
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Copyright, Designs and Patents Act 1988 (“the Act”) by inserting new sections 44A and 76A, a new paragraph 6I in Schedule 2 and a new Schedule ZA1. The Regulations implement the provisions of Directive 2012/28/EU of the European Parliament and of the Council of 25th October 2012 on certain permitted uses of orphan works (OJ No L299/5, 27.10.2012, p.1).

The Regulations provide for the permitted uses of orphan works by relevant bodies. The Regulations define “relevant body”, “relevant work”, “rightholder” and “orphan work”.

The Regulations set out the requirements for a diligent search, for the purpose of establishing whether a relevant work is an orphan work, and include a list of the minimum sources to be searched in different cases. The Regulations require a relevant body to supply certain information to the Office for Harmonization in the Internal Market.

The Regulations provide that, if a relevant work is designated as an orphan work in another Member State, it shall be treated as an orphan work in the United Kingdom.

The Regulations provide that, if the owner of an orphan work is identified, a relevant body that is using or has used the orphan work shall provide the owner with fair compensation for that body’s use of the work.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Intellectual Property Office, Concept House, Cardiff Road, Newport NP10 8QQ and is annexed to the Explanatory Memorandum (together with a transposition note) which is available alongside the instrument on www.legislation.gov.uk.