
**RULES AND REGULATIONS
OF THE PERFORMING RIGHT SOCIETY LIMITED**

as adopted on 18 August 2020



RULES AND REGULATIONS

OF THE

PERFORMING RIGHT SOCIETY LIMITED

AN ASSOCIATION OF COMPOSERS, AUTHORS AND PUBLISHERS OF MUSIC

Limited by Guarantee – No Share Capital

This edition incorporates the rules made pursuant to Clause 3(d) of the Memorandum of Association and Article 65 of the Articles of Association, as adopted on 18 August 2020, and regulations prescribed pursuant to Articles 52 and 72(d) as adopted on the same date.

Registered office

2 PANCRAS SQUARE LONDON, N1C 4AG

RULES

made pursuant to Clause 3(d) of the Memorandum of Association
and Article 65 of the Articles of Association (as adopted on 18 August 2020)

RULE 1

In these Rules, unless there be something in the subject or context inconsistent therewith:

- (a) "Affiliated society" means any of the societies in other countries, having objects similar to those of the Society, with which the Society is for the time being affiliated.
- (b) "Author" includes Adapter and Translator.
- (bc) "Code" means, in relation to Rules 3 and 5, any Code of Conduct from time to time published by the Members' Council governing the conduct of Members towards or in relation to any of the Society, its members and/or employees.
- (c) "Composer" includes Arranger of non-copyright music.
- (cA) "Copyright Act" means the Copyright, Designs and Patents Act 1988 as amended from time to time.
- (cB) "Council Member" means a member of the Members' Council;
- (d) "Distribution" means any distribution which may, pursuant to these Rules, be made among the Members and Affiliated societies out of the monies received by the Society in respect of the exercise of the rights, licence or authority granted by them to the Society; and "distributed" and "distributable" have corresponding meanings.
- (dA) "Distribution Date" means:
 - (i) in relation to the Rights Revenue directly collected by the Society, the last day of the ninth calendar month immediately following the end of the Society's relevant financial year;
 - (ii) in relation to Rights Revenue received by the Society from any Affiliated society in respect of the exercise outside of the United Kingdom of the rights to be administered by the Society in the works controlled, assigned to, or operated by the Society, the last day of the sixth calendar month immediately following the receipt of such amounts.
- (e) "Dramatico-musical work" means an opera, operetta, musical play, revue or pantomime, in so far as it consists of words and music written expressly therefor.
- (f) "In writing" means written or printed, or partly written and partly printed.
- (g) "Member" means and includes any person admitted to membership of the Society pursuant to the Society's Articles of Association.
- (hA) "Members' Council" means the Members' Council for the time being of the Society, as constituted and authorised to act pursuant to the Society's Articles of Association.
- (i) "Net fee" means the net sum allocated as distributable in respect of a particular work.
- (j) "Normal basis of division" means the basis laid down by the Members' Council from time to time to regulate the apportionment of the net fees between two or more persons interested in the same work.

- (k) "Performance" includes, unless otherwise stated, any mode of acoustic presentation, including any such presentation by means of a sound recording, film, communication to the public, or by any other means, and references to "perform" and "performing" shall be construed accordingly.
- (l) "Performing right" means, in respect of any work:
- (a) the right to perform the work in public;
 - (b) the right to communicate the work to the public;
 - (c) all rights in the nature of the rights under (a) and (b) above including any extension or modification of those rights which by virtue of any present or future enactment exist or may exist;
 - (d) such corresponding rights as exist under the laws relating to copyright in all other countries in the world as in force from time to time;
 - (e) all accrued causes of action in respect of each of the rights mentioned in Article 1 (xix) (a) to (d) inclusive; and
 - (f) all parts and/or shares of or interest in each of the rights mentioned in Article 1(xix) (a) to (e).
- (m) "Persons interested" in a work means and includes any Member whom the Members' Council in its discretion from time to time determines to be the composer, author or publisher of a work as above defined or proprietor of any of the rights in such work which, under the Articles, may be administered by the Society; and any person admitted to membership as the successor of a deceased member or other deceased person whom the Members' Council in its discretion determines to have been the composer, author or publisher of such work or proprietor of any such rights in such work; and any Affiliated society.
- (n) "Proprietor" means a proprietor of any right which may be administered by the Society in any music or in any words which are or may be associated with any music.
- (o) "Publisher" in respect of any work means any Member who has:
- (i) acquired the publishing right or licence in the work;
 - (ii) given an undertaking to use all reasonable endeavours to exploit the work for the benefit of the persons concerned; and
 - (iii) either:
 - (a) published the work in the normal manner customary in the music trade or otherwise exploited the work for the benefit of the persons interested therein; or
 - (b) obtained and, if so requested by the Society, filed with the Society a certificate signed by the writer(s) of the work authorising the Society to treat the member as so publishing or exploiting the work; provided that such certificate shall have no effect if at the time it was given or at the time the publisher acquired the publishing right or licence in the work, the writer(s) had no interest in the copyright in the work.
- (p) "relevant financial year" means, in relation to a distribution, the financial year in which the Rights Revenue from out which that distribution is made was collected and/or received by the Society.
- (q) "Rights Revenue" means all sums referred to in Rule 2(b) of these Rules.
- (r) "Share" means such proportion of the net fee as may be allocated to a person interested in a particular work.
- (s) "Society" means Performing Right Society Limited.

