

Copyright (Rights and Remuneration of Musicians, Etc.) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Kevin Brennan MP, are published separately as Bill 19—EN.

Copyright (Rights and Remuneration of Musicians, Etc.) Bill

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CONTENTS

- 1 Performers: right to equitable remuneration where making available right is transferred
- 2 Composers and songwriters: transparency, contract adjustment and right of revocation
- 3 Performers: transparency, contract adjustment and right of revocation
- 4 Performers, composers and songwriters: applications regarding equitable remuneration, transparency and contract adjustment
- 5 Extent, commencement and short title

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B I L L

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Make provision about the rights and remuneration of musicians and other rights holders; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Performers: right to equitable remuneration where making available right is transferred

- (1) The Copyright Designs and Patents Act 1988 is amended as follows.
- (2) In Part II (Rights in performances), after section 191G (Right to equitable remuneration where rental right transferred), insert —

“191GA Right to equitable remuneration where making available right is transferred

- (1) Where a performer has transferred their making available right concerning a sound recording of the whole or any substantial part of a qualifying performance to the producer of the sound recording, they retain the right to equitable remuneration for the making available. The reference above to the transfer of making available right by one person to another includes any arrangement having that effect, whether made by them directly or through intermediaries.
- (2) The right to equitable remuneration under this section may not be assigned by the performer except to a collecting society for the purpose of enabling it to enforce the right on their behalf. The right is, however, transmissible by testamentary disposition or by operation of law as personal or moveable property; and it may be assigned or further transmitted by any person into whose hands it passes.
- (3) Equitable remuneration under this section is payable by the person or persons for the time being entitled to the making available right, that is, the person to whom the right was transferred or any successor in title of that person.
- (4) The amount payable by way of equitable remuneration is as agreed by or on behalf of the persons by and to whom it is payable, subject

to section 142A (Applications regarding equitable remuneration, transparency and contract adjustment).

- (5) An agreement is of no effect in so far as it purports to exclude or restrict the right to equitable remuneration under this section.”

2 Composers and songwriters: transparency, contract adjustment and right of revocation 5

- (1) The Copyright Designs and Patents Act 1988 is amended as follows.
- (2) In Chapter V (Dealings with rights in copyright works) of Part I, after section 93C insert—

“Transparency, contract adjustment, right of revocation 10

93D Transparency obligation

- (1) Where an author of—
- (a) a musical work; or
 - (b) a literary work accompanying a musical work, or intended to accompany a musical work, and to be sung, spoken or performed 15
- has transferred or exclusively licensed rights in a work or works to any person other than a collective management organisation as defined in Regulation 2(1) of the Collective Management of Copyright (EU Directive) Regulations 2016, that author shall be entitled to receive on a quarterly basis, up to date, comprehensible, relevant and complete information on the exploitation of such work or works, including all revenues or benefits of any kind generated; and remuneration due. 20
- (2) The information shall be as comprehensive as the information a collective management organisation must make available as specified in section 17 of the Collective Management of Copyright (EU Directive) Regulations 2016. 25
- (3) The information shall be provided by the person carrying out the exploitation of the work whether that be the person to whom the rights were transferred or exclusively licensed or any successor in title. The author may require the person with whom they contracted to procure delivery of the relevant information by any such successor in title. 30
- (4) In the event that the information provided is insufficient to identify all relevant rightholders or does not meet the requirements of subsection (2), an author may require the producer of the sound recording in which the work is embodied to provide the information referred to in subsection (1). 35
- (5) An agreement is of no effect in so far as it purports to remove or restrict the entitlement of any author to information under this section. 40
- (6) The rights provided by this section shall not apply to—

- (a) works referred to in subsection (1) where such embodiment is of an incidental nature;
- (b) authors of works where the first owner is an employer under section 11(2); and
- (c) Crown Copyright or Parliamentary Copyright or any works referred to in section 168. 5

93E Contract adjustment

- (1) An author to whom section 93D(1) applies shall be entitled to claim whether personally or through an authorised representative, additional, fair and reasonable remuneration from the person with whom they entered into a contract for the exploitation of their rights, or from the successors in title of such person, in the event that the remuneration originally agreed is disproportionately low compared to all subsequent revenues derived from the exploitation of the rights. 10
- (2) The amount payable by way of additional, fair and reasonable remuneration is as agreed by or on behalf of the persons by and to whom it is payable, subject to section 142A (Applications regarding equitable remuneration, transparency and contract adjustment). 15
- (3) An agreement is of no effect in so far as it purports to prevent an author making an application to, or to restrict the powers of, the Copyright Tribunal under this section. 20
- (4) The right to additional, fair and reasonable remuneration referred to in subsection (1) shall not apply in respect of—
 - (a) licences concluded by collective management organisations as defined in Regulation 2(1) of the Collective Management of Copyright (EU Directive) Regulations 2016 on behalf of the authors referred to in section 93D(1); or 25
 - (b) any collective bargaining agreement.

