

1974 No. 2190

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**The Copyright Royalty (Records of Musical Works)
 (Inquiries Procedure) Regulations 1974**

<i>Made - - - -</i>	<i>20th December 1974</i>
<i>Laid before Parliament</i>	<i>30th December 1974</i>
<i>Coming into Operation</i>	<i>1st February 1975</i>

The Secretary of State in exercise of powers conferred by section 8 of the Copyright Act 1956(a) and now vested in him (b) hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Copyright Royalty (Records of Musical Works) (Inquiries Procedure) Regulations 1974 and shall come into operation on 1st February 1975.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these Regulations—

“the Act” means the Copyright Act 1956;

“appointed person” means, in relation to an inquiry, the person appointed under regulation 3 of these Regulations by the Secretary of State to hold the inquiry;

“inquiry” means a public inquiry to which these Regulations apply;

“party” has, in relation to an inquiry, the meaning assigned to it by regulation 5(2) of these Regulations.

Application of Regulations

2. These Regulations apply to public inquiries held by the Secretary of State under section 8(3) of the Act for the purpose of inquiring into the question as to whether the ordinary rate of royalty or the minimum amount thereof in accordance with the provisions of section 8(2) of the Act, or in accordance with that section as last varied by an order under section 8(3) of that Act, has ceased to be equitable, either generally or in relation to any class of records.

Appointed person

3. The Secretary of State shall appoint a person to hold the inquiry on his behalf and may after consultation with the appointed person appoint not more than two persons to assist the appointed person.

(a) 1956 c. 74.
 (c) 1889 c. 63.

(b) S.I. 1970/1537 (1970 III, p. 5289).

Notification of intention to hold an inquiry

4.—(1) The Secretary of State shall send notice of his intention to hold an inquiry to every body which appears to him to be representative of a substantial number of persons who either own copyright in musical works or carry on business as manufacturers of records; and such notice shall state—

- (a) the name of the appointed person;
- (b) an address to which communications relating to the inquiry may be sent;
- (c) whether the inquiry is to extend to records generally or to be confined to any class of records and, if the latter, give a description of the class;
- (d) the period (not being less than 21 days) within which that body shall, if it wishes to be heard at the inquiry, so notify the appointed person; and
- (e) that any such notification must be accompanied by a statement of the nature of the evidence which the body proposes to adduce and a list of the documents, if any, which it proposes to produce or refer to, at the inquiry.

(2) Notwithstanding anything contained in paragraph (1) above, the Secretary of State shall—

- (a) cause notice of his intention to hold an inquiry to be published in the London, Edinburgh and Belfast Gazettes, and
- (b) take such steps as he may think appropriate to notify bodies and persons whose interests may, in his opinion, be touched upon by the inquiry of his intention to hold it and of the way in which leave to be heard at the inquiry may be obtained,

and the requirements as to the contents of the notice contained in paragraph (1) above shall apply to any such notice or notification.

Right of audience at inquiry

5.—(1) The following persons shall have a right to be heard at the inquiry:—

- (a) any body to whom the Secretary of State has sent a notice in pursuance of regulation 4(1) of these Regulations:

Provided that such body has, within the time specified in the notice or in the request of the appointed person, as the case may be (or by such later date as the appointed person may have specified under regulation 9 of these Regulations)—

- (i) notified the appointed person of its wish to be heard at the inquiry and at the same time sent to the appointed person a statement of the nature of the evidence which it proposes to adduce and a list of the documents, if any, which it proposes to produce or refer to, at the inquiry;
- (ii) complied with any request made to it by the appointed person by virtue of regulation 6(2) of these Regulations, and
- (iii) fulfilled the requirements of regulation 6(3) of these Regulations; and

(b) any other body or person with leave of the appointed person:

Provided that such body or person has, within the time specified in the notices published by the Secretary of State in pursuance of regulation 4(2)(a) of these Regulations or in the request of the appointed person, as the case may be (or by such later date as the appointed person may have specified under regulation 9 of these Regulations)—

- (i) submitted to the appointed person a written application for leave to be heard at the inquiry, accompanied by a statement of the nature of the evidence which it or he proposes to adduce and a list of the documents, if any, which it or he proposes to produce or refer to, at the inquiry;
- (ii) complied with any request made to it or him by the appointed person by virtue of regulation 6(2) of these Regulations;
- (iii) fulfilled the requirements of regulation 6(3) of these Regulations; and
- (iv) fulfilled any conditions imposed upon it or him by the appointed person when granting such leave.

(2) Any body which or person who has a right to be heard pursuant to paragraph (1) of this regulation shall, for the purpose of these Regulations, be deemed to be a party to the inquiry.

(3) A body corporate may appear by its clerk or secretary or by any other officer appointed for that purpose, or by counsel or solicitor; and any other person may appear on his own behalf or be represented by counsel, solicitor or any other person.

