



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART II

#### RIGHTS IN PERFORMANCES

#### [<sup>F1</sup>CHAPTER 4

#### QUALIFICATION FOR PROTECTION, EXTENT AND INTERPRETATION

##### Textual Amendments

- F1** Ss. 206-212 become Pt. 2 Ch. 4 (1.2.2006) by virtue of [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [reg. 4\(7\)](#) (with [reg. 8](#))

#### *<sup>X1</sup> Qualification for protection and extent*

##### Editorial Information

- X1** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### <sup>X2</sup>206 **Qualifying countries, individuals and persons.**

(1) In this Part—

“qualifying country” means—

- (a) the United Kingdom,
- (b) another member State of the [<sup>F2</sup>European Union], or

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- (c) to the extent that an Order under section 208 so provides, a country designated under that section as enjoying reciprocal protection;
- “qualifying individual” means a citizen or subject of, or an individual resident in, a qualifying country; and
- “qualifying person” means a qualifying individual or a body corporate or other body having legal personality which—
- (a) is formed under the law of a part of the United Kingdom or another qualifying country, and
- (b) has in any qualifying country a place of business at which substantial business activity is carried on.
- (2) The reference in the definition of “qualifying individual” to a person’s being a citizen or subject of a qualifying country shall be construed—
- (a) in relation to the United Kingdom, as a reference to his being a British citizen, and
- (b) in relation to a colony of the United Kingdom, as a reference to his being a British Dependent Territories’ citizen by connection with that colony.
- (3) In determining for the purpose of the definition of “qualifying person” whether substantial business activity is carried on at a place of business in any country, no account shall be taken of dealings in goods which are at all material times outside that country.

#### Editorial Information

**X2** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Textual Amendments

**F2** Words substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 4

### <sup>x3</sup>207 Countries to which this Part extends.

This Part extends to England and Wales, Scotland and Northern Ireland.

#### Editorial Information

**X3** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

### <sup>x4</sup>208 Countries enjoying reciprocal protection.

- (1) Her Majesty may by Order in Council designate as enjoying reciprocal protection under this Part—
- (a) a Convention country, or

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- (b) a country as to which Her Majesty is satisfied that provision has been or will be made under its law giving adequate protection for British performances.
- (2) A “Convention country” means a country which is a party to a Convention relating to performers’ rights to which the United Kingdom is also a party.
- (3) A “British performance” means a performance—
- (a) given by an individual who is a British citizen or resident in the United Kingdom, or
  - (b) taking place in the United Kingdom.
- (4) If the law of that country provides adequate protection only for certain descriptions of performance, an Order under subsection (1)(b) designating that country shall contain provision limiting to a corresponding extent the protection afforded by this Part in relation to performances connected with that country.
- (5) The power conferred by subsection (1)(b) is exercisable in relation to any of the Channel Islands, the Isle of Man or any colony of the United Kingdom, as in relation to a foreign country.
- (6) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Editorial Information

- X4** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### <sup>X5</sup>209 Territorial waters and the continental shelf.

- (1) For the purposes of this Part the territorial waters of the United Kingdom shall be treated as part of the United Kingdom.
- (2) This Part applies to things done in the United Kingdom sector of the continental shelf on a structure or vessel which is present there for purposes directly connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources as it applies to things done in the United Kingdom.
- (3) The United Kingdom sector of the continental shelf means the areas designated by order under section 1(7) of the <sup>M1</sup>Continental Shelf Act 1964.

#### Editorial Information

- X5** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

#### Marginal Citations

- M1** 1964 c. 29.

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## <sup>x6</sup>210 **British ships, aircraft and hovercraft.**

(1) This Part applies to things done on a British ship, aircraft or hovercraft as it applies to things done in the United Kingdom.

(2) In this section—

“British ship” means a ship which is a British ship for the purposes of the [<sup>F3</sup>Merchant Shipping Act 1995] otherwise than by virtue of registration in a country outside the United Kingdom; and

“British aircraft” and “British hovercraft” mean an aircraft or hovercraft registered in the United Kingdom.

### Editorial Information

**X6** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

### Textual Amendments

**F3** Words in s. 210(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 84(b)** (with s. 312(1))

## <sup>I</sup><sub>F4</sub>210A **Requirement of signature: application in relation to body corporate**

(1) The requirement in the following provisions that an instrument be signed by or on behalf of a person is also satisfied in the case of a body corporate by the affixing of its seal—

section 191B(3) (assignment of performer's property rights);

section 191C(1) (assignment of future performer's property rights);

section 191D(1) (grant of exclusive licence).

