

Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXXX

**COPYRIGHT
RIGHTS IN PERFORMANCES**

The Copyright and Rights in Performances
(Quotation and Parody) Regulations 2014

Made - - - - 2014
Coming into force - - 1st October 2014

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to matters relating to copyright and rights in performances(2). In accordance with paragraph 2(2) of Schedule 2 to that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Copyright and Rights in Performances (Quotation and Parody) Regulations 2014 and come into force on 1st October 2014.

Amendments to the Copyright, Designs and Patents Act 1988

2. The Copyright, Designs and Patents Act 1988(3) is amended in accordance with these Regulations.

Quotation: amendments to section 30

3.—(1) Section 30(4) is amended as follows.

(1) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part 1 of the Schedule.
(2) S.I. 1992/707 and S.I. 1993/595.
(3) 1988 c.48.
(4) Section 30 was amended by S.I. 2003/2498, regulations 3 and 10(1).

- (2) In the heading, after “review” insert “, quotation”.
- (3) In subsection (1), after “acknowledgement” insert “(unless this would be impossible for reasons of practicality or otherwise)”.
- (4) After subsection (1) insert—
 - “(1ZA) Copyright in a work is not infringed by the use of a quotation from the work (whether for criticism or review or otherwise) provided that—
 - (a) the work has been made available to the public,
 - (b) the use of the quotation is fair dealing with the work,
 - (c) the extent of the quotation is no more than is required by the specific purpose for which it is used, and
 - (d) the quotation is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).”
- (5) In subsection (1A)—
 - (a) for “subsection (1)” substitute “subsections (1) and (1ZA)”, and
 - (b) for “that subsection” substitute “those subsections”.
- (6) After subsection (3) insert—
 - “(4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of subsection (1ZA), would not infringe copyright, that term is unenforceable.”

Quotation: amendments to Schedule 2

- 4.—(1) Paragraph 2(5) of Schedule 2 is amended as follows.
- (2) In the heading, after “reviews” insert “, quotation”.
- (3) After sub-paragraph (1) insert—
 - “(1ZA) The rights conferred by this Chapter in a performance or a recording of a performance are not infringed by the use of a quotation from the performance or recording (whether for criticism or review or otherwise) provided that—
 - (a) the performance or recording has been made available to the public,
 - (b) the use of the quotation is fair dealing with the performance or recording, and
 - (c) the extent of the quotation is no more than is required by the specific purpose for which it is used.”
- (4) After sub-paragraph (1A) insert—
 - “(1B) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of sub-paragraph (1ZA), would not infringe any right conferred by this Chapter, that term is unenforceable.”

Parody

- 5.—(1) After section 30 insert—

“Caricature, parody or pastiche

30A.—(1) Fair dealing with a work for the purposes of caricature, parody or pastiche does not infringe copyright in the work.

(5) Paragraph 2 of Schedule 2 was amended by [S.I. 2003/2498](#), regulations 3 and 10(2).

(2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”

(2) In Schedule 2, after paragraph 2 insert—

“Caricature, parody or pastiche

2A.—(1) Fair dealing with a performance or a recording of a performance for the purposes of caricature, parody or pastiche does not infringe the rights conferred by this Chapter in the performance or recording.

(2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

(3) Expressions used in this paragraph have the same meaning as in section 30A.”.

Date

Name
Parliamentary Under Secretary of State for
Business, Innovation and Skills
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Copyright, Designs and Patents Act 1988 (“the Act”). Directive 2001/29 of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ No L167, 22.6.2001, p.10) permits Member States to provide for exceptions to the copyright and related rights provided under the Directive in certain cases. Article 5(3)(d) permits an exception in the case of quotations for purposes such as criticism or review. Regulation 3 amends the way in which this exception is implemented in the UK. Article 5(3)(k) of the Directive permits an exception in the case of use for the purpose of caricature, parody or pastiche. Regulation 5 introduces this exception in the UK.

Regulation 3 amends section 30 of the Act by inserting subsection (1ZA) to provide an exception to copyright for the use of a quotation from a work where the use is fair dealing with the work and to the extent that the quotation is no more than is required by the specific purpose for which it is used and the quotation is accompanied by a sufficient acknowledgement. New section 30(4) provides that any term of a contract which prevents or restricts the doing of any act permitted under new section 30(1ZA) is unenforceable. Regulation 4 amends paragraph 2 of Schedule 2 to the Act to provide an equivalent exception for quotations by the taking of an extract from a recording of a performance. The taking of an extract of a recording of a performance in accordance with paragraph 2(1ZA) does not infringe the rights conferred by Chapter 2 of Part II of the Act (rights in performances).

Regulation 5 inserts new section 30A and new paragraph 2A in Schedule 2 of the Act. New section 30A(1) provides an exception to copyright in respect of fair dealing with a work for the purposes of caricature, parody or pastiche. Subsection (2) provides that any term of a contract which prevents or restricts the doing of any act permitted under section 30A(1) is unenforceable. New paragraph 2A of Schedule 2 provides an equivalent exception for fair dealing with a performance or a recording of a performance. Fair dealing with a performance or a recording of a performance for the purposes of caricature, parody or pastiche does not infringe the rights conferred by Chapter 2 of Part II of the Act (rights in performances).

Full impact assessments of the effect that this instrument will have on the cost of business and the voluntary sector are available from the Intellectual Property Office, Concept House, Cardiff Road, Newport, NP10 8QQ and are annexed to the Explanatory Memorandum (together with a transposition note) which is available alongside the instrument on www.legislation.gov.uk.