

## Copyright (Foreign Countries) Order, 1996

### S.I. No. 36 of 1996

The Government, in exercise of the powers conferred on them by section 43 of the Copyright Act, 1963 (No. 10 of 1963), and section 175 of the Industrial and Commercial Property (Protection) Act, 1927 (No. 16 of 1927), as amended by section 11 of the Industrial and Commercial Property (Protection) (Amendment) Act, 1929 (No. 13 of 1929), and section 11 of the Industrial and Commercial Property (Protection) (Amendment) Act, 1957 (No. 13 of 1957), as adapted by section 2 of the Executive Powers (Consequential Provisions) Act, 1937 (No. 20 of 1937), and continued in force by Part VIII of the First Schedule to the Copyright Act, 1963, hereby order as follows:—

1. This Order may be cited as the Copyright (Foreign Countries) Order, 1996.
2. In this Order—

“the Act of 1963” means the Copyright Act, 1963 (No. 10 of 1963) as amended by the Copyright (Amendment) Act, 1987 (No. 24 of 1987), the Dublin City University Act, 1989 (No. 15 of 1989), the University of Limerick Act, 1989 (No. 14 of 1989), the European Communities (Legal Protection of Computer Programs) Regulations, 1993 (S.I. No. 26 of 1993) and the European Communities (Term of Protection of Copyright) Regulations, 1995 (S.I. No. 158 of 1995);

“country of the Berne Union” means a country which ratified or has acceded to and has not denounced the Convention of the International Union for the Protection of Literary and Artistic Works signed at Berne on the 9th day of September, 1886, or ratified or has acceded to and has not denounced a revision of that Convention;

“country of the Universal Copyright Convention” means a country which ratified or has acceded to and has not denounced the Universal Copyright Convention signed at Geneva on the 6th day of September, 1952, or has acceded to and has not denounced a revision of that Convention;

“country of the Rome Convention” means a country which ratified or has acceded to and has not denounced the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations signed at Rome on the 26th day of October, 1961, or ratified or acceded to and has not denounced a revision of that Convention;

“country of the World Trade Organisation” means a country which has ratified or has acceded to the Marrakesh Agreement Establishing the World Trade Organisation Done at Marrakesh on the 15th day of April, 1994.
3. Subject to Articles 4, 7, 8 and 9 of this Order, the Act of 1963 shall as respects acts done or omissions made after the commencement of this Order apply to:
  - (a) literary (including a computer program), dramatic, musical or artistic works, cinematograph films or published editions of literary, dramatic or musical works, first published (whether before or after the making of this Order) in any country of the Berne Union or of the Universal Copyright Convention or of the World Trade Organisation, in like manner as if the works or other subject matter were first published within the State,
  - (b) literary (including a computer program), dramatic, musical or artistic works, cinematograph films or published editions of literary, dramatic or musical works, first published (whether before or after the making of this Order), the authors or makers of which were, at the time of the first publication thereof, subjects or citizens of any country of the Berne Union or of the Universal Copyright Convention or of the World Trade Organisation, in like manner as if the works were the works of Irish citizens,
  - (c) unpublished works or cinematograph films of unpublished works the authors or makers of which were, at the time of the making of the works or films, subjects or citizens of any country of the Berne Union or of the Universal Copyright Convention or of the World Trade Organisation, in like manner as if the authors or makers were Irish citizens, and

- (d) unpublished works or cinematograph films of unpublished works the authors or makers of which were, at the time of the making of the works or films, resident in any country of the Berne Union or of the Universal Copyright Convention or of the World Trade Organisation, in like manner as if the authors or makers were resident in the State.
4. Where the country of origin (within the meaning of Article 5(4) of the Berne Convention) of a literary (including a computer program), dramatic, musical or artistic work or cinematograph film is a country of the Berne Union or of the Universal Copyright Convention or of the World Trade Organisation and the author of the work is not a national of a Member State of the European Union, the term of protection of that work shall expire on whichever of the following is the earlier, namely—
- (a) The date of expiry of the term of protection of that work under the law of the country of origin of the work,
- (b) the date of expiry of the term of protection specified in the Act of 1963.
5. Subject to Articles 6, 7, 8 and 9 of this Order, the Act of 1963 shall as respects acts done or omissions made after the commencement of this Order apply to:
- (a) sound recordings made by a citizen of, or first published (whether before or after the making of this Order) in, any country of the Berne Union or of the Universal Copyright Convention or of the Rome Convention or of the World Trade Organisation in like manner as if the sound recordings were made by a citizen of or first published within the State, and
- (b) television broadcasts and sound broadcasts made (whether before or after the making of this Order) in any country of the Berne Union or of the Universal Copyright Convention or of the Rome Convention or of the World Trade Organisation in like manner as if the broadcasts were first made within the State and the references in section 19 of the Act to Radio Telefis Eireann were references to the broadcasting authority by whom the broadcasts were made and the references in that section to a place in the State were references to the place in the country concerned from which they were made.
6. Where the Act of 1963, by virtue of Article 5 of this Order, applies to:
- (a) a sound recording made by a citizen of, or first published in a country (other than a country of the European Union or of the Rome Convention or of the World Trade Organisation),
- (b) a television broadcast or sound broadcast made in a country (other than a country of the European Union or of the Rome Convention)
- the term of protection shall expire on whichever of the following is the earlier, namely—
- (i) the date of expiry of the term of protection in that country,
- (ii) the date of expiry of the term of protection as provided by the Act of 1963.
- 7.—
- (1). Copyright shall not subsist by virtue of this Order in any work or other subject-matter by reason only of the publication of the work or other subject matter in a country of the Universal Copyright Convention (not being a country of the Berne Union) before—
- (a) the 20th day of January, 1959, or
- (b) if such country became a country of the Universal Copyright Convention on or after the 20th day of January, 1959, and before the date of the making of this Order, the date on which it became a country of the Universal Copyright Convention.
- (2). Copyright shall not subsist by virtue of Article 3 of this Order in any work or other subject-matter by reason only of the publication of the work or other subject matter in a country of the World Trade Organisation (not being a country of the Berne Union or of the Universal Copyright Convention) before the coming into operation of this Order.
- (3). Copyright shall not subsist by virtue of Article 5 of this Order in any sound recording published or broadcast made by reason only of the publication of that sound recording or making of that broadcast in a country of the World Trade Organisation (not being a country of the Berne Union or of the



Universal Copyright Convention or of the Rome Convention) before the coming into operation of this Order.

8. Nothing in the Act, as applied by Article 3 of this Order, shall be construed as reviving any right to make, or restrain the making of, or any right in respect of, translations, if the right has ceased before the making of this Order.
9. Copyright subsisting by virtue only of this Order in a sound recording shall not include the right to equitable remuneration under section 17(4) (b) of the Act unless that right or a right giving rise to a claim for equitable remuneration subsists in the country in which the sound recording was first published.
10. Where any person has, before the commencement of this Order, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any works or cinematograph films of works, sound recordings, television broadcasts or sound broadcasts in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work or cinematograph film at a time when such reproduction or performance would, but for this Order, have been lawful, nothing in this Order shall diminish or prejudice any right or interest arising from, or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.
11. The Copyright (Foreign Countries) Order, 1978 (S.I. No. 132 of 1978), and the Copyright (Foreign Countries) (No. 2) Order, 1978 (S.I. No. 133 of 1978), are hereby revoked.

GIVEN under the Official Seal of the Government, this  
30th day of January, 1996.

JOHN BRUTON  
Taoiseach

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