- (t) Words importing the singular number include the plural number and vice versa.
- (u) Words importing the masculine gender include the feminine.
- (v) Words importing persons include corporations.
- (w) "Work" means a work in which the Society owns or controls any of the rights which, under the Articles, may be administered by the Society.
- (x) "Film" has the meaning ascribed to it in Section 5B of the Copyright Act.
- (y) "Musical work", without prejudice to the generality of the expression, includes:
 - (i) any part of a musical work,
 - (ii) any vocal or instrumental music recorded on the soundtrack of any film,
 - (iii) any musical accompaniment to non-musical plays,
 - (iv) any words or music of monologues having a musical introduction or accompaniment,
 - (v) any other words (or parts of words) which are associated with a musical work (even if the musical work itself is not in copyright, or even if the performing right in the musical work is not administered by the Society).
- (z) Any reference in these Rules to "communication to the public" shall be deemed to be a reference to that term as it is defined in the Copyright Act; and related expressions shall be construed accordingly. For the avoidance of doubt, nothing in these Rules shall affect or be construed as affecting the right of the owner of the copyright in a work to copy or to authorise the copying of the work on or in connection with the making and/or reception of the communication of that work to the public.

RULE 2

- (a) By virtue of the rights vested or required to be vested in the Society pursuant to its Articles of Association, the Society shall exercise and enforce, in accordance with these Rules, and for the benefit of its Members and the members of Affiliated societies, all the rights and remedies conferred and provided by the Copyright Act and all other Acts for the time being in force, in relation to all works the rights in which are vested in or controlled by or required to be vested in or controlled by the Society, pursuant to the said Articles. All monies received by the Society in respect of the exercise of the rights, licence or authority granted by the Members and the Affiliated societies shall, subject to the said Articles, be divided, apportioned, distributed or otherwise dealt with in accordance with these Rules.
- (b) All sums collected and/or received by the Society in respect of the exercise in the United Kingdom and overseas of the rights to be administered by the Society in the works controlled, assigned to, or operated by the Society shall in the first place be credited to such separate revenue accounts as the Members' Council shall from time to time direct.
- (c) The Society's expenses of, and incidental to, the collection and distribution of its revenue and the carrying out and administration of its business and operations shall be deducted from the sums credited respectively to the said revenue accounts in such a manner and in such proportions as the Members' Council shall from time to time direct. All sums remaining after such deductions as are authorised by these Rules or the Articles shall be distributed among the persons interested in the several works, in such manner and in such proportions as the Members' Council may from time to time determine, having regard to such value, in relation to the rights being administered by the Society in the said works, as the Members' Council may from time to time assign to each work and to the number of times the rights have been exercised in each work as determined from the returns made by the licensees of the Society or in such other manner as the Members' Council may from time to time determine, and as regards each such work among the persons interested therein in accordance with the normal basis of division, subject to Article 11B and Article 11C of the Articles of Association and paragraph (f) and (j) of this Rule. Provided that pending

such distribution the Members' Council may authorise the application of such amounts from the revenue accounts to the purchase of such investments, and upon such terms, as the Members' Council shall from time to time determine.

- (d) All sums received by the Society other than those specified in paragraph (b) of this Rule shall be dealt with and distributed in accordance with paragraphs (b) and (c) of this Rule, subject to such modifications as may be necessary or the Members' Council may from time to time direct.
- (e) In the case of works the performing right in which was controlled by the Society before the 6th day of March, 1934, the distribution of fees shall be governed by the Rules in force immediately prior to the 19th day of March, 1934, save as amended by paragraph (i) of this Rule.
- (f)
 - (i) Subject to paragraph (ii) below, in the case of works the performing right in which was first controlled by the Society on or after the 6th day of March 1934, the distribution of fees shall be governed by the present Rules, and the normal basis of division may be varied by agreement between the persons interested in such works upon written notice of such agreement, being given to the Society in a manner acceptable to the Society. Provided that the share of the publisher and/ or proprietor of the performing right shall not exceed one half of the net fee.
 - (ii) In the case of any work specially written for a film, the performing right in which work was first controlled by the Society on or after the 4th day of July 1990, the share of the publisher shall not exceed two-twelfths (or its decimal equivalent as determined by the Members' Council) of the net fee, unless in the agreement between the publisher and the writer(s) of the work, the publisher has undertaken to use all reasonable endeavours to exploit the work for the benefit of the writer(s) by means additional to the inclusion of the work in the soundtrack of the film for which it was commissioned and the public performance or communication to the public of the film in question.
- (g)
 - (i) Subject to paragraph (ii) below, any member may by notice in writing to the Society require the Society to pay any person named in such notice the whole or any stated proportion of the total sum allocated to such member at any given distribution, provided that such notice:
 - (a) does not specify any particular work;
 - (b) shall, in the absence of a term expressly excluding the right of any person named in the notice to enforce any provision thereof as against the Society, be deemed to incorporate such a term; andalways provided that such notice shall cease to have effect automatically upon the bankruptcy, liquidation or cessation of business of such member.
 - (ii) Any payment to be made by the Society pursuant to a notice under paragraph (i) above, shall be subject to the right of the Society or others to receive the whole or part of such total sum allocated to the member at such distribution.
- (ga) Where in relation to any work, the Society is, after taking all necessary measures to identify the persons interested in that work, unable to distribute the net fee on or before the Distribution Date and there are no other objective reasons preventing the Society from meeting that Date, the Members' Council shall –
 - (i) cause such sums to be kept in such separate account or accounts as the Council shall direct;
 - (ii) by not later than three months after the Distribution Date, cause to be made available to the members and to its Affiliated societies the following information in respect of the work, where available: the title; the name of the rightholder and/ or relevant publisher or producer; and any other relevant information which could assist in identifying the rightholder ("the Information");