(2) The requirement in the following provisions that an instrument be signed by a person is also satisfied in the case of a body corporate by signature on behalf of the body or by the affixing of its seal—

section 205D(2)(a) (assertion of performer's moral rights);

section 205J(2) (waiver of performer's moral rights).]

### Textual Amendments

**F4** S. 210A inserted (1.2.2006) by **The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18)**, **reg. 7** (with **reg. 8**)

## <sup>x7</sup> Interpretation

### Editorial Information

**X7** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on

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1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

## **x<sup>8</sup>211 Expressions having same meaning as in copyright provisions.**

(1) The following expressions have the same meaning in this Part as in Part I (copyright)

—  
<sup>F5</sup>assignment (in Scotland),  
 broadcast,  
 business,  
<sup>F6</sup>.....  
<sup>F7</sup>.....  
<sup>F8</sup>communication to the public,  
 country,  
 defendant (in Scotland),  
 delivery up (in Scotland),  
<sup>F9</sup>the EEA,  
<sup>F9</sup>EEA state,  
 film,  
<sup>F10</sup>injunction (in Scotland)]  
 literary work,  
 published, <sup>F11</sup> . . .  
<sup>F12</sup>signed,  
<sup>F13</sup>sound recording, and]  
<sup>F14</sup>wireless broadcast.]

(2) <sup>F15</sup> The provisions of—  
 (a) section 5B(2) and (3) (supplementary provisions relating to films), and  
 (b) section 6(3) to (5A) and section 19(4) (supplementary provisions relating to broadcasting),

apply] for the purposes of this Part, and in relation to an infringement of the rights conferred by this Part, as they apply for the purposes of Part I and in relation to an infringement of copyright.

### **Editorial Information**

**X8** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

### **Textual Amendments**

**F5** S. 211(1): entry inserted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), reg. 2, **Sch. para. 6(2)** (with reg. 8)  
**F6** S. 211(1): entry repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), **Sch. 2** (with regs. 31-40)  
**F7** S. 211(1): entry repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), **Sch. 2** (with regs. 31-40)

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- F8** S. 211(1): entry inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), [Sch. 1 para. 15\(5\)\(a\)\(i\)](#) (with regs. 31-40)
- F9** S. 211(1): entries relating to "the EEA," and "EEA state," substituted (29.4.2006) for entry relating to "EEA national," by [The Intellectual Property \(Enforcement, etc.\) Regulations 2006 \(S.I. 2006/1028\)](#), reg. 2(2), [Sch. 2 para. 12](#)
- F10** S. 211(1): entry inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), [Sch. 1 para. 15\(5\)\(a\)\(i\)](#) (with regs. 31-40)
- F11** Word in s. 211(1) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), [Sch. 2](#) (with regs. 31-40)
- F12** S. 211(1): entry inserted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), reg. 2, [Sch. para. 6\(2\)](#) (with reg. 8)
- F13** S. 211(1): entry substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 2\(1\)](#), {[Sch. 1 para. 15\(5\)\(a\)\(ii\)](#)} (with regs. 31-40)
- F14** S. 211(1): entry inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(1), [Sch. 1 para. 15\(5\)\(a\)\(i\)](#) (with regs. 31-40)
- F15** Words in s. 211(2) substituted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), reg. 2, [Sch. para. 6\(3\)](#) (with reg. 8)

## <sup>x9</sup>212 Index of defined expressions.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section)—

[ <sup>F16</sup> assignment (in Scotland)	section 211(1) (and section 177);]
broadcast (and related expressions)	section 211 (and section 6)
business	section 211(1) (and section 178)
<sup>F17</sup> .....	
[ <sup>F18</sup> communication to the public	section 211(1) (and section 20)]
[ <sup>F19</sup> consent of performer (in relation to performer's property rights)]	[ <sup>F20</sup> section 191A(2)]
country	section 211(1) (and section 178)
defendant (in Scotland)	section 211(1) (and section 177)
delivery up (in Scotland)	section 211(1) (and section 177)
[ <sup>F21</sup> distribution right]	[ <sup>F22</sup> section 182B(5)]
[ <sup>F23</sup> the EEA and EEA state]	[ <sup>F24</sup> section 211(1) (and section 172A)]
exclusive recording contract	section 185(1)
film	section 211(1) (and [ <sup>F25</sup> section 5B])
[ <sup>F26</sup> group	section 205C(4);]
illicit recording	section 197
[ <sup>F27</sup> injunction (in Scotland)]	section 211(1) (and section 177)]
[ <sup>F28</sup> issue to the public	section 182B;]
literary work	section 211(1) (and section 3(1))

