



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

##### ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

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

- C1** Pt. I Ch. III (ss. 28–76) amended by [Broadcasting Act 1990](#) (c. 42, SIF 96), s. 176, **Sch. 17 para. 7(1)**
- C2** Pt. I Ch. III (ss. 28-76) applied (with modifications) (1.12.1996) by [S.I. 1996/2967](#), **reg. 17(1)-(3)** (with [Pt. III](#))
- C3** Pt. I Ch. III (ss. 28-76) continued (31.10.2003) by virtue of [The Copyright and Related Rights Regulations 2003](#) (S.I. 2003/2498), **reg. 33**, (with regs. 31-40)

##### *Introductory*

## **28** **Introductory provisions.**

- (1) The provisions of this Chapter specify acts which may be done in relation to copyright works notwithstanding the subsistence of copyright; they relate only to the question of infringement of copyright and do not affect any other right or obligation restricting the doing of any of the specified acts.
- (2) Where it is provided by this Chapter that an act does not infringe copyright, or may be done without infringing copyright, and no particular description of copyright work is mentioned, the act in question does not infringe the copyright in a work of any description.

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*Status: Point in time view as at 01/11/1999. This version of this chapter contains provisions that are not valid for this point in time.*  
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- (3) No inference shall be drawn from the description of any act which may by virtue of this Chapter be done without infringing copyright as to the scope of the acts restricted by the copyright in any description of work.
- (4) The provisions of this Chapter are to be construed independently of each other, so that the fact that an act does not fall within one provision does not mean that it is not covered by another provision.

### General

VALID FROM 31/10/2003

#### **[<sup>F1</sup>28A Making of temporary copies**

Copyright in a literary work, other than a computer program or a database, or in a dramatic, musical or artistic work, the typographical arrangement of a published edition, a sound recording or a film, is not infringed by the making of a temporary copy which is transient or incidental, which is an integral and essential part of a technological process and the sole purpose of which is to enable—

- (a) a transmission of the work in a network between third parties by an intermediary; or
  - (b) a lawful use of the work;
- and which has no independent economic significance.]

#### **Textual Amendments**

- F1** S. 28A inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 8\(1\)](#) (with [regs. 31-40](#))

## **29 Research and private study.**

- (1) Fair dealing with a literary [<sup>F2</sup>work, other than a database, or a] dramatic, musical or artistic work for the purposes of research or private study does not infringe any copyright in the work or, in the case of a published edition, in the typographical arrangement.
- [<sup>F3</sup>(1A) Fair dealing with a database for the purposes of research or private study does not infringe any copyright in the database provided that the source is indicated.]
- (2) Fair dealing with the typographical arrangement of a published edition for the purposes mentioned in subsection (1) does not infringe any copyright in the arrangement.
- (3) Copying by a person other than the researcher or student himself is not fair dealing if—
  - (a) in the case of a librarian, or a person acting on behalf of a librarian, he does anything which regulations under section 40 would not permit to be done under section 38 or 39 (articles or parts of published works: restriction on multiple copies of same material), or
  - (b) in any other case, the person doing the copying knows or has reason to believe that it will result in copies of substantially the same material being provided

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to more than one person at substantially the same time and for substantially the same purpose.

[<sup>F4</sup>(4) It is not fair dealing—

- (a) to convert a computer program expressed in a low level language into a version expressed in a higher level language, or
  - (b) incidentally in the course of so converting the program, to copy it,
- (these acts being permitted if done in accordance with section 50B (decompilation)).]

[<sup>F5</sup>(5) The doing of anything in relation to a database for the purposes of research for a commercial purpose is not fair dealing with the database.]

#### Textual Amendments

- F2** Words in s. 29(1) inserted (1.1.1998) by S.I. 1997/3032, **reg. 8(1)** (with Pt. IV)
- F3** S. 29(1A) inserted (1.1.1998) by S.I. 1997/3032, **reg. 8(2)** (with Pt. IV)
- F4** S. 29(4) inserted (1.1.1993) by S.I. 1992/3233, **reg. 7**
- F5** S. 29(5) inserted (1.1.1998) by S.I. 1997/3032, **reg. 8(3)** (with Pt. IV)

### 30 Criticism, review and news reporting.

- (1) Fair dealing with a work for the purpose of criticism or review, of that or another work or of a performance of a work, does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement.
- (2) Fair dealing with a work (other than a photograph) for the purpose of reporting current events does not infringe any copyright in the work provided that (subject to subsection (3)) it is accompanied by a sufficient acknowledgement.
- (3) No acknowledgement is required in connection with the reporting of current events by means of a sound recording, film, broadcast or cable programme.