- (iii) where the steps taken in sub-paragraph (ii) above fail to enable the Society to identify the person interested in the work, cause to make the Information available to the public not later than one year after the expiry of the three month period referred to in sub-paragraph (ii).
- (gb) Where, notwithstanding the steps taken in Rule 2(ga), the Society is unable to identify the person interested in the work for the purposes of paying that person the sum before the expiration of three years from the end of the relevant financial year, the sum shall on the expiration of that period be deemed to be "non-distributable" for the purposes of the following Rule 2(gc) PROVIDED that no sum shall be deemed non-distributable under this Rule where the identity of the person interested in the work has been ascertained or is ascertainable by the Society, but that, having verified its records and other readily available records relating to that person, the Society has been unable to locate the person interested for the purposes of effecting payment of the sum. Such sum shall be considered "unclaimed" for the purposes of these Rules and shall be dealt with in accordance with the provisions of Rule 2(h).
- (gc) All sums deemed non-distributable under Rule 2(gb) shall be dealt with in accordance with the following provisions:
 - (i) where the sum relates to any share which may be payable to a publisher or proprietor of the work, the sum shall, where the composer and/or author of the work has been identified, be paid to, as the case may be, that composer and/or author and/or the Affiliated society of which the composer and/or author is a member;
 - (ii) unless the general meeting shall have otherwise decided, all sums other than sums referred to in Rule 2(gc)(i), shall be credited to such revenue accounts as the Council shall from time to time direct and distributed pro rata amongst the persons entitled to participate in the distribution at which the sum was allocated.
- (gd) The provisions of Rule 2(ga) to (gc) apply to Rights Revenue collected and/or received by the Society on and after 1 January 2013.
- (h) All sums allocated and unclaimed for three years after the sending out of the Society's notice thereof to the last known address of the Member or of the person to whom he has directed payment thereof to be made, may be forfeited and shall be credited to such revenue accounts as the Members' Council shall from time to time direct and then form part of the overall sums available for distribution.
- (i) Subject to Rule 2(ga), distributions shall be made at such period or periods in each year as may be appointed by the Members' Council, and, when made, shall be final and binding, save in respect of:-
 - (i) any valid claims made by the persons interested within a period of three years from the date of the distribution concerned, and
 - (ii) the recovery by the Society of any royalties found to have been paid in error.
- (j) The Society may recover from any member any sums paid in error by deducting such sums from any monies distributable to such member.

RULE 3

- (a) Every Member upon his admission shall, where required by the Society, notify musical works in which he is one of the persons interested as defined in Rule 1, and shall do so upon forms or in the manner prescribed by the Society, and shall thereafter where required so notify musical works to the Society as and when he becomes a person interested therein. The Society shall not be responsible for any loss or damage sustained by any Member by reason of his failure to comply with the provisions of the Rule.

- (b) In the event that a Member makes or, contrary to any Code, unreasonably fails to withdraw a notification which in the opinion of the Members' Council is false or misleading, any registration of persons interested in a work which has been made or maintained by the Society pursuant to such notification or failure shall be ineffective.

RULE 4

Information may be submitted by a Member of the Society upon forms or in any manner prescribed by the Society in relation to the performance of musical works which information shall be correct in all material particulars and may be used by the Society in assessing sums to be distributed to Members in accordance with Rule 2 above.

RULE 5

- (a) If a Member makes or, contrary to any Code, unreasonably fails to withdraw a notification under Rule 3 or provides information under Rule 4 which is incorrect, misleading or false or if any Member is a party to or benefits from any such notification, failure or information the Members' Council may in its absolute discretion having regard to the circumstances of each case seek the following remedies and take the following measures or any one or more of them.
- (b) The Members' Council may require the Member to repay any sum obtained from the Society improperly and any such sum shall be recoverable from the Member as a civil debt.
- (c) The Members' Council may withhold distributions of fees from the Member until full compensation including costs and expenses incurred by the Society has been effected and the amount of any penalty imposed pursuant to sub-paragraph (d) below has been recovered and may withhold distributions of fees from any Member in the interim where there is reason to believe that fees have been obtained improperly and while the facts are being ascertained.
- (d) The Members' Council may impose a summary penalty on a Member who has received or attempted to obtain fees improperly from the Society not exceeding three times the aggregate net fees which the Member has obtained or attempted to obtain together with reimbursement of any expenses incurred by the Society in investigating the matter. The Members' Council shall only impose a summary penalty if the Member consents to the matter being dealt with by the Members' Council after first being informed in writing of the amount of the proposed penalty and expenses and that if he does not agree to the matter being dealt with summarily by the Members' Council it will be referred to the Disciplinary Panel by way of Complaint for hearing and determination in accordance with Rule 6 below. If the Member consents in writing to the matter being dealt with by the Members' Council he shall be given an opportunity of being heard in person by a committee of Council Members or if he so elects by the Members' Council at its next meeting in order to request a cancellation or reduction of the penalty. A Member which is a partnership or limited company shall be represented by a partner or director or by a manager or an officer who is in its permanent and exclusive employment. Any penalty and any expense imposed by the Members' Council and directed by the Members' Council shall be recoverable as a civil debt from the Member.
- (e) The Members' Council may refer any matter to a committee of Council Members for investigation or for the referring of a Complaint to the Disciplinary Panel and may act on recommendations of such committee and may confirm or reduce any findings or determination of the Disciplinary Panel.
- (f) The Members' Council may take any appropriate proceedings in law and may refer any matter to the appropriate authorities.

- (g) Any net fees withheld or repaid pursuant to this Rule shall be credited to the relevant separate revenue account and shall then form part of the overall sums available for distribution, or be placed to the Reserve Fund at the discretion of the Members' Council. The amount of any penalty or expenses recovered shall be placed to the Reserve Fund.

