STATUTORY INSTRUMENTS

2015 No. 795

COPYRIGHT

The Copyright (Cayman Islands) Order 2015

Made - - - - 19th March 2015

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 19th day of March 2015

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 section 157(2) of the Copyright, Designs and Patents Act 1988(**1**), makes the following Order:

Citation and commencement

1. This Order may be cited as the Copyright (Cayman Islands) Order 2015 and comes into force on such date as the Governor of the Cayman Islands may appoint by proclamation published in the Gazette of the Cayman Islands.

Extension of Part 1 of the Copyright, Designs and Patents Act 1988

2. Part 1 of the Copyright, Designs and Patents Act 1988(**2**) ("the 1988 Act") extends to the Cayman Islands subject to the exclusions specified in Part 1 of the Schedule and the modifications set out in Part 2 of the Schedule.

(**1**) 1988 c.48.

(**2**) Part 1 of the 1988 Act been amended. Relevant amendments have been made by the Courts and Legal Services Act 1990 (c.41), the Broadcasting Act 1990 (c.42), the Judicial Pensions and Retirement Act 1993 (c.8), the Criminal Justice and Public Order Act 1994 (c.33), the Merchant Shipping Act 1995 (c.21), the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 c.40, the Arbitration Act 1996 (c.23), the Broadcasting Act 1996 (c.55), the Education Act 1996 (c.56), the Government of Wales Act 1998 (c.38), the Scotland Act 1998 (c.46), the Northern Ireland Act 1998 (c.47), the Powers of the Criminal Court (Sentencing) Act 2000 (c.6), the Copyright, etc. and Trade Marks (Offences and Enforcement Act 2002 (c.25), the Enterprise Act 2002 (c.40), the British Overseas Territories Act 2003 (c.8), the Communications Act 2003 (c.21), the Legal Deposit Libraries Act 2003 (c.28), the Constitutional Reform Act 2004 (c.4), the Commissioners for Revenue and Customs Act 2005 (c.11), the Serious Organised Crime and Police Act 2005 (c.15), the Government of Wales Act 2006 (c.32), the National Health Service (Consequential Provisions Act 2006 c.43, the Health and Social Care Act 2008 (c.14), the Digital Economy Act 2010 (c.24), the Crime and Courts Act 2013 (c.22), the Enterprise and Regulatory Reform Act 2013 (c.24), the Intellectual Property Act 2014 (c.23), S.I.1992/3233, S.I. 1995/1445, S.I.1995/3297, S.I.1996/2967, S.I. 1997/3032, S.I. 1999/506, S.I. 1999/678, S.I.1999/2795, S.I. 2000/90. S.I. 2000/311, S.I. 2001/3949, S.I. 2003/2498, S.I. 2006/1016, S.I. 2006/1028, S.I. 2007/1116, S.I. 2008/1277, 2009/1941, S.I. 2010/2694, S.I. 2011/1043, S.I. 2013/1782, S.I. 2014 892, S.I. 2014/1372, S.I. 2014/1384, S.I. 2014/1385, S.I. 2014/2356 and S.I. 2014/2361.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE Article 2

PART 1

Excluded provisions

1. The following provisions of Part 1 of the 1988 Act do not extend to the Cayman Islands—

(a) Sections 44A(**3**), 73A(**4**), 98(**5**), 114B(**6**), 144(**7**), 144A(**8**), 157(**9**), 158, 166A(**10**), 166B(**11**), 166C, 166D(**12**), 172A(**13**) and 177;

(b) paragraphs 13, 21, 34, 36(**14**) and 37 of Schedule 1; and

(c) Schedule A1(**15**).

PART 2

Modifications to the provisions of Part 1 of the 1988 Act applied by this Order

2. The provisions of Part 1 of the 1988 Act, which extend to the Cayman Islands by virtue of this Order, are to be read subject to the modifications specified in this Part of this Schedule.

3. In the provisions of Part 1 applied by this Order—

(a) references to the EEA, an EEA State, the European Economic area and the United Kingdom are to be read as references to the Cayman Islands;

(b) references as to whether a person is or is not a national of an EEA state are to be read as to whether the person in question possesses Caymanian status or not.

