

Performers' Protection Act

Principal Act

Act. No. 1965-26

Commencement

1.1.1967

Assent

23.12.1965

English sources

Dramatic and Musical Performers' Protection Act 1958 (6 & 7 Eliz.2 c.44)

Performers' Protection Act 1963 (1963 c.53)

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AN ACT TO PROVIDE FOR THE PROTECTION OF RIGHTS IN RESPECT OF MUSICAL AND DRAMATIC PERFORMANCES.

Short title.

1. This Act may be cited as the Performers' Protection Act.

Interpretation.

2.(1) In this Act, unless the context otherwise requires,—

“broadcast” means broadcast for public reception by wireless telegraphy (within the meaning of the Wireless Telegraphy Act), whether by way of sound broadcasting or of television;

“cinematograph film” means any print, negative, tape or other article on which a performance or part thereof is recorded for the purposes of visual reproduction;

“performance” means the performance of any actors, singers, musicians, dancers or other persons who act, sing, deliver, declaim, play in or otherwise perform literary, dramatic, musical or artistic works, and includes any performance, mechanical or otherwise, of any such work, being a performance rendered or intended to be rendered audible by mechanical or electrical means;

“performers”, in the case of a mechanical performance, means the persons whose performance is mechanically reproduced;

“record” means any record or similar contrivance for reproducing sound, including the sound-track of a cinematograph film.

(2) Any reference in this Act to the making of a cinematograph film is a reference to the carrying out of any process whereby a performance or part thereof is recorded for the purpose of visual reproduction.

(3) For the avoidance of doubt it is hereby declared that this Act applies as respects anything done in relation to a performance notwithstanding that the performance took place out of Gibraltar, but this shall not cause anything done out of Gibraltar to be treated as an offence under this Act.

Penalization of making, etc., records without consent of performers.

3.(1) Subject to the provisions of this Act, a person who knowingly—

- (a) makes a record, directly or indirectly, from or by means of a performance without the consent in writing of the performers; or
- (b) sells or lets for hire, or distribute for the purpose of trade, or by way of trade exposes or offers for sale or hire, a record made in contravention of this Act; or
- (c) uses for the purposes of a public performance a record so made,

is guilty of an offence against this Act and is liable on summary conviction to a fine of £2 for each record in respect of which an offence is proved, but not exceeding £50 in respect of any one transaction:

Provided that, where a person is charged with an offence under paragraph (a) of this subsection, it shall be a defence to prove that the record was made for his private and domestic use only.

(2) For the purposes of paragraphs (b) and (c) of subsection (1), a record made in a country outside Gibraltar directly or indirectly from or by means of a performance shall, where the civil or criminal law of that country contains a provision for the protection of performers under which the consent of any person to the making of the record was required, be deemed to have been made in contravention of this Act if, whether knowingly or not, it was made without the consent so required and without the consent in writing of the performers.

Penalization of making, etc., cinematograph films without consent of performers.

4. Subject to the provisions of this Act, a person who knowingly—

- (a) makes a cinematograph film, directly or indirectly, from or by means of a performance without the consent in writing of the performers; or
- (b) sells or lets for hire, or distributes for the purposes of trade, or by way of trade, exposes or offers for sale or hire, a cinematograph film made in contravention of this Act; or
- (c) uses for the purposes of exhibition to the public a cinematograph film so made,

is guilty of an offence against this Act and is liable on summary conviction to a fine of £50:

Provided that, where a person is charged with an offence under paragraph (a) of this section, it shall be a defence to prove that the cinematograph film was made for his private and domestic use only.

Penalization of broadcasting and relaying without consent of performers.

5.(1) Subject to the provisions of this Act, a person who knowingly without the consent in writing of the performers,—

- (a) broadcasts, otherwise than by the use of a record or cinematograph film, a performance, or any part thereof; or
- (b) causes, otherwise than by the use of a record or cinematograph film or the reception of a broadcast, a performance, or any part thereof,—
 - (i) to be transmitted to subscribers to a diffusion service; or
 - (ii) to be transmitted over wires or other paths provided by a material substance so as to be seen or heard in public,

is guilty of an offence against this Act and is liable on summary conviction to a fine of £50.

(2) Section 48(3) of the Copyright Act, 1956 (which explains the meaning of references in that Act to the transmission of a work or other subject-matter to subscribers to a diffusion service) shall apply for the purposes of subsection (1) of this section as it applies for the purposes of that Act.

Penalization of making or having plates, etc., for making records in contravention of Act.

6. A person who makes, or has in his possession, a plate or similar contrivance for the purpose of making records in contravention of this Act is guilty of an offence against this Act and is liable on summary conviction to a fine of £50 for each plate or similar contrivance in respect of which an offence is proved.

Power of court to order destruction of records, etc., contravening Act.

7. The court before which any proceedings are taken under this Act may, on conviction of the offender, order that all records, cinematograph films, plates or similar contrivances in possession of the offender which appear to the court to have been made in contravention of this Act, or to be adapted for the making of records in contravention of this Act, and in respect of which the offender has been convicted, be destroyed, or otherwise dealt with as the court may think fit.

Special defences.

8. Notwithstanding anything in the preceding provisions of this Act, it shall be a defence to any proceedings under this Act to prove—

- (a) that the record, cinematograph film, broadcast or transmission to which the proceedings relate was made only for the purpose of reporting current events; or
- (b) that the inclusion of the performance in question in the record, cinematograph film, broadcast or transmission to which the proceedings relate was only by way of

background or was otherwise only incidental to the principal matters comprised or represented in the record, film, broadcast or transmission.

Consent on behalf of performers.

9. Where in any proceedings under this Act it is proved—

- (a) that the record, cinematograph film, broadcast or transmission to which the proceedings relate was made with the consent in writing of a person who, at the time of giving the consent, represented that he was authorized by the performers to give it on their behalf; and
- (b) that the person making the record, film, broadcast or transmission had no reasonable grounds for believing that the person giving the consent was not so authorized,

the provisions of this Act shall apply as if it had been proved that the performers had themselves consented in writing to the making of the record, film, broadcast or transmission.

Giving of consent without authority.

10.(1) Where –

- (a) a record, cinematograph film, broadcast or transmission is made with the consent in writing of a person who, at the time of giving the consent, represented that he was authorized by the performers to give it on their behalf when to his knowledge he was not so authorized; and
- (b) if proceedings were brought against the person to whom the consent was given, the consent would by virtue of section 9 afford a defence to those proceedings,

the person giving the consent is guilty of an offence against this Act and is liable on summary conviction to a fine of £50.

(2) Section 9 shall not apply to proceedings under this section.