

SCHEDULE 1
SOUND RECORDING QUALIFICATION
As of 31 December 2019

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 has been designated (or is treated by PPL) as providing reciprocal protection in respect of Sound Recordings. The Qualifying Countries are set out in Annex 1 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.

- 4.2 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.⁹ The Annex therefore distinguishes between:

- (1) Qualifying Countries in respect of dubbing,¹⁰
- (2) Qualifying Countries in respect of public performances,¹¹
- (3) Qualifying Countries in respect of broadcasts,¹² and
- (4) Qualifying Countries in respect of other communications to the public.¹³ Such communications to the public include using a Sound Recording in a making available service or in any other electronic transmission to the public that is not a broadcast (an example being a listen again service such as the BBC i-player).

- 4.3 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

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 See Sections 154 and 159 of the 1988 Act and Articles 3, 4 and 5 of the 2016 Order as to which countries are designated as qualifying countries for the individual rights.

¹⁰ The right of copying Sound Recordings under Section 17 of the 1988 Act.

¹¹ The right to play Sound Recordings in public under Section 19 of the 1988 Act.

¹² The right to broadcast Sound Recordings under Section 20 and Section 6 of the 1988 Act, but excluding all other communications to the public.

¹³ The right to communicate the Sound Recordings to the public under Section 20 of the 1988 Act (excluding the right to broadcast the work).

Sound Recording was first published subsequently is not included in the relevant part of the Annex).¹⁴

- 4.4 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.¹⁵

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

¹⁴ Section 153(3).

¹⁵ 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.

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 2019. 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.

The first column identifies the country. The second column indicates whether that country is a Qualifying Country in respect of dubbing. The third column indicates whether the country is a Qualifying Country in respect of public performances. The fourth column indicates whether the country is a Qualifying Country in respect of broadcasts. The fifth column indicates whether the Country is a Qualifying Country in respect of other communications to the public under Section 20 of the 1988 Act (such as making available).

As explained in Clause 3.2, a Sound Recording that is published in a country that is not a Qualifying Country in respect of public performances, broadcast and other communications to the public under Section 20 of the 1988 Act may still qualify for protection in respect of all such performances and communications if there was “simultaneous publication” in a Qualifying Country.

Country	Dubbing	Public performances	Broadcasts	Other communications to the public
Afghanistan	Yes	No	No	No
Albania	Yes	Yes	Yes	Yes
Algeria	Yes	Yes	Yes	Yes
Andorra	Yes	Yes	Yes	Yes
Angola	Yes	No	No	No
Antigua and Barbuda	Yes	No	No	No
Argentina	Yes	Yes	Yes	Yes
Armenia	Yes	Yes	Yes	Yes
Australia (including Norfolk Island)	Yes	Yes	Yes	Yes
Austria	Yes	Yes	Yes	Yes
Azerbaijan	Yes	Yes	Yes	Yes
Bahamas	Yes	No	No	No
Bahrain	Yes	Yes	Yes	Yes
Bangladesh	Yes	Yes	Yes	Yes
Barbados	Yes	Yes	Yes	Yes
Belarus	Yes	Yes	Yes	Yes
Belgium	Yes	Yes	Yes	Yes
Belize	Yes	Yes	Yes	Yes
Benin	Yes	No	No	Yes
Bermuda	Yes	No	No	No
Bhutan	Yes	No	No	No
Bolivia	Yes	Yes	Yes	Yes
Bosnia-	Yes	Yes	Yes	Yes

