



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER I

##### SUBSISTENCE, OWNERSHIP AND DURATION OF COPYRIGHT

###### *Descriptions of work and related provisions*

### 3 Literary, dramatic and musical works.

(1) In this Part—

“literary work” means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

- (a) a table or compilation [<sup>F1</sup>other than a database], <sup>F2</sup> . . .
- (b) a computer program; <sup>F3</sup> . . . [<sup>F4</sup>(c) preparatory design material for a computer program][<sup>F5</sup>and
- (d) a database]

“dramatic work” includes a work of dance or mime; and

“musical work” means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music.

(2) Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise; and references in this Part to the time at which such a work is made are to the time at which it is so recorded.

(3) It is immaterial for the purposes of subsection (2) whether the work is recorded by or with the permission of the author; and where it is not recorded by the author, nothing in that subsection affects the question whether copyright subsists in the record as distinct from the work recorded.

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**Annotations:**

**Amendments (Textual)**

- F1 Words in s. 3(1)(a) inserted (1.1.1998) by S.I. 1997/3032, **reg. 5(a)** (with Pt. IV)
- F2 Word in s. 3(1) omitted (1.1.1993) by virtue of S.I. 1992/3233, **reg. 3**
- F3 Word in s. 3(1)(b) left out (1.1.1998) by virtue of S.I. 1997/3032, **reg. 5(b)** (with Pt. IV)
- F4 Word and s. 3(1)(c) inserted (1.1.1993) by S.I. 1992/3233, **reg. 3**
- F5 S. 3(1)(d) and word preceding it inserted (1.1.1998) by S.I. 1997/3032, **reg. 5(c)** (with Pt. IV)

**[<sup>F6</sup>3A Databases**

- (1) In this Part “database” means a collection of independent works, data or other materials which—
  - (a) are arranged in a systematic or methodical way, and
  - (b) are individually accessible by electronic or other means.
- (2) For the purposes of this Part a literary work consisting of a database is original if, and only if, by reason of the selection or arrangement of the contents of the database the database constitutes the author’s own intellectual creation.]

**Annotations:**

**Amendments (Textual)**

- F6 S. 3A inserted (1.1.1998) by S.I. 1997/3032, **reg. 6** (with Pt. IV)

**4 Artistic works.**

- (1) In this Part “artistic work” means—
  - (a) a graphic work, photograph, sculpture or collage, irrespective of artistic quality,
  - (b) a work of architecture being a building or a model for a building, or
  - (c) a work of artistic craftsmanship.
- (2) In this Part—
  - “building” includes any fixed structure, and a part of a building or fixed structure;
  - “graphic work” includes—
    - (a) any painting, drawing, diagram, map, chart or plan, and
    - (b) any engraving, etching, lithograph, woodcut or similar work;
    - “photograph” means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced, and which is not part of a film;
    - “sculpture” includes a cast or model made for purposes of sculpture.

**[<sup>F7</sup>5A Sound recordings.**

- (1) In this Part “sound recording” means—
  - (a) a recording of sounds, from which the sounds may be reproduced, or

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- (b) a recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or part may be produced, regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced.
- (2) Copyright does not subsist in a sound recording which is, or to the extent that it is, a copy taken from a previous sound recording.]

**Annotations:**

**Amendments (Textual)**

**F7** Ss. 5A, 5B substituted for s. 5 (1.1.1996) by S.I. 1995/3297, reg. 9(1) (with Pt. III)

**[<sup>F8</sup>5B Films.**

- (1) In this Part “film” means a recording on any medium from which a moving image may by any means be produced.
- (2) The sound track accompanying a film shall be treated as part of the film for the purposes of this Part.
- (3) Without prejudice to the generality of subsection (2), where that subsection applies—
- (a) references in this Part to showing a film include playing the film sound track to accompany the film,
- [<sup>F9</sup>(b) references in this Part to playing a sound recording, or to communicating a sound recording to the public, do not include playing or communicating the film sound track to accompany the film,
- (c) references in this Part to copying a work, so far as they apply to a sound recording, do not include copying the film sound track to accompany the film, and
- (d) references in this Part to the issuing, rental or lending of copies of a work, so far as they apply to a sound recording, do not include the issuing, rental or lending of copies of the sound track to accompany the film.]
- (4) Copyright does not subsist in a film which is, or to the extent that it is, a copy taken from a previous film.
- (5) Nothing in this section affects any copyright subsisting in a film sound track as a sound recording.]

**Annotations:**

**Amendments (Textual)**

**F8** Ss. 5A, 5B substituted for s. 5 (1.1.1996) by S.I. 1995/3297, reg. 9(1) (with Pt. III)

**F9** S. 5B(3)(b)-(d) substituted (1.2.2006) for s. 5B(3)(b) and preceding word by The Performances (Moral Rights, etc.) Regulations 2006 (S.I. 2006/18), reg. 2, Sch. para. 2 (with reg. 8)

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## 6 Broadcasts.

[<sup>F10</sup>(1) In this Part a “broadcast” means an electronic transmission of visual images, sounds or other information which—

- (a) is transmitted for simultaneous reception by members of the public and is capable of being lawfully received by them, or
- (b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public,

and which is not excepted by subsection (1A); and references to broadcasting shall be construed accordingly.