RULE 6

- (a) In this Rule, "Complaint" means a complaint about any act or failure to act on the part of a Member in respect of which, pursuant to Rule 5, the Members' Council proposes to impose on the Member a summary penalty.
- (b) The Members' Council may appoint an independent panel to be called the Disciplinary Panel to hear and determine Complaints against Members and to impose penalties where it finds a Complaint proved.
- (b) The Disciplinary Panel shall consist of a Chairman who shall be legally qualified and two lay members. The Chairman and one lay member shall be neither employed by nor a member of the Society. The other lay member may be a member of the Society but shall not be a member of the Members' Council or of any Committee of Council Members. Remuneration of the members of the Disciplinary Panel shall be at the discretion of the Members' Council.
- (d) The Members' Council may if it thinks fit proceed by way of Complaint before the Disciplinary Panel. A Complaint shall be in writing containing a brief statement of the facts upon which the Members' Council intends to rely addressed to the Chairman of the Disciplinary Panel and a copy shall be sent to the Member concerned.
- (e) On receiving a Complaint the Chairman of the Disciplinary Panel shall give such directions as he considers appropriate to ensure a fair and orderly hearing and determination of the Complaint.
- (f) The Disciplinary Panel shall regulate its own procedure and shall determine the Complaint after a fair and impartial hearing or, if the Member concerned does not appear after being given the opportunity to appear and be heard by himself or by his representative, on the facts proved or admitted to the satisfaction of the Disciplinary Panel.
- (g) The Disciplinary Panel may dismiss a Complaint or where it finds a Complaint proved may in the exercise of its discretion make all or any of the following orders:-
 - (i) The payment of a fine the amount of which shall not exceed the costs of investigating and determining the Complaint which have fallen on the Society together with an amount not exceeding three times the average of the amounts distributed to the Member in the last three years in which distributions have been made to him.
 - (ii) An order that the Member reimburse to the Society the expense incurred by the Society in investigating and rectifying any improper claim or any improper conduct by the Member.
 - (iii) The withholding of distributions due to the Member until any fine shall have been paid and any order for costs has been discharged.
 - (iv) The withholding of distributions due to the Member as a penalty not exceeding three times the aggregate net fees which the Member has received improperly,
 - (v) A caution, warning or admonition,
 - (vi) Legal costs which shall be in the discretion of the Disciplinary Panel and shall be assessed by the Panel and awarded as a fixed sum.

- (h) Any sums of money awarded by the Disciplinary Panel shall be recoverable by the Society or by any other person to whom it is awarded as a civil debt.
- (i) Any determination by the Disciplinary Panel shall be subject to confirmation by the Members' Council and may be reduced or waived but not increased.
- (j) Nothing in this Rule shall restrict or be deemed to restrict the exercise by the Member's Council of its power under the Society's Articles of Association to terminate the membership of the Member.

RULE 7

- (a) For the purposes of this Rule:
 - (i) "Code" means any Code of Practice from time to time published by the Society relating to the rights of Members in relation to the Society;
 - (ii) "Complaint" means any complaint by a Member that the Society has in relation to him failed to act in accordance with its Constitution or any other policy, procedure or service level relating to the performance of the Society's membership activities from time to time made or approved by the Council, including the Code and the Complaints Procedure;
 - (iii) "Complaints Procedure" means any procedure from time to time published by the Society to its Members governing the management and resolution of Complaints;
 - (iv) "Distribution Complaint" means a Complaint arising out of or in connection with any distribution due or alleged by the Member to be due for any act of exploitation that occurred on or before the termination of the Member's membership or withdrawal by the Member of rights concerned;
 - (v) "Member" includes, in relation to a Distribution Complaint, a former Member of the Society;
 - (vi) "Ombudsman" means any person who is for the time being a member of the Ombudsman Association and has agreed to supply ombudsman services to the Society in relation to Complaints;
- (b) Subject to the provisions of this Rule, a Member may refer a Complaint to the Ombudsman and the Ombudsman shall hear such Complaint. The Ombudsman will make no charge to the Member for consideration of his Complaint.
- (c) Subject to Rule 7(d) below, the Ombudsman shall not accept a Complaint for consideration unless:-
 - (i) the Member notified the Society of the subject matter of the Complaint on or after 29 April 2010 and in any event within twelve months of first knowing of the matter (the "Notice"); and
 - (ii) either (a) the Society notified the Member in writing that it is unable or unwilling itself to resolve the Complaint to the Member's satisfaction and of the existence and details of the Ombudsman service ("deadlock letter"); or (b) the Society has not issued a deadlock letter within eight weeks of receiving the Notice (or such longer period as the Ombudsman may consider reasonable); and
 - (iii) the Member referred the Complaint to the Ombudsman within 60 days of the date of the deadlock letter; or if no deadlock letter is received, within four months of the Notice.
- (d) Where the Complaint is in connection with any notice terminating the membership of a principal voting or voting Member under the provisions of the Society's Articles of Association, the Ombudsman shall not accept a Complaint for consideration under this Rule

unless the Member in question has notified the Society of his Complaint before the expiry of three months after the date of such notice.

- (e) Nothing in Rule 7(c) or (d) shall limit the Ombudsman's discretion to accept for consideration a Complaint made out of time if it is satisfied that there are exceptional reasons to justify such delay.
- (f) The Ombudsman shall not accept a Complaint from any person ("Complainant") about a matter:
 - (i) to the extent such matter has been or is the subject of court proceedings or arbitration or some other independent procedure for the determination of disputes brought by the Member (unless such proceedings, arbitration or other procedure have been abandoned, stayed or suspended either by or with the consent of the relevant court, arbitral or procedural body or with the written consent of the Society);
 - (ii) which either does not concern or relate to the Complainant in his capacity as a member of the Society or to any period during which the Complainant was not a member of the Society;
 - (iii) which concerns or relates to matters which are not the responsibility of the Society;
 - (iv) if it appears to the Ombudsman that it is more appropriate that the Complaint be dealt with by a court, by arbitration, or under another complaints or conciliation procedure;
 - (v) if it appears to the Ombudsman that the Complaint is frivolous or vexatious;
 - (vi) to the extent that the complaint relates to a provision of the Society's Constitution or to the Society's commercial judgment in determining whether and, if so, on what terms a service is to be provided to its Members including whether or not the Member's membership should continue;
 - (vii) other than in relation to a Distribution Complaint, from or on behalf of any person who was not a Member at the date on which he served the Notice on the Society.
- (g) In relation to any matter forming the subject of a Complaint in respect of which the Ombudsman has previously reached a decision or conclusion (a "Concluded Complaint"), the Ombudsman shall not accept or consider:
 - (i) a new Complaint the subject matter of which and the parties to which are the same (or substantially the same) as those addressed in relation to the Concluded Complaint; or
 - (ii) a request to reconsider the Concluded Complaint, unless, in exceptional circumstances, the Ombudsman is of the opinion that (i) significant evidence or facts not available at the time of, or not taken into account in, the Ombudsman's consideration of the Concluded Complaint have come to the attention of the Ombudsman, and (ii) had such evidence or facts been so available or taken into account it is reasonably likely that the decision or conclusion reached in relation to the Concluded Complaint would have been substantially different.
- (h) The Ombudsman shall regulate its procedures and give such directions as it considers appropriate to ensure a fair and orderly investigation of the Complaint and may require:
 - (i) the Society to disclose any documents and to provide any information that the Ombudsman may lawfully and reasonably request relating to his consideration of the Complaint.
 - (ii) the Complainant to disclose any documents and to provide any information that the Ombudsman may lawfully and reasonably request relating to his or her consideration of a Complaint.

