

SCHEDULE 1
SOUND RECORDING QUALIFICATION
As of 31 December 2023

1. Introduction

1.1 A Sound Recording will qualify for allocations and payments of PPL's licence fee income in accordance with the provisions of this Schedule if:

- (1) it qualifies for copyright protection in the United Kingdom;
- (2) that protection was valid at the time that the rights in that Sound Recording were exercised; and
- (3) PPL controls the UK Rights in that Sound Recording in respect of that exploitation of the Sound Recording.

1.2 Sound Recordings qualify for copyright protection in two ways:

- (1) Authorship. The country of authorship must be the United Kingdom or one of certain foreign countries (which for the purpose of this Schedule are referred to as "Qualifying Countries", see further Clause 4.1), although it is not necessary for the country of authorship to have been a Qualifying Country at the time that the Sound Recording was made.
- (2) Publication. The Sound Recording must have been first published in the United Kingdom or in a Qualifying Country (although again it is not necessary for that country to have been a Qualifying Country at the time of the publication).

1.3 It is only necessary for one of the two tests in Clause 1.2 to be satisfied for copyright protection to be acquired.

Example: the country of authorship might not be the United Kingdom or a Qualifying Country but the Sound Recording will still acquire copyright protection if it was first published in the United Kingdom or a Qualifying Country.

1.4 A Sound Recording only qualifies for copyright protection whilst copyright subsists in that Sound Recording (see further Clause 5.1 below).

2. Authorship

2.1 The author of a Sound Recording is the producer of that Sound Recording (that is, the person by whom the arrangements necessary for the making of that Sound Recording were undertaken).¹

¹ Section 9(2)(aa) and Section 178 of the 1988 Act. All statutory references in this Schedule are to the 1988 Act unless stated otherwise.

- 2.2 For the Sound Recording to have copyright protection in the United Kingdom, the author of the Sound Recording must have been in one of the following four categories at the time that the Sound Recording was made (the time that the final mix of the Sound Recording was completed):
- (1) A citizen or subject of the United Kingdom or a Qualifying Country
 - (2) An individual domiciled or resident in the United Kingdom or a Qualifying Country
 - (3) A body incorporated under the law of a part of the United Kingdom or of a Qualifying Country.²
- 2.3 In identifying the country of authorship (for example, the country of nationality, residence, domicile or incorporation) under Clause 2.2:
- (1) PPL will accept that a person was resident in a country at the time that a Sound Recording was made if that person was registered for tax or for voting in central or local government elections in that country at that time.
 - (2) PPL will accept that a person was domiciled in a country at the time that a Sound Recording was made if that person had his or her permanent home in that country at that time.
- 2.4 It is not necessary for the country of authorship to have been a Qualifying Country at the time that the Sound Recording was made. However, the copyright protection will only take effect from the time that the country of authorship became a Qualifying Country (although in accordance with Clause 6.3 PPL may elect to treat the Sound Recording as qualifying for protection from an earlier date for the purposes of the Distribution Rules).
- 3. Publication**
- 3.1 Subject to Clause 3.2, a Sound Recording qualifies for copyright protection if it is first published in:
- (1) the United Kingdom,³ or
 - (2) a Qualifying Country.⁴
- 3.2 The simultaneous publication rule provides that a Sound Recording that was not first published in the United Kingdom or a Qualifying Country will still qualify for copyright protection if it was published in the United Kingdom or a Qualifying Country within 30 days of the first publication.⁵
- 3.3 For a Sound Recording to acquire copyright protection by virtue of the place where it was first published, it is not necessary for the place of publication to have been a Qualifying Country at the time of publication. However, the copyright protection will only take effect from the time that the country in which

² Sections 154(1), 154(2) and 159.

³ Section 155(1)(a).

⁴ Sections 155(1)(a) and 155(2).

⁵ Section 155(3).

the Sound Recording was first published became a Qualifying Country (although in accordance with Clause 6.3 PPL may elect to treat the Sound Recording as qualifying for protection from an earlier date for the purposes of the Distribution Rules).

