

## **PRS and dramatic rights - presentations on the live stage.**

For PRS purposes there are two forms of dramatic right – **Grand Right** and **Small Right**.

**Grand Right** is not controlled by PRS and refers to:

- *dramatico musical works* such as stage musicals, musical plays, opera etc where the words and music have been specially written (a musical drama with specially written music)

*and*

- 'Ballet' – "a choreographic work having a story, plot of abstract idea devised or used for the purpose interpretation by dancing and / or miming". Any work so used, whether specially written or not, is grand right. Note that this encompasses not only classical ballet but contemporary dance forms as well. Obtaining licences from publishers is the responsibility of the producing/performing party.

In addition PRS does not control music specially written for a dramatic presentation that is itself not a *dramatico musical work*, such as a play.

**Small Right** refers, in the context of dramatic presentations, to music that is *not* specially written for the production in question. This, in the first instance, is PRS controlled.

PRS recognises two forms of dramatic music use:

- Interpolated music – performed by or audible to a character or characters in a drama, existing within the dramatic world of the presentation. This is not authorised by venue licences issued by PPL-PRS Ltd. This does not include panto which is covered by a different tariff.
- Incidental music – scene-change, transition, underscore *not* performed by or audible to a character etc. This is authorised by 'The Music Licence' issued to venues by PPL-PRS Ltd

### **Application process**

As interpolated music is not authorised by 'The Music Licence' authorisation must be applied for in advance of performances commencing using a dedicated form.

Application is made for the performance of named works in a specific production to be given at certain venues on certain dates and approval and license is limited to the same, ceasing after the last performance for which authorisation is granted. Authorisation for future productions must be applied for anew. PRS cannot process 'in principal' applications.

The (Excel) form is in three parts and requires :

- the name and contact detail for the applicant i.e. the party responsible for royalty payments and, if applicable, for the party managing the application on a day-to-day basis on behalf of the applicant
- information about the production – name; what it's about; venue/s, date/s and number of performances; broadly how the music is used
- names and writers of the works concerned and the duration of use for each work

This information is necessary for an application to be judged and processed. On occasion further detail such as a scene description or a script extract may be required.

Where necessary applications are referred on to the publishers concerned to check for availability. This is usually due to the works involved/the locale or extent of performances and naturally extends the clearance process. Publishers themselves may have their own clearance processes to go through which can involve contacting original publishers or writer representatives. Where use is approved publishers may individually opt to license direct for approved works instead of PRS doing so.

Note that there is no guarantee that any given work will be available for dramatic use: some catalogues may from time to time be simply not available or difficult to clear and rarely authorised. Requesting and pursuing such works will mean an application will have to be referred to the publishers regardless of other considerations.

After receiving an application PRS will respond with an indication as to work viability, whether publisher referral is required, time lines, costs etc. Many companies prefer at this point to avoid uncertainty and delays and opt for safer works in place of 'difficult' ones.

**\*\* Please see p6 below on the question of work availability \*\***

Advance application is necessary not only to ensure a performance does not infringe copyright but to allow the clearance process to be completed and any replacement works to be chosen and themselves approved before first performance.

Application should be made only for works that will be used if approved – applying for 'wish lists' to create a pool of works from which to choose is counterproductive as it will distort the application and give a false impression of the production by making it appear more musically orientated than it in fact will be. In doing so it will attract closer attention with a greater chance of being referred and of being licensed direct all of which prolongs the clearance process.

Works can be added during the application process, whether completely new or as replacements to unavailable works, as long as sufficient time is allowed for the approval process.

Many applications can be authorised by PRS quite quickly and most works are generally available. Best practise is to be prepared for a publisher referral (which can be time consuming) and to be flexible with regard to work choice should any be unavailable.

PRS as a rule of thumb suggests making an application 28 days in advance of first performance though shows with a lot of music should look to make application sooner if at all possible.

## **Costs**

Royalties for works licensed by PRS are assessed using Tariff T.

Where the interpolated music constitutes less than 30% of a presentation's running time (minus interval) there is a fixed rate fee dependent on the actual duration of the music as used in the show. The Tariff gives a base rate for a given duration of use which is adjusted according to a venue's size and location.

Where the content is 30% or greater there is a box-office based fee dependent on the actual percentage content concerned. At the bottom end PRS rates start at under £2 per performance for under 2 minutes of interpolated music – at the top end, for heavily musical productions of 65% content and over, the rate reaches 5% of box-office receipts.

Where a publisher licenses direct it will be at a rate of their own choosing. Affected works are removed from the PRS royalty calculation.

Once PRS fees have been finalised PRS passes the case details to PPL-PRS Ltd for an invoice to be raised which is then emailed to the applicant. Having established authorisation and the correct rate etc. PRS's part is ended at this point.

## **7(f) Notices**

When a publisher wishes to license direct for a dramatic use they request from PRS what is known as a 7(f) Notice. 7(f) Notices are work and presentation specific and have the effect of releasing rights to PRS members to allow direct licensing. This is necessary as the rights sit with PRS in the first instance. 7(f) Notices remain in force so if a presentation is put on that has previously had works 7(f)'d those works will automatically fall to the publisher to license for again and PRS will advise applicants where this impacts their application.

## **'Songs from shows'**

Works originating in *dramatico musical works* as a group are difficult to clear for dramatic use and usually unavailable. Including such a work in an application will mean that must be referred to the publishers. Often they are reserved for use in their parent show only and even when a use is notionally possible that may be subject to restrictions and limitations. Where dramatic use does go ahead it is usually licensed by the owner.

