

Reprint
as at 1 January 2017



Copyright (Application to Other Countries) Order 1995 (SR 1995/145)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 10th day of July 1995

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 204 and 232 of the Copyright Act 1994, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Business, Innovation, and Employment.

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Order

1 Title and commencement

- (1) This order may be cited as the Copyright (Application to Other Countries) Order 1995.
- (2) This order shall come into force on 1 January 1996.

2 Interpretation

In this order, unless the context otherwise requires,—

Act means the Copyright Act 1994

foreign work means a work that does not qualify for copyright under any of sections 18(1), 19(1)(a), 20(a), 26, or 28 of the Act

performance—

- (a) means a live performance, being—
 - (i) a dramatic performance, including a dance, a mime, and a performance given with the use of puppets; or
 - (ii) a musical performance; or
 - (iii) a reading or recitation of a literary work; or
 - (iv) a performance of a variety act or any similar presentation; but
- (b) does not include—
 - (i) a performance referred to in section 47(1) of the Act; or
 - (ii) a reading, recital, or delivery of any item of news and information; or
 - (iii) a performance of a sporting activity; or
 - (iv) participation in a performance as a member of an audience.

Clause 2 **foreign work**: amended, on 1 January 2017, by clause 4 of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

3 Meaning of first published

For the purposes of this order, publication in one country shall not be regarded as other than the first publication by reason of simultaneous publication elsewhere; and for this purpose publication elsewhere within the previous 30 days shall be treated as simultaneous.

Copyright in foreign works other than sound recordings and communication works

Heading: amended, on 1 January 2017, by clause 5 of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

4 Foreign works to which section 18(2) of Act does not apply

In section 18(2) of the Act, the term **work** does not include—

- (a) a literary, dramatic, musical, or artistic work that is a foreign work that was first published before 1 April 1963; or
- (b) a literary, dramatic, musical, or artistic work that is a foreign work that was first published before 1 January 1995 and whose author was not, at the material time,—
 - (i) a citizen or subject of a country specified in Schedule 1; or
 - (ii) an individual domiciled or resident in a country specified in Schedule 1; or
 - (iii) a body incorporated under the law of a country specified in Schedule 1.

5 Foreign works to which section 18(2) of Act applies

In section 18(2) of the Act,—

- (a) the term **work** means a foreign work to which clause 4 does not apply and that is of one of the following descriptions:
 - (i) a literary, dramatic, musical, or artistic work:
 - (ii) a film:
 - (iii) a typographical arrangement of a published edition:
- (b) the term **prescribed foreign country**, in relation to a work to which paragraph (a) applies, means a country specified in Schedule 1.

6 Application of Act to foreign works to which section 18(2) of Act applies

Where, in accordance with clause 5, a foreign work qualifies for copyright under section 18(2) of the Act, the provisions of the Act apply to that work, except that the provisions of Part 9 of the Act do not apply.

7 Foreign works to which section 19(1)(b) of Act applies

In section 19(1)(b) of the Act,—

- (a) the term **work** means a foreign work of one of the following descriptions:
 - (i) a literary, dramatic, musical, or artistic work:
 - (ii) a film:
 - (iii) a typographical arrangement of a published edition:
- (b) the term **prescribed foreign country**, in relation to a work to which paragraph (a) applies, means a country specified in Schedule 1.

8 Application of Act to foreign works to which section 19(1)(b) of Act applies

Where, in accordance with clause 7, a foreign work qualifies for copyright under section 19(1)(b) of the Act, the provisions of the Act apply to that work, except that the provisions of Part 9 of the Act do not apply.

Copyright in foreign works that are sound recordings

9 Application of Act to sound recordings

- (1) In sections 18(2) and 19(1)(b) of the Act,—
 - (a) the term **work** includes a foreign work that is a sound recording:
 - (b) the term **prescribed foreign country**, in relation to a foreign work that is a sound recording, means a country specified in Schedule 1.
- (2) Where, in accordance with subclause (1), a foreign work that is a sound recording qualifies for copyright under section 18(2) or section 19(1)(b) of the Act, the provisions of the Act apply to that work, except that—

- (a) sections 32(2) to (4), 33, 39, and 131(3)(b) of the Act apply only if—
 - (i) the country specified in Schedule 1 is also specified in Schedule 2; or
 - (ii) the sound recording is a film soundtrack accompanying a film:
- (b) the provisions of Part 9 of the Act do not apply.