- 3.4 Publication means the issue of copies to the public.⁶ Publication does not include the Sound Recording being played in public or being communicated to the public by electronic means (such as in a broadcast or by making available the Sound Recording for downloading).⁷

4. Qualifying Countries

- 4.1 A Qualifying Country is one that satisfies the statutory tests for copyright protection (or is treated by PPL) as providing reciprocal protection in respect of Sound Recordings. The Qualifying Countries are set out in the Annex to this Schedule.⁸ For the avoidance of doubt, the inclusion of a country in the Annex does not mean that that country has been a Qualifying Country at all previous times.⁹
- 4.2 Once a work qualifies for copyright protection, copyright does not cease to subsist because of any subsequent event (for example, the country in which the Sound Recording was first published subsequently is not included in the relevant part of the Annex).¹⁰
- 4.3 Subject to Clause 6.3, where the Sound Recording is created before the date on which the relevant country was added to the Annex, the copyright protection only applies to the use of the copyright from that date.

5. Duration of copyright

- 5.1 Subject to Clauses 6.1 to 6.5, the duration of copyright protection in Sound Recordings in Section 13A(2) of the 1988 Act (and in respect of which the UK Rights shall subsist in Sound Recordings) shall be taken by PPL to expire:
- (1) 50 years from the end of the calendar year in which they were made; or
 - (2) if they were published (or played in public or communicated to the public) in the UK within that period, 70 years from the end of the calendar year in which that act took place.¹¹

⁶ Section 175(1)(a).

⁷ Section 175(4)(c).

⁸ The Annex is consistent with the countries that are Qualifying Countries under Sections 154 and 159 of the 1988 Act or, as the case may be, the Copyright and Performances (Application to other Countries) Order 2016 SI No 1219.

⁹ The rules for Qualifying Countries are different depending on whether or not the licence fee income relates to public performances, communications to the public (such as broadcasts) or to dubbing. However, for ease of presentation such distinctions are not set out in Annex 1 as a sound recording qualifying for protection for some rights by reference to one country is likely to qualify for protection for other rights by reference to one or more other countries under the tests in Clause 1.2.

¹⁰ Section 153(3).

¹¹ The 50 year period was extended to 70 years for certain sound recordings pursuant to The Copyright and Duration of Rights in Performances Regulations 2013 SI No 1782. Note that this legislative change does not affect the distribution of monies for the use of sound recordings up to 31 December 2013.

6. Presumptions

- 6.1 Unless PPL is given reason to believe that a Sound Recording is not protected by copyright (insofar as the UK Rights are concerned), PPL shall be entitled to rely upon the information for that Sound Recording on the PPL Repertoire Database when determining whether it qualifies for copyright protection under the Distribution Rules.

Example: PPL shall be entitled to rely on the publication date for the Sound Recording provided by the relevant Record Company.

- 6.2 Where it appears from information provided by a Record Company that PPL controls some or all of the UK Rights in a Sound Recording then unless PPL is given reason to believe otherwise, PPL shall be entitled to treat the relevant parts of the UK Rights in that Sound Recording as being controlled by PPL for the purposes of the Rules.

- 6.3 Where PPL determines that it is reasonable in all the circumstances it may allocate an appropriate share of licence fee income to a Record Company and the relevant Performers in respect of the use of a Sound Recording in the whole or a part of a particular Exploitation Period even if that use took place:

- (1) Before the date on which the country of authorship or the country of publication became a Qualifying Country within that Exploitation Period;
- (2) Before the date on which the Record Company responsible for that Sound Recording joined PPL within that Exploitation Period (assuming that such Sound Recording was not previously in PPL's repertoire by virtue of an assignment or agency appointment from another Record Company);
- (3) Before the date on which the Record Company responsible for that Sound Recording acquired the relevant rights in that Sound Recording (and transferred such rights to PPL) (assuming that such Sound Recording was not previously in PPL's repertoire by virtue of an assignment or agency appointment from another Record Company); or
- (4) After the date on which (for whatever reason) PPL no longer controlled the UK Rights in that Sound Recording (or copyright no longer subsisted in that Sound Recording).

