



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

### CHAPTER II

#### RIGHTS OF COPYRIGHT OWNER

**Modifications etc. (not altering text)**

**C1** Pt. I Ch. II (ss. 16-27) applied (with modifications) (1.12.1996) by [S.I. 1996/2967, reg. 17\(1\)](#) (with [Pt. III](#))

*The acts restricted by copyright*

#### **16 The acts restricted by copyright in a work.**

- (1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom—
- (a) to copy the work (see section 17);
  - (b) to issue copies of the work to the public (see section 18);
  - (c) to perform, show or play the work in public (see section 19);
  - (d) to broadcast the work or include it in a cable programme service (see section 20);
  - (e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);

and those acts are referred to in this Part as the “acts restricted by the copyright”.

- (2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.

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- (3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it—
- (a) in relation to the work as a whole or any substantial part of it, and
  - (b) either directly or indirectly;
- and it is immaterial whether any intervening acts themselves infringe copyright.
- (4) This Chapter has effect subject to—
- (a) the provisions of Chapter III (acts permitted in relation to copyright works), and
  - (b) the provisions of Chapter VII (provisions with respect to copyright licensing).

## 17 **Infringement of copyright by copying.**

- (1) The copying of the work is an act restricted by the copyright in every description of copyright work; and references in this Part to copying and copies shall be construed as follows.
- (2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form.
- This includes storing the work in any medium by electronic means.
- (3) In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work and the making of a copy in two dimensions of a three-dimensional work.
- (4) Copying in relation to a film, television broadcast or cable programme includes making a photograph of the whole or any substantial part of any image forming part of the film, broadcast or cable programme.
- (5) Copying in relation to the typographical arrangement of a published edition means making a facsimile copy of the arrangement.
- (6) Copying in relation to any description of work includes the making of copies which are transient or are incidental to some other use of the work.

## 18 **Infringement by issue of copies to the public.**

- (1) The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.
- (2) References in this Part to the issue to the public of copies of a work are [<sup>F1</sup>except where the work is a computer program] to the act of putting into circulation copies not previously put into circulation, in the United Kingdom or elsewhere, and not to—
- (a) any subsequent distribution, sale, hiring or loan of those copies, or
  - (b) any subsequent importation of those copies into the United Kingdom;
- except that in relation to sound recordings, [<sup>F2</sup>and films] the restricted act of issuing copies to the public includes any rental of copies to the public.
- [<sup>F3</sup>(3) References in this Part to the issue to the public of copies of a work where the work is a computer program are to the act of putting into circulation copies of that program not previously put into circulation in the United Kingdom or any other member State, by or with the consent of the copyright owner, and not to—

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- (a) any subsequent distribution, sale, hiring or loan of those copies, or
  - (b) any subsequent importation of those copies into the United Kingdom,
- except that the restricted act of issuing copies to the public includes any rental of copies to the public.]

#### Textual Amendments

- F1** Words in s. 18(2) inserted (1.1.1993) by S.I. 1992/3233, reg. 4(1)(a)
- F2** Words in s. 18(2) substituted (1.1.1993) by S.I. 1992/3233, reg. 4(1)(b)
- F3** S. 18(3) inserted (1.1.1993) by S.I. 1992/3233, reg. 4(2)

VALID FROM 01/12/1996

#### [<sup>F4</sup>18A Infringement by rental or lending of work to the public.

- (1) The rental or lending of copies of the work to the public is an act restricted by the copyright in—
  - (a) a literary, dramatic or musical work,
  - (b) an artistic work, other than—
    - (i) a work of architecture in the form of a building or a model for a building, or
    - (ii) a work of applied art, or
  - (c) a film or a sound recording.
- (2) In this Part, subject to the following provisions of this section—
  - (a) “rental” means making a copy of the work available for use, on terms that it will or may be returned, for direct or indirect economic or commercial advantage, and
  - (b) “lending” means making a copy of the work available for use, on terms that it will or may be returned, otherwise than for direct or indirect economic or commercial advantage, through an establishment which is accessible to the public.
- (3) The expressions “rental” and “lending” do not include—
  - (a) making available for the purpose of public performance, playing or showing in public, broadcasting or inclusion in a cable programme service;
  - (b) making available for the purpose of exhibition in public; or
  - (c) making available for on-the-spot reference use.
- (4) The expression “lending” does not include making available between establishments which are accessible to the public.
- (5) Where lending by an establishment accessible to the public gives rise to a payment the amount of which does not go beyond what is necessary to cover the operating costs of the establishment, there is no direct or indirect economic or commercial advantage for the purposes of this section.
- (6) References in this Part to the rental or lending of copies of a work include the rental or lending of the original.]