- (i) After it has heard the Complaint, the Ombudsman shall:
 - (i) inform the Society and the Complainant of his provisional conclusions;
 - (ii) If the Complainant and the Society accept the Ombudsman's provisional conclusions, then such provisional conclusions will become the Ombudsman's Final Decision.
 - (iii) If either the Complainant or the Society or both do not accept the Ombudsman's provisional conclusions, then the Ombudsman will issue a Final Decision, including his or her reasons therefor. Such Final Decision shall be made after considering any representations the Complainant or the Society or both may make in relation to the provisional conclusions.
 - (iv) Where the Ombudsman issues a Final Decision which concludes that the Society has not acted fairly or reasonably, the Ombudsman will set out his or her reasons in writing and may impose any of the following remedies requiring the Society to:
 - (a) provide an apology or explanation to the Complainant;
 - (b) award to the Complainant compensation (an Award);
 - (c) take some other practical action of direct benefit to the Complainant; or
 - (d) provide any combination of the above remedies.

Each remedy set out in paragraphs (iv)(a) to (d) above shall be referred to as a Remedy and any combination thereof as Remedies.

- (v) No Award or Remedy shall contain a punitive element nor be of greater amount than in the reasonable opinion of the Ombudsman is appropriate to compensate the Complainant for loss or damage or inconvenience suffered by reason of the acts or omissions of the Society against and in respect of which the Award or Remedy is made.
- (vi) No Award or Remedy will be made against a Complainant.
- (vii) The Final Decision shall be issued in writing and shall state the Remedies to be provided and a summary of the Ombudsman's reasons for reaching the Final Decision. A copy of the Final Decision shall be given to the Complainant and the Society together, in the case of the Complainant, with an acceptance form (addressed to the Ombudsman) (the "Acceptance Form") to be duly completed and signed by the Complainant and returned to the Ombudsman within two months of the date of the Final Decision (the "Acceptance Period"). The Final Decision shall state that if, within the Acceptance Period (or such longer period as the Ombudsman may consider reasonable), the Complainant replies to and accepts the Final Decision in full and final settlement of the subject matter of the Complaint (by duly completing, signing and returning the relevant Acceptance Form), the Final Decision shall (save in the event of fraud or manifest error) be binding on the Complainant and the Society.
- (viii) If within the Acceptance Period the Complainant either
 - (a) does not reply to the Final Decision within the Acceptance Period (or such longer period as the Ombudsman may consider appropriate); or
 - (b) replies to the Final Decision but does not accept it in full and final settlement of the subject matter of the Complaint,then the Final Decision will not be binding on the Complainant or the Society and it will be open to the Complainant to initiate any other proceedings to which the Complainant is entitled in pursuit of the Complaint.

- (ix) If the Final Decision becomes binding on the Complainant and the Society in accordance with Rule 7(i)(vii), the Ombudsman shall notify the Society of such fact within 14 days of his or her receipt of the Complainant's duly completed and signed Acceptance Form. The Society shall then provide the Remedy (including any Award (if any)) to the Complainant within 28 days of the Ombudsman's notification.
- (x) If the Final Decision does not become binding on the Complainant and the Society in accordance with Rule 7(b)(i)(viii), then the Ombudsman shall notify the Complainant and the Society of such fact within 14 days following the end of the Acceptance Period (or such longer period as the Ombudsman may consider reasonable).

RULE 8

In the event of any dispute regarding infringement or ownership of the copyright in a musical work or works in the Society's repertoire (which thereby calls into question any Member's entitlement to sums allocated or to be allocated for distribution in accordance with Rule 2) and provided the Society is notified in writing and a request is made to that effect, and if satisfied that such dispute is being actively pursued, the Members' Council may direct that payment of all or any part of such sums be suspended until the dispute has been resolved and written notice of any change in entitlement has been given to the Society.

RULE 9

Licences and receipts shall be issued by or with the authority of the Society only, and shall be in such form as the Members' Council may authorise from time to time. They shall contain such provisions and conditions as may from time to time be deemed expedient.

RULE 10

Nothing hereinbefore or hereinafter contained shall restrict the right of any Member to deal as he may think fit with his rights in any dramatico-musical works, except in so far as he may have vested such rights or any interest therein, or the control of any such rights or interest therein, in the Society.

RULE 11

No legal proceedings shall be instituted or undertaken by any Member without the sanction of the Members' Council in respect of the performing right in any works for the time being controlled by the Society.

RULE 12

Every Member shall refrain from doing anything likely to limit or prejudice the success of the Society, and shall co-operate with the Society and its Officers and with his fellow-Members in enforcing the observance of these Rules and in furthering the interests of the Society, and shall render to the Society, its Officers and his fellow-Members all reasonable assistance in that behalf.

RULE 13

- (a) For the purposes of this Rule:
 - (i) "Assignment" means the assignment to the Member of the right to perform live in public one or more of the works of which the Member is a composer or author.

