

2008 No. 211

COPYRIGHT

The Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) (Revocation and Amendment) Order 2008

Made - - - - *31st January 2008*

Coming into force - - *1st April 2008*

The Secretary of State certified, for the purposes of section 35 of, and paragraph 6 of Schedule 2 to, the Copyright, Designs and Patents Act 1988 (“the Act”)(a), a licensing scheme to be operated by The Educational Recording Agency Limited (company number 2423219) (“the ERA”) set out in the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2005(b) (“the 2005 Order”) and a licensing scheme to be operated by the ERA set out in the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007(c) (“the 2007 Order”).

The ERA has informed the Secretary of State that the scheme certified in the 2005 Order will cease to be operated on 1st April 2008 and has applied to the Secretary of State for the 2007 Order to be amended in accordance with Article 3 of this Order.

Accordingly, the Secretary of State, in exercise of the powers conferred upon him by section 143(d) of, and paragraph 16 of Schedule 2A(e) to, the Act, makes the following Order:

1. This Order may be cited as the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) (Revocation and Amendment) Order 2008 and shall come into force on 1st April 2008.
2. The 2005 Order is revoked.
3. For paragraph 8 of the licensing scheme set out in the Schedule to the 2007 Order substitute the paragraph set out in the Schedule to this Order.

Baroness Morgan
Parliamentary Under Secretary of State for Intellectual Property and Quality
Department for Innovation, Universities and Skills

31st January 2008

(a) 1988 c.48.
(b) S.I. 2005/222.
(c) S.I. 2007/266.
(d) Section 143 was amended by regulations 4 and 11 of the Copyright and Related Rights Regulations 1996 (S.I. 1996/2967) and by regulation 2 and Schedule 2 to the Copyright and Related Rights Regulations 2003 (S.I. 2003/2498).
(e) Schedule 2A was inserted by regulations 4 and 22 of the Copyright and Related Rights Regulations 1996 and paragraph 16 of Schedule 2A was amended by regulation 2 and Schedule 1 of the Copyright and Related Rights Regulations 2003.

SCHEDULE 1

Article 3

“8. The Licensor Members of ERA and the works and performances forming part of ERA Repertoire in respect of which the Relevant Rights are owned or controlled by such Licensors will for the purposes of Licences issued under the Licensing Scheme comprise:

AUTHORS’ LICENSING AND COLLECTING SOCIETY LIMITED (“ALCS”)

Those literary and dramatic works which are owned by or controlled by persons represented by ALCS and which are included in any broadcast.

ASSOCIATION DE GESTION INTERNATIONALE COLLECTIVE DES OEUVRES AUDIOVISUELLES (“AGICOA”)

The films which are owned or controlled by persons represented by AGICOA and which are included in any broadcast from which an ERA Recording is made.

BBC WORLDWIDE LIMITED

The broadcasts of the British Broadcasting Corporation and all those copyright works owned or controlled by the British Broadcasting Corporation which are included in any broadcast.

BPI (BRITISH RECORDED MUSIC INDUSTRY) LIMITED (“BPI”)

Those sound recordings which are owned or controlled by persons represented by BPI and which are included in any broadcast from which an ERA Recording is made.

CHANNEL FOUR TELEVISION CORPORATION (“Channel 4”)

The broadcasts made on Channel 4, E4 and/or Film Four and/or any other broadcast service operated by Channel 4 or any of its subsidiary companies and all those copyright works owned or controlled by Channel 4 or any of its subsidiary companies included in any broadcast.

CHANNEL 5 BROADCASTING LIMITED (“Channel 5”)

The broadcasts made on Five and/or any other broadcast service operated by Channel 5 or any of its subsidiary companies and all those copyright works owned or controlled by Channel 5 or any of its subsidiary companies included in any broadcast.

DESIGN AND ARTISTS COPYRIGHT SOCIETY (“DACS”)

Those artistic works (as defined in the Act) in which the copyright is owned or controlled by the members of DACS or the members of copyright societies represented by DACS and which are included in any broadcast.