### 31 Incidental inclusion of copyright material.

- (1) Copyright in a work is not infringed by its incidental inclusion in an artistic work, sound recording, film, broadcast or cable programme.
- (2) Nor is the copyright infringed by the issue to the public of copies, or the playing, showing, broadcasting or inclusion in a cable programme service, of anything whose making was, by virtue of subsection (1), not an infringement of the copyright.
- (3) A musical work, words spoken or sung with music, or so much of a sound recording, broadcast or cable programme as includes a musical work or such words, shall not be regarded as incidentally included in another work if it is deliberately included.

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VALID FROM 31/10/2003

*[<sup>F6</sup>Visual impairment]*

**Textual Amendments**

**F6** S. 31A and cross-heading inserted (31.10.2003) by 2002 c. 33, ss. 1, 8(2); S.I. 2003/2499, art. 2

**[<sup>F7</sup>31A Making a single accessible copy for personal use**

- (1) If a visually impaired person has lawful possession or lawful use of a copy (“the master copy”) of the whole or part of—
- (a) a literary, dramatic, musical or artistic work; or
  - (b) a published edition,
- which is not accessible to him because of the impairment, it is not an infringement of copyright in the work, or in the typographical arrangement of the published edition, for an accessible copy of the master copy to be made for his personal use.
- (2) Subsection (1) does not apply—
- (a) if the master copy is of a musical work, or part of a musical work, and the making of an accessible copy would involve recording a performance of the work or part of it; or
  - (b) if the master copy is of a database, or part of a database, and the making of an accessible copy would infringe copyright in the database.
- (3) Subsection (1) does not apply in relation to the making of an accessible copy for a particular visually impaired person if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to that person.
- (4) An accessible copy made under this section must be accompanied by—
- (a) a statement that it is made under this section; and
  - (b) a sufficient acknowledgement.
- (5) If a person makes an accessible copy on behalf of a visually impaired person under this section and charges for it, the sum charged must not exceed the cost of making and supplying the copy.
- (6) If a person holds an accessible copy made under subsection (1) when he is not entitled to have it made under that subsection, the copy is to be treated as an infringing copy, unless he is a person falling within subsection (7)(b).
- (7) A person who holds an accessible copy made under subsection (1) may transfer it to—
- (a) a visually impaired person entitled to have the accessible copy made under subsection (1); or
  - (b) a person who has lawful possession of the master copy and intends to transfer the accessible copy to a person falling within paragraph (a).

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- (8) The transfer by a person (“V”) of an accessible copy made under subsection (1) to another person (“T”) is an infringement of copyright by V unless V has reasonable grounds for believing that T is a person falling within subsection (7)(a) or (b).
- (9) If an accessible copy which would be an infringing copy but for this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing; and
  - (b) if that dealing infringes copyright, is to be treated as an infringing copy for all subsequent purposes.
- (10) In subsection (9), “dealt with” means sold or let for hire or offered or exposed for sale or hire or communicated to the public.]

#### Textual Amendments

- F7** S. 31A and cross-heading inserted (31.10.2003) by 2002 c. 33, ss. 1, 8(2) (as amended by S.I. 2003/2498, regs. 1, 2(1), **Sch. 1 para. 22(a)**); S.I. 2003/2499, **art. 2**

#### **[<sup>F8</sup>31B Multiple copies for visually impaired persons**

- (1) If an approved body has lawful possession of a copy (“the master copy”) of the whole or part of—
  - (a) a commercially published literary, dramatic, musical or artistic work; or
  - (b) a commercially published edition,it is not an infringement of copyright in the work, or in the typographical arrangement of the published edition, for the body to make, or supply, accessible copies for the personal use of visually impaired persons to whom the master copy is not accessible because of their impairment.
- (2) Subsection (1) does not apply—
  - (a) if the master copy is of a musical work, or part of a musical work, and the making of an accessible copy would involve recording a performance of the work or part of it; or
  - (b) if the master copy is of a database, or part of a database, and the making of an accessible copy would infringe copyright in the database.
- (3) Subsection (1) does not apply in relation to the making of an accessible copy if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to the same or substantially the same degree.
- (4) Subsection (1) does not apply in relation to the supply of an accessible copy to a particular visually impaired person if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to that person.
- (5) An accessible copy made under this section must be accompanied by—
  - (a) a statement that it is made under this section; and
  - (b) a sufficient acknowledgement.
- (6) If an approved body charges for supplying a copy made under this section, the sum charged must not exceed the cost of making and supplying the copy.