- (ii) "Fee" means the sum referred to in paragraph (c) below.
- (b) The following shall be preconditions of an Assignment under Article 7(g):
 - (i) The Member shall give the Society 20 working days' written notice ("the Notice") that such Member requires the Assignment;
 - (ii) The Notice shall be in such form as the Society may reasonably prescribe and shall be signed by every Member by whom the Assignment is required.
 - (iii) The Member shall have given to the Society an indemnity in such a form as the Members' Council may from time to time reasonably require;
 - (iv) No person who has signed the Notice shall at any time prior to the service of the Notice have breached the terms of any licence or assignment granted by the Society;
- (c) The Member shall pay to the Society such sum as may be calculated from time to time by the Members' Council. In calculating such sum, the Members' Council shall only be entitled to take into account any expenses which may be reasonably incurred by the Society in connection with and/or arising out of the granting of the Assignment.
- (d) The Member's Council shall cause the form of notice, indemnity and the Fee to be published on the Society's website.

RULE 14

The following shall be pre-conditions of the exercise by a Member of the right to grant a direct licence under Article 7(h):

- (a) The Member shall have applied to the Society not less than one month in advance ("the Application") for authorisation to grant a direct licence:
- (b) The Application shall be in such form as the Society may from time to time prescribe and contain the following:
 - (i) the work(s) that will be excluded (where no work is specified, the notice will be presumed to apply to any and all of the works of which the Member is composer or publisher);
 - (ii) the proposed use, user and usage dates of the excluded works;
 - (iii) any other relevant information as we may reasonably require, to enable the exercise of this right to be given effect;
 - (iv) where the works are works of joint or co-authorship and/or are jointly published, the name(s) of the joint or co-authors and/or publisher(s), as the case may be;
 - (v) an undertaking to indemnify the Society in such form as the Members' Council may from time to time prescribe; and
 - (vi) the prescribed fee. For the purposes of this Rule, the "prescribed fee" shall be such fee as the Members' Council may from time to time prescribe pursuant to Article 15(a) to reimburse the Society for any expenses reasonably incurred in connection with the Application.
- (c) Not more than ten days after receipt of the Application, the Society shall notify the applicant as to whether or not it is willing to grant authorisation and, where it is willing to do so, any conditions to which such authorisation is subject, including the commencement date of the authorisation, its duration and such other conditions as the Society may reasonably require.

- (d) Where the Society refuses authorisation, it shall give reasons for doing so to the Member and if and where it has been paid by the applicant, return the prescribed fee.
- (e) The Society shall not be required to consider any application within the time limit referred to in Rule 14 (c) in any case where the Application does not satisfy the requirements of Rule 14 (a) to (b)(vi).
- (f) Nothing in these Rules shall prevent the Members' Council from waiving or causing to be waived the requirement for notice (or for any part of the notice period) referred to in Rule 14(a) where, in the reasonable opinion of the Members' Council, it would be in the best interests of the Society as a whole and such waiver would not thereby prejudice the effective management of rights.

RULE 15

Any additions to, or variations or alterations of these Rules shall be formulated by the Members' Council and submitted to a General Meeting of the Society for approval.

REGULATIONS FOR A ROYALTY ADVANCE SCHEME FOR WRITER AND PUBLISHER MEMBERS

1. In these Regulations, the following terms shall have the following meanings:

"Member Share" means the share of net fees from time to time allocated by the Society for distribution to the member pursuant to the rules of the Society made pursuant to the Memorandum and Articles of Association of the Society ("**Rules**") for the time being and from time to time in force in respect of the Works, together with, in respect of publisher-members only, the member's entitlement, whether present or future, vested or contingent, to any and all proceeds of sale of the Works (or any part thereof);

"Offered Royalty Entitlement" means the portion of the future Royalty Entitlement offered for sale and assignment by the member to the Society;

"Royalty Entitlement" means the member's right to the Member Share; and

"Works" means the musical works and/or associated works of which the member is for the time being and from time to time either the writer or the publisher.

2. **a) Basic Advance Scheme**

Under this scheme ("**Basic Advance Scheme**") an offer to sell and assign a fixed amount (in the amount of not less than £500) of a member's Royalty Entitlement may be accepted from any member of the Society who:-

- i) has received by way of net receipts in distributions in respect of that member's membership of the Society or any of its affiliates a sum equivalent to not less than £1,500 per annum on average over the three years and not less than £500 in each of the two years immediately preceding that member's offer to sell and assign the Offered Royalty Entitlement;
- ii) is not a Director of the Society;
- iii) is not an undischarged bankrupt or insolvent;
- iv) has given no notice to the Society under Rule 2(g) of the Rules (other than notice to pay subscriptions to an author's or composer's professional guild or other association with which the Society has an agreement to deduct and pay over such subscriptions from its members' Society fees) which is operative at the date of the offer for a sale and assignment of the Offered Royalty Entitlement;
- v) is not indebted to the Society in respect of any annual fee, special expenses or other liability under the Society's Articles of Association or Rules; and
- vi) satisfies such other criteria as the Members' Council may from time to time prescribe.

b) Premium Advance Scheme

Under this scheme ("**Premium Advance Scheme**") an offer to sell and assign a fixed amount (in the amount of not less than £250,000 where such offer is made by a writer-member or not less than £500,000 where such offer is made by a publisher-member) of a member's Royalty Entitlement may be accepted from any member of the Society who:-

- i) has received by way of net receipts in distributions in respect of a writer-member's membership of the Society or any of its affiliates a sum equivalent to not less than £1,400,000 in total over the three years immediately preceding that writer-member's application to sell and assign the Offered Royalty Entitlement or in respect of a publisher-member's membership of the Society or any of its affiliates

a sum equivalent to not less than an average of £5,000,000 per annum over the three years immediately preceding that publisher-member's application to sell and assign the Offered Royalty Entitlement;

- ii) satisfies the criteria specified in paragraphs 2(a)(ii) – (v) above;
- iii) satisfies such other criteria as the Members' Council may from time to time prescribe; and
- iv) whose offer to sell and assign their Offered Royalty Entitlement under this Premium Advance Scheme has been approved by two of the Chief Executive, Chief Financial Officer and Director of Membership & Rights of the Society (or any other officer of the Society, as designated from time to time by the Members' Council).

