

2016 No. 593 (C. 40)

COPYRIGHT

**The Enterprise and Regulatory Reform Act 2013
(Commencement No. 10 and Saving Provisions) Order 2016**

Made - - - -

18th May 2016

The Secretary of State makes the following Order in exercise of the powers conferred by sections 100 and 103(3) of the Enterprise and Regulatory Reform Act 2013(a).

Citation

1. This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Commencement No. 10 and Saving Provisions) Order 2016.

Interpretation

2.—(1) In this Order—

“commencement date” means 28th July 2016;

“consultation time” means half-past four in the afternoon on 28th October 2015;

“depletion date” means 28th January 2017;

“relevant copy” means a copy of an artistic work that was made in, or imported into, the United Kingdom—

(a) before the consultation time; or

(b) on or after the consultation time but before the depletion date pursuant to a contract entered into before the consultation time;

“the 1988 Act” means the Copyright, Designs and Patents Act 1988(b).

(2) Words and expressions used in this Order have the same meaning as in Part 1 of the 1988 Act.

Day appointed for the coming into force of section 74

3. The day appointed for the coming into force of section 74 of the Enterprise and Regulatory Reform Act 2013 is the commencement date.

Saving provisions – articles made in, or imported into, the United Kingdom

4.—(1) This article applies to the following acts done on or after the commencement date but before the depletion date—

(a) 2013 c.24
(b) 1988 c.48

- (a) the copying of an artistic work;
- (b) the provision of means for making a copy of an artistic work; and
- (c) the importation into the United Kingdom of a copy of an artistic work.

(2) An act of a kind mentioned in paragraph (1) does not constitute an infringement of copyright if—

- (a) that act is done pursuant to a contract entered into before the consultation time; and
- (b) before the commencement date that act would not, by virtue of section 52 of the 1988 Act, have constituted an infringement of copyright.

5. The following acts done on or after the commencement date but before the depletion date do not constitute an infringement of copyright in an artistic work if before the commencement date those acts would not, by virtue of section 52 of the 1988 Act, have constituted an infringement of copyright—

- (a) the issue of a relevant copy to the public;
- (b) the renting or lending of a relevant copy to the public; or
- (c) the communication to the public of the artistic work in connection with anything done in reliance on paragraphs (a) or (b).

Neville-Rolfe

Parliamentary Under Secretary of State for Business, Innovation and Skills
Department for Business, Innovation and Skills

18th May 2016

EXPLANATORY NOTE

(This note is not part of the Order)

This is the tenth Commencement Order made under the Enterprise and Regulatory Reform Act 2013 (c.24) (“the Act”).

This Order brings into force section 74 of the Act which repeals section 52 of the Copyright, Designs and Patents Act 1988 (“the 1988 Act”). Section 52 introduced a copyright exception into United Kingdom law relating to the industrial exploitation of artistic works, which limits copyright protection to a period of 25 years from the end of the year in which such articles are first marketed.

The transitional provision in article 4(1) provides for the making, the provision of means for making, or the importation of a copy of an artistic work after the commencement date if it is pursuant to a contract entered into before the consultation time, and before the commencement date that act would not have constituted an infringement of copyright by virtue of section 52 of the 1988 Act. The transitional provision in article 5 provides for what can be done with those copies after commencement, and also with copies that were already in existence before the consultation time (this would cover, for example, the physical sale of such copies and the marketing of those copies by way of online advertising on a website).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|--------------------------|-----------------------------|-----------------|
| Section 7(1) | 6th April 2014 | 2014/253 |
| Section 7(2) (partially) | 6th March 2014 | 2014/253 |
| Section 7(2) (remainder) | 6th April 2014 | 2014/253 |
| Sections 8 and 9 | 6th April 2014 | 2014/253 |
| Section 14 | 29th July 2013 | 2013/1648 |
| Section 15(10) | 29th July 2013 | 2013/1648 |