DIRECTORS UK LIMITED (“Directors UK”)

The copyright works which are owned or controlled by, or in which authorship is owned or controlled by, persons represented by Directors UK and which are included in any broadcast from which an ERA Recording is made.

EQUITY

The performances by persons represented by Equity which are included in any broadcast.

THE INCORPORATED SOCIETY OF MUSICIANS (“ISM”)

The literary and musical works which are owned by or controlled by persons represented by ISM and the performances by persons who are represented by ISM which are included in any broadcast.

ITV NETWORK LIMITED (“ITV Network”)

The broadcasts made on the channel branded as ITV1 in England and Wales, as the STV regions (formerly known as Grampian TV and Scottish TV) in Scotland, as Ulster in Northern Ireland, and as Channel TV in the Channel Islands, on ITV 2, on ITV 3, on the ITV News Channel and/or any other broadcast service operated by ITV Network Limited or any of its associated or subsidiary companies and all those copyright works owned or controlled by ITV Network Limited or any of its subsidiary or associated companies included in any broadcast.

MECHANICAL COPYRIGHT PROTECTION SOCIETY LIMITED (“MCPS”)

Those musical works and sound recordings which are owned or controlled by members of MCPS and entrusted by its members to MCPS and which are included in any broadcast from which an ERA Recording is made.

MUSICIANS’ UNION (“the MU”)

The performances by persons represented by the MU which are included in any broadcast.

THE PERFORMING RIGHT SOCIETY LIMITED (“PRS”)

The musical works which are owned or controlled by the PRS or by persons represented by the PRS and which are included in any broadcast from which an ERA Recording has been made.

PHONOGRAPHIC PERFORMANCE LIMITED (“PPL”)

Those sound recordings which are owned or represented by PPL and which are included in any broadcast from which an ERA Recording is made.

SIANEL PEDWAR CYMRU (“S4C”)

The broadcasts made on S4C, S4C Digital and/or S4C2 and/or any other broadcast service operated by S4C or any of its subsidiary companies and all those copyright works owned or controlled by S4C or any of its subsidiary companies included in any broadcast.

For the above purposes “broadcast” shall have the meaning provided by section 6 of the Act.

However, Licences under the Licensing Scheme shall not authorise the recording of Open University programmes. If the Licensee is in any doubt as to whether a Licence covers a particular right or a particular copyright work the Licensee shall be entitled to contact ERA who shall be obliged within a reasonable time (by one of the Licensor Members) to confirm whether or not a particular right is owned or controlled by one of the Licensors.”

EXPLANATORY NOTE

(This note is not part of the Order)

A licensing scheme operated by The Educational Recording Agency Limited (“ERA”) was certified for the purposes of section 35 of, and paragraph 6 of Schedule 2 to, the Copyright, Designs and Patents Act 1988 (1988 c. 48) (“the Act”) by the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2005 (S.I. 2005/222) (the 2005 Order).

A licensing scheme operated by the ERA was also certified for the purposes of section 35 of, and paragraph 6 of Schedule 2 to, the Act by the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007 (S.I. 2007/266) (the 2007 Order).

The licensing scheme certified in the 2005 Order will cease to be operated on 1st April 2008.

The ERA wishes to vary paragraph 8 of the licensing scheme certified in the 2007 Order to include new Licensor Members and to reflect recent changes of name by existing Licensor Members.

Section 143 of, and paragraph 16 of Schedule 2A to, the Act provides that an order shall be revoked if the scheme ceases to be operated and also provides that a variation of a licensing scheme is not effective unless a corresponding amendment of the order certifying the scheme is made.

This Order is made under Section 143 of, and paragraph 16 of Schedule 2A to, the Act and revokes the 2005 Order and amends paragraph 8 of the licensing scheme set out in the Schedule to the 2007 Order to correspond with the variation to the scheme which the ERA wishes to make (effective from 1st April 2008).

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