

PRS Article 7(h) – Policy on applications for authorisation to grant direct licence for non-commercial uses

1. Definition of “non-commercial use” and other terms

1.1 For the purpose of this Policy: -

“*Applicant*” means the person or persons requesting Authorisation under this Policy;

“*Authorisation*” means the Society’s authorisation to grant a direct licence for Non-commercial Use of the Applicant’s work;

“*Non-commercial purpose*” means any purpose that is not of direct or indirect economic or commercial advantage to the User;

“*Non-commercial Use*” means, in respect of the Applicant’s work –

(a) any Use of that work that for a Non-commercial purpose; and

(b) in respect of which Use, licences are not available from the Society authorising the Use in question.

“*Use*” means the performance in public and/or communication to the public of a work and/or authorisation to give such performance and/or make such a communication;

“*User*” means and includes any person who at the time of the Use requires or would require the Society’s licence for that Use; and for the purpose of this Policy, includes the Applicant.

2. Standard non-commercial uses policy

2.1 Article 7(h) states that the Board may by general or special notice specify the Non-commercial Uses in respect of which a Member may be authorised to grant direct licences.

2.2 A general notice is one that the Board has published on the Society’s website to prospective and existing members as being a use that of itself is or will be treated by PRS as a Non-commercial Use for the purposes of enabling members to grant direct licence for such Use under this Policy. Such Uses are known as “Standard Non-commercial Uses”.

2.3 *Parameters for Standard Non-commercial Use:*

2.3.1 For the purpose of the Policy, the following shall be deemed to be a standard non-commercial Use of the Applicant’s work:

(a) the intended Use is in the UK; and

(b) the Use is for a charitable purpose or for the User’s personal, domestic or social purpose; and

(c) the User is not an existing licensee of the Society and/or, but for the intended Use of the Applicant’s work, does not otherwise require the Society’s licence for that or any other Use of the Society’s repertoire.

2.3.2 In any case where the Society determines by Notice that the Use falls within the Standard Non-commercial Use policy, Authorisation for such Use shall, unless the Society otherwise reasonably provides, be deemed to:

- take effect immediately or if later, on the date specified in the Applicant's request for the Authorisation in question;
- continue for the duration of the Member's membership or, if sooner, until the cessation of the Use to which it relates;
- be personal to the Applicant (and may not therefore be assigned, sub-licensed or otherwise transferred by him);
- be subject to a condition that:
 - any direct licence granted by the Applicant may not be assigned, sub-licensed or otherwise transferred by the User;
 - any direct licence granted by the Applicant is non-exclusive;
 - the Applicant may not restrain the Use.
- (in any case where the Applicant has not specified the works to which the request for Authorisation is made) to apply only to Works of which the Applicant is the sole author;
- incorporate the Applicant's undertaking to indemnify the Society in respect of any third party claims made as a result of any direct licence granted pursuant to the Authorisation (the wording of which undertaking is contained in the pro forma application prepared by the Society for the use of its members).

3. Uses deemed to be commercial

3.1 The following Uses are deemed commercial:

- Use by the User for more than nominal consideration or for a commercial purpose [i.e. in the course of User's profession or trade, including song writing]; free use for commercial purposes such as promotional releases for limited periods;
- Use for which the Applicant intends to grant an exclusive licence; and/or to restrain the Use of the work;
- Uses requiring the Society's licence and in respect of which the Society offers to grant or has granted to the User a blanket licence for such Use (including any Non-commercial Uses) and where, in the Society's reasonable opinion, it would be impracticable for the Society to isolate the Use of the Applicant's work from the licence and/or any royalty payable thereunder;

3.2 Applications made by publishers on their own account (rather than on behalf of a writer) will be presumed to be for a commercial purpose.

3.3 PRS should consider whether any application falling under the deemed commercial Use is suitable for Article 7(f) (PRS declining to license) or 7(g) (self-administration of live concerts).

4. Non-standard non-commercial uses [for consideration by or with the authority of the Board]

4.1 Where an Applicant requests Authorisation in respect of a Use that is neither a Standard Non-commercial Use nor a Deemed Commercial Use, the request should be referred to the Board (or its delegated decision-maker) for special notice under

Article 7(h) and, if approved, notice given to the Applicant that the Board considers the Use to be non-commercial for direct licensing purposes:

4.2 Examples:

4.2.1 non-commercial Uses for which blanket licences are available but where the Use concerned would be subject to a discrete charge under the relevant licensing scheme or licence and the right holder's works are the only works to which the charge relates;

4.2.2 Uses outside of UK.

5. Notice periods

5.1 Rule 11B requires the Applicant to apply for Authorisation on not less than one month's notice ("notice period") and for the Society to respond within 10 days of such request.

5.2 However, the notice period is deemed waived in any case where the application is for a Use falling within the Standard Non-commercial Uses Policy and the Applicant has, in a form prescribed by the Society for that purpose, notified PRS of its intention to grant a direct licence for such Non-commercial use in accordance with that Policy.