STATUTORY INSTRUMENTS

2016 No. 1139 (C. 78)

INTELLECTUAL PROPERTY

The Intellectual Property Act 2014 (Commencement No. 5 and Saving Provisions) Order 2016

Made - - - - 21st November 2016

The Secretary of State, in exercise of the powers conferred by sections 23(1)(b) and 24(1) and (2) of the Intellectual Property Act 2014(**1**), makes the following Order:

Citation

1. This Order may be cited as the Intellectual Property Act 2014 (Commencement No. 5 and Saving Provisions) Order 2016.

Section 22 of the Intellectual Property Act 2014

2. Section 22 (recognition of foreign copyright works and performances) of the Intellectual Property Act 2014 comes into force on 1st December 2016 for the purposes of making Orders in Council under the provisions which are amended by subsections (4), (5), (6), (7) and (8) of that section.

3. Section 22 of the Intellectual Property Act 2014 comes into force on 6th April 2017 for all remaining purposes.

Saving

4.—(1) For the purposes of this article an act is an "excluded act" where—

(a) a person (A) has incurred any expenditure or liability in connection with the act; and

(b) A—

(i) began in good faith to do the act, or

(ii) made in good faith effective and serious preparations to do the act,

at a time when the act neither infringed nor was restricted by the relevant rights in the work or performance.

(**1**) 2014 c.18.

(2) Where another person (B) acquires those relevant rights as a consequence of the provisions made by section 22 of the Intellectual Property Act 2014, on or after the coming into force of that section under article 3 of this Order, A has the right—

(a) to continue to do the excluded act, or

(b) to do the excluded act,

notwithstanding that the excluded act infringes or is restricted by those relevant rights.

(3) Where B or, as the case may be, B's exclusive licensee in respect of the relevant rights pays reasonable compensation to A, paragraph (2) no longer applies.

(4) Where—

(a) B or, as the case may be, B's exclusive licensee offers to pay compensation to A under paragraph (3), but

(b) A and B or, as the case may be, B's exclusive licensee cannot agree on what compensation is reasonable,

either person may refer the matter to arbitration.

(5) In this article—

(a) "exclusive licensee" means a licensee under an exclusive licence (as defined in section 92(1) or 191D(1) of the Copyright, Designs and Patents Act 1988(**2**)); and

(b) "relevant rights" means copyright (as defined in section 1 of the Copyright, Designs and Patents Act 1988), the rights conferred by Chapter 4 of Part 1 (moral rights) of that Act and the rights conferred by Part 2 of that Act.

(6) This article extends to England and Wales, Scotland and Northern Ireland.

Neville-Rolfe
Minister of State for Energy and Intellectual Property
Department for Business, Energy and Industrial Strategy

21st November 2016

(**2**) 1988 c.48. Section 191D was inserted by regulations 4 and 21(1) of the Copyright and Related Rights Regulations 1996 S.I. 1996/2967.