(Together, the Basic Advance Scheme and the Premium Advance Scheme shall be referred to as "**Schemes**").

3. The Members' Council may in its discretion at any time accept an offer to sell and assign the Offered Royalty Entitlement under the Schemes from any member of the Society notwithstanding that such member of the Society has not fulfilled the qualifying criteria for the Schemes as set out in paragraph 2 above, if the Members' Council is satisfied that there are special circumstances, in view of which it would be in the interests of the Society to accept such Offered Royalty Entitlement from such member of the Society.
4. An offer to sell and assign the Offered Royalty Entitlement under any of the Schemes must be made in writing on a form provided for the purpose by the Society.
5. Subject to the provisions of paragraph 6 below, the amount of Offered Royalty Entitlement sold and assigned by a member shall not:
 - a) under the Basic Advance Scheme, exceed one third of the average of the amounts allocated to the member by way of net receipts in distributions in respect of the member's membership in each of the immediately preceding three years or one third of the aggregate net receipts distributed to him in the immediate preceding calendar year, whichever is the greater; and
 - b) under the Premium Advance Scheme, exceed one third of the aggregate net receipts distributed to the member in the immediately preceding three years, subject always to a maximum of £1,500,000 where such sale and assignment is made by a writer-member or a maximum of £5,000,000 where such sale and assignment is made by a publisher-member,

providing always that the aggregate amount of:

- i) Offered Royalty Entitlement sold and assigned to the Society by all members under the Basic Advance Scheme;

less

- ii) all amounts received by the Society in respect of such Offered Royalty Entitlement sold and assigned under the Basic Advance Scheme,

shall not at any time exceed £3,000,000 less any amounts outstanding to the Society pursuant to the Regulations for a loan scheme for writer members (adopted on 2nd July 1981 as amended on 4th July 1990 and 12th September 1996 and 26th May 2011) ("**Loan Regulations**"); and

providing always that the aggregate amount of:

- iii) Offered Royalty Entitlement sold and assigned to the Society by all members under the Schemes;

less

- iv) all amounts received by the Society in respect of such Offered Royalty Entitlement sold and assigned under the Schemes,

shall not at any time exceed the cap provided in Article 58(a) (as amended from time to time) of the Society's Articles of Association less any amounts outstanding to the Society pursuant to the Loan Regulations).

- 6. The Members' Council may adjust the monetary amounts referred to in paragraphs 2 and 5 but not, for the avoidance of doubt the cap provided in Article 58(a) above from time to time at its discretion and any changes thereto will be notified in the eM Magazine and/or the Society's website.
- 7. a) The Society shall pay consideration equal to the full amount of any Offered Royalty Entitlement to a member upon acceptance of an offer made in accordance with paragraph 4 above. Whilst there will be no reduction in the amount paid for any Offered Royalty Entitlement, the Society shall collect an administration fee calculated by reference to the Offered Royalty Entitlement sold from the future allocation of revenue arising from investments made on Royalties ("**Non-Licence Revenue**") to be made to that member by the Society ("**Administration Fee**") such that the Society shall make distributions to that member in respect of their entitlement to Non-Licence Revenue less the Administration Fee (and the member shall receive no payment of Non-Licence Revenue after the acceptance of an offer made in accordance with paragraph 4 above until the whole of the Administration Fee has been so set-off against the member's entitlement to Non-Licence Revenue).
- b) The Administration Fee applied in respect of any Offered Royalty Entitlement and to be deducted from such member's entitlement to Non-Licence Revenue shall be calculated as the sum of an amount not exceeding the product of:
 - x) that Offered Royalty Entitlement;multiplied by
 - y) the administration fee percentage in force at the date of the Society accepts that offer to sell and assign Offered Royalty Entitlement.

The administration fee percentage applicable under paragraph 7 b)y) above shall be fixed by the Members' Council from time to time and any changes thereto will be notified in the eM Magazine and/or the Society's website. At the date of these Terms and Conditions, the administration fee percentage is 3%.

- 8. Collection of the Offered Royalty Entitlement sold and assigned by members under the Schemes shall be made by deduction from the Royalty Entitlement that would otherwise be distributed to the relevant member (or, if different, the person who under Rule 1(m) of the Rules is from time to time interest in the works to which the Royalty Entitlement relates) but for such sale and assignment of the Offered Royalty Entitlement at the time any distribution is to be made by the Society; and, other than with the express prior consent of the Society, no distribution sums which are allocated to the member shall be paid to the member in respect of that member's Royalty Entitlement until the Society has received the Offered Royalty Entitlement in full.
- 9. Members who have sold and assigned the Offered Royalty Entitlement under the Schemes shall not do any acts which may or would prevent the Society from collecting the Offered Royalty Entitlement in full pursuant to paragraph 8 above, including without limitation transferring (by way of sale, assignment or otherwise) the performing right in the whole or part of the Works (including any publishing catalogue) which give rise to any or all of the Royalty Entitlement to a third party, terminating membership of the Society, or dealing in any way with the Royalty Entitlement, other than with the express prior consent of the Society. Without prejudice to any of the foregoing, no member shall transfer to any third party (by way of sale, assignment or otherwise) any interest in the Royalty Entitlement

without including in any contract effecting such transfer an express provision making such transfer subject to the Society's right, title and interest to the Offered Royalty Entitlement.

