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**Abstract:**

This article presents and evaluates the main features of the directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works, which introduces a new form of “fair use” of copyright works. The author points out to some leeway, the European legislator leaves with regard to solving the problem of using orphan works (the role of collecting societies), and describes the Polish regulation and practice in the exploitation of orphan works. In conclusion it is argued that there will be probably two parallel forms of exploitation of orphan works, i.e. the new form of permitted use of orphan works (so-called fair use) and licensing agreements managed by collecting societies.