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- (7) An approved body making copies under this section must, if it is an educational establishment, ensure that the copies will be used only for its educational purposes.
- (8) If the master copy is in copy-protected electronic form, any accessible copy made of it under this section must, so far as it is reasonably practicable to do so, incorporate the same, or equally effective, copy protection (unless the copyright owner agrees otherwise).
- (9) If an approved body continues to hold an accessible copy made under subsection (1) when it would no longer be entitled to make or supply such a copy under that subsection, the copy is to be treated as an infringing copy.
- (10) If an accessible copy which would be an infringing copy but for this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing; and
  - (b) if that dealing infringes copyright, is to be treated as an infringing copy for all subsequent purposes.
- (11) In subsection (10), “dealt with” means sold or let for hire or offered or exposed for sale or hire or communicated to the public.
- (12) “Approved body” means an educational establishment or a body that is not conducted for profit.
- (13) “Supplying” includes lending.]

#### Textual Amendments

- F8** S. 31B inserted (31.10.2003) by 2002 c. 33, ss. 2, 8(2) (as amended by S.I. 2003/2498, regs. 1, 2(1), **Sch. 1 para. 22(b)**); S.I. 2003/2499, **art. 2**

#### [<sup>F9</sup>31C Intermediate copies and records

- (1) An approved body entitled to make accessible copies under section 31B may hold an intermediate copy of the master copy which is necessarily created during the production of the accessible copies, but only—
  - (a) if and so long as the approved body continues to be entitled to make accessible copies of that master copy; and
  - (b) for the purposes of the production of further accessible copies.
- (2) An intermediate copy which is held in breach of subsection (1) is to be treated as an infringing copy.
- (3) An approved body may lend or transfer the intermediate copy to another approved body which is entitled to make accessible copies of the work or published edition under section 31B.
- (4) The loan or transfer by an approved body (“A”) of an intermediate copy to another person (“B”) is an infringement of copyright by A unless A has reasonable grounds for believing that B—
  - (a) is another approved body which is entitled to make accessible copies of the work or published edition under section 31B; and

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- (b) will use the intermediate copy only for the purposes of the production of further accessible copies.
- (5) If an approved body charges for lending or transferring the intermediate copy, the sum charged must not exceed the cost of the loan or transfer.
- (6) An approved body must—
  - (a) keep records of accessible copies made under section 31B and of the persons to whom they are supplied;
  - (b) keep records of any intermediate copy lent or transferred under this section and of the persons to whom it is lent or transferred; and
  - (c) allow the copyright owner or a person acting for him, on giving reasonable notice, to inspect the records at any reasonable time.
- (7) Within a reasonable time of making an accessible copy under section 31B, or lending or transferring an intermediate copy under this section, the approved body must—
  - (a) notify each relevant representative body; or
  - (b) if there is no such body, notify the copyright owner.
- (8) A relevant representative body is a body which—
  - (a) represents particular copyright owners, or owners of copyright in the type of copyright work concerned; and
  - (b) has given notice to the Secretary of State of the copyright owners, or the classes of copyright owner, represented by it.
- (9) The requirement to notify the copyright owner under subsection (7)(b) does not apply if it is not reasonably possible for the approved body to ascertain the name and address of the copyright owner.]

#### **Textual Amendments**

**F9** S. 31C inserted (31.10.2003) by 2002 c. 33, ss. 3, 8(2); S.I. 2003/2499, art. 2

#### **[<sup>F10</sup>31D Licensing schemes**

- (1) Section 31B does not apply to the making of an accessible copy in a particular form if—
  - (a) a licensing scheme operated by a licensing body is in force under which licences may be granted by the licensing body permitting the making and supply of copies of the copyright work in that form;
  - (b) the scheme is not unreasonably restrictive; and
  - (c) the scheme and any modification made to it have been notified to the Secretary of State by the licensing body.
- (2) A scheme is unreasonably restrictive if it includes a term or condition which—
  - (a) purports to prevent or limit the steps that may be taken under section 31B or 31C; or
  - (b) has that effect.
- (3) But subsection (2) does not apply if—
  - (a) the copyright work is no longer published by or with the authority of the copyright owner; and

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(b) there are reasonable grounds for preventing or restricting the making of accessible copies of the work.

(4) If section 31B or 31C is displaced by a licensing scheme, sections 119 to 122 apply in relation to the scheme as if it were one to which those sections applied as a result of section 117.]

