

EXPLANATORY MEMORANDUM TO
THE COPYRIGHT AND PERFORMANCES (APPLICATION TO OTHER
COUNTRIES) (AMENDMENT) ORDER 2012

2012 No. 1754

1. This explanatory memorandum has been prepared by the Intellectual Property Office (the operating name of the Patent Office), an Executive Agency of the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. The Copyright and Performances (Application to Other Countries) (Amendment) Order 2012 (“the Order”) amends the Copyright and Performances (Application to Other Countries) Order 2012 (S.I.2012/799).

2.2. The provisions of the Copyright Act 1911 as they apply to Jersey are being replaced by Part 1 of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011. Paragraph 36(4) of Schedule 1 to the Copyright, Designs and Patents Act 1988 provides protection in the United Kingdom for copyright works from Jersey so long as the 1911 Act remains in force in Jersey. The 1911 Act is being repealed in Jersey by the Copyright (Repeal of the Copyright Act 1911) (Jersey) Order 2012. As a result of the repeal of the 1911 Act, in order to provide continuity of protection in the United Kingdom for copyright works created in Jersey, the Order applies Part 1 of the 1988 Act to copyright works created in Jersey.

3. Matters of special interest to the Joint Committee on Statutory Instruments

The arrangements by the authorities for the bringing into force of the Part 1 of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011 will ensure that the Order will not itself come into force before the end of 21 days beginning with the date on which the Order is laid before Parliament.

4. Legislative context

4.1 The Order is made under section 159 of the Copyright, Designs and Patents Act 1988 which allows provision to be made applying protections relating to copyright works to works from countries outside the United Kingdom.

5. Territorial Extent and Application

This instrument applies to the United Kingdom.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is needed.

7. Policy background

- **What is being done and why**

7.1 The Intellectual Property (Unregistered Rights) (Jersey) Law 2011 received Royal Assent on 16th November 2011 and it will be brought into force in Jersey by an appointed day act made under its provisions. Part I of this legislation is intended to replace those provisions contained in the Copyright Act 1911, which are maintained in force in Jersey by virtue of paragraph 36 of Schedule 1 to the Copyright, Designs and Patents Act 1988 notwithstanding the repeal of the 1911 Act in the United Kingdom. On the repeal of the 1911 Act, the Order amends the Copyright and Performances (Application to Other Countries) Order 2012 by providing for the application of Part I of the 1988 Act to copyright works created in Jersey. Part 1 of the 1988 Act currently applies to such works as a result of the provisions of paragraph 36(4) of Schedule 1 to the Copyright, Designs and Patents Act 1988.

7.2 Such works will therefore continue to be protected in the United Kingdom by the provisions of the 1988 Act. Article 2(2) of the Order adds Jersey to the countries listed in the Copyright and Performances (Application to Other Countries) Order 2012 (S.I.2012/799) and applies Part 1 of the 1988 Act to dealings in the UK with Jersey works. Article 1(2) provides that the Order comes into effect on the day on which Part I of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011 comes into force in its entirety.

- **Consolidation**

7.3 There are no plans to consolidate the Copyright and Performances (Application to Other Countries) Order 2012 and the Order amending it.

8. Consultation outcome

A consultation was not carried out because no impact on businesses or the private sector is foreseen.

9. Guidance

Guidance on Crown Dependencies including Jersey is available on the Intellectual Property Office website at <http://www.ipo.gov.uk> and <http://www.gov.je>. The date of the coming into force of the Copyright (Repeal of the Copyright Act 1911) (Jersey) Order 2012, this Order and the new Jersey legislation will be publicised on the Intellectual Property Office website. The Copyright (Repeal of the Copyright Act 1911)(Jersey) Order 2012 will be registered in the Royal Court in Jersey and commencement of the new legislation will also be publicised in Jersey.

10. Impact

10.1. No impact on business, charities or voluntary bodies is foreseen

10.2 No impact on the public sector is foreseen.

10.3 Impact Assessments have therefore not been carried out.

11. Regulating small business

The legislation applies to all businesses regardless of size.

12. Monitoring & review

The review and updating of Orders in Council to grant reciprocity for copyright is continuous.

13. Contact

Ana de Miguel at the Intellectual Property Office (Tel: 01633 3817 or email: ana.demiguel@ipo.gov.uk) can answer any queries regarding the instrument.