Interpretation Law (1995 Revision).".

**35.** In paragraph 59 insert after sub-paragraph (a)—

"(aa) with the omission from the index of defined expressions of the following expressions and of the provisions indicated opposite them in the index—

"account of profits and accounts"; "assignment"; "costs"; "defendant"; "delivery up"; "injunction"; and "interlocutory relief"".

**36.** After paragraph 59 insert—

"**59A.** Schedule ZA1(**b**) applies—

(a) with the omission of paragraph 1(2);

(b) with the omission in paragraph 1(3) of the words "or 198" and "or the rights conferred by Chapter 2 of Part 2";

(c) with the insertion of the word "or" after paragraph 2(1)(b);

(d) with the omission in paragraph 2(1)(c) of the word ", or";

(e) with the omission of paragraph 2(1)(d);

(f) with the insertion of the word "or" after paragraph 2(2)(a);

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(**a**) Section 170(2) to (7) was inserted by the Enterprise and Regulatory Reform Act 2013 (c.24), section 76(1) and (3).
(**b**) Schedule ZA1 was inserted by S.I. 2014/2861 regulation 3(5), Schedule.

(g) with the omission at the end of paragraph 2(2)(b) of the word "; or";

(h) with the omission of paragraph 2(2)(c);

(i) with the omission in paragraph 2(3)(a) of the words "or rights conferred by Chapter 2 of Part 2";

(j) with the substitution in paragraph 2(3)(b) for the words "a member State" of the words "Cayman Islands";

(k) with the substitution in paragraph 2(4) for the words "any of paragraphs (a) to (c)" of the words "paragraph (a) or (b)";

(l) with the omission in paragraph 2(4)(a) of the words "or rights conferred by Chapter 2 of Part 2";

(m) with the omission in paragraph 2(4)(b) of the words "or broadcast";

(n) with the omission at the end of paragraph 2(4) of the words "or (2)";

(o) with the substitution for paragraph 2(5) of the following—

"(5) References in this Schedule to a relevant work include a work that is embedded or incorporated in, or constitutes an integral part of, a relevant work.";

(p) with the insertion of the word "or" after paragraph 2(6)(a);

(q) with the omission of paragraphs 2(6)(c) and 2(6)(d);

(r) with the omission of paragraphs 2(7) and 2(8);

(s) with the omission of paragraph 4 and the heading preceding it;

(t) with the substitution for paragraphs 5(3) to 5(7) of the following—

"(3) The sources that are appropriate for each category of relevant work must include the relevant sources listed in Part 2 of this Schedule for that category.";

(u) with the substitution in paragraph 5(8) for the reference "(3)(b)" of the reference "(3)";

(v) with the substitution in paragraph 5(9) for the words "and must provide the following information to the Office for Harmonization in the Internal Market" of the word "including";

(w) with the omission in paragraph 6 of the words "or the rights conferred by Chapter 2 of Part 2"; and

(x) with the omission in paragraph 7(2) of the words "to the Office for Harmonization in the Internal Market or".".

**37.** In paragraph 60 for sub-paragraph (b) substitute—

"(b) with the substitution for the definition of "the new copyright provisions" of the following—

""The new copyright provisions" means the provisions of this Act relating to copyright, that is, Part 1 (including this Schedule and Schedule ZA1).".".

**38.** For paragraph 64 substitute—

"**64.** Paragraph 19 of Schedule 1 applies with the omission of sub-paragraphs (2) to (7).".

**39.** For paragraph 68 substitute—

"**68.** Paragraph 40(1)(b) applies with the substitution of the words "Laws" for the words "Acts, measures.".".

**40.** In paragraph 69 for "Acts" substitute "Laws".

*Ceri King*
Deputy Clerk of the Privy Council

## EXPLANATORY NOTE

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

This Order amends the Copyright (Cayman Islands) Order 2015 which extended Part 1 of the Copyright, Designs and Patents Act 1988 to the Cayman Islands. This Order modifies or omits a number of provisions in order to update references to the Cayman Islands' legislative process, take into account recent amendments to those provisions in the U.K. and to correct technical errors.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors in the United Kingdom is foreseen.

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