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### Textual Amendments

**F4** S. 18A inserted (1.12.1996) by S.I. 1996/2967, reg. 10(2) (with Pt. III)

## 19 Infringement by performance, showing or playing of work in public.

- (1) The performance of the work in public is an act restricted by the copyright in a literary, dramatic or musical work.
- (2) In this Part “performance”, in relation to a work—
  - (a) includes delivery in the case of lectures, addresses, speeches and sermons, and
  - (b) in general, includes any mode of visual or acoustic presentation, including presentation by means of a sound recording, film, broadcast or cable programme of the work.
- (3) The playing or showing of the work in public is an act restricted by the copyright in a sound recording, film, broadcast or cable programme.
- (4) Where copyright in a work is infringed by its being performed, played or shown in public by means of apparatus for receiving visual images or sounds conveyed by electronic means, the person by whom the visual images or sounds are sent, and in the case of a performance the performers, shall not be regarded as responsible for the infringement.

## 20 Infringement by broadcasting or inclusion in a cable programme service.

The broadcasting of the work or its inclusion in a cable programme service is an act restricted by the copyright in—

- (a) a literary, dramatic, musical or artistic work,
- (b) a sound recording or film, or
- (c) a broadcast or cable programme.

## 21 Infringement by making adaptation or act done in relation to adaptation.

- (1) The making of an adaptation of the work is an act restricted by the copyright in a literary, dramatic or musical work.

For this purpose an adaptation is made when it is recorded, in writing or otherwise.

- (2) The doing of any of the acts specified in sections 17 to 20, or subsection (1) above, in relation to an adaptation of the work is also an act restricted by the copyright in a literary, dramatic or musical work.

For this purpose it is immaterial whether the adaptation has been recorded, in writing or otherwise, at the time the act is done.

- (3) In this Part “adaptation”—
  - (a) in relation to a literary [<sup>F5</sup>work, other than a computer program,] or dramatic work, means—
    - (i) a translation of the work;

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- (ii) a version of a dramatic work in which it is converted into a non-dramatic work or, as the case may be, of a non-dramatic work in which it is converted into a dramatic work;
  - (iii) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical;
- [<sup>F6</sup>(ab) in relation to a computer program, means an arrangement or altered version of the program or a translation of it;]
- (b) in relation to a musical work, means an arrangement or transcription of the work.
- (4) In relation to a computer program a “translation” includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code <sup>F7</sup> . . .
- (5) No inference shall be drawn from this section as to what does or does not amount to copying a work.

#### Textual Amendments

- F5** Words in s. 21(3)(a) inserted (1.1.1993) by S.I. 1992/3233, reg. 5(1)
- F6** S. 21(3)(ab) inserted (1.1.1993) by S.I. 1992/3233, reg. 5(2)
- F7** Words in s. 21(4) omitted (1.1.1993) by virtue of S.I. 1992/3233, reg. 5(3)

### *Secondary infringement of copyright*

#### **22 Secondary infringement: importing infringing copy.**

The copyright in a work is infringed by a person who, without the licence of the copyright owner, imports into the United Kingdom, otherwise than for his private and domestic use, an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

#### **23 Secondary infringement: possessing or dealing with infringing copy.**

The copyright in a work is infringed by a person who, without the licence of the copyright owner—

- (a) possesses in the course of a business,
- (b) sells or lets for hire, or offers or exposes for sale or hire,
- (c) in the course of a business exhibits in public or distributes, or
- (d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,

an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

#### **24 Secondary infringement: providing means for making infringing copies.**

- (1) Copyright in a work is infringed by a person who, without the licence of the copyright owner—
- (a) makes,

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- (b) imports into the United Kingdom,
- (c) possesses in the course of a business, or
- (d) sells or lets for hire, or offers or exposes for sale or hire,

an article specifically designed or adapted for making copies of that work, knowing or having reason to believe that it is to be used to make infringing copies.