#### Textual Amendments

**F10** S. 31D inserted (31.10.2003) by 2002 c. 33, ss. 4, 8(2); S.I. 2003/2499, art. 2

### [<sup>F11</sup>31E Limitations, etc. following infringement of copyright

(1) The Secretary of State may make an order under this section if it appears to him that the making of copies—

- (a) under section 31B; or
- (b) under a licence granted under a licensing scheme that has been notified under section 31D,

has led to infringement of copyright on a scale which, in the Secretary of State's opinion, would not have occurred if section 31B had not been in force, or the licence had not been granted.

(2) The order may prohibit one or more named approved bodies, or one or more specified categories of approved body, from—

- (a) acting under section 31B; or
- (b) acting under a licence of a description specified in the order.

(3) The order may disapply—

- (a) the provisions of section 31B; or
- (b) the provisions of a licence, or a licensing scheme, of a description specified in the order,

in respect of the making of copies of a description so specified.

(4) If the Secretary of State proposes to make an order he must, before making it, consult—

- (a) such bodies representing copyright owners as he thinks fit; and
- (b) such bodies representing visually impaired persons as he thinks fit.

(5) If the Secretary of State proposes to make an order which includes a prohibition he must, before making it, consult—

- (a) if the proposed order is to apply to one or more named approved bodies, that body or those bodies;
- (b) if it is to apply to one or more specified categories of approved body, to such bodies representing approved bodies of that category or those categories as he thinks fit.

(6) An approved body which is prohibited by an order from acting under a licence may not apply to the Copyright Tribunal under section 121(1) in respect of a refusal or failure by a licensing body to grant such a licence.]



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### Textual Amendments

**F11** S. 31E inserted (31.10.2003) by 2002 c. 33, ss. 5, 8(2); S.I. 2003/2499, art. 2

### [<sup>F12</sup>31F Definitions and other supplementary provision for sections 31A to 31E

- (1) This section supplements sections 31A to 31E and includes definitions.
- (2) A copy of a copyright work (other than an accessible copy made under section 31A or 31B) is to be taken to be accessible to a visually impaired person only if it is as accessible to him as it would be if he were not visually impaired.
- (3) “Accessible copy”, in relation to a copyright work, means a version which provides for a visually impaired person improved access to the work.
- (4) An accessible copy may include facilities for navigating around the version of the copyright work but may not include—
  - (a) changes that are not necessary to overcome problems caused by visual impairment; or
  - (b) changes which infringe the right (provided by section 80) not to have the work subjected to derogatory treatment.
- (5) “Approved body” has the meaning given in section 31B(12).
- (6) “Lending”, in relation to a copy, means making it available for use, otherwise than for direct or indirect economic or commercial advantage, on terms that it will or may be returned.
- (7) For the purposes of subsection (6), a loan is not to be treated as being for direct or indirect economic or commercial advantage if a charge is made for the loan which does not exceed the cost of making and supplying the copy.
- (8) The definition of “lending” in section 18A does not apply for the purposes of sections 31B and 31C.
- (9) “Visually impaired person” means a person—
  - (a) who is blind;
  - (b) who has an impairment of visual function which cannot be improved, by the use of corrective lenses, to a level that would normally be acceptable for reading without a special level or kind of light;
  - (c) who is unable, through physical disability, to hold or manipulate a book; or
  - (d) who is unable, through physical disability, to focus or move his eyes to the extent that would normally be acceptable for reading.
- (10) The Secretary of State may by regulations prescribe—
  - (a) the form in which; or
  - (b) the procedure in accordance with which,any notice required under section 31C(7) or (8), or 31D(1), must be given.
- (11) Any power to make regulations or orders is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

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### **Textual Amendments**

**F12** S. 31F inserted (31.10.2003) by 2002 c. 33, ss. 6, 8(2); S.I. 2003/2499, art. 2

## *Education*

### **32 Things done for purposes of instruction or examination.**

- (1) Copyright in a literary, dramatic, musical or artistic work is not infringed by its being copied in the course of instruction or of preparation for instruction, provided the copying—
  - (a) is done by a person giving or receiving instruction, and
  - (b) is not by means of a reprographic process.
- (2) Copyright in a sound recording, film, broadcast or cable programme is not infringed by its being copied by making a film or film sound-track in the course of instruction, or of preparation for instruction, in the making of films or film sound-tracks, provided the copying is done by a person giving or receiving instruction.
- (3) Copyright is not infringed by anything done for the purposes of an examination by way of setting the questions, communicating the questions to the candidates or answering the questions.
- (4) Subsection (3) does not extend to the making of a reprographic copy of a musical work for use by an examination candidate in performing the work.
- (5) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purpose of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose “dealt with” means sold or let for hire or offered or exposed for sale or hire.

