VERŻJONI ELETTRONIKA

L.N. 81 of 2014

COPYRIGHT ACT
(CAP. 415)

Extension to Term of Protection (Neighbouring Rights) Regulations, 2014

IN exercise of the powers conferred by article 59 of the Copyright Act, the Minister for the Economy, Investment and Small Business has made the following regulations:-

1. The title of these regulations is the Extension to Term of Protection (Neighbouring Rights) Regulations, 2014. Citation.

2. These regulations transpose Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights. Purpose.

3. In these regulations, unless the context otherwise requires - Interpretation.

"the Act" means the Copyright Act; Cap. 415.

"contract of transfer or assignment" means a contract by which the performer has transferred or assigned his rights in the fixation of his performance to a producer of a sound recording.

All other words, terms and expressions used shall have the same meaning as is given to them in the Act.

4. The term of protection of a musical composition with words shall expire seventy years after the death of the last of the following persons to survive: Musical compositions with words.

(a) the author of the lyrics; and

(b) the composer of the musical composition:

Provided that the above shall apply whether or not those persons are designated as joint authors in terms of article 4(4) of the Act and both contributions were specifically created for the respective musical composition with words:

Provided further that the musical composition or the lyrics are protected in at least one Member State on the 1st of November 2013 or the musical composition with words came into being after that date.

VERŻJONI ELETTRONIKA

Rights of performers.

5. (1) The rights of performers shall expire fifty years after the date of the performance.

(2) Notwithstanding the provisions of sub-regulation (1), and without prejudice to the provisions of article 14 of the Act, if a fixation of the performance otherwise than in a sound recording is lawfully published or lawfully communicated to the public within this period, the rights shall expire fifty years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

(3) If a fixation of the performance in a sound recording is lawfully published or lawfully communicated to the public within the period referred to in sub-regulations (1) and (2), the rights shall expire seventy years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

Rights of producers of a sound recording.

6. (1) The rights of producers of a sound recording shall expire fifty years after the fixation is made.

(2) Notwithstanding the provisions of sub-regulation (1), and without prejudice to the provisions of article 16 of the Act, in the event that the sound recording has been lawfully published within this period, the said rights shall expire seventy years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in this sub-regulation, and if the sound recording has been lawfully communicated to the public within this period, the said rights shall expire seventy years from the date of the first lawful communication to the public.

Performer's right to terminate.

7. (1) If, fifty years after the sound recording was lawfully published or, failing such publication, fifty years after it was lawfully communicated to the public, the producer of a sound recording does not:

(a) offer copies of the sound recording for sale in sufficient quantity; or

(b) make it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them,

the performer may terminate the contract by which the performer has transferred or assigned his rights in the fixation of his performance to a producer of a sound recording.

(2) The right to terminate the contract of transfer or assignment may be exercised if the producer of a sound recording,

VERŻJONI ELETTRONIKA

within a year from the notification by the performer of his intention to terminate the contract of transfer or assignment pursuant to sub-regulation (1), fails to carry out both of the acts of exploitation referred to in that sub-regulation.

(3) The right to terminate as contained in this regulation may not be waived by the performer.

(4) In the event that the contract of transfer or assignment is terminated pursuant to this regulation, the rights of the producer of a sound recording in the sound recording shall expire.

Performer's annual supplementary remuneration.

8. (1) Only where a contract of transfer or assignment gives the performer a right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the producer of a sound recording for each full year immediately following the fiftieth year after the sound recording was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public.

(2) The right to obtain such annual supplementary remuneration may not be waived by the performer.

(3) The overall amount to be set aside by a producer of a sound recording, as payment of the annual supplementary remuneration to performers whose performances are fixed in a sound recording and who have transferred or assigned their rights to the producer of a sound recording in return of a one-off payment, referred to in this regulation, shall correspond to twenty *per centum* (20%) of the revenue which the producer of a sound recording has derived, during the year preceding that for which the said remuneration is paid, from the exclusive rights of reproduction, distribution and making available of the sound recording in question, following the fiftieth year after it was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public.

(4) Producers of a sound recording are required, upon request, to provide to performers who are entitled to the annual supplementary remuneration referred to in this regulation any information which may be necessary in order to secure payment of that remuneration.

(5) The right to obtain an annual supplementary remuneration as referred to in this regulation may be administered by collecting societies.

(6) Where a performer is entitled to recurring payments, neither advance payments nor any contractually defined deductions

VERŻJONI ELETTRONIKA

shall be deducted from the payments made to the performer following the fiftieth year after the sound recording was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public.

Applicability.

9. (1) The provisions of regulations 5, 6 and 7 shall apply to fixations of performances and sound recordings in regard to which the performer and the producer of a sound recording are still protected, as at the 1st day of November 2013 and to fixations of performances and sound recordings which come into being after that date.

(2) In the case of the term of copyright for fixations of performances and sound recordings, these regulations shall prevail over any rules or regulations establishing the term of copyright for fixations of performances and sound recordings applicable to the performer and the producer of a sound recording as contained in the Act.

Transitional measures.

10. (1) In the absence of clear contractual indications to the contrary, a contract of transfer or assignment concluded before the 1st day of November 2013 shall be deemed to continue to produce its effects until the expiration of the term of protection, as extended by these regulations, of the rights of the performer accorded under the Act that were transmitted pursuant to the contract of transfer or assignment.

(2) Contracts of transfer or assignment which entitle a performer to recurring payments and which are concluded before the 1st day of November 2013 can be modified following the fiftieth year after the sound recording was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public.

(3) No act which would be considered as an infringement of copyright, neighbouring rights or moral rights as a result of these regulations shall be considered as an infringement of copyright, neighbouring right or moral rights if done before the date on which these regulations come into force.

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€0.36