

**Reprint
as at 7 December 2000**



**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.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This order is administered by the Ministry of Economic Development.

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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(1)(a), 20(2)(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.

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, broadcasts, and cable programmes

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(b), 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.

Copyright in foreign works that are broadcasts

10 Application of Act to broadcasts

- (1) In—
- (a) section 18(2) of the Act, the term **work** includes a foreign work that is a broadcast made on or after 1 January 1995;
 - (b) sections 18(2) and 20(1)(b) of the Act the term **prescribed foreign country**, in relation to a foreign work that is a broadcast 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 broadcast made on or after 1 January 1995 qualifies for copyright under section 18(2) or section 20(1)(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, copyright shall not exist in a repeated broadcast made on or after 1 January 1995 where the initial broadcast was made before that date;
 - (b) the provisions of Part 9 of the Act do not apply.

*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

cls 4, 5, 7, 9

**Countries to which Copyright Act 1994
(except Part 9) applies, in respect of
all works except broadcasts and cable
programmes**

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

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

Cape Verde
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
Equatorial Guinea
Estonia
European Communities
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, 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
Moldova, Republic of
Monaco
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Netherlands (and the Netherlands Antilles)
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
Saudi Arabia
Senegal
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
Trinidad and Tobago
Tunisia
Turkey
Uganda
Ukraine
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Venezuela
Zambia

Zimbabwe

Schedule 2

cls 9(2), 10(1)

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

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

Angola
Antigua and Barbuda
Argentina
Australia
Austria
Bahrain
Bangladesh
Barbados
Belgium
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cameroon
Canada
Central African Republic
Chad
Chile
Colombia
Congo

Congo, Democratic Republic of
Costa Rica
Côte d'Ivoire
Cuba
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt, Arab Republic of
El Salvador
Estonia
European Communities
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
Latvia
Lesotho
Liechtenstein
Luxembourg
Macau, China
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Mongolia
Morocco
Mozambique
Myanmar
Namibia
Netherlands (and the Netherlands Antilles)
Nicaragua
Niger

Nigeria
Norway
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Romania
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Senegal
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Taiwan
Tanzania, United Republic of
Thailand
Togo
Trinidad and Tobago

Tunisia
Turkey
Uganda
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Venezuela
Zambia
Zimbabwe

Schedule 3

cl 13

**Countries to which Part 9 of Copyright
Act 1994 applies**

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

Angola
Antigua and Barbuda
Argentina
Australia
Austria
Bahrain
Bangladesh
Barbados
Belgium
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso

Burundi
Cameroon
Canada
Central African Republic
Chad
Chile
Colombia
Congo
Congo, Democratic Republic of
Costa Rica
Côte d'Ivoire
Cuba
Cyprus
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt, Arab Republic of
El Salvador
Estonia
European Communities
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
Latvia
Lesotho
Liechtenstein
Luxembourg
Macau, China
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico

Mongolia
Morocco
Mozambique
Myanmar
Namibia
Netherlands (and the Netherlands Antilles)
Nicaragua
Niger
Nigeria
Norway
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Romania
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Senegal
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Suriname

Swaziland
Sweden
Switzerland
Taiwan
Tanzania, United Republic of
Thailand
Togo
Trinidad and Tobago
Tunisia
Turkey
Uganda
United Arab Emirates
United Kingdom (and the Isle of Man)
United States of America
Uruguay
Venezuela
Zambia
Zimbabwe

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 13 July 1995.

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Notes**1 General**

This is a reprint of the Copyright (Application to Other Countries) Order 1995. The reprint incorporates all the amendments to the order as at 7 December 2000 as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

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