4. Section 27(**16**) applies with the omission of subsection (5).

5. In section 31BB(**17**) the reference to the Secretary of State is to be read as a reference to the Minister.

6. Section 40A(**18**) applies as if it were modified and set out as follows—

(**3**) Section 44A was inserted by the Legal Deposit Libraries Act 2003(c.28), section 8(1).
(**4**) Section 73A was inserted by the Broadcasting Act 1996 (c.55), section 138 and Schedule 9, paragraph 1.
(**5**) Section 98 was amended by S.I. 2014/892, article 2 and Schedule 1, Part 2, paragraphs 55 and 56.
(**6**) Section 114B was inserted by the Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002 (c.25), section 3 and amended by S.I. 2008/1277, regulation 30(1) and Schedule 2, Part 1, paragraphs 39 and 41.
(**7**) Section 144 was amended by the Enterprise Act 2002 (c.40), section 278(1) and Schedule 25, paragraphs 18(1) and (2) and by S.I. 2014/892, article 2 and Schedule 1, Part 2, paragraphs 55 and 57.
(**8**) Section 144A was inserted by S.I. 1996/2967, regulation 7 and amended by SI 2003/2498, regulations 2(1) and Schedule 1 paragraphs 1 and 15(2) and regulations 3 and 5 and amended by S.I. 2006/1028, regulation 2(4) and Schedule 4.
(**9**) Section 157 is to be read subject to the British Overseas Territories Act 2002 (c.8), section 1(2).
(**10**) Section 166A was inserted by the Scotland Act 1998 (c.46), section 125 and Schedule 8, paragraph 25(6).
(**11**) Section 166B was inserted by the Northern Ireland Act 1998 (c.47), section 99 and Schedule 13, paragraphs 8(1) and 8(6).
(**12**) Sections 166C and 166D were inserted by the Government of Wales Act 2006 (c.32), section 160(1) and Schedule 10, paragraphs 22 and 28.
(**13**) Section 172A was inserted by S.I. 1995/3297, regulation 11(1) and amended by S.I. 1996/2967, regulation 9(5) and S.I. 2006/1028, regulation 2(2) and Schedule 2, paragraphs 6 and 8 and regulation 2(4) and Schedule 4.
(**14**) Paragraph 36 of Schedule 1 is read subject to the British Overseas Territory Act 2002 (c.8), section 1(2).
(**15**) Schedule A1 was inserted by the Enterprise and Regulatory Reform Act 2013 (c.24), section 77(4) and Schedule 22, Part 1, paragraph 1.
(**16**) Section 27 was amended by S.I. 1992/3233, regulation 6, S.I. 1996/2967, regulation 4, S.I. 2003/2498 and regulations 2(2), 3, 20(3) and Schedule 2, S.I. 2011/ 1043, article 6(1)(f), S.I. 2014/1372, regulation 2 and the Schedule, paragraph 2, S.I. 2014/1384, regulation 4 and the Schedule, paragraph 1 and S.I. 2014/2361, regulations 2 and 4(1).
(**17**) Section 31BB was inserted by S.I. 2014/1384, regulation 2.
(**18**) Section 40A was inserted by S.I. 1996/2967, regulation 11(2) and amended by the Digital Economy Act 2010 (c. 24), sections 43(6) and (7) and S.I. 2014/1372, regulation 2 and Schedule, paragraph 3.

"**Lending of copies by libraries or archives**

40A. Copyright in a work of any description is not infringed by the lending of copies of the work by a library or archive (other than a public library) which is not conducted for profit.".

7. Section 46 applies—

(a) with the section heading being read as "Enquiries";

(b) with references to Royal Commissions or statutory inquiries being read as references to Commissions of Enquiry appointed under the Commissions of Enquiry Act (1997 Revision); and

(c) with the omission of subsection (4).

8. Section 47 applies(**19**)—

(a) with references to the Secretary of State being read as references to the Cabinet as defined in section 44 of the Constitution of the Cayman Islands; and

(b) with the substitution of the following in the place of subsection (7)—

"(7) An order made under this section is subject to annulment in pursuance of a resolution of the Legislative Assembly as defined in section 60 of the Constitution of the Cayman Islands.".

9. Section 48(**20**) applies with the omission of subsection (6).

10. Section 49(**21**) applies as modified and set out as follows—

"**Public records**

49. Material which is comprised in public records which are open to public inspection in pursuance of any enactment may be copied and a copy may be supplied to any person, by or with the authority of any officer appointed under that enactment, without infringement of copyright.".

