

Translation from Finnish
Legally binding only in Finnish and Swedish
Ministry of Education and Culture, Finland

Decree of the Ministry of Education and Culture on the Use of Orphan Works
(846/2014)

By decision of the Ministry of Education and Culture, the following is enacted under section 9, subsection 1 of the Act on the Use of Orphan Works (764/2013):

Section 1
Scope of application

The provisions of this Decree concerning orphan works and their authors also apply to the protected items referred to in section 1, subsection 2 of the Act on the Use of Orphan Works (764/2013) and to their rightholders.

In applying this Decree, electronic catalogues are equated with databases.

Section 2
Information sources to be used in diligent search

An organisation carrying out a diligent search referred to in section 5 of the Act on the Use of Orphan Works shall use the information sources specified in this section in addition to the organisation's own databases and catalogues. If the author is identified or known, the Population Register Centre shall also be used as an information source in the search.

In a diligent search carried out in respect of published books, newspapers, magazines and journals and any literary works contained in these, the following information sources shall be used:

- 1) Finnish National Bibliography;
- 2) databases of the National Archives Service;
- 3) databases of the Finnish Literature Society and the Society of Swedish Literature in Finland;
- 4) Finna;
- 5) databases of organisations of Finnish authors of literary works;
- 6) Finnish publisher or editor of the work;
- 7) databases of the collective management organisations Kopiosto ry and Sanasto ry.

In a diligent search carried out in respect of visual art works contained in subject-matter referred to in subsection 2 above, the following information sources shall be used:

- 1) databases of the Finnish National Gallery;
- 2) databases of the National Board of Antiquities;
- 3) databases of the Finnish Museum of Photography;
- 4) Finna;
- 5) databases of the collective management organisation Kuvasto ry.

In a diligent search carried out in respect of cinematographic works, the following information sources shall be used:

- 1) databases of the National Audiovisual Institute;
- 2) databases of the collective management organisations Tuotos ry, Kopiosto ry and Teosto ry;
- 3) Finnish Trade Register.

In a diligent search carried out in respect of phonograms, the following information sources shall be used:

- 1) Finnish National Bibliography;
- 2) databases of the National Archives Service;
- 3) Finna;
- 4) databases of the collective management organisations Teosto ry and Gramex ry;
- 5) databases of organisations of Finnish composers and performing artists.

Furthermore, the following foreign databases shall be used in a diligent search:

- 1) ARROW Plus (Accessible Registries of Rights Information and Orphan Works);
- 2) VIAF (Virtual International Authority Files);
- 3) ISNI (International Standard Name Identifier);
- 4) ISAN (International Standard Audiovisual Number).

Section 3

Submission of information

An organisation that has carried out a diligent search communicates the information referred to in section 6, subsection 1 of the Act on the Use of Orphan Works to the Office for Harmonisation in the Internal Market (the Office) for the purposes of recording it in the database of the Office, either separately for each work on the website of the Office or as a mass transfer in a manner

specified by the Office. The organisation that has communicated the information is the holder of the database entry.

Where an organisation that is not the holder of a database entry has, in a manner specified in section 7 of the Act on the Use of Orphan Works, used a work contained in its collections that has been recorded in the database of the Office as an orphan work, it communicates the information referred to in section 6, subsection 1, paragraphs 6 and 7 of the said Act for the purposes of recording it in the database on the website of the Office.

The Ministry of Education and Culture approves the information referred to in subsections 1 and 2 to be recorded in the database of the Office on the website of the Office.

Section 4 Information to be supplied on a diligent search

In addition to the information mentioned in section 6, subsection 1, paragraphs 1 and 2 of the Act on the Use of Orphan Works, the following information is also communicated to the database of the Office in order to specify an orphan work and its known or identified author:

- 1) international standard code of the work;
- 2) code that identifies the work in the organisation's collections;
- 3) description of the work, if the title of the work is not known;
- 4) category of the rightholder.

In addition to the title of an orphan work, the following may also be communicated to the database of the Office:

- 1) language of the work;
- 2) alternative title of the work;
- 3) abbreviation or translation of the title of the work.

Section 5 Details of an author of an orphan work and submission of them

The details referred to in section 8, subsection 1 of the Act on the Use of Orphan Works are the personal and contact details of an author. An author of an orphan work or his or her representative communicates the details and the grounds for the communication on the website of

the Office. Thereafter, the holder of the database entry makes the necessary changes to the information contained in the database of the Office.

To verify that a person notified as being an author of a work is the author, the author or his or her representative shall, at the request of the holder of the database entry, state what the claim on putting an end to the orphan work status of the work is based on.

The Ministry of Education and Culture approves the information referred to in subsection 1 to be recorded in the database of the Office on the website of the Office.

Section 6

Entry into force

This Decree enters into force on 29 October 2014.