

**The Performers' Rights (Reciprocal Protection)
(Bailiwick of Guernsey)
Regulations, 2020**

<i>Made</i>	29 th September, 2020
<i>Coming into operation</i>	29 th September, 2020
<i>Laid before the States</i>	, 2020

THE COMMITTEE FOR ECONOMIC DEVELOPMENT, in exercise of the powers conferred on it by sections 48 and 51 of the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Countries enjoying reciprocal protection.

1. (1) For the purposes of section 48 of the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005 ("the Ordinance"), the countries listed in paragraph (2) enjoy reciprocal protection.

(2) Paragraph (1) applies to a country which is a party to -

- (a) the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted on October 26, 1961 in Rome ("the Rome Convention"), or

^a Ordinance No. XVIII of 2005; as amended by No. XXXIII of 2013 and No. IX of 2016

- (b) the WIPO Performances and Phonograms Treaty, adopted on December 20, 1996 in Geneva (“the WPPT”).

Right to equitable remuneration: Rome Convention Countries.

2. (1) This regulation applies to a country which is a party to the Rome Convention and has made a declaration under Article 16(1)(a) of the Rome Convention that it will not apply the provisions of Article 12 (which provides for the payment of a single equitable remuneration).

(2) Where this regulation applies, to the extent that the declaration referred to in paragraph (1) is in force in the law of the country in relation to a Guernsey performance, the provisions of the Ordinance shall not apply to grant the protection provided for under Article 12 of the Rome Convention unless the recording has been first published in a country which—

- (a) is a party to the Rome Convention, and
- (b) has not made a declaration of the kind referred to in paragraph (1).

Right to equitable remuneration etc: WPPT Countries.

3. (1) This regulation applies to a country which is –

- (a) a party to the WPPT, and
- (b) not a party to the Rome Convention.

(2) Where this regulation applies, the application of the Ordinance to the countries referred to in regulation 1(2) is modified as follows -

- (a) the definition of recording in section 1(2) (rights conferred on performers and persons having recording rights), shall be construed as applying only to sound recordings (and not to films), and
- (b) the following provisions do not apply -
 - (i) section 6 (consent required for rental or lending of copies to public), in so far as it relates to lending,
 - (ii) section 9 (infringement of performer's rights by use of recording made without consent),
 - (iii) sections 11 to 14 (rights of persons having recording rights), and
 - (iv) section 38(3) (criminal liability for making available to the public).

(3) Where a country to which this regulation applies has made a declaration under Article 15(3) of the WPPT that it will not apply the provisions of Article 15(1) thereof (which confers on performers and producers of phonograms a right to remuneration) in full or in part, the Ordinance shall not apply to protect the right provided for in Article 15(1) to the extent that that declaration is in force in the law of that country in relation to Guernsey performances.

Interpretation.

4. (1) For the purposes of the reciprocal protection granted by these Regulations a "Guernsey performance" means a performance –

- (a) given by an individual who is a British citizen and resident in the Bailiwick, or
- (b) taking place in the Bailiwick

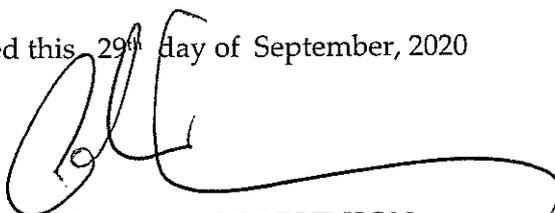
and the Ordinance shall take effect accordingly.

(2) 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.

Citation and commencement.

5. These Regulations may be cited as the Performers' Rights (Reciprocal Protection) (Bailiwick of Guernsey) Regulations, 2020 and shall come into force on the day they are made.

Dated this 29th day of September, 2020



DEPUTY CHARLES PARKINSON

President of the Committee *for* Economic Development

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the protections afforded under the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005 to certain countries. These Regulations come into force on the day on which they are made.