



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER VII

#### COPYRIGHT LICENSING

#### *Implied indemnity in schemes or licences for reprographic copying*

### **136 Implied indemnity in certain schemes and licences for reprographic copying**

(1) This section applies to—

(a) schemes for licensing reprographic copying of published literary, dramatic, musical or artistic works, or the typographical arrangement of published editions, and

(b) licences granted by licensing bodies for such copying,

where the scheme or licence does not specify the works to which it applies with such particularity as to enable licensees to determine whether a work falls within the scheme or licence by inspection of the scheme or licence and the work.

(2) There is implied—

(a) in every scheme to which this section applies an undertaking by the operator of the scheme to indemnify a person granted a licence under the scheme, and

(b) in every licence to which this section applies an undertaking by the licensing body to indemnify the licensee,

against any liability incurred by him by reason of his having infringed copyright by making or authorising the making of reprographic copies of a work in circumstances within the apparent scope of his licence.

(3) The circumstances of a case are within the apparent scope of a licence if—

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*Status: This is the original version (as it was originally enacted).*

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- (a) it is not apparent from inspection of the licence and the work that it does not fall within the description of works to which the licence applies; and
  - (b) the licence does not expressly provide that it does not extend to copyright of the description infringed.
- (4) In this section “liability” includes liability to pay costs; and this section applies in relation to costs reasonably incurred by a licensee in connection with actual or contemplated proceedings against him for infringement of copyright as it applies to sums which he is liable to pay in respect of such infringement.
- (5) A scheme or licence to which this section applies may contain reasonable provision—
- (a) with respect to the manner in which, and time within which, claims under the undertaking implied by this section are to be made;
  - (b) enabling the operator of the scheme or, as the case may be, the licensing body to take over the conduct of any proceedings affecting the amount of his liability to indemnify.