

**2021 No. 636**

**COPYRIGHT**

**RIGHTS IN PERFORMANCES**

**The Copyright and Performances (Application to Other Countries) (Amendment) Order 2021**

*Made* - - - - - *26th May 2021*  
*Laid before Parliament* *2nd June 2021*  
*Coming into force* - - - *26th June 2021*

At the Court at Windsor Castle, the 26th day of May 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, in exercise of the powers conferred on Her by sections 159 and 208 of the Copyright, Designs and Patents Act 1988<sup>(a)</sup> ("the Act") makes the following Order.

Her Majesty is satisfied that, to the extent that this Order relates to a country that is not—

(a) in relation to copyright, a country party to the Berne Convention<sup>(b)</sup> or to the World Intellectual Property Organisation Performances and Phonograms Treaty<sup>(c)</sup> or a member of the World Trade Organisation, or

(b) in relation to copyright and performances, a country party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations<sup>(d)</sup> or otherwise a Convention country<sup>(e)</sup>,

provision has been or will be made under the law of that country giving adequate protection to the owners of copyright under Part 1, and to the owners of rights in respect of British performances<sup>(f)</sup> under Part 2, of the Act.

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(a) 1988 c. 48. Section 159 was substituted, section 206(4) was inserted and section 208 was amended by section 22 of the Intellectual Property Act 2014 (c. 18) ("the 2014 Act").  
(b) Cm.1212; "Berne Convention" is defined in section 159(9) of the Copyright, Designs and Patents Act 1988 ("the 1988 Act"); section 159 of that Act was substituted by section 22(4) of the 2014 Act.  
(c) Cm. 3728.  
(d) Cm. 2425.  
(e) "Convention country" is defined in section 208(2) of the 1988 Act.  
(f) "British performances" is defined in section 208(3) of the 1988 Act.

## Citation and commencement

1. This Order may be cited as the Copyright and Performances (Application to Other Countries) (Amendment) Order 2021 and comes into force on 26th June 2021.

## Amendment of the Copyright and Performances (Application to Other Countries) Order 2016

2.—(1) The Copyright and Performances (Application to Other Countries) Order 2016(a) is amended as follows.

(2) In article 8 (application to broadcasts of Part 1 of the Act under section 159(4) – miscellaneous countries)(b),

(a) for paragraph (1), substitute—

“(1) This paragraph applies to a member State, Indonesia, Singapore, South Korea, and Ukraine.”;

(b) for paragraph (2), substitute

“(2) This paragraph applies to a member State, Hong Kong, Indonesia, Malawi, Malaysia and Singapore.”;

(3) After article 12, insert—

### “Application of Part 2 of the Act to Malta

12A. Malta is designated as enjoying reciprocal protection under Part 2 of the Act.”.

(4) In the Schedule—

(a) in Part 1 (application to sound recordings of Part 1 of the Act – miscellaneous countries), in the list—

(i) after “Malaysia” insert “Malta”; and

(ii) after “Pakistan” insert “Singapore”.

(b) in Part 2 (application of Part 2 of the Act under articles 11 and 12 of the 2016 Order(c) – countries which are not parties to the Rome Convention), in the table—

(i) in the row relating to Afghanistan, in the right-hand column, for “12” substitute “11”

(ii) in the row relating to Brunei Darussalam, in the right-hand column, for “12” substitute “11”;

(iii) after the row relating to China, insert—

“Cook Islands	Article 11
Comoros	Article 11”;

(iv) in the row relating to India, in the right-hand column, for “12” substitute “11”;

(v) after the row relating to Kenya, insert—

“Kiribati	Article 11”;
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(vi) in the row relating to New Zealand, in the right-hand column, for “12” substitute “11”;

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(a) S.I. 2016/1219.

(b) Part 1 of the 1988 Act makes provision in relation to copyright. Article 8 of the Copyright and Performances (Application to Other Countries) Order 2016 applies that Part 1 to broadcasts in relation to the countries listed and in the manner set out in the article.

(c) Part 2 of the 1988 Act makes provision in relation to performances. Article 11 applies provisions of that Part 2 to certain countries which are party to the World Intellectual Property Organisation Performances and Phonograms Treaty adopted in Geneva on 20th December 1996. Article 12 applies with modifications provisions of that Part 2 to certain countries which are members of the World Trade Organisation

(vii) after the row relating to Samoa, insert—

“San Marino	Article 11
Sao Tome and Principe, Democratic Republic of	Article 11”;

(viii) after the row relating to the United States of America, insert—

“Uzbekistan	Article 11”;
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(ix) in the row relating to Vanuatu, in the right-hand column, for “12” substitute “11”.

*Richard Tilbrook*  
Clerk of the Privy Council

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Part 1 of the Copyright, Designs and Patents Act 1988 (“the Act”) confers the protection of copyright on the creators of certain works (“Part 1 protections”). It applies to works originating from certain countries and is applied by the Copyright and Performances (Application to Other Countries) Order 2016 (“the 2016 Order”), made under powers conferred by the Act, to works originating from certain other countries. Part 2 of the Act confers the protection of rights on performers and persons having recording rights in relation to a performance (“Part 2 protections”). It applies to performances connected with certain countries and is also applied by the 2016 Order to performances connected with certain other countries.

This Order amends the 2016 Order as follows. Article 2(2) amends article 8 of the 2016 Order to provide for the application of Part 1 protections both to wired and wireless broadcasts relating to a EU state, in each case in the manner set out in relevant provisions of that amended article. Article 2(3) inserts a new provision into the 2016 Order to apply the Part 2 protections to Malta. Article 2(4)(a) amends the 2016 Order to provide for the application of Part 1 protections to sound recordings relating to Malta and Singapore. These changes implement obligations to which the United Kingdom is subject under its trade agreements with other countries.

Article 2(4)(b) amends the list in the 2016 Order of countries which are not parties to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations but have become parties to the World Intellectual Property Organisation Performance and Phonograms Treaty (WPPT) to which certain Part 2 protections apply in accordance with article 11 of the 2016 Order. These changes implement the United Kingdom’s obligations to protect performances connected with WPPT countries.

No impact assessment has been produced for this instrument as no significant impact on the private or voluntary sector is foreseen. An explanatory memorandum is available alongside this instrument on the Legislation UK website at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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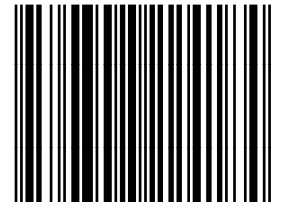
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£4.90

<http://www.legislation.gov.uk/id/uksi/2021/636>

ISBN 978-0-34-822418-4



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