Country	Dubbing	Public performances	Broadcasts	Other communications to the public
Herzegovina				
Botswana	Yes	No	No	Yes
Brazil	Yes	Yes	Yes	Yes
Brunei Darussalam	Yes	No	No	Yes
Bulgaria	Yes	Yes	Yes	Yes
Burkina Faso	Yes	Yes	Yes	Yes
Burundi	Yes	No	No	No
Cambodia	Yes	No	No	No
Cameroon	Yes	No	No	No
Canada	Yes	Yes	Yes	Yes
Cape Verde	Yes	Yes	Yes	Yes
Central African Republic	Yes	No	No	No
Chad	Yes	No	No	No
Chile	Yes	Yes	Yes	Yes
China	Yes	No	No	Yes
Colombia	Yes	Yes	Yes	Yes
Comoros	Yes	No	No	No
Congo	Yes	Yes	Yes	Yes
Cook Islands	Yes	No	No	Yes
Costa Rica	Yes	Yes	Yes	Yes
Cote d'Ivoire	Yes	No	No	No
Croatia	Yes	Yes	Yes	Yes
Cuba	Yes	No	No	No
Cyprus, Republic of	Yes	Yes	Yes	Yes
Czech Republic	Yes	Yes	Yes	Yes
Democratic Republic of the Congo	Yes	No	No	No
Denmark	Yes	Yes	Yes	Yes
Djibouti	Yes	No	No	No
Dominica	Yes	Yes	Yes	Yes
Dominican Republic	Yes	Yes	Yes	Yes
Ecuador	Yes	Yes	Yes	Yes
Egypt	Yes	No	No	No
El Salvador	Yes	Yes	Yes	Yes
Equatorial Guinea	Yes	No	No	No
Estonia	Yes	Yes	Yes	Yes
Faeroe Islands	Yes	No	No	Yes
Fiji	Yes	Yes	Yes	Yes
Finland	Yes	Yes	Yes	Yes
France (including all Overseas Departments and Territories)	Yes	Yes	Yes	Yes
Gabon	Yes	No	No	Yes
Gambia	Yes	No	No	No
Georgia	Yes	Yes	Yes	Yes
Germany	Yes	Yes	Yes	Yes

Country	Dubbing	Public performances	Broadcasts	Other communications to the public
Ghana	Yes	Yes	Yes	Yes
Gibraltar	Yes	Yes	Yes	Yes
Greece	Yes	Yes	Yes	Yes
Greenland	Yes	No	No	No
Grenada	Yes	No	No	No
Guatemala	Yes	Yes	Yes	Yes
Guernsey	Yes	Yes	Yes	Yes
Guinea	Yes	No	No	Yes
Guinea-Bissau	Yes	No	No	No
Guyana	Yes	No	No	No
Haiti	Yes	No	No	No
Holy See	Yes	No	No	No
Honduras	Yes	Yes	Yes	Yes
Hong Kong	Yes	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Yes
Iceland	Yes	Yes	Yes	Yes
India	Yes	Yes	Yes	Yes
Indonesia	Yes	Yes	Yes	Yes
Ireland, Republic of	Yes	Yes	Yes	Yes
Isle of Man	Yes	Yes	Yes	Yes
Israel	Yes	Yes	Yes	Yes
Italy	Yes	Yes	Yes	Yes
Jamaica	Yes	Yes	Yes	Yes
Japan	Yes	Yes	Yes	Yes
Jersey	Yes	Yes	Yes	Yes
Jordan	Yes	No	No	Yes
Kazakhstan	Yes	No	No	Yes
Kenya	Yes	No	No	No
Korea, Democratic People's Republic of	Yes	No	No	No
Korea, Republic of	Yes	Yes	Yes	Yes
Kuwait	Yes	No	No	No
Kyrgyzstan (previously Kyrgyz Republic)	Yes	Yes	Yes	Yes
Lao People's Democratic Republic	Yes	No	No	No
Latvia	Yes	Yes	Yes	Yes
Lebanon	Yes	Yes	Yes	Yes
Lesotho	Yes	Yes	Yes	Yes
Liberia	Yes	Yes	Yes	Yes
Libyan Arab Jamahiriya (previously Libya)	Yes	No	No	No
Liechtenstein	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes
Luxembourg	Yes	Yes	Yes	Yes
Macao	Yes	No	No	No
Macedonia (former	Yes	Yes	Yes	Yes