(1A) Excepted from the definition of “broadcast” is any internet transmission unless it is—

- (a) a transmission taking place simultaneously on the internet and by other means,
- (b) a concurrent transmission of a live event, or
- (c) a transmission of recorded moving images or sounds forming part of a programme service offered by the person responsible for making the transmission, being a service in which programmes are transmitted at scheduled times determined by that person.]

(2) An encrypted transmission shall be regarded as capable of being lawfully received by members of the public only if decoding equipment has been made available to members of the public by or with the authority of the person making the transmission or the person providing the contents of the transmission.

(3) References in this Part to the person making a broadcast, [<sup>F11</sup>or a transmission which is a broadcast] are—

- (a) to the person transmitting the programme, if he has responsibility to any extent for its contents, and
- (b) to any person providing the programme who makes with the person transmitting it the arrangements necessary for its transmission;

and references in this Part to a programme, in the context of broadcasting, are to any item included in a broadcast.

[<sup>F12</sup>(4) For the purposes of this Part, the place from which a [<sup>F13</sup>wireless] broadcast is made is the place where, under the control and responsibility of the person making the broadcast, the programme-carrying signals are introduced into an uninterrupted chain of communication (including, in the case of a satellite transmission, the chain leading to the satellite and down towards the earth).]

[<sup>F14</sup>(4A) Subsections (3) and (4) have effect subject to section 6A (safeguards in case of certain satellite broadcasts).]

(5) References in this Part to the reception of a broadcast include reception of a broadcast relayed by means of a telecommunications system.

[<sup>F15</sup>(5A) The relaying of a broadcast by reception and immediate re-transmission shall be regarded for the purposes of this Part as a separate act of broadcasting from the making of the broadcast which is so re-transmitted.]

(6) Copyright does not subsist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast <sup>F16</sup>... .

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#### Annotations:

##### Amendments (Textual)

- F10** S. 6(1)(1A) substituted (31.10.2003) for s. 6(1) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 4\(a\)](#) (with [regs. 31-40](#))
- F11** Words in s. 6(3) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 4\(b\)](#) (with [regs. 31-40](#))
- F12** S. 6(4) substituted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by [S.I. 1996/2967](#), [reg. 5](#)
- F13** Word in s. 6(4) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 4\(c\)](#) (with [regs. 31-40](#))
- F14** S. 6(4A) inserted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by [S.I. 1996/2967](#), [reg. 6\(1\)](#)
- F15** S. 6(5A) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 4\(d\)](#) (with [regs. 31-40](#))
- F16** Words in s. 6(6) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 2\(2\)](#), [Sch. 2](#) (with [regs. 31-40](#))

#### [<sup>F17</sup>6A Safeguards in case of certain satellite broadcasts.

- (1) This section applies where the place from which a broadcast by way of satellite transmission is made is located in a country other than an EEA State and the law of that country fails to provide at least the following level of protection—
- exclusive rights in relation to [<sup>F18</sup>wireless] broadcasting equivalent to those conferred by section 20 ([<sup>F19</sup>infringement by communication to the public]) on the authors of literary, dramatic, musical and artistic works, films and broadcasts;
  - a right in relation to live [<sup>F20</sup>wireless] broadcasting equivalent to that conferred on a performer by section 182(1)(b) (consent required for live broadcast of performance); and
  - a right for authors of sound recordings and performers to share in a single equitable remuneration in respect of the [<sup>F20</sup>wireless] broadcasting of sound recordings.
- (2) Where the place from which the programme-carrying signals are transmitted to the satellite (“the uplink station”) is located in an EEA State—
- that place shall be treated as the place from which the broadcast is made, and
  - the person operating the uplink station shall be treated as the person making the broadcast.
- (3) Where the uplink station is not located in an EEA State but a person who is established in an EEA State has commissioned the making of the broadcast—
- that person shall be treated as the person making the broadcast, and
  - the place in which he has his principal establishment in the European Economic Area shall be treated as the place from which the broadcast is made.]

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**Annotations:**

**Amendments (Textual)**

- F17** S. 6A inserted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by S.I. 1996/2967, **reg. 6(2)**
- F18** Words in s. 6A(1)(a) inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), **reg. 5(3)(a)(i)** (with regs. 31-40)
- F19** Words in s. 6A(1)(a) substituted (31.10.2003) by [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), **reg. 5(3)(a)(ii)** (with regs. 31-40)
- F20** Word in s. 6A(1)(b)(c) inserted (31.10.2003.) by [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), **reg. 5(3)(b)** (with regs. 31-40)

**7 Cable programmes.**

**F21** .....

**Annotations:**

**Amendments (Textual)**

- F21** S. 7 repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), regs. 2(2), 5(1), **Sch. 2** (with regs. 31-40)

**8 Published editions.**

- (1) In this Part “published edition”, in the context of copyright in the typographical arrangement of a published edition, means a published edition of the whole or any part of one or more literary, dramatic or musical works.
- (2) Copyright does not subsist in the typographical arrangement of a published edition if, or to the extent that, it reproduces the typographical arrangement of a previous edition.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:**

- Blanket amendment text amended by [S.I. 2011/1043 art. 3 4](#)
- Blanket amendment text amended by [S.I. 2011/1043 art. 3 6](#)

**Commencement Orders yet to be applied to the Copyright, Designs and Patents Act 1988:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2011/2196 art. 2](#) commences (2007 c. 29)