- 6.4 Where in each case PPL has decided that it is reasonable in all the circumstances (such as where there is not satisfactory evidence to the contrary), PPL shall be entitled to:

- (1) rely upon the presumptions in Section 105(1) of the 1988 Act as to the owner of the copyright in a Sound Recording, the year of its first publication and the country of first publication; and/or

- (2) presume that the producer of a Sound Recording under Clause 2.1 is of the same nationality as the country of recording (the place of the final mix) for that Sound Recording; and/or
 - (3) presume that a Sound Recording was made in the same year as its date of first publication.
- 6.5 In respect of the duration of the copyright in any sound recording, where it is reasonable in all the circumstances PPL shall be entitled to presume that for any sound recording:
 - (1) the “use it or lose it” provisions in Section 198HA of the 1988 Act have not been exercised; and/or
 - (2) the duration of the copyright in the sound recording is not reduced below the periods in Clause 5.1 by reason of Section 13A(4) of the 1988 Act.

7. Interpretation

- 7.1 Definitions used in the Distribution Rules shall apply to this Schedule unless stated otherwise.
- 7.2 References to a “Clause” are to a clause in this Schedule unless where indicated otherwise.
- 7.3 The use of examples in this Schedule (and its Annex) is for information only and these examples do not form part of this Schedule (and Annex).
- 7.4 The headings in this Schedule (and its Annex) are for information only and do not form part of this Schedule (and Annex).

Annex Qualifying Countries

This Annex sets out the Qualifying Countries as at 31 December 2023. For the avoidance of doubt, the inclusion of a country in any of the lists does not mean that that country has been a Qualifying Country at any time prior to the publication of this list.

Afghanistan
Albania
Algeria
Andorra
Angola
Antigua and Barbuda
Argentina
Armenia
Australia (including Norfolk Island)
Austria
Azerbaijan
Bahamas
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Belize
Benin
Bermuda
Bhutan
Bolivia
Bosnia-Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cambodia
Cameroon
Canada
Cape Verde
Central African Republic
Chad
Chile
China
Colombia
Comoros
Congo
Cook Islands
Costa Rica
Cote d'Ivoire
Croatia

Cuba
Cyprus, Republic of
Czech Republic
Democratic Republic of the Congo
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Equatorial Guinea
Estonia
Faeroe Islands
Fiji
Finland
France (including all Overseas Departments and Territories)
Gabon
Gambia
Georgia
Germany
Ghana
Gibraltar
Greece
Greenland
Grenada
Guatemala
Guernsey
Guinea
Guinea-Bissau
Guyana
Haiti
Holy See
Honduras
Hong Kong
Hungary
Iceland
India
Indonesia
Ireland, Republic of
Isle of Man
Israel
Italy
Jamaica
Japan
Jersey
Jordan
Kazakhstan
Kenya
Kiribati
Korea, Democratic People's Republic of

Korea, Republic of
Kuwait
Kyrgyzstan (previously Kyrgyz Republic)
Lao People's Democratic Republic
Latvia
Lebanon
Lesotho
Liberia
Libyan Arab Jamahiriya (previously Libya)
Liechtenstein
Lithuania
Luxembourg
Macao
Macedonia (former Yugoslav Republic of)
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Mauritania
Mauritius
Mexico
Micronesia, Federated States of
Moldova, Republic of
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nauru
Nepal
Netherlands
Netherlands Aruba Curacao, Sint Maarten and Antilles
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar

Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
Sao Tome and Principe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovak Republic
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Sudan
Suriname
Swaziland
Sweden
Switzerland
Syrian Arab Republic
Taiwan
Tajikistan
Tanzania, United Republic of
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Tuvalu
Uganda
Ukraine
United Arab Emirates
United States of America (including Puerto Rico and all territories and possessions)
Uruguay
Uzbekistan
Vanuatu
Venezuela
Vietnam
Yemen
Zambia
Zimbabwe