



Number 39 of 2007

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ACT 2007**

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Number 39 of 2007

**COPYRIGHT AND RELATED RIGHTS (AMENDMENT)
ACT 2007**

AN ACT TO AMEND THE COPYRIGHT AND RELATED RIGHTS ACT 2000 TO MAKE PROVISION IN RELATION TO THE ESTABLISHMENT OF A PUBLIC LENDING REMUNERATION SCHEME IN CONFORMITY WITH COUNCIL DIRECTIVE NO. 92/100/EC OF 19 NOVEMBER 1992 AND FOR RELATED PURPOSES, AND CONSEQUENTIALLY TO AMEND SECTION 79 OF THE LOCAL GOVERNMENT ACT 2001.

[4th December, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Copyright and Related Rights (Amendment) Act 2007. Short title and collective citations.

(2) The Copyright and Related Rights Acts 2000 and 2004 and this Act (other than *Part 3*) may be cited together as the Copyright and Related Rights Acts 2000 to 2007.

(3) The collective citation “the Local Government Acts 1925 to 2007” includes *Part 3*.

2.—In this Act, “Principal Act” means the Copyright and Related Rights Act 2000. Interpretation.

PART 2

AMENDMENTS OF PRINCIPAL ACT

Amendment of section 8 (laying of regulations and orders) of Principal Act.

3.—Section 8 of the Principal Act is amended by inserting “, the Minister for the Environment, Heritage and Local Government” after “by the Minister”.

Amendment of section 9 (expenses) of Principal Act.

4.—Section 9 of the Principal Act is amended by inserting “and the Minister for the Environment, Heritage and Local Government” after “by the Minister”.

Amendment of section 40 (making available right) of Principal Act.

5.—Section 40 of the Principal Act is amended in subsection (1)(g) by deleting the words “without the payment of remuneration to the owner of the copyright in the work”.

Amendment of section 42 (rental and lending right) of Principal Act.

6.—Section 42 of the Principal Act is amended—

(a) in subsection (6)(b) by substituting “Subject to subsection (7), there” for “There”, and

(b) by inserting the following subsection after subsection (6):

“(7) The lending right in relation to a work does not apply at any time in a period during which a scheme for the remuneration of authors is in effect, pursuant to section 42A, in relation to works of a class in which that work is included, whether the author, or (in the case of a work of joint authorship) any of the authors, is a participant in that scheme or not.”.

New section 42A of Principal Act.

7.—The following section is inserted in the Principal Act after section 42:

“Public Lending Remuneration Scheme.

42A.—(1) The Minister for the Environment, Heritage and Local Government may by regulation establish a scheme, to be known as the Public Lending Remuneration Scheme, to remunerate authors, out of moneys voted by the Oireachtas for the purpose, for the lending by public libraries of qualifying works.

(2) For the purposes of subsection (1), a work is a qualifying work in relation to a particular period if—

(a) in relation to that period, it is a work included in a class of works declared by regulations made for the purposes of that subsection to be a class of works to which the scheme applies, and

(b) the author of the work (or, in the case of a work of joint authorship, any one or more of the joint authors) is a citizen or subject of, or is an individual domiciled or ordinarily resident in, a Member State of the EEA.

(3) Regulations made for the purposes of subsection (1) shall make comprehensive provision for the operation of the Public Lending Remuneration Scheme, and may include, in particular, provisions relating to—

- (a) the manner of participation in the scheme by individual authors, including, but not limited to—
 - (i) a requirement for the registration of authors and their works as a condition of participation in the scheme, and
 - (ii) in the case of works of joint authorship, provision for distinguishing, between those of the joint authors who are citizens or subjects of, or are individuals domiciled or ordinarily resident in, Member States of the EEA and those who are not,
- (b) in relation to any requirement for the registration of authors—
 - (i) the manner of maintaining the register, and
 - (ii) the form and particulars of entries in it,
- (c) the manner of calculating the entitlements of participating authors, including, but not limited to—
 - (i) the manner of calculating, or estimating, the number of instances of lending of the works of individual authors or of individual works of individual authors,
 - (ii) the rate of remuneration, including—
 - (I) differential rates of remuneration for particular classes of work, and
 - (II) in the case of works of joint authorship, differential rates of remuneration for the individual joint authors,
 - (iii) the periods in respect of which payments may be made under the scheme, and

- (iv) minimum and maximum amounts payable, in respect of a specified period, to individual participating authors,
- (d) the manner in which payments under the scheme are to be made,
- (e) the establishment or designation of one or more persons or bodies to exercise powers and perform duties in respect of the administration of the scheme or any part of it (including the making of payments under the scheme), and
- (f) the making of arrangements with authorities in other countries for—
 - (i) reciprocal registration of authors and works, and
 - (ii) the sharing and exchange of data relating to the operation of the scheme and similar schemes in those countries.

(4) A person who contravenes a provision of regulations made for the purposes of subsection (1) that is expressed to be a provision contravention of which attracts the operation of this subsection is guilty of an offence punishable on summary conviction by a fine not exceeding €5,000.

(5) In this section—

‘author’ includes, in relation to a recording of a performance, the performer;

‘public library’ means a library to which members of the public have access that is operated by or under the direction of a library authority within the meaning of section 77(1) of the Local Government Act 2001.”.

Substitution of section 58 (copyright not infringed by lending) of Principal Act.

8.—The Principal Act is amended by substituting the following section for section 58:

“Copyright not infringed by lending by educational establishments. 58.—The copyright in a work is not infringed by the lending by an educational establishment of a copy of the work.”.

Repeal of section 69 (copying by librarians or archivists: exemptions) of Principal Act.

9.—Section 69 of the Principal Act is repealed.

10.—Section 205 of the Principal Act is amended in subsection (5)(g) by deleting “without the payment of remuneration to the rightsowner”.

Amendment of section 205 (making available to public copies of recordings of qualifying performances) of Principal Act. Amendment of section 207 (rental and lending right of performer) of Principal Act.

11.—Section 207 of the Principal Act is amended—

- (a) in subsection (2) by substituting “Subject to subsection (3A), a” for “A”,
- (b) in subsection (3)(b) by substituting “Subject to subsection (3A), there” for “There”, and
- (c) by inserting the following subsection after subsection (3):

“(3A) The lending right in relation to a recording does not apply at any time in a period during which a scheme for the remuneration of authors is in effect, pursuant to section 42A, in relation to works of a class in which that recording is included, whether the performer, or (in the case of a recording of a performance by a number of performers) any of the performers, is a participant in that scheme or not.”.

12.—The Principal Act is amended by substituting the following section for section 226:

Substitution of section 226 (performers’ rights not infringed by lending) of Principal Act.

“Performers’ rights not infringed by lending by educational establishments. 226.—The rights conferred by this Part are not infringed by the lending by an educational establishment of a copy of a recording of a performance.”.

13.—Section 320 of the Principal Act is amended—

Amendment of section 320 (interpretation) of Principal Act.

- (a) in subsection (2) by deleting “that is prescribed by the Minister for the purpose of section 58”, and
- (b) in subsection (3) by deleting “and that is prescribed by the Minister for the purpose of section 58”.

PART 3

CONSEQUENTIAL AMENDMENT OF THE LOCAL GOVERNMENT ACT 2001

14.—Section 79 of the Local Government Act 2001 is amended in subsection (6)(e) by inserting “or under section 42A of the Copyright and Related Rights Act 2000” after “subsection (7)”.

Amendment of section 79 (An Chomhairle Leabharlanna) of Local Government Act 2001.