Amendments, further particulars, etc., and service of documents before inquiry

6.—(1) At any time before the expiry of 21 days from the end of the period specified in the notices published by the Secretary of State in accordance with regulations 4(1) and (2)(a) above—

- (a) any body which has, in accordance with regulation 5(1)(a) above, notified the appointed person of its wish to be heard at the inquiry may send to him in writing amendments to or further particulars of its statement of the nature of the evidence which it wishes to adduce or additions to the list of documents which it wishes to produce or refer to at the inquiry; and
- (b) any body which or person who has made a written application for leave to be heard at the inquiry in accordance with regulation 5(1)(b) above and sent a statement and list of documents to the appointed person in compliance with that regulation or any conditions imposed by the appointed person thereunder may send to the appointed person in writing amendments to or further particulars of his statement of the nature of the evidence which it or he wishes to adduce or additions to the list of documents which it or he wishes to produce or refer to at the inquiry.

(2) Whenever requested by the appointed person so to do, any body which has notified the appointed person of its wish to be heard at the inquiry or any

body which or person who has made written application to him for leave to be heard at the inquiry shall, within such period as may be specified in such request, send to the appointed person

- (a) such further particulars as the appointed person may request of its or his statement of the nature of the evidence which it or he wishes to adduce at the inquiry;
- (b) such number of copies as the appointed person may specify of any document which it or he has sent to the appointed person in accordance with these Regulations; and
- (c) a copy of any document which it or he wishes to produce or refer to at the inquiry.

(3) The appointed person shall cause copies of any documents which have been sent to him by any body or person in accordance with these Regulations (other than regulation 6(2)(c)) to be sent to the other bodies which have sent him notice of their wish to be heard at the inquiry and to the other bodies which and persons who have made written application to him for leave to be heard at the inquiry, other than any to which or to whom such leave has been refused; and any body which or person who has sent such a notice or made such an application shall take all reasonable steps to afford to any other such body or person an opportunity to examine the documents mentioned in its or his list, other than such documents as are readily available to that other body or person without recourse to the one in whose list the documents appear.

Notice of inquiry

7. When the appointed person is satisfied that the procedures set out in the foregoing regulations have been completed, he shall send to each party notice of the date, time and place of the inquiry and of any directions he thinks necessary to give as to the conduct of the inquiry.

Procedure at inquiry

8.—(1) Except as otherwise provided in these Regulations, the procedure at and in connection with the inquiry shall be such as the appointed person shall in his discretion determine and any evidence shall be admitted at his discretion.

(2) The parties shall be entitled to give evidence and they or their representatives may call witnesses and produce or refer to documents and be given an opportunity to put questions directly to other persons giving evidence:

Provided that no party shall, without the leave of the appointed person, be entitled to produce or refer to any document not mentioned in the list of documents sent by that party to the appointed person in accordance with regulation 5(1)(a)(i) or 5(1)(b)(i) above, or in any addition to such list sent to the appointed person under regulation 6(1) above, unless such document is mentioned in any such list of documents, or any amendment thereto, sent to the appointed person by any other body or person or has been produced or referred to at the inquiry by any other party.

(3) If any party fails to appear, the appointed person may, at his discretion, proceed with the inquiry in that party's absence or may adjourn the hearing

until a later date. Before concluding the inquiry in the absence of any party, the appointed person shall consider any documents sent to him by such party in accordance with these Regulations, provided such documents have been disclosed to the other parties before or at the inquiry.

(4) The appointed person may from time to time adjourn the inquiry, and, if the date, time and place of the adjourned inquiry are announced at the inquiry, no further notice thereof shall be required.

Extension of time

9. The appointed person may himself, and in (b) below in place of the Secretary of State, extend the time for doing any act—

(a) appointed by these Regulations,

(b) specified in any notice or notification sent or caused to be published by the Secretary of State in pursuance of regulation 4(1) or (2),

(c) contained in any request made by the appointed person by virtue of regulation 6(2),

notwithstanding that the time may have expired.

Report of the appointed person

10.—(1) As soon as practicable after the conclusion of the inquiry, the appointed person shall make a report to the Secretary of State, which shall include his findings of fact and recommendations, if any.

(2) The Secretary of State shall, as soon as reasonably practicable after receipt of such report, send a copy thereof to each party.

Notices etc.

11. Any notice or other document required to be sent to any body or person by virtue of these Regulations may be sent by post.

S. Clinton Davis,
Parliamentary Under-Secretary of State
for Companies, Aviation and Shipping,
Department of Trade.

20th December 1974.

EXPLANATORY NOTE

(This Note is not part of the Order.)

These Regulations prescribe the procedure to be followed at and in connection with an inquiry under section 8(3) of the Copyright Act 1956 to inquire into the question whether the ordinary rate of royalty, or the minimum amount thereof, provided for in that section in relation to records of musical works, has ceased to be equitable.

SI 1974/2190
ISBN 0-11-042190-6



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