- (2) Copyright in a work is infringed by a person who without the licence of the copyright owner transmits the work by means of a telecommunications system (otherwise than by broadcasting or inclusion in a cable programme service), knowing or having reason to believe that infringing copies of the work will be made by means of the reception of the transmission in the United Kingdom or elsewhere.

## **25 Secondary infringement: permitting use of premises for infringing performance.**

- (1) Where the copyright in a literary, dramatic or musical work is infringed by a performance at a place of public entertainment, any person who gave permission for that place to be used for the performance is also liable for the infringement unless when he gave permission he believed on reasonable grounds that the performance would not infringe copyright.
- (2) In this section “place of public entertainment” includes premises which are occupied mainly for other purposes but are from time to time made available for hire for the purposes of public entertainment.

## **26 Secondary infringement: provision of apparatus for infringing performance, &c.**

- (1) Where copyright in a work is infringed by a public performance of the work, or by the playing or showing of the work in public, by means of apparatus for—
  - (a) playing sound recordings,
  - (b) showing films, or
  - (c) receiving visual images or sounds conveyed by electronic means,
 the following persons are also liable for the infringement.
- (2) A person who supplied the apparatus, or any substantial part of it, is liable for the infringement if when he supplied the apparatus or part—
  - (a) he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright, or
  - (b) in the case of apparatus whose normal use involves a public performance, playing or showing, he did not believe on reasonable grounds that it would not be so used as to infringe copyright.
- (3) An occupier of premises who gave permission for the apparatus to be brought onto the premises is liable for the infringement if when he gave permission he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright.
- (4) A person who supplied a copy of a sound recording or film used to infringe copyright is liable for the infringement if when he supplied it he knew or had reason to believe that what he supplied, or a copy made directly or indirectly from it, was likely to be so used as to infringe copyright.

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### *Infringing copies*

#### **27 Meaning of “infringing copy”.**

- (1) In this Part “infringing copy”, in relation to a copyright work, shall be construed in accordance with this section.
- (2) An article is an infringing copy if its making constituted an infringement of the copyright in the work in question.
- (3) [<sup>F8</sup>Subject to subsection (3A)] An article is also an infringing copy if—
  - (a) it has been or is proposed to be imported into the United Kingdom, and
  - (b) its making in the United Kingdom would have constituted an infringement of the copyright in the work in question, or a breach of an exclusive licence agreement relating to that work.
- [<sup>F9</sup>(3A) A copy of a computer program which has previously been sold in any other member State, by or with the consent of the copyright owner, is not an infringing copy for the purposes of subsection (3).]
- (4) Where in any proceedings the question arises whether an article is an infringing copy and it is shown—
  - (a) that the article is a copy of the work, and
  - (b) that copyright subsists in the work or has subsisted at any time,
 it shall be presumed until the contrary is proved that the article was made at a time when copyright subsisted in the work.
- (5) Nothing in subsection (3) shall be construed as applying to an article which may lawfully be imported into the United Kingdom by virtue of any enforceable Community right within the meaning of section 2(1) of the <sup>M1</sup>European Communities Act 1972.
- (6) In this Part “infringing copy” includes a copy falling to be treated as an infringing copy by virtue of any of the following provisions—
  - section 32(5) (copies made for purposes of instruction or examination),
  - section 35(3) (recordings made by educational establishments for educational purposes),
  - section 36(5) (reprographic copying by educational establishments for purposes of instruction),
  - section 37(3)(b) (copies made by librarian or archivist in reliance on false declaration),
  - section 56(2) (further copies, adaptations, &c. of work in electronic form retained on transfer of principal copy),
  - section 63(2) (copies made for purpose of advertising artistic work for sale),
  - section 68(4) (copies made for purpose of broadcast or cable programme), or
  - any provision of an order under section 141 (statutory licence for certain reprographic copying by educational establishments).

#### **Textual Amendments**

**F8** Words in s. 27(3) inserted (1.1.1993) by S.I. 1992/3233, reg.6

**F9** S. 27(3A) inserted (1.1.1993) by S.I. 1992/3233, reg.6

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#### Marginal Citations

**M1** 1972 c. 68.



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