

Transposition of Directive 2012/28/EU by the draft Copyright (Certain Permitted Uses of Orphan Works) Regulations 2014

Article of Directive	Proposed provision in Copyright, Designs and Patents Act 1988 (“CDPA”) or the draft Copyright (Certain Permitted Uses of Orphan Works) Regulations 2014 (“2014 Regulations”)
Article 1 Subject matter and Scope	
1. Introduction	CDPA Schedule ZA1 paragraph 2(1) definition of “relevant body”.
2. Description of works	CDPA Schedule ZA1 paragraphs 2(2) and 2(3) definition of “relevant work”.
3. Works to include unpublished works	CDPA Schedule ZA1 paragraph 2(4).
4. Works to include embedded works	CDPA Schedule ZA1 para 2(5).
5. Directive does not interfere with any arrangements concerning the management of rights at national level	Express implementation not required.
Article 2 Orphan works	
1. Description of orphan works	CDPA Schedule ZA1 paragraph 3.
2. When there is more than one rightholder	CDPA Schedule ZA1 para 3.
3. Para 2 without prejudice to right holders which have been located	CDPA Schedule ZA1 para 6(c).
4. Article 5 to apply to right holders which have not been identified	CDPA Schedule ZA1 paragraph 7.
5. Directive without prejudice to national provisions on anonymous or pseudonymous works	Express implementation not required.
Article 3 Diligent Search	
1. Requirement for diligent search	CDPA Schedule ZA1 paragraph 5.
2. Minimum sources for search are listed in the Annex	CDPA Schedule ZA1 paragraph 5(3) and, where appropriate, Part 2 of Schedule.
3. Search carried out in Member State of publication or broadcast	CDPA Schedule ZA1 paragraph 5(5) – (7).
4. If information on right holders is to be found in other countries then sources in those countries to be consulted	CDPA Schedule ZA1 paragraph 5(8).
5. Relevant body to provide national authority with the results of diligent	CDPA Schedule ZA1 paragraph 5(9). The information is to be provided not

searches and other information	to the national authority but to the Office for Harmonization in the Internal Market (“OHIM”) in accordance with the structure created by OHIM and imposed on the Member States.
6. The national authority to pass the results of the searches and other information to OHIM	CDPA Schedule ZA1 paragraph 5(9). The information is to be provided not to the national authority but to the Office for Harmonization in the Internal Market (“OHIM”) in accordance with the structure created by OHIM and imposed on the Member States.
Article 4 Mutual Recognition	
A work which is considered to be an orphan work in one Member State shall be considered to be an orphan work in all Member States	CDPA Schedule ZA1 paragraph 4.
Article 5 End of orphan work status	
Rightholder may put an end to orphan work status	CDPA Schedule ZA1 paragraph 7.
Article 6 Permitted uses of orphan works	
1. Member States shall provide for an exception to permit certain uses of orphan works	CDPA new section 44B and Schedule ZA1 paragraph 1(1) and (2).
2. Relevant bodies shall use an orphan work only to achieve the aims of their public interest missions	CDPA Schedule ZA1 paragraph 6(a) and (b).
3. Relevant bodies shall indicate the name of identified authors in any use of orphan work	CDPA Schedule ZA1 paragraph 6(d).
4. Directive is without prejudice to freedom of contract of cultural organisations	Express implementation not required.
5. Fair compensation for rightsholders	CDPA Schedule ZA1 paragraphs 7(3) and (4).
Article 7 Continued application of other legal provisions	Express implementation not required.
Article 8 Application in time	Regulation 1 of the 2014 Regulations.
Article 9 Transposition	Regulation 1 of the 2014 Regulations.

Article 10 Review clause	Express implementation not required.
Article 11 Entry into force	Express implementation not required.