



Digital Economy Act 2017

2017 CHAPTER 30

PART 4

INTELLECTUAL PROPERTY

31 Lending of e-books by public libraries

- (1) In section 5(2) of the Public Lending Right Act 1979 (interpretation) for the definition of “lent out” substitute—

““lent out” means made available to a member of the public for use away from library premises for a limited time (including by being communicated by means of electronic transmission to a place other than library premises) and “loan” and “borrowed” are to be read accordingly;”.

- (2) Section 40A of the Copyright, Designs and Patents Act 1988 (lending of copies by libraries or archives) is amended as follows.

- (3) After subsection (1) insert—

“(1ZA) Subsection (1) applies to an e-book or an e-audio-book only if—

- (a) the book has been lawfully acquired by the library, and
- (b) the lending is in compliance with any purchase or licensing terms to which the book is subject.”

- (4) In subsection (1A)—

- (a) for “subsection (1)” substitute “subsections (1) and (1ZA)”; and
- (b) after paragraph (a) insert—

“(aa) “e-audio-book” means an audio-book (as defined in paragraph (a)) in a form enabling lending of the book by electronic transmission.”.

32 Offences: infringing copyright and making available right

- (1) The Copyright, Designs and Patents Act 1988 is amended as follows.

- (2) In section 107 (criminal liability for making or dealing with infringing articles, etc), for subsection (2A) substitute—

“(2A) A person (“P”) who infringes copyright in a work by communicating the work to the public commits an offence if P—

- (a) knows or has reason to believe that P is infringing copyright in the work, and
- (b) either—
 - (i) intends to make a gain for P or another person, or
 - (ii) knows or has reason to believe that communicating the work to the public will cause loss to the owner of the copyright, or will expose the owner of the copyright to a risk of loss.

(2B) For the purposes of subsection (2A)—

- (a) “gain” and “loss”—
 - (i) extend only to gain or loss in money, and
 - (ii) include any such gain or loss whether temporary or permanent, and
- (b) “loss” includes a loss by not getting what one might get.”

- (3) In subsection (4A)(b) of that section, for “two” substitute “ten”.

- (4) In section 198 (criminal liability for making, dealing with or using illicit recordings), for subsection (1A) substitute—

“(1A) A person (“P”) who infringes a performer’s making available right in a recording commits an offence if P—

- (a) knows or has reason to believe that P is infringing the right, and
- (b) either—
 - (i) intends to make a gain for P or another person, or
 - (ii) knows or has reason to believe that infringing the right will cause loss to the owner of the right, or expose the owner of the right to a risk of loss.

(1B) For the purposes of subsection (1A)—

- (a) “gain” and “loss”—
 - (i) extend only to gain or loss in money, and
 - (ii) include any such gain or loss whether temporary or permanent, and
- (b) “loss” includes a loss by not getting what one might get.”

- (5) In subsection (5A)(b) of that section, for “two” substitute “ten”.

- (6) The amendments made by this section do not apply in relation to offences committed before this section comes into force.

33 Registered designs: infringement: marking product with internet link

- (1) Section 24B of the Registered Designs Act 1949 (exemption of innocent infringer from liability) is amended as follows.

- (2) In subsection (2) (defendant not deemed to have been aware etc that design was registered by reason of the marking of the product unless it includes the number of the design), after “the number of the design” insert “or a relevant internet link”.
- (3) After that subsection insert—
 - “(2A) The reference in subsection (2) to a relevant internet link is a reference to an address of a posting on the internet—
 - (a) which is accessible to the public free of charge, and
 - (b) which clearly associates the product with the number of the design.”

34 Copyright etc where broadcast retransmitted by cable

- (1) In the Copyright, Designs and Patents Act 1988 the following are repealed—
 - (a) sections 73 and 73A (copyright not infringed where broadcast retransmitted by cable);
 - (b) paragraphs 19 and 19A of Schedule 2 (rights in relation to performance or recording not infringed where broadcast retransmitted by cable).
- (2) In consequence the following are repealed or revoked—
 - (a) in the Copyright, Designs and Patents Act 1988—
 - (i) in section 134, subsection (3A) and, in subsection (1), the words “Subject to subsection (3A)”;
 - (ii) section 149(za);
 - (iii) section 205B(1)(cc);
 - (b) in the Broadcasting Act 1996, section 138 and Schedule 9;
 - (c) in the Copyright and Related Rights Regulations 2003 ([S.I. 2003/2498](#)), regulation 22.