11. Section 50 applies—

(a) with the substitution of the following in the place of subsection (1)—

"(1) Where the doing of a particular act is specifically authorised by any law enacted by the Legislature of the Cayman Islands as defined in section 59 of the Constitution of the Cayman Islands, then, unless the law provides otherwise, the doing of that act does not infringe copyright."; and

(b) with the omission of subsection (2).

12. Sections 50A(3)(**22**), 50B(4)(**23**), 50BA(2)(**24**) and 50D(2)(**25**) apply with the omission of the words "(such terms being by virtue of section 296A, void)".

13. Section 52(**26**) applies—

(a) with "Secretary of State" being read as "Cabinet as defined in section 44 of the Constitution of the Cayman Islands"; and

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(**19**) Section 47 was amended by S.I. 2014/1385, regulation 2(1).
(**20**) Section 48 has been amended and relevant amendments were made by S.I. 2014/1385, regulation 2(2).
(**21**) Section 49 was amended by the Government of Wales Act 1998 (c.38), section 125, Schedule 12, paragraph 27 and the Government of Wales Act 2006 (c.32), section 160(1) and Schedule 10, paragraphs 22 and 24.
(**22**) Section 50A was inserted by S.I. 1992/3233, regulation 8.
(**23**) Section 50B was inserted by S.I. 1992/3233, regulation 8.
(**24**) Section 50BA was inserted by S.I. 2003/2498, regulations 3 and 15(1).
(**25**) Section 50D was inserted by S.I. 1997/3032, regulation 9.
(**26**) Section 52 is prospectively repealed by the Enterprise and Regulatory Reform Act 2013 (c.24), section 74.

(b) the substitution of the following in the place of subsection (5)—

"(5) An Order made under this section is subject to annulment in pursuance of a resolution of the Legislative Assembly.".

14. In section 53, references to the Registered Designs Act 1949 are to be read as references to the enactments relating to the registration of designs in force in the Cayman Islands.

15. Section 61(**27**) applies with references to the Secretary of State being read as references to the Cabinet as defined in section 44 of the Constitution of the Cayman Islands.

16. Section 66(**28**) applies—

(a) with "Secretary of State" being read as "Cabinet as defined in section 44 of the Constitution of the Cayman Islands"; and

(b) with the substitution for subsection (4) of—

"(4) No Order shall be made unless a draft has been laid before and approved by a resolution of the Legislative Assembly, that is, the Legislative Assembly as defined in section 60 of the Constitution of the Cayman Islands.".

17. Section 69(**29**) applies as modified and set out as follows—

"**Recording for purposes of supervision and control of broadcasts and cable programmes**

69.—(1) Copyright is not infringed by the making or use by a prescribed broadcasting undertaking, for the purpose of maintaining supervision and control over programmes broadcast by that undertaking, of recordings of those programmes.

(2) Copyright is not infringed by the making or use by the Board of directors referred to in section 4 of the Information and Communications Technology Authority Law (2011 Revision) of recordings of programmes in connection with and for the purpose of carrying out their functions under that Law.

(3) In this section "prescribed" means prescribed by order of the Cabinet.

(4) An order made under this section is subject to annulment in pursuance of a resolution of the Legislative Assembly.".

18. Section 73(**30**) applies as modified and set out as follows—

"**Reception and re-transmission of wireless broadcasts by cable**

73.—(1) This section applies where a broadcast made from a place in the Cayman Islands is, by reception and immediate re-transmission, included in a cable retransmission service.

(2) The copyright in the broadcast and in any work included in the broadcast is not infringed if the inclusion is in pursuance of a relevant requirement.

(3) In this section, "relevant requirement" means a requirement under regulations made pursuant to section 97 of the Information and Communications Technology Authority Law (2011 Revision) regulating the provision of cable television service in the Cayman Islands.".

(**27**) Section 61 was amended by S.I. 2014/1372, regulation 7.
(**28**) Section 66 was substituted by S.I. 1996/2967, regulation 11(3).
(**29**) Section 69 was amended by the Broadcasting Act 1996 (c.55), section 148(1) and Schedule 10, paragraph 31, the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 91 and section 406(7) and Schedule 19.
(**30**) Section 73 was substituted by the Broadcasting Act 1996 (c.55), section 138 and Schedule 9, paragraph 1 and amended by the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 92 and S.I. 2003/2498 regulations 3 and 22.