### **33 Anthologies for educational use.**

- (1) The inclusion of a short passage from a published literary or dramatic work in a collection which—
  - (a) is intended for use in educational establishments and is so described in its title, and in any advertisements issued by or on behalf of the publisher, and
  - (b) consists mainly of material in which no copyright subsists,
 does not infringe the copyright in the work if the work itself is not intended for use in such establishments and the inclusion is accompanied by a sufficient acknowledgement.
- (2) Subsection (1) does not authorise the inclusion of more than two excerpts from copyright works by the same author in collections published by the same publisher over any period of five years.
- (3) In relation to any given passage the reference in subsection (2) to excerpts from works by the same author—

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- (a) shall be taken to include excerpts from works by him in collaboration with another, and
  - (b) if the passage in question is from such a work, shall be taken to include excerpts from works by any of the authors, whether alone or in collaboration with another.
- (4) References in this section to the use of a work in an educational establishment are to any use for the educational purposes of such an establishment.

### **34 Performing, playing or showing work in course of activities of educational establishment.**

- (1) The performance of a literary, dramatic or musical work before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the activities of the establishment—
- (a) by a teacher or pupil in the course of the activities of the establishment, or
  - (b) at the establishment by any person for the purposes of instruction,
- is not a public performance for the purposes of infringement of copyright.
- (2) The playing or showing of a sound recording, film, broadcast or cable programme before such an audience at an educational establishment for the purposes of instruction is not a playing or showing of the work in public for the purposes of infringement of copyright.
- (3) A person is not for this purpose directly connected with the activities of the educational establishment simply because he is the parent of a pupil at the establishment.

### **35 Recording by educational establishments of broadcasts and cable programmes.**

- (1) A recording of a broadcast or cable programme, or a copy of such a recording, may be made by or on behalf of an educational establishment for the educational purposes of that establishment without thereby infringing the copyright in the broadcast or cable programme, or in any work included in it.
- (2) This section does not apply if or to the extent that there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.
- (3) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose “dealt with” means sold or let for hire or offered or exposed for sale or hire.

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

**C4** Ss. 35, 36 extended by [S.I. 1989/1067](#), [art. 2](#)

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### **36 Reprographic copying by educational establishments of passages from published works.**

- (1) Reprographic copies of passages from published literary, dramatic or musical works may, to the extent permitted by this section, be made by or on behalf of an educational establishment for the purposes of instruction without infringing any copyright in the work, or in the typographical arrangement.
- (2) Not more than one per cent. of any work may be copied by or on behalf of an establishment by virtue of this section in any quarter, that is, in any period 1st January to 31st March, 1st April to 30th June, 1st July to 30th September or 1st October to 31st December.
- (3) Copying is not authorised by this section if, or to the extent that, licences are available authorising the copying in question and the person making the copies knew or ought to have been aware of that fact.
- (4) The terms of a licence granted to an educational establishment authorising the reprographic copying for the purposes of instruction of passages from published literary, dramatic or musical works are of no effect so far as they purport to restrict the proportion of a work which may be copied (whether on payment or free of charge) to less than that which would be permitted under this section.
- (5) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose “dealt with” means sold or let for hire or offered or exposed for sale or hire.

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

**C5** Ss. 35, 36 extended by [S.I. 1989/1067](#), [art. 2](#)

### **[<sup>F13</sup>36A Lending of copies by educational establishments**

Copyright in a work is not infringed by the lending of copies of the work by an educational establishment.]

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**Textual Amendments**

**F13** S. 36A inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 11\(1\)](#) (with [Pt. III](#))

### *Libraries and archives*

### **37 Libraries and archives: introductory.**

- (1) In sections 38 to 43 (copying by librarians and archivists)—
  - (a) references in any provision to a prescribed library or archive are to a library or archive of a description prescribed for the purposes of that provision by regulations made by the Secretary of State; and

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- (b) references in any provision to the prescribed conditions are to the conditions so prescribed.
- (2) The regulations may provide that, where a librarian or archivist is required to be satisfied as to any matter before making or supplying a copy of a work—
  - (a) he may rely on a signed declaration as to that matter by the person requesting the copy, unless he is aware that it is false in a material particular, and
  - (b) in such cases as may be prescribed, he shall not make or supply a copy in the absence of a signed declaration in such form as may be prescribed.
- (3) Where a person requesting a copy makes a declaration which is false in a material particular and is supplied with a copy which would have been an infringing copy if made by him—
  - (a) he is liable for infringement of copyright as if he had made the copy himself, and
  - (b) the copy shall be treated as an infringing copy.
- (4) The regulations may make different provision for different descriptions of libraries or archives and for different purposes.
- (5) Regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) References in this section, and in sections 38 to 43, to the librarian or archivist include a person acting on his behalf.

