
STATUTORY INSTRUMENTS

1996 No. 2967

The Copyright and Related Rights Regulations 1996

PART II

AMENDMENTS OF THE COPYRIGHT, DESIGNS AND PATENTS ACT 1988

Publication right

Publication right

16.—(1) A person who after the expiry of copyright protection, publishes for the first time a previously unpublished work has, in accordance with the following provisions, a property right (“publication right”) equivalent to copyright.

(2) For this purpose publication includes any communication to the public, in particular—

- (a) the issue of copies to the public;
- (b) making the work available by means of an electronic retrieval system;
- (c) the rental or lending of copies of the work to the public;
- (d) the performance, exhibition or showing of the work in public; or
- (e) broadcasting the work or including it in a cable programme service.

(3) No account shall be taken for this purpose of any unauthorised act.

In relation to a time when there is no copyright in the work, an unauthorised act means an act done without the consent of the owner of the physical medium in which the work is embodied or on which it is recorded.

(4) A work qualifies for publication right protection only if—

- (a) first publication is in the European Economic Area, and
- (b) the publisher of the work is at the time of first publication a national of an EEA state. Where two or more persons jointly publish the work, it is sufficient for the purposes of paragraph (b) if any of them is a national of an EEA state.

(5) No publication right arises from the publication of a work in which Crown copyright or Parliamentary copyright subsisted.

(6) Publication right expires at the end of the period of 25 years from the end of the calendar year in which the work was first published.

(7) In this regulation a “work” means a literary, dramatic, musical or artistic work or a film.

(8) Expressions used in this regulation (other than “publication”) have the same meaning as in Part I.

Application of copyright provisions to publication right

17.—(1) The substantive provisions of Part I relating to copyright (but not moral rights in copyright works), that is, the relevant provisions of—

- Chapter II (rights of copyright owner),
- Chapter III (acts permitted in relation to copyright works),
- Chapter V (dealings with rights in copyright works),
- Chapter VI (remedies for infringement), and
- Chapter VII (copyright licensing),

apply in relation to publication right as in relation to copyright, subject to the following exceptions and modifications.

- (2) The following provisions do not apply—
 - (a) in Chapter III (acts permitted in relation to copyright works), sections 57, 64, 66A and 67;
 - (b) in Chapter VI (remedies for infringement), sections 104 to 106;
 - (c) in Chapter VII (copyright licensing), section 116(4).
- (3) The following provisions have effect with the modifications indicated—
 - (a) in section 107(4) and (5) (offences of making or dealing in infringing articles, &c.), the maximum punishment on summary conviction is imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both;
 - (b) in sections 116(2), 117 and 124 for “works of more than one author” substitute “works of more than one publisher”.
- (4) The other relevant provisions of Part I, that is—
 - in Chapter I, provisions defining expressions used generally in Part I,
 - Chapter VIII (the Copyright Tribunal),
 - in Chapter IX—
 - section 161 (territorial waters and the continental shelf), and
 - section 162 (British ships, aircraft and hovercraft), and in Chapter X—
 - section 171(1) and (3) (savings for other rules of law, &c.), and
 - sections 172 to 179 (general interpretation provisions),

apply, with any necessary adaptations, for the purposes of supplementing the substantive provisions of that Part as applied by this regulation.

(5) Except where the context otherwise requires, any other enactment relating to copyright (whether passed or made before or after these regulations) applies in relation to publication right as in relation to copyright.

In this paragraph “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978(1).