

# **GENERAL SCHEME**

**for a**

## **Copyright and Related Rights (Amendment) Bill 2024**

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## **HEAD 1 - LONG TITLE**

To provide that the Long Title of the Bill is:

An Act to amend the Copyright and Related Rights Act 2000

**BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:**

### **EXPLANATORY NOTE:**

It is standard to provide each Bill with a **LONG TITLE**, giving detail as to its scope and purpose, as well as a succinct **SHORT TITLE**, providing a convenient reference thereto.

This Head will be developed with the Office of the Attorney General and the Office of the Parliamentary Counsel.

## **HEAD 2 – Definition of “Qualifying Country”**

To provide for an amendment to **Section 287** of the Copyright and Related Rights Act 2000 as follows:

- (a) To add “any country, territory, state or area that is a contracting party to the WIPO Performances and Phonograms Treaty and the Rome Convention ” in this section.
- (b) Before “qualifying country” insert “A”.

### **EXPLANATORY NOTE:**

The Copyright and Related Rights Act 2000 (“the CRRA”) provides for the reciprocal treatment of foreign performers. Under this system foreign performers only receive remuneration for the public communication of a performance if their country has been deemed qualifying.

Section 287 of the CRRA provides that “qualifying country” means (a) Ireland, (b) another Member State of the EEA, or (c) to the extent that an order under section 289 so provides, a country designated under that section. To date no country has been designated under section 289.

The amendment ensures that the right to equitable remuneration under the Directive 2006/115 is granted both to performers and phonogram producers who are nationals of Member States of the European Union and to those who are nationals of other contracting parties to the WIPO Performances and Phonograms Treaty.

In addition, given the interlink between Article 3(2) of the WPPT and the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on October 26, 1961 (‘the Rome Convention’), the amendment includes the Rome Convention in the definition of qualifying country.

### **HEAD 3 – Criteria for the Division of the Single Royalty Payment between the Performers and Producers of a Phonogram**

To provide for an amendment to **Section 208** of the Copyright and Related Rights Act 2000 as follows:

- (a) A performer and a copyright owner, or their representatives, may reach an agreement regarding the portion of the single equitable remuneration payable to each party.
- (b) In default of such an agreement, an equal share to each party, less justifiable collecting costs, shall apply.
- (c) In the event that an equal share, less justifiable collecting costs, is not acceptable to one or both parties, either party may apply to the Circuit Court for a determination as to the manner of the division of the single equitable payment.
- (d) On an application being made under this section, the Circuit Court shall make such order on the division of the single equitable remuneration having regard, but not limited to, the following consideration:
  - The importance of the performer's contribution to the phonogram.
- (e) When making its assessment, the Circuit Court should consider all factors taken into consideration from an objective perspective.

#### **EXPLANATORY NOTE:**

This new section replaces the existing section 208(5), (6), (7), (8), (9) & (10) of the CRRA. It sets out the process which must be adhered to for the division of the single equitable remuneration payment between the music performers and the producer (copyright owner), i.e., the parties. This single payment, the royalty payment, is paid by a user of recorded music to the copyright owner in exchange for permission to play the sound recording in public, including the playing of the sound recording as part of a broadcast. The payment by the user is usually made by way of a license agreed with the copyright owner.

Performers of the sound recording are entitled, under the CRRA to a portion of this single payment from the producer (copyright owner). This entitlement is in the form of performers' *related rights* as set out in the CRRA.

Article 8(2) of the Rental and Lending Directive stipulates that Member States must ensure that the single equitable remuneration is shared between the relevant performers and the producers of the recorded music. It also stipulates that Member States must lay down the

conditions for the sharing of the remuneration in the absence of an agreement between the parties.

The current section 208(5) of the CRRA stipulates that if no agreement is reached regarding the division of the payment, either party may apply to the Controller for an order. The process is set out in Section 208 (6) to (10). The proposed amendment substitutes the Circuit Court for the Controller and adds criteria to facilitate the Circuit Court when making the order.

This Head allows the parties to come to an agreement regarding the portion of the single equitable remuneration payable to each party and states that in default of such an agreement, an equal share to each party shall apply. If this is not acceptable to the parties, either party may apply to the Circuit Court for a determination as to the manner of the division of the single equitable payment. It is only in these circumstances that the Court can consider the criteria provided.

## **HEAD 4 – Transitional Measures**

To provide for an amendment to **Section 208** of the Copyright and Related Rights Act 2000 as follows:

To include a transitional provision providing for the transfer of any referrals under s.208 of the CRRA presently before the Controller to the Circuit Court.

### **EXPLANATORY NOTE:**

This Head sets out what transitional arrangements will apply for any referrals under Section 208 of the CRRA which are before the Controller at the time before the coming into operation of this section. Such referrals may be carried on or completed on or after such coming into operation by the Circuit Court.