

WIPO Questionnaire for Survey on Copyright Registration and Deposit Systems

A) COPYRIGHT REGISTRATION AND RECORDATION

1. The UK does not currently operate a copyright registration system.

2 – 20. Not applicable.

21. The UK does not have any specific legislation permitting the use of orphan works, other than the provisions discussed below:

(a) section 57 of the Copyright Designs and Patents Act 1988 (“CDPA”) provides that copyright in a literary, dramatic, musical or artistic work is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when:

a) it is not possible by reasonable enquiry to ascertain the identity of the author and

b) it is reasonable to assume

(i) the copyright has expired or

(ii) that the author died 70 years or more before the beginning of the year in which the act is done or the arrangements are made.

There are limitations to this exception in section 57

<http://www.ipo.gov.uk/cdpact1988.pdf>

(b) There are a number of other exceptions in Chapter III of Part 1 of the CDPA which may allow the use of orphan works, although they are not designed specifically for this purpose. There are similar exceptions for the use of performers’ rights in Schedule 2 to the CDPA.

(c) Paragraph 16 of Schedule 1 to the CDPA allows a literary, dramatic or musical work and some artistic works to be reproduced for the purposes of research or private study or with a view to publication if the following conditions are met

(i) the work was made before 1st August 1989;

(ii) more than 50 years have elapsed from the end of the calendar year in which the author died and

(iii) more than 100 years have elapsed after the making of the work.

(d) The Copyright Tribunal has jurisdiction to give consent to an application to make a copy of a recording of a performance if the whereabouts of the person entitled to the reproduction right of the recording cannot be ascertained by reasonable inquiry. If granted, this consent has effect as if given by the person entitled to the reproduction right so that there is no civil or criminal liability for use of the recording within the terms of the consent. The consent can only be granted if certain conditions are satisfied. These can be found in section 190 of the Copyright Designs and Patents act (as amended) 1988 (CDPA): <http://www.ipo.gov.uk/cdpact1988.pdf>

22. Various copyright sectors and collecting societies have their own practices with regard to the recording of ownership details of copyrighted works. UK publishers, the British Library and some collecting societies do however feed into the ARROW project. ARROW (Accessible Registries of Rights Information and Orphan Works

towards Europeana) is a project of national libraries, publishers and authors' collective management organisations which aims to support the EU i2010 Digital Library Project by facilitating the identification of the rights status of works with particular focus on orphan and out of print works and by creating a European registry of orphan works and a network of rights clearance centres. The British Library, Publishers Licensing Society, Copyright Licensing Agency and Authors Licensing and Collecting Society are all partners in this project. [In practice when a work that is classed as orphan has the copyright owner correctly identified, UK publishers inform ARROW so the database can be updated.]

23. Not applicable (the UK does not currently operate a copyright registration system).

24. There is no system in the UK to identify or list recorded/registered works or objects of related rights in the public domain.

25. The UK has no public registration/recordation system.

26. Not applicable (as per answers to Q24 & Q25).

B. LEGAL DEPOSIT

27. Yes.

28. The Legal Deposit Libraries Act 2003.

29. The Legal Deposit Libraries Act 2003 institutes a mandatory system of legal deposit in relation to UK publications. There are enforcement provisions in section 3 of the Act. A deposit library may apply to the court for an order requiring the publisher to comply with the obligation to deposit the work. If this is not possible, the court may order the publisher to pay the legal deposit library the cost of making good the failure to comply.

30. Preservation of Cultural Heritage.

31. Yes, works which are subject to legal deposit retain copyright protection and restrictions apply to how the legal deposit publications may be used, copied, disposed of etc.

32. Yes, see Section 42 of the Copyright Designs and Patents Act 1988. A librarian or archivist of a prescribed library may make a copy to preserve a work in its permanent collection (or that of another prescribed library or archive if the item has been lost or destroyed) .This can be restricted to when it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose.

33. The legislation is for the preservation of all printed material. It also provides for online and offline printed materials, although regulations have yet to be put in place to give effect to this. It excludes sound and audiovisual material. However, once

regulations have been put in place for offline and online printed content sound and audio visual material may be collected where incidental to the text.

34. Legal deposit obligations applies upon works being published in the UK.

35. No. All categories of printed material are included, although sound and audio visual material fall outside the scope of the scheme – and are therefore expressly excluded – but this flows from a policy decision to collect printed material, not a decision to *not* collect sound or audio visual material.

36. The Legal Deposit Libraries Act 2003 for the deposit of digital content, although regulations have yet to be put in place for this to happen. There is no distinction in the regulations between Online and offline materials; however we are considering distinctions when developing policy.

37. One to the British Library and one potentially to each of the other five deposit Libraries in the United Kingdom. No special conditions exist in relation to limited or '*de luxe*' editions.

38. The publisher.

39. The item must be delivered to the British Library within one month beginning with the day of publication. In the case of the other deposit libraries, the item must be delivered within one month beginning with the day of publication, or if later, the day on which the request is received.

40. No.

41. The British Library, the National Library of Scotland, the National Library of Wales, the Bodleian Library Oxford, the University Library Cambridge, the Library of Trinity College, Dublin.

42. The Legal Deposit Libraries Act 2003 allow for public access to the content collected under legal deposit. Access is restricted to rooms controlled by the Deposit Libraries.

43. A searchable list of content is available from the Deposit Libraries Website. This does not give access to content; it just shows it exists at the Library.

44. No.

45.

2008/09 = 550,748 (comprising 146,003 individual works plus 404,745 serial/newspaper issues)

2007/08 = 537,351 (116,349 plus 421,002)

2006/07 = 536,617 (101,534 plus 435,083)

2005/06 = 544,800 (107,831 plus 436,969)

2004/05 = 495,365 (86,026 plus 409,339)

The answers to questions 27-45 are confined to print works as the regulations governing legal deposit of non-print works (i.e. on-line, microform and offline electronic media) are still in progress.