

**2013 No. 158**

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**The Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) (Amendment) Order 2013**

*Made* - - - - *27th January 2013*

*Coming into force* - - *1st April 2013*

The Secretary of State certified, for the purposes of section 35 of, and paragraph 6 of Schedule 2 to, the Copyright, Designs and Patents Act 1988 (“the Act”)(**a**), a licensing scheme to be operated by The Educational Recording Agency Limited (company number 2423219) (“ERA”) set out in the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007(**b**) (“the 2007 Order”).

ERA has applied to the Secretary of State for the 2007 Order to be amended in accordance with Article 2 of this Order.

Accordingly, the Secretary of State, in exercise of the powers conferred by section 143(**c**) of, and paragraph 16 of Schedule 2A(**d**) to, the Act, makes the following Order:

1. This Order may be cited as the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) (Amendment) Order 2013 and comes into force on 1st April 2013.

2.—(1) The 2007 Order is amended as follows.

(2) For paragraph 6 of the licensing scheme set out in the Schedule to the 2007 Order (“the licensing scheme”) substitute—

“6. “Educational Establishment” shall mean any school or other description of educational establishment defined by section 174 of the Act or as may be specified by order of the Secretary of State for the purposes of that section.”

(3) In paragraph 7(2) of the licensing scheme after sub-paragraph (b) insert “In addition this Licence may be relevant to terms and conditions for online services that authorise defined rights of non-commercial educational access or use to educational establishments on the condition that they hold a current licence from ERA.”

(4) Paragraph 8 of the licensing scheme is amended as follows—

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(a) 1988 c.48.

(b) S.I. 2007/266, amended by S.I. 2008/211, S.I. 2009/20 and S.I. 2011/159.

(c) Section 143 was amended by regulations 4 and 11 of the Copyright and Related Rights Regulations 1996 (S.I. 1996/2967) and by regulation 2 of and Schedule 2 to the Copyright and Related Rights Regulations 2003 (S.I. 2003/2498).

(d) Schedule 2A was inserted by regulations 4 and 22 of the Copyright and Related Rights Regulations 1996 and paragraph 16 of Schedule 2A was amended by regulation 2 of and Schedule 1 to the Copyright and Related Rights Regulations 2003.

(a) after the entry headed “Phonographic Performance Limited (“PPL”)” insert—

**“RADIO INDEPENDENTS GROUP (“RIG”)**

The sound recordings and any other copyright audio works owned or controlled by members of RIG and entrusted by its members to RIG and which are included in any broadcast from which an ERA recording is made.”; and

(b) in the final sub-paragraph, after “shall not authorise the recording” insert “or use”.

(5) In paragraph 10 of the licensing scheme, delete the first sub-paragraph and substitute—

“Licensees shall be required to ensure that all ERA Recordings or copies comprising ERA Recordings made under a Licence provide for sufficient acknowledgement of the service from which the ERA Recording was acquired to be given; with each ERA Recording being marked with the name of the source, the date upon which the recording was secured by or for the Educational establishment and the title of the recording.”.

(6) In paragraph 11 after “details of” delete “broadcasts and television or radio programmes or any part or parts of such programmes which are made as ERA Recordings” and substitute “how ERA Recordings are acquired or accessed”.

(7) At the end of paragraph 13 insert “and any agreements with third parties relevant to clause 9(c).”.

(8) For paragraph 17 of the licensing scheme substitute the following—

**“17A.** The annual tariff for students in Educational Establishments relevant to this clause 17A shall apply for each student.

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*For Licences taking effect on or after 1st April 2013 the annual tariff shall be:*

Students in Primary schools (including Educational Establishments known as Preparatory Schools) - 33p per head

Students in Secondary schools undertaking Secondary education - 59p per head

Students in Educational Establishments of Further Education (including former Sixth Form Colleges) who have not attained the age of 18 at the start of the education year - 59p per head

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Discounted rates may be negotiated at ERA’s discretion to cover groups of Educational Establishments relevant to this clause.

**17B.** The annual tariff for students relevant to this clause 17B shall be calculated on a full-time or full-time equivalent basis by category of student in an Educational Establishment.

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*For Licences taking effect on or after 1st April 2013 the annual tariff shall be:*

Students who have attained the age of 18 at the start of the educational year in Educational Establishments of Further Education undertaking courses of further education - £1.11p

Students in Educational Establishments of Higher Education and Students of other Educational Establishments who have attained the age of 18 at the start of the educational year when undertaking courses of Higher Education - £1.75p

Students in Educational Establishments not relevant to clause 17A or otherwise under this clause 17B but specified from time to time by the Secretary of State under s 174 of the Act - £1.75p

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Discounted rates may be negotiated at ERA’s discretion to cover groups of Educational Establishments relevant to this clause.”.

27th January 2013

*Younger of Leckie*  
Parliamentary Under Secretary of State for Business, Innovation and Skills  
Department for Business, Innovation and Skills

## EXPLANATORY NOTE

*(This note is not part of the Order)*

A licensing scheme operated by The Educational Recording Agency Limited (“ERA”) was certified for the purposes of section 35 of, and paragraph 6 of Schedule 2 to, the Copyright, Designs and Patents Act 1988 (1988 c.48) (“the Act”) by the Copyright (Certification of Licensing Scheme for Educational Recording of Broadcasts) (Educational Recording Agency Limited) Order 2007 (S.I. 2007/266) (as amended by S.I. 2008/211, S.I. 2009/20 and S.I. 2011/159) (“the 2007 Order”).

ERA wishes to amend various paragraphs of the licensing scheme certified in the 2007 Order and to adjust the annual tariff payable under licences taking effect on or after 1st April 2013.

Section 143 of, and paragraph 16 of Schedule 2A to, the Act provides that a variation of a licensing scheme is not effective unless a corresponding amendment of the order certifying the scheme is made.

This Order amends the licensing scheme set out in the Schedule to the 2007 Order to correspond with the variation to the scheme which ERA wishes to make (effective from 1st April 2013).

A regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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