

## Regulator Assessment: Qualifying Regulatory Provisions

<b>Title of proposal</b>	Orphan Works
<b>Lead Regulator</b>	Intellectual Property Office
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<b>Date of assessment</b>	29 March 2017
<b>Commencement date</b>	Various: July 2015, November 2015, September 2016
<b>Origin</b>	Domestic
<b>Does this include implementation of a Cutting Red Tape review?</b>	No
<b>Which areas of the UK will be affected?</b>	All UK

### **Brief outline of proposed new or amended regulatory activity**

An orphan works licensing scheme was set up in October 2014 for the Intellectual Property Office (IPO) to provide licences for works where the copyright holder is unknown or cannot be found, subject to the applicant paying the appropriate fees and completing a diligent search. More information about orphan works and the collection of guidance is available at <https://www.gov.uk/guidance/copyright-orphan-works>.

Eight sets of guidance or publicity material on Orphan Works have been published to date, and some have been updated to clarify some of the guidance. The two sets of updated guidance in scope of this BIT assessment are:

- Overview of the orphan works licensing scheme – published October 2014, updated July 2015
- Diligent search guidance – published September 2014, updated November 2015 and September 2016

### **Which type of business will be affected? How many are estimated to be affected?**

The impact assessment originally projected 1500 works applied for per year. This level has not been seen to date.

Overview of the orphan works licensing scheme

- Number of applications after updated guidance issued July 2015: 50

Diligent search guidance

- Number of applications, 11 November 2015 – 29 September 2016: 29
- Number of applications, 30 September 2016 – 29 March 2017: 8

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NB Applicants since July 2015 have included 9 book publishers, 6 museums, 6 archives, 5 music producers, 3 film producers, a shoe manufacturer, a charity, and a drinks manufacturer.<sup>1</sup> For reference, the number of businesses in these fields are:

Type of business (based on applicants to scheme)	Number
Book publishing, SIC 5811 <sup>2</sup>	2255
Museums activities, SIC 9102	655
Library and archives activities, SIC 9101	325
Sound recording and music publishing activities, SIC 5920	3160
Motion picture; video and television programme production activities, SIC 5911	17,745
Manufacture of footwear, SIC 1520	195
Charities (England, Wales) <sup>3</sup>	167,109
Charities (Scotland) <sup>4</sup>	24,055
Charities (Northern Ireland) <sup>5</sup>	4017
Manufacture of soft drinks; production of mineral waters and other bottled waters, SIC 1107	285
TOTAL	219,801

Out of scope applicants include private individuals/creators and Government bodies: 18/50 applicants since July 2015 (36%). 80 applications received in the first two years of operation, so we might make an optimistic projection of 50 applications over 10 years. This would be 500 applicants; discounting 36% individuals or Government authorities; total 320 businesses.

Summary of costs and benefits						
Price base year	Implementation date	Duration of policy (years)	Net Present Value	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2015	2015	10	0	0	0	0

<sup>1</sup> Applicant information available at <https://www.orphanworkslicensing.service.gov.uk/view-register>.

<sup>2</sup> Business numbers are referenced with SIC codes taken from Office for National Statistics, *UK business; activity, size and location: 2016* <https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/ukbusinessactivitysizeandlocation>

<sup>3</sup> Charity Commission register statistics, 31 December 2016 <https://www.gov.uk/government/publications/charity-register-statistics/recent-charity-register-statistics-charity-commission>

<sup>4</sup> Scottish Charity Regulator Annual Report 2015-16 <http://www.oscr.org.uk/media/2297/2016-06-30-oscr-annual-report-and-accounts-2015-16.pdf>

<sup>5</sup> Charity Commission Northern Ireland Annual Report 2015-16 <http://www.charitycommissionni.org.uk/media/127832/ccni-annual-report-and-accounts-2015-16.pdf>

**Please set out the impact to business clearly with a breakdown of costs and benefits**

Key assumptions

- 320 businesses affected – see above
- All businesses assumed to be new applicants
- £9.40 hourly arts sector wage from ASHE
- Estimated total word count of all four guidance documents 18,500 words
- All guidance assumed to be read

*Benefits – time saved by implementing guidance*

320 businesses affected x 2 man hours saved x £9.40 average wage in arts sector = £6016

*Benefits – time saved from simplified guidance*

320 businesses affected x 9% non-professionals who might otherwise seek advice x £500 consultant fee = £14,400

*Costs – time spent reading guidance*

320 businesses affected x 18,500 word count x 200 words per minute reading speed x £9.40 average wage in arts sector = -£4637

*Costs – increased time spent reading guidance*

320 businesses affected x word count increase of 500 words for guidance updates x 200 words per minute reading speed x £9.40 average wage in arts sector = -£125

Time saved by implementing guidance	£6016	
Reduction in professional advice	£14400	
Benefits sub-total		£20,416
Time spent reading guidance	-£4637	
Increased time spent reading guidance	-£125	
Costs sub-total		-£4762
	Net benefit	£15,654

The orphan works licensing scheme is permissive and the impact assessment for the policy change (BIS1063) identified zero net cost as applicants would only make use of the scheme if the benefits at least outweigh the costs. In addition, some of the updates were in response to queries from applicants, in order to simplify the documents.

**Please provide any additional information (if required) that may assist the RPC to validate the BIT Score**

n/a