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GUERNSEY

GUERNSEY STATUTORY INSTRUMENT

2014 No. 13

The Copyright (Application to Berne Convention Countries) (Bailiwick of Guernsey) Regulations, 2014

<i>Made</i>	18 th November, 2014
<i>Coming into operation</i>	21 st November, 2014
<i>Laid before the States</i>	, 2014

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by sections 185 and 221 of the Copyright (Bailiwick of Guernsey) Ordinance, 2005^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Application to Berne Convention countries.

1. (1) Subject to paragraph (4) and in relation to literary, dramatic, musical and artistic works, films and typographical arrangements of published editions only, section 182 (qualification by reference to author) of the Ordinance applies in relation to -

- (a) persons who are citizens or subjects of, or who are domiciled or resident in any part of a Berne Convention country as it applies to persons who are British citizens domiciled or resident in the Bailiwick, and

^a Recueil d'Ordonnances Tome XXX, p.186; as amended by Ordinance No. XXXIII of 2013.

- (b) bodies incorporated under the law of a Berne Convention country as it applies in relation to bodies incorporated under the law of the Bailiwick.

(2) In relation to literary, dramatic, musical and artistic works, films and typographical arrangements of published editions only, section 183 (qualification by reference to country of first publication) of the Ordinance applies in relation to works first published in a Berne Convention country as it applies in relation to works first published in the Bailiwick.

(3) Where copyright subsists in a work by virtue of these regulations, the Ordinance applies in relation to the work.

(4) For the avoidance of doubt, copyright does not subsist in a work by virtue of section 182 (qualification by reference to author) of the Ordinance if it was first published before 1st January, 2006.

Savings.

2. (1) For the purposes of this regulation an act is an "excluded act" where -

- (a) a person (A) has incurred any expenditure or liability in connection with the act, and
- (b) A began in good faith to do the act, or made in good faith effective and serious preparations to do the act,

at a time when the act neither infringed nor was restricted by the relevant rights in the work.

(2) Subject to paragraph (3), where another person (B) acquires those relevant rights on or after the coming into force of these Regulations, A has the right –

(a) to continue to do the excluded act, or

(b) to do the excluded act,

notwithstanding that the excluded act infringes or is restricted by those relevant rights under these Regulations.

(3) Paragraph (2) no longer applies where B, or B's exclusive licensee, pays reasonable compensation to A.

(4) Where -

(a) B (or B's exclusive licensee) offers to pay compensation to A under paragraph (3), but

(b) A and B (or B's exclusive licensee) cannot agree on what compensation is reasonable,

either person may refer the matter to arbitration.

Interpretation.

3. (1) In these Regulations, unless the context requires otherwise –

"**Berne Convention**" means the International Convention for the Protection of Literary and Artistic Works, signed at Berne on 9th September, 1886, and its revisions from time to time,

"Berne Convention country" means a country, other than the United Kingdom, which is party to any Act of the Berne Convention,

"first published" shall be construed in accordance with section 183(3) of the Ordinance,

"the Ordinance" means the Copyright (Bailiwick of Guernsey) Ordinance, 2005,

"relevant rights" means copyright and the rights conferred by Part IV of the Ordinance (moral rights),

and other expressions have the same meanings as in the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Application and extent.

4. (1) These Regulations have effect throughout the Bailiwick.

(2) If, following the commencement of these Regulations, a country becomes a Berne Convention country, the provisions of these Regulations shall have effect in relation to the country, from the day that it becomes a Berne

^b Ordres en Conseil Vol. XIII, p. 355.

Convention country.

Citation and commencement.

5. These Regulations may be cited as the Copyright (Application to Berne Convention Countries) (Bailiwick of Guernsey) Regulations, 2014 and shall come into force on the 21st November, 2014.

Dated this 18th day of November, 2014



K.A. STEWART

Minister of the Commerce and Employment Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply certain provisions of the Copyright (Bailiwick of Guernsey) Ordinance, 2005, to works originating in a Berne Convention country, whether by reference to the author's residence or domicile, or the country of first

publication, with the effect that those works receive copyright protection in the Bailiwick of Guernsey.

These Regulations come into force on the 21st November, 2014.