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[ <sup>F29</sup> lending right]	[ <sup>F30</sup> section 182C(7)]
[ <sup>F31</sup> making available right performance]	section 182CA] section 180(2)
[ <sup>F32</sup> performer's non-property rights]	[ <sup>F33</sup> section 192A(1)]
[ <sup>F34</sup> performer's property rights]	[ <sup>F35</sup> section 191A(1)]
published	section 211(1) (and section 175)
qualifying country	section 206(1)
qualifying individual	section 206(1) and (2)
qualifying performance	section 181
qualifying person	section 206(1) and (3)
recording (of a performance)	section 180(2)
recording rights (person having)	section 185(2) and (3)
[ <sup>F36</sup> rental right]	[ <sup>F37</sup> section 182C(7)]
[ <sup>F38</sup> reproduction right]	[ <sup>F39</sup> section 182A(3)]
[ <sup>F40</sup> rights owner (in relation to performer's property rights)]	[ <sup>F41</sup> section 191A(3) and (4).]
[ <sup>F42</sup> signed]	section 211(1) (and section 176);]
sound recording	section 211(1) (and [ <sup>F43</sup> section 5A]).
[ <sup>F44</sup> wireless broadcast]	section 211(1) (and section 178).]]

### Editorial Information

- X9** The insertion of the new headings "Chapter 1 Introductory", "Chapter 2 Economic Rights", "Chapter 3 Moral Rights" and "Chapter 4 Qualification for Protection, Extent and Interpretation" in Pt. II on 1.2.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under those new headings.

### Textual Amendments

- F16** S. 212: entry inserted (1.2.2006) by [The Performances \(Moral Rights, etc.\) Regulations 2006 \(S.I. 2006/18\)](#), [reg. 2](#), [Sch. para. 7](#) (with [reg. 8](#))
- F17** S. 212: entry repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 2\(2\)](#), [Sch. 2](#) (with [regs. 31-40](#))
- F18** S. 212: entry inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 2\(1\)](#), [Sch. 1 para. 15\(6\)](#) (with [regs. 31-40](#))
- F19** Words in s. 212 inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 21\(6\)](#) (with Pt. III)
- F20** Words in s. 212 inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 21\(6\)](#) (with Pt. III)
- F21** Words in s. 212 inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 20\(4\)](#) (with Pt. III)
- F22** Words in s. 212 inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 20\(4\)](#) (with Pt. III)
- F23** S. 212: words in entry substituted (29.4.2006) by [The Intellectual Property \(Enforcement, etc.\) Regulations 2006 \(S.I. 2006/1028\)](#), [reg. 2\(2\)](#), [Sch. 2 para. 13](#)
- F24** Words in s. 212 inserted (1.1.1996) by [S.I. 1995/3297](#), [reg. 11\(4\)](#) (with Pt. III)
- F25** Words in s. 212 substituted (1.1.1996) by [S.I. 1995/3297](#), [reg. 9\(6\)\(a\)](#) (with Pt. III)

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- F26** S. 212: entry inserted (1.2.2006) by The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18), reg. 2, **Sch. para. 7** (with reg. 8)
- F27** S. 212: entry inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(6)** (with regs. 31-40)
- F28** S. 212: entry inserted (1.2.2006) by The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18), reg. 2, **Sch. para. 7** (with reg. 8)
- F29** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F30** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F31** S. 212: entry inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(6)** (with regs. 31-40)
- F32** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F33** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F34** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F35** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F36** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F37** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F38** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F39** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 20(4)** (with Pt. III)
- F40** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F41** Words in s. 212 inserted (1.12.1996) by S.I. 1996/2967, **reg. 21(6)** (with Pt. III)
- F42** S. 212: entry inserted (1.2.2006) by The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18), reg. 2, **Sch. para. 7** (with reg. 8)
- F43** Words in s. 212 substituted (1.1.1996) by S.I. 1995/3297, **reg. 9(6)(b)** (with Pt. III)
- F44** S. 212: entry inserted (1.2.2006) by The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18), reg. 2, **Sch. para. 7** (with reg. 8)



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**Changes to legislation:**

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