93F Right of revocation

- (1) Where an author referred to in section 93D(1) (or their authorised representative) has transferred or exclusively licensed rights concerning a work referred to in section 93D(1) to any person other than a collective management organisation as defined in Regulation 2(1) of the Collective Management of Copyright (EU Directive) Regulations 2016, that author may, after a period of 20 years has elapsed following that transfer or licence, revoke in whole or in part the transfer or licence of rights. 30
35
- (2) This right of revocation may not be waived or transferred by the author. The right is, however, transmissible by testamentary disposition or by operation of law as personal or moveable property; and it may be assigned or further transmitted by any person into whose hands it passes. 40

- (3) The revocation shall be effected by delivery of notice in writing, signed by the author or their authorised representative, upon the person to whom their rights were transferred or licensed.
- (4) The notice shall state the effective date of the revocation, which shall be not less than two years after delivery of the notice. 5
- (5) An agreement is of no effect in so far as it purports to exclude or restrict the right of revocation under this section.”

3 Performers: transparency, contract adjustment and right of revocation

- (1) The Copyright Designs and Patents Act 1988 is amended as follows.
- (2) In Part II (Rights in performances), after section 191M (Exercise of concurrent rights) insert— 10

“Transparency, contract adjustment, right of revocation

191N Transparency obligation

- (1) Where a performer has transferred or exclusively licensed rights concerning a sound recording of the whole or any substantial part of a qualifying performance to any person, that performer shall be entitled to receive on a quarterly basis, up to date, comprehensible, relevant and complete information on the exploitation of such performance including all revenues or benefits of any kind generated; and remuneration due. 15 20
- (2) The information shall be as comprehensive as the information a collective management organisation must make available as specified in section 17 of the Collective Management of Copyright (EU Directive) Regulations 2016.
- (3) The information shall be provided by the person carrying out the exploitation of the performance whether that be the person to whom the rights were transferred or exclusively licensed or any successor in title. The performer may require the person with whom they contracted to procure delivery of the relevant information by any such successor in title. 25 30
- (4) In the event that the information provided is insufficient to identify all relevant rightholders, or does not meet the requirements of subsection (2), a performer may require the producer of the sound recording in which the performance is embodied to provide the information referred to in subsection (1). 35
- (5) An agreement is of no effect in so far as it purports to remove or restrict the entitlement of any performer to information under this section.
- (6) The rights provided by this section shall not apply to performers engaged under contracts of employment. 40

191O Contract adjustment

- (1) A performer to whom section 191GA applies shall be entitled to claim whether personally or through an authorised representative, additional, fair and reasonable remuneration from the person with whom they entered into a contract for the exploitation of their rights, or from the successors in title of such person, in the event that the remuneration originally agreed is disproportionately low compared to all subsequent revenues derived from the exploitation of the rights. 5
- (2) The amount payable by way of additional, fair and reasonable remuneration is as agreed by or on behalf of the persons by and to whom it is payable, subject to section 142A (Applications regarding equitable remuneration, transparency and contract adjustment). 10
- (3) An agreement is of no effect in so far as it purports to prevent a performer making any such application to, or to restrict the powers of, the Copyright Tribunal under this section. 15

191P Right of revocation

- (1) Where a performer to whom section 191GA applies (or their authorised representative) has transferred or exclusively licensed rights concerning a sound recording of the whole or any substantial part of a qualifying performance to any person, that performer may, after a period of 20 years has elapsed following said transfer or license, revoke in whole or in part the transfer or licence of rights. 20
- (2) This right of revocation may not be waived or transferred by the performer. The right is, however, transmissible by testamentary disposition or by operation of law as personal or moveable property; and it may be assigned or further transmitted by any person into whose hands it passes. 25
- (3) The revocation shall be effected by delivery of notice in writing, signed by the performer or authorised representative, upon the person to whom said rights were transferred or licensed. 30
- (4) The notice shall state the effective date of the revocation, which shall be not less than two years after delivery of said notice.
- (5) An agreement is of no effect in so far as it purports to exclude or restrict the right of revocation under this section.”

4 Performers, composers and songwriters: applications regarding equitable remuneration, transparency and contract adjustment 35

- (1) The Copyright Designs and Patents Act 1988 is amended as follows.

- (2) In Chapter VII (Copyright licensing) of Part I, after section 142 (Royalty or other sum payable for lending of certain works) insert –

“142A Applications regarding equitable remuneration, transparency and contract adjustment

- (1) An application to obtain an order for delivery of information or a determination of remuneration payable in pursuance of sections 93D, 93E, 191GA, 191N and 191O may be made to the Copyright Tribunal by any person entitled under those sections. 5
- (2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances. 10
- (3) The applicant, or a person against whom a determination or order has been made, may subsequently apply to the Tribunal to vary the order, and the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances. 15
- (4) An application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.
- (5) An order under subsection (3) has effect from the date on which it is made or such date as may be specified by the Tribunal.” 20

5 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed. 25
- (3) This Act may be cited as the Copyright (Rights and Remuneration of Musicians, Etc.) Act 2021.

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supported by Ms Karen Buck, Damian Green,
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