## **'Catalogue' shows**

Productions using solely or mainly works by a particular writer, artist or group, label etc ('catalogue shows') can be, at best, particularly hard to clear. The potential for association with shows is a matter owners are keenly aware of and back catalogues are carefully protected and managed properties. They may be reserved for official productions only. Anyone considering such a production may consider first ascertaining the project's viability by direct approach to the owners before developing it too far.

## **Notes on completing the dramatic right application form.**

### Applicant Tab

PRS royalties are the responsibility of and will be invoiced to the applicant so be sure the correct details are entered on the form. Where two parties have agreed to be responsible for royalties for performances at different venues and require separate invoices the confirmation of both parties is required to enable an invoice to be issued to a party other than the applicant. Once the clearance Invoices are raised and issued

### Presentation Details Tab

Please give a brief description of the presentation that illustrates both the intention and plot rather than using lines from website advertising which usually gives little relevant detail. This allows the broad dramatic context within which the music is to be used to be understood.

Venue postcodes and capacities are necessary for the eventual invoicing process as are venue capacities. Note that where there are previews the first public performance is the first preview not opening night.

Whether the music will be live or recorded or both again allows further insight into the nature of the music use. For PPL rights regarding recorded music please see below.

A presentation's running time is required for the royalty calculation.

The presentation tab asks for an indication of the nature of uses – 'passive', 'active' & 'featured'. This allows the relative prominence and importance of works to a production to be understood and can directly affect the clearance process with passive uses of potentially less consequence than featured for example. Please see below.

### Music Tab

Work Durations – whilst it is understood that these may change between making an application and actual performances, try to give the closest approximation possible. This will help PRS in assessing a show's music use when considering if a publisher referral needs to be made and enable a more accurate estimate of royalty charges to be given. Durations should be entered in *hh:mm:ss* format only.

Composer details - PRS controls musical works on behalf of writers and publishers. Giving writer (composer) details rather than recording artist for

works allows the surest and quickest identification of works to be made. Recording artist info can be given where writers cannot be identified but there is no guarantee that a work can be identified this way and it may prolong the clearance process.

Identifying interpolated music – only interpolated music should be declared on the form. Any music (live or recorded) performed by or audible to a character or characters in a dramatic presentation is interpolated. Looked at from a different angle any music existing within a presentation's dramatic world is interpolated.

A character not reacting to music does not mean it is not interpolated – music from a TV or radio, background music in a bar, for e.g. may be ignored but it is still audible within the presentation's dramatic world. This can be termed 'in-scene background music' and the use is passive i.e. there is no reaction to it.

As the form is only for interpolated music that not reacted to because it does not exist within a play's dramatic world is not a passive interpolated use but incidental music.

Interpolated music that a character reacts to and shows awareness of, from a few sung words whilst ironing to a work danced to at a party, is an active use.

Full-on 'song and dance' numbers are featured use.

Scene-change & transition music - Music that fulfils the function of transition or scene-change music is still interpolated if performed by characters or existing within the presentation's dramatic world. When performed live on stage or in accompaniment to a routine on stage the use is featured and should be noted to PRS.

Using solely or mainly music from one catalogue as incidental music may need to be treated as an associative use in a similar fashion to an interpolated music catalogue show. This should be discussed with PRS.

PRS rights in standard incidental uses are covered by PPL-PRS Ltd 'The Music Licence' held by venues for PRS rights.

**PPL** - PPL controls rights in sound recordings the public performance right in which is administered by PPL-PRS Ltd as is the public performing right in PRS repertoire. Any PPL rights and associated costs for the use of recordings for interpolated and incidental music can be ascertained, and PRS incidental music cover confirmed, by emailing [livenewbusiness@pplprs.co.uk](mailto:livenewbusiness@pplprs.co.uk) No approval is required for PPL rights re interpolated music.

PRS royalties for incidental music are charged under the terms of The Music Licence to venues but PPL royalties are charged direct to the user.

**N.B.** All applications are treated confidentially. They will be shared only on a need to know basis as the processing of an application requires: with publishers in the case of a referral (whilst the majority of PRS publisher members are UK based this may involve members based overseas) and with PPL-PRS Ltd for the purpose of invoicing.

## **Work availability**

As mentioned above there is no guarantee that any given work will prove to be available.

There are catalogues that experience has shown to be, in effect, not available or unlikely to be approved for dramatic use; those that are usually turned down; those that can only be approved by the owners and may require an involved clearance process and so forth. Where works from these catalogues are involved in an application that application has to be referred to the publisher/s and that includes all works applied for not just those that have forced the issue of referral.

That availability is variable from this to that catalogue is shown by experience. There is no list – these things vary over time and does not necessarily express a formal and fixed position re either owners or PRS.

From an approval perspective there are basically two types of work – those which, in given circumstances, PRS will itself authorise and those it cannot. Applicants may choose to avoid works of uncertain availability that may delay or otherwise jeopardise the progress of their PRS application.

Whilst considering musical options before making a formal application I am always happy to react on a face-value basis as to potential issues with work choices. Knowledge of venue/s and the number of performances concerned will help in determining the potential availability of some works. Companies may should they choose use this to inform their final music choices with a view to applying for works that PRS itself is happy to pass for cover and so ensure a quick and problem free settlement of their application.

NB - a musical work being specified in a published play for an interpolated use does not per se mean it will be available for public performance: not all playwrights write with an eye on music rights and over time catalogues that were once ok may have become unavailable.

The vast majority of works in PRS repertoire can are generally available for un-associated small scale uses and may be licensed without difficulty. Beyond a handful of catalogues PRS may use its discretion to license where circumstances such as context and production profile are appropriate.