10. By agreeing to the sale and assignment of the Offered Royalty Entitlement under the Schemes, members cease to have any right, title and interest to the Offered Royalty Entitlement. The Society shall therefore be entitled to collect the Offered Royalty Entitlement sold and assigned by members notwithstanding the occurrence of any of the following:
 - a) the death or liquidation of the member;
 - b) the member's membership of the Society being terminated pursuant to Article 9 of the Society's Articles of Association;
 - c) the member becoming a Director of the Society;
 - d) the member becoming bankrupt or insolvent or entering into any arrangement or accommodation with their creditors; or
 - e) a garnishee (third party debt) or other court order is served on the Society or on the member in respect of their entitlement to participate in royalties.
11. Any notice given under Rule 2(g) of the Rules by a member who has sold and assigned the Offered Royalty Entitlement under the Schemes and where the Society has not yet received such sold and assigned Offered Royalty Entitlement in full at the time such notice is given shall be subject to the Society's right to deduct payments in accordance with paragraph 8 above.
12. The Members' Council shall not be required to make any enquiries as to a member's financial standing before accepting an offer to sell and assign the Offered Royalty Entitlement under the Schemes, other than to verify that such member's net receipts in distributions from the Society or any of its affiliates during the preceding three years are such as to render such member eligible under paragraphs 2(a)(i) or 1(b)(i) above and that the member is not at the time of the application for a sale and assignment of the Offered Royalty Entitlement an undischarged bankrupt or insolvent in the country of such member's ordinary residence or registered office.
13. The Members' Council shall be under no obligation to accept an offer to sell and assign the Offered Royalty Entitlement from a member under the Schemes and need not give any reason for refusing any such offer to sell and assign the Offered Royalty Entitlement.
14. Save to the extent set out in these Regulations, these Regulations apply (and the Loan Regulations do not apply) to applications for advances and/or offers to sell and assign the Royalty Entitlement made by Members before 19 May 2015 as they do to any such applications and/or offers made on or after that date.

REGULATIONS

for a ballot under Article 72 (adopted on 18 August 2020)

- (1) The date of the Annual General Meeting shall be published to all Principal Voting and Voting Members not less than four calendar months before the date fixed for the AGM.
- (2) Nominations of candidates (which must comply with the provisions of Article 72 (b)(iii) of the Society's Articles of Association ("Articles")) must be received at the Society's registered office or at such email address as the Society may have prescribed for the purpose not less than three calendar months before the date fixed for the Annual General Meeting or other General Meeting of the Society ("the Nomination Deadline") unless that date falls on a date other than a business day, in which case the Nomination Deadline shall be the first business day immediately preceding. No nominations however submitted shall be accepted after 5pm on the date of the Nomination Deadline.
- (3) Each candidate shall supply in writing with his/her acceptance of the nomination;
 - (i) a short biography of his/her career not exceeding 300 words in length (but if longer, such biography may be edited by the Secretary as s/he shall in his or her absolute discretion think fit), and
 - (ii) if applicable, a complete list of directorships held currently and within the preceding five years.
- (4) As soon as possible thereafter but in any event not later than six weeks before the date of the Annual General Meeting, the Society shall in the event that there are more candidates than vacancies for the category of either writer or publisher Council Members send to all members of the Society entitled, pursuant to Article 72 of the Articles, to participate in a ballot of members for that category a list of the candidates in that category together with their biographies and a ballot paper which shall be in the form approved by the Members' Council.
- (5) A Member who is otherwise entitled to vote in a ballot held pursuant to these Regulations shall be entitled to vote in a ballot for the category of:
 - (i) Writer Council Member if (and only if) they are a Writer (or a successor in respect of a Writer);
 - (ii) Publisher Council Member if (and only if) they are a Publisher (or a successor in respect of a Publisher) other than a Designated Publisher

A Designated Publisher shall not be entitled to participate in or vote on a ballot held pursuant to these Regulations.
- (6) Completed ballot papers shall,
 - (i) if returned by post, be returned to the Society's office or to such other address within the United Kingdom as is specified for that purpose on the ballot paper;
 - (ii) if returned by electronic communication, be sent to such secure website, which shall be hosted by the scrutineers of the ballot, as is specified for that purpose on the ballot paper

and in either case on or before the date and time specified on the ballot paper and any ballot papers received after the date and time specified thereon shall be disqualified.
- (7) Any ballot papers incorrectly completed may be disqualified at the discretion of the scrutineers.
- (8) The results of any ballot shall be announced at the next General Meeting of the Society.

- (9) The ballot shall not be invalidated by reason of any accidental omission to send a ballot paper to any member entitled to vote nor by any failure of the postal system or electronic communication system not within the Society's control.
- (10) In these Regulations
- (i) anything sent or supplied to or by the Society under these Regulations may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information to be sent or supplied by or to the Society for the purposes of the Companies Act 2006;
- (ii) references to:
- a. a "ballot paper" include references to any ballot form (whether or not available in hard copy) produced for the purposes of enabling members entitled to do so to cast their ballot under these Regulations and which may be accessed by such persons and only by such persons on a secure website specially created for the purposes of such ballot ("the Secure Website");
- b. "Designated Publisher" have the meaning given to that term in Article 73(a) of the Society's Articles of Association;
- c. "vacancies" is, in relation to the office of publisher Council Member, reference to one or more vacancies in the office of any publisher Council Member other than a Designated Council Member (as that term is defined in Article 73(a) of the Society's Articles of Association).
- (iii) for the purposes of Regulation (4) –
- a. the Society shall be deemed to have sent to members the biographies and other materials by publishing them on the Secure Website; and
- b. notwithstanding anything in Regulation (5), reference to publication on the Secure Website shall be a reference to publication on that Website to every Member eligible to participate in the ballot (irrespective of the category for which that Member is eligible to participate).
- (11) Each candidate may supply with or at any time after his acceptance of a nomination but in any event by not less than six weeks before the date of the meeting a canvassing statement not exceeding 300 words (or such other number of words as the Members' Council shall have specified for publication on the Secure Website).

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