Clause 9(2)(a): amended, on 1 January 2017, by clause 6 of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Copyright in foreign works that are communication works

Heading: replaced, on 1 January 2017, by clause 7 of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

10 Application of Act to communication works

- (1) In—
 - (a) section 18(2) of the Act, the term **work** includes a foreign work that is a communication work made on or after 1 January 1995:
 - (b) sections 18(2) and 20(b) of the Act, the term **prescribed foreign country**, in relation to a foreign work that is a communication work made on or after 1 January 1995, means a country specified in Schedule 2.
- (2) Where, in accordance with subclause (1), a foreign work that is a communication work made on or after 1 January 1995 qualifies for copyright under section 18(2) or 20(b) of the Act, the provisions of the Act apply to that work, except that,—
 - (a) for the purposes of section 24(2) of the Act, there is no copyright in a repeated communication work made on or after 1 January 1995 where the initial communication work was made before that date:
 - (b) the provisions of Part 9 of the Act do not apply.

Clause 10: replaced, on 1 January 2017, by clause 7 of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Expenditure or liability incurred in connection with copyright work

11 Expenditure or liability incurred in connection with copyright work

- (1) This clause applies in any case where—
 - (a) a work was made before the commencement of this order; and
 - (b) when the work was made, copyright did not exist in the work under the Copyright Act 1962 or section 230 of the Copyright Act 1994; and
 - (c) copyright exists in the work pursuant to clauses 5, 7, 9(1), or 10(1).
- (2) Where, in any case to which subclause (1) applies, a person incurred any expenditure or liability relating to an act that, at the time the act was done, was not an act restricted by copyright in the work, the person does not do an act

restricted by copyright by doing, or continuing to do, that act in respect of the work when copyright exists in the work.

- (3) Notwithstanding subclause (2), an act that under that subclause is not an act restricted by copyright when copyright exists in the work may become an act restricted by copyright if the owner of the copyright or his or her exclusive licensee (if any) pays the person such compensation for the person's expenditure or liability as may be agreed upon or, in default of agreement, as shall be determined by arbitration in accordance with the provisions of the Arbitration Act 1908.

Transitional provision

12 Application of provisions of Act to foreign works in which copyright existed at commencement

Notwithstanding anything in this order, the provisions of the Act—

- (a) apply to any foreign work in which copyright existed immediately before the commencement of the Act; and
- (b) are deemed to be satisfied, so far as they relate to qualification for copyright, by every foreign work in which copyright existed immediately before the commencement of the Act.

Performers' rights

13 Application of Part 9 of Act to specified countries

The provisions of Part 9 of the Act are hereby declared to apply in relation to—

- (a) any performance given in any of the countries specified in Schedule 3; and
- (b) any performance given in any country by a citizen or subject of or a person domiciled or resident in any of the countries specified in Schedule 3.

Schedule 1
**Countries to which Copyright Act 1994 (except Part 9) applies, in
respect of all works except communication works**

cls 4, 5, 7, 9

Schedule 1: substituted, on 7 December 2000, by clause 3 of the Copyright (Application to Other Countries) Amendment Order 2000 (SR 2000/235).

Schedule 1 heading: amended, on 1 January 2017, by clause 8(1) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Albania
Algeria
Andorra
Angola
Antigua and Barbuda
Argentina
Armenia
Australia
Austria
Azerbaijan
Bahamas
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Belize
Benin
Bhutan
Bolivia
Bosnia and Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cabo Verde

Cambodia
Cameroon
Canada
Central African Republic
Chad
Chile
China
Colombia
Comoros
Congo
Congo, Democratic Republic of
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt, Arab Republic of
El Salvador
Equatorial Guinea
Estonia
European Union
Fiji
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana

Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Holy See
Honduras
Hong Kong, China
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kazakhstan
Kenya
Korea, Democratic People's Republic of
Korea, Republic of
Kuwait
Kyrgyzstan, Republic of
Lao People's Democratic Republic
Latvia
Lebanon
Lesotho
Liberia
Libyan Arab Jamahiriya
Liechtenstein
Lithuania
Luxembourg

