

## New regulation of orphan works in Russia

On 22 July 2024, **amendments\*** to the fourth part of the Russian Civil Code were adopted, addressing the regulation of orphan works. These amendments will come into force on 21 October 2024.

### Concept of orphan works

Orphan works are works which authors or right holders are unknown. A right holder is considered unknown if there is no information about their name, or if their name is known, but their address is unavailable for sending legal notices.

### Management of rights to orphan works

State-certified collective rights management organisations (“**CMOs**”) will manage the rights to orphan works, that is the rights to reproduce, distribute, and make them available to the public.

The types of works subject to such management are as follows:

- works of literature, fine arts, and decorative and applied arts;
- photographic works and works created through similar processes;
- musical works (with or without text);
- phonograms and performances.

CMOs will be responsible for maintaining a unified register and a publicly accessible database of orphan works. They will also manage a nominal bank account where remuneration for the use of these works will be deposited. CMOs will monitor licensees’ compliance with the terms of licence agreements and protect right holders’ interests in court.

If a right holder is later identified, they can claim the money owed to them, minus certain expenses.

### How to obtain the right to use an orphan work

To obtain the right to use an orphan work, efforts must first be made to find the right holder unless the work is already registered as an orphan work.

If the right holder cannot be found, or the work is already in the register, an application must be submitted to a CMO. The CMO will review the application within 15 working days to determine if the work can be used.

If approved, the applicant can enter into a non-exclusive licence agreement with the CMO. If the right holder is later found, they can terminate the agreement.

Allowed use of orphan works is limited to reproduction, distribution of copies, and communication to the public. Creating derivative works on the basis of the work or incorporating it into another work is not permitted.

### Recommendations

We recommend that companies using orphan works in their activities align their internal processes with the new regulations. If orphan works are already in use, contact a CMO to resolve the situation and avoid any potential claims from the CMO.

In turn, authors and rights holders are advised to regularly update contact information when distributing works, especially on the Internet, to prevent their works from being mistakenly listed as orphan works.

\* *In Russian*

For further information, please email the authors or your usual contact at our firm.

## Authors



**Alisa Mikheeva**  
Associate  
E [alisa.mikheeva@seamless.legal](mailto:alisa.mikheeva@seamless.legal)



**Shermet Kurbanov**  
Associate  
E [shermet.kurbanov@seamless.legal](mailto:shermet.kurbanov@seamless.legal)

*Co-authored by Elizaveta Isaeva, Paralegal in IP / Digital Law.*

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