Country	Dubbing	Public performances	Broadcasts	Other communications to the public
Yugoslav Republic of)				
Madagascar	Yes	No	No	No
Malawi	Yes	Yes	Yes	Yes
Malaysia	Yes	Yes	Yes	Yes
Maldives	Yes	No	No	No
Mali	Yes	No	No	Yes
Malta	Yes	Yes	Yes	Yes
Mauritania	Yes	No	No	No
Mauritius	Yes	No	No	No
Mexico	Yes	Yes	Yes	Yes
Micronesia, Federated States of	Yes	No	No	No
Moldova, Republic of	Yes	Yes	Yes	Yes
Monaco	Yes	Yes	Yes	Yes
Mongolia	Yes	No	No	Yes
Montenegro	Yes	Yes	Yes	Yes
Morocco	Yes	No	No	Yes
Mozambique	Yes	No	No	No
Myanmar	Yes	No	No	No
Namibia	Yes	No	No	No
Nepal	Yes	No	No	No
Netherlands	Yes	Yes	Yes	Yes
Netherlands Aruba Curacao, Sint Maarten and Antilles	Yes	No	No	No
New Zealand	Yes	Yes	Yes	Yes
Nicaragua	Yes	Yes	Yes	Yes
Niger	Yes	Yes	Yes	Yes
Nigeria	Yes	Yes	Yes	Yes
Norway	Yes	Yes	Yes	Yes
Oman	Yes	No	No	No
Pakistan	Yes	Yes	Yes	Yes
Panama	Yes	Yes	Yes	Yes
Papua New Guinea	Yes	No	No	No
Paraguay	Yes	Yes	Yes	Yes
Peru	Yes	Yes	Yes	Yes
Philippines	Yes	Yes	Yes	Yes
Poland	Yes	Yes	Yes	Yes
Portugal	Yes	Yes	Yes	Yes
Qatar	Yes	Yes	Yes	No
Romania	Yes	Yes	Yes	Yes
Russian Federation	Yes	Yes	Yes	Yes
Rwanda	Yes	No	No	No
Saint Kitts and Nevis	Yes	No	No	No
Saint Lucia	Yes	Yes	Yes	Yes
Saint Vincent and	Yes	No	No	Yes

Country	Dubbing	Public performances	Broadcasts	Other communications to the public
the Grenadines				
Samoa	Yes	No	No	No
Sao Tome and Principe	Yes	No	No	No
Saudi Arabia	Yes	No	No	No
Senegal	Yes	No	No	Yes
Serbia	Yes	Yes	Yes	Yes
Sierra Leone	Yes	No	No	No
Singapore	Yes	No	No	Yes
Slovak Republic	Yes	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes	Yes
Solomon Islands	Yes	No	No	No
South Africa	Yes	No	No	No
Spain	Yes	Yes	Yes	Yes
Sri Lanka	Yes	No	No	No
Sudan	Yes	No	No	No
Suriname	Yes	No	No	No
Swaziland	Yes	No	No	No
Sweden	Yes	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes	Yes
Syrian Arab Republic	Yes	Yes	Yes	Yes
Taiwan	Yes	Yes	Yes	Yes
Tajikistan	Yes	Yes	Yes	Yes
Tanzania, United Republic of	Yes	No	No	No
Thailand	Yes	Yes	Yes	Yes
Togo	Yes	Yes	Yes	Yes
Tonga	Yes	No	No	No
Trinidad and Tobago	Yes	No	No	Yes
Tunisia	Yes	No	No	No
Turkey	Yes	Yes	Yes	Yes
Uganda	Yes	No	No	No
Ukraine	Yes	Yes	Yes	Yes
United Arab Emirates	Yes	Yes	Yes	Yes
United States of America (including Puerto Rico and all territories and possessions)	Yes	No	No	Yes
Uruguay	Yes	Yes	Yes	Yes
Uzbekistan	Yes	No	No	Yes
Vanuatu	Yes	No	No	No
Venezuela	Yes	Yes	Yes	Yes
Vietnam	Yes	Yes	Yes	Yes
Yemen	Yes	No	No	No
Zambia	Yes	No	No	No
Zimbabwe	Yes	No	No	No

