

[18 & 19 GEO. 5.] *Copyright Order* [Ch. lii.]
Confirmation (Mechanical Instruments : Royalties)
Act, 1928.



CHAPTER lii.

An Act to confirm a Provisional Order of the Board of Trade relating to the rate of royalties on mechanical contrivances for the performance of musical works. [3rd August 1928.]

A.D. 1928.
—

WHEREAS the Board of Trade have made the Provisional Order set forth in the Schedule hereto under the provisions of the Copyright Act 1911 :

1 & 2 Geo. 5
c. 46.

And whereas it is requisite that the said Order should be confirmed by Parliament :

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

1. The Order set out in the Schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force.

Order in
Schedule
confirmed.

2. This Act may be cited as the Copyright Order Confirmation (Mechanical Instruments : Royalties) Act 1928.

Short title.

A.D. 1928.

SCHEDULE.

COPYRIGHT.

MUSICAL WORKS MECHANICAL INSTRUMENTS
ROYALTIES.

*Provisional Order made by the Board of Trade under
Section 19 of the Copyright Act 1911 increasing
the rate of royalties on mechanical contrivances for
the performance of musical works.*

WHEREAS by subsection (2) of section 19 of the Copyright Act 1911 (1 & 2 Geo. 5. cap. 46) it is provided that it shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's Dominions to which the said Act extends records perforated rolls or other contrivances by means of which the work may be mechanically performed if such person proves (inter alia) that he has given the prescribed notice of his intention to make the contrivance and has paid in the prescribed manner to or for the benefit of the owner of the copyright in the work royalties in respect of all such contrivances sold by him and calculated at the rate hereinafter mentioned :

And whereas by subsection (3) of the said section it is provided that the rate at which such royalties as aforesaid are to be calculated shall—

(a) in the case of contrivances sold within two years after the commencement of the Act by the person making the same be two and one-half per cent.; and

(b) in the case of contrivances sold as aforesaid after the expiration of that period five per cent.

on the ordinary retail selling price of the contrivance calculated in the prescribed manner so however that the royalty payable in respect of a contrivance shall in no case be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon and where the royalty calculated as aforesaid

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includes a fraction of a farthing such fraction shall be reckoned as a farthing Provided that if at any time after the expiration of seven years from the commencement of the Act it appears to the Board of Trade that such rate as aforesaid is no longer equitable the Board of Trade may after holding a public inquiry make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament but where an order revising the rate has been so made and confirmed no further provision shall be made before the expiration of fourteen years from the date of the last revision :

A.D. 1928.
—

And whereas by subsection (7) of the said section it is provided that in the case of musical works published before the commencement of the Act the foregoing provisions shall have effect subject (inter alia) to the modification that the rate of two and one-half per cent. shall be substituted for the rate of five per cent. at which royalties are to be calculated :

And whereas the Board of Trade held a public inquiry into the matter during the months of March and April nineteen hundred and twenty-eight and it appears to them that such rate as aforesaid is no longer equitable :

Now therefore the Board of Trade in exercise of the powers conferred upon them by the above-recited enactment and of all other powers enabling them in that behalf hereby order as follows :—

1. The rate at which such royalties as aforesaid are to be calculated as provided by the above-recited subsection (3) shall be increased from five per cent. to six and one-quarter per cent. so however that the royalty payable in respect of a contrivance shall in no case be less than three farthings for each separate musical work in which copyright subsists reproduced thereon and where the royalty calculated as aforesaid includes a fraction of a farthing such fraction shall be reckoned as a farthing.

2. The rate of three and one-eighth per cent. shall be substituted for the rate of two and one-half per cent. payable in pursuance of the provisions of paragraph (b) of subsection (7) of the said section in the case of musical works published before the commencement of the said Act.

3. This Order may be cited as the Copyright Mechanical Instruments (Royalties) Order 1928 and shall apply to contrivances sold on or after the first day of November nineteen hundred

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A.D. 1928. and twenty-eight or after the expiration of three months from
— the date of its confirmation by Parliament whichever be the
later.

Given under the Official Seal of the Board of Trade this
Twenty-first day of May Nineteen hundred and twenty-
eight.

(L.S.)

P. CUNLIFFE-LISTER
President of the Board of Trade.

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