### **38 Copying by librarians: articles in periodicals.**

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply a copy of an article in a periodical without infringing any copyright in the text, in any illustrations accompanying the text or in the typographical arrangement.
- (2) The prescribed conditions shall include the following—
  - (a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose;
  - (b) that no person is furnished with more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical; and
  - (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

### **39 Copying by librarians: parts of published works.**

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply from a published edition a copy of part of a literary, dramatic or musical work (other than an article in a periodical) without infringing any copyright in the work, in any illustrations accompanying the work or in the typographical arrangement.
- (2) The prescribed conditions shall include the following—

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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)*

- (a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose;
- (b) that no person is furnished with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and
- (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

#### **40 Restriction on production of multiple copies of the same material.**

- (1) Regulations for the purposes of sections 38 and 39 (copying by librarian of article or part of published work) shall contain provision to the effect that a copy shall be supplied only to a person satisfying the librarian that his requirement is not related to any similar requirement of another person.
- (2) The regulations may provide—
  - (a) that requirements shall be regarded as similar if the requirements are for copies of substantially the same material at substantially the same time and for substantially the same purpose; and
  - (b) that requirements of persons shall be regarded as related if those persons receive instruction to which the material is relevant at the same time and place.

#### **[<sup>F14</sup>40A Lending of copies by libraries or archives.**

- (1) Copyright in a work of any description is not infringed by the lending of a book by a public library if the book is within the public lending right scheme. For this purpose—
  - (a) “the public lending right scheme” means the scheme in force under section 1 of the Public Lending Right Act 1979, and
  - (b) a book is within the public lending right scheme if it is a book within the meaning of the provisions of the scheme relating to eligibility, whether or not it is in fact eligible.
- (2) Copyright in a work is not infringed by the lending of copies of the work by a prescribed library or archive (other than a public library) which is not conducted for profit.]

##### **Textual Amendments**

**F14** S. 40A inserted (1.12.1996) by [S.I. 1996/2967](#), [reg. 11\(2\)](#) (with [Pt. III](#))

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

**C6** S. 40A(2) modified (1.12.1996) by [S.I. 1996/2967](#), [reg. 35](#) (with [Pt. III](#))

#### **41 Copying by librarians: supply of copies to other libraries.**

- (1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply to another prescribed library a copy of—
  - (a) an article in a periodical, or
  - (b) the whole or part of a published edition of a literary, dramatic or musical work,

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without infringing any copyright in the text of the article or, as the case may be, in the work, in any illustrations accompanying it or in the typographical arrangement.

- (2) Subsection (1)(b) does not apply if at the time the copy is made the librarian making it knows, or could by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy.

#### **42 Copying by librarians or archivists: replacement copies of works.**

- (1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make a copy from any item in the permanent collection of the library or archive—

- (a) in order to preserve or replace that item by placing the copy in its permanent collection in addition to or in place of it, or
- (b) in order to replace in the permanent collection of another prescribed library or archive an item which has been lost, destroyed or damaged,

without infringing the copyright in any literary, dramatic or musical work, in any illustrations accompanying such a work or, in the case of a published edition, in the typographical arrangement.

- (2) The prescribed conditions shall include provision for restricting the making of copies to cases where it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose.

#### **43 Copying by librarians or archivists: certain unpublished works.**

- (1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make and supply a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive without infringing any copyright in the work or any illustrations accompanying it.

- (2) This section does not apply if—

- (a) the work had been published before the document was deposited in the library or archive, or
- (b) the copyright owner has prohibited copying of the work,

and at the time the copy is made the librarian or archivist making it is, or ought to be, aware of that fact.

- (3) The prescribed conditions shall include the following—

- (a) that copies are supplied only to persons satisfying the librarian or archivist that they require them for purposes of research or private study and will not use them for any other purpose;
- (b) that no person is furnished with more than one copy of the same material; and
- (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.

#