| | | |
|---|---------------------|--------------|
| Section 16 | 6th April 2014 | 2014/253 |
| Section 19 | 25th June 2013 | 2013/1455 |
| Section 23 | 29th July 2013 | 2013/1648 |
| Section 25(1) and (2) | 1st October 2013 | 2013/2227 |
| Section 25(3) | 1st April 2014 | 2014/416 |
| Section 25(4) | 1st October 2013 | 2013/2227 |
| Section 26 | 1st April 2014 | 2014/416 |
| Section 27 | 1st October 2013 | 2013/2227 |
| Sections 29 to 51 | 1st April 2014 | 2014/416 |
| Sections 54 to 58 | 1st April 2014 | 2014/416 |
| Sections 60 and 61 | 6th April 2014 | 2014/416 |
| Section 63 (partially) | 25th June 2013 | 2013/1455 |
| Section 63 (partially) | 1st October 2013 | 2013/2227 |
| Section 63 (partially) | 6th April 2014 | 2014/416 |
| Section 65 | 1st October 2013 | 2013/2227 |
| Section 66 | 6th April 2014 | 2014/416 |
| Sections 67 to 70 | 1st October 2013 | 2013/2227 |
| Section 71 | 6th April 2016 | 2016/191 |
| Section 72(1) | 25th June 2013 | 2013/1455 |
| Section 72(2) and (3) | 16th December 2013 | 2013/2979 |
| Section 72(4) (partially) | 25th June 2013 | 2013/1455 |
| Section 72(4) (partially) | 1st October 2013 | 2013/1455 |
| Section 72(4) (partially, in relation to England only)(4) | 1st October 2013 | 2013/1455(a) |
| Section 72(4) (partially, in relation to England only) | 16th December 2013 | 2013/2979 |
| Section 72(4) (partially) | 16th December 2013 | 2013/2979 |
| Section 72(4) (partially, in relation to England only) | 31st December 2014 | 2013/2979(b) |
| Section 72(4) (partially in relation to Scotland) | 15th September 2014 | 2014/2481 |
| Section 73 (partially) | 1st October 2013 | 2013/2227 |
| Sections 79 to 82 | 1st October 2013 | 2013/2227 |
| Section 90(7) | 1st October 2013 | 2013/2227 |
| Schedule 1, paragraphs 2 and 3 | 6th March 2014 | 2014/253 |
| Schedule 1 (remainder) | 6th April 2014 | 2014/253 |
| Schedules 2 and 3 | 6th April 2014 | 2014/253 |
| Schedule 4, paragraphs 1 to 18, 20 to 28, 29(1), 31, 32, 34, 35, 51 (partially), 52 (partially), 53 (partially), 59, 60, 61(1) to (4), and 62 to 65 | 1st October 2013 | 2013/2227 |
| Schedule 4 (remainder) | 1st April 2014 | 2014/416 |
| Schedules 5 to 13 | 1st April 2014 | 2014/416 |
| Schedule 14 (paragraphs 1 to 19 and 23 to 29) | 1st April 2014 | 2014/416 |
| Schedule 15 | 1st April 2014 | 2014/416 |
| Schedule 16 | 6th April 2014 | 2014/416 |
| In Schedule 17— Paragraphs 1 to 6 | 1st October 2013 | 2013/2227 |

(a) S.I. 2013/1455 (C. 55) was amended by S.I. 2013/2271 (C. 94) in relation to the commencement of this provision.

(b) S.I. 2013/2979 (C. 122) was amended by S.I. 2014/824 (C. 33) and S.I. 2014/2481 in relation to the commencement of this provision.

| | | |
|---|---------------------|-----------|
| Paragraph 9 | 25th June 2013 | 2013/1455 |
| Paragraph 10 | 1st October 2013 | 2013/2227 |
| Paragraph 11 | 6th April 2014 | 2014/416 |
| Paragraphs 12 and 13 | 1st October 2013 | 2013/2227 |
| Paragraphs 14 to 19 | 6th April 2014 | 2014/416 |
| Paragraph 20 | 25th June 2013 | 2013/1455 |
| In Schedule 20— | | |
| Paragraph 1 | 1st October 2013 | 2013/1455 |
| Paragraph 2 (partially) | 25th June 2013 | 2013/1455 |
| Paragraph 2 (partially in relation to England only) | 1st October 2013 | 2013/1455 |
| Paragraph 2 (partially in relation to England only) | 16th December 2013 | 2013/2979 |
| Paragraph 2 (partially) | 16th December 2013 | 2013/2979 |
| Paragraph 2 (partially in relation to England only) | 31st March 2014 | 2013/2979 |
| Paragraph 2 (partially in relation to Scotland) | 15th September 2014 | 2014/2841 |
| Schedule 21, paragraph 5 | 1st October 2013 | 2013/2227 |

© Crown copyright 2016

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.25

UK201605194 05/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/593>

ISBN 978-0-11-114702-3

