



Intellectual Property Office

Serving the Bailiwick of Guernsey

The Image Rights (Bailiwick of Guernsey) Ordinance 2012 Moral Rights - Section 65, 66 and 68

For the purposes of this guidance note it should be noted that moral rights apply to 'natural persons' only (s75 of the Ordinance).

A Personnage whose personality is registered in accordance with the legislation has the right to be identified as the right holder whenever a person uses a protected image associated with, or registered against, that registered personality which is then made available to the public (s65 of the Ordinance).

A personage is deemed to have been identified:

- when the protected image is made available, the personage is readily identifiable to a person seeing or hearing the image—and the identification is clear;
- If a person uses a protected image in any of the circumstances set out in s27(3) of the legislation—for example in a communication to the public, in connection with sponsorship, for the purpose of marketing or endorsing goods etc (please refer to this section of the legislation for full details);
- If the image has been made available to the public by means of copies, rental, performance, communication (please see s34(3) for full details of the manner in which the image is made available which would mean it is subject to this provision in the law).

A personage's moral rights have not been infringed **UNLESS** they have been asserted in accordance with s66 of the legislation which states that the rights may be asserted generally by:

- an instrument in writing signed by the personage;
- An assignment of a registered personality or a registered personality's image rights which includes a statement from the personage in relation to their right to be identified.

In addition to the above—s68 of the Ordinance provides that a personage whose personality has been registered has the right not to have protected images associated with or registered against that registered personality subjected to derogatory treatment.

The Bailiwick of Guernsey Image Rights Register, which is published on the Intellectual Property Office website, will include a Y/N indicator as to whether a personage has generally asserted their moral rights.

The purpose of this guidance note is to provide information regarding moral rights.

It is not intended to be definitive legal advice and should not be relied upon as such.

The interpretation of Intellectual Property legislation is a matter on which the Intellectual Property Office cannot advise.

Independent legal advice is advised where there is any uncertainty.

Communications Manager

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