Macau, China
Macedonia, former Yugoslav Republic of
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Micronesia, Federated States of
Moldova, Republic of
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nepal
Netherlands
Nicaragua
Niger
Nigeria
Niue
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland

Portugal
Qatar
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
São Tomé and Príncipe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Sudan
Suriname
Swaziland
Sweden
Switzerland
Syrian Arab Republic
Taiwan
Tajikistan
Tanzania, United Republic of
Thailand
Togo
Tonga
Trinidad and Tobago

Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Uzbekistan
Vanuatu
Venezuela
Vietnam
Yemen
Zambia
Zimbabwe

Schedule 1: amended, on 1 January 2017, by clause 8(2) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Schedule 1: amended, on 1 January 2017, by clause 8(3) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Schedule 2

Countries to which Copyright Act 1994 (except Part 9) applies, in respect of sound recordings and communication works

cls 9(2), 10(1)

Schedule 2: substituted on 7 December 2000, by clause 3 of the Copyright (Application to Other Countries) Amendment Order 2000 (SR 2000/235).

Schedule 2 heading: amended, on 1 January 2017, by clause 9(1) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Albania
Angola
Antigua and Barbuda
Argentina
Armenia
Australia
Austria
Bahrain

Bangladesh
Barbados
Belgium
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cabo Verde
Cambodia
Cameroon
Canada
Central African Republic
Chad
Chile
China
Colombia
Congo
Congo, Democratic Republic of
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt, Arab Republic of

El Salvador
Estonia
European Union
Fiji
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Honduras
Hong Kong, China
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kenya
Korea, Republic of
Kuwait
Kyrgyzstan, Republic of
Lao People's Democratic Republic

Latvia
Lesotho
Liechtenstein
Lithuania
Luxembourg
Macau, China
Macedonia, Former Yugoslav Republic of
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Moldova, Republic of
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nepal
Netherlands
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru

Philippines
Poland
Portugal
Qatar
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
Saudi Arabia
Senegal
Seychelles
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Taiwan
Tajikistan
Tanzania, United Republic of
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey

Ukraine
Uganda
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Vanuatu
Venezuela
Vietnam
Yemen
Zambia
Zimbabwe

Schedule 2: amended, on 1 January 2017, by clause 9(2) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Schedule 2: amended, on 1 January 2017, by clause 9(3) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Schedule 3

Countries to which Part 9 of Copyright Act 1994 applies

cl 13

Schedule 3: substituted on 7 December 2000, by clause 3 of the Copyright (Application to Other Countries) Amendment Order 2000 (SR 2000/235).

Albania
Algeria
Angola
Antigua and Barbuda
Argentina
Armenia
Australia
Austria
Azerbaijan
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Belize

Benin
Bolivia
Bosnia and Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cabo Verde
Cambodia
Cameroon
Canada
Central African Republic
Chad
Chile
China
Colombia
Congo
Congo, Democratic Republic of
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt, Arab Republic of
El Salvador
Estonia
European Union

Fiji
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Honduras
Hong Kong, China
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kazakhstan
Kenya
Korea, Republic of
Kuwait
Kyrgyzstan, Republic of
Lao People's Democratic Republic
Latvia
Lesotho

Liechtenstein
Lithuania
Luxembourg
Macau, China
Macedonia, Former Yugoslav Republic of
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Moldova, Republic of
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nepal
Netherlands
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines

Poland
Portugal
Qatar
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Taiwan
Tajikistan
Tanzania, United Republic of
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey

Uganda
Ukraine
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Vanuatu
Venezuela
Vietnam
Yemen
Zambia
Zimbabwe

Schedule 3: amended, on 1 January 2017, by clause 10(1) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Schedule 3: amended, on 1 January 2017, by clause 10(2) of the Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 13 July 1995.

Reprints notes

1 *General*

This is a reprint of the Copyright (Application to Other Countries) Order 1995 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Copyright (Application to Other Countries) Amendment Order 2016 (LI 2016/260)
Copyright (Application to Other Countries) Amendment Order 2000 (SR 2000/235)