

## **2005-22** Intellectual Property (Copyright and Related Rights)

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Subsidiary Legislation made under s.243.

### **Intellectual Property (No.2) Regulations 2021**

**LN.2021/215**

*Commencement*                      **1.4.2021**

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#### **ARRANGEMENT OF REGULATIONS.**

##### Regulation

1. Title and commencement.
2. Interpretation.
3. Extension of protection.
4. Application of Part III of the Act to WPPT countries not party to the Rome Convention.

## **2005-22** Intellectual Property (Copyright and Related Rights)

### **2021/215** Intellectual Property (No.2) Regulations 2021

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*In exercise of the powers conferred upon the Minister by section 243 of the Intellectual Property (Copyright and Related Rights) Act 2005, and all other enabling powers, and for the purposes of implementing, in part, the World Intellectual Property Organisation Performances and Phonograms Treaty adopted in Geneva on 20<sup>th</sup> December 1996, the Minister has made the following Regulations-*

#### **Title and commencement.**

1. These Regulations may be cited as the Intellectual Property (No.2) Regulations 2021 and come into operation on the day of publication.

#### **Interpretation.**

2 (1) In these Regulations-

“the Act” means the Intellectual Property (Copyright and Related Rights) Act 2005;

“declaration” means a declaration under Article 15 (3) of the Treaty by a WPPT country that-

- (a) it will apply Article 15 (1) of the Treaty only in respect of certain uses;
- (b) it will limit the application of Article 15 (1) of the Treaty in some other way; or
- (c) it will not apply Article 15(1) of the Treaty at all;

“Rome Convention” means the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations done at Rome on 26<sup>th</sup> October 1961;

“Rome Convention country” means a country which is party to or a territory which has extension of the Rome Convention;

“the Treaty” means the World Intellectual Property Organisation Performances and Phonograms Treaty adopted in Geneva on 20<sup>th</sup> December 1996;

“WPPT country” means a country which is a party to or a territory which has extension of the Treaty.

(2) In these Regulations, words and expressions that are not defined must have the same meaning as given in the Act.

#### **Extension of protection.**

3.(1) The Minister designates WPPT countries for the purposes of section 243 of the Act as provided in these Regulations.

(2) Part III of the Act shall apply to a WPPT country in respect of performances-

- (a) given by an individual who is a national or who is domiciled or resident in a WPPT country; or
- (b) taking place in a WPPT country,

subject to the modifications in regulation 4.

**Application of Part III of the Act to WPPT countries not party to the Rome Convention.**

4. Where a WPPT country is not a Rome Convention country, it shall enjoy reciprocal protection under Part III of the Act subject to the following modifications-

- (a) the definition of “recording” in section 201(1) (Interpretation), shall be construed as applying to sound recordings and not to films;
- (b) the following provisions do not apply –
  - (i) section 205 (Performer’s rental and lending right), insofar as it relates to lending;
  - (ii) section 207 (Infringement of performer’s rights by use of recording made without consent); and
  - (iii) sections 211 to 213 (rights of persons having recording rights)
- (c) the provisions of Part III of the Act shall not apply to protect the right provided for in Article 15 (1) of the Treaty to the extent that a declaration is in force in the law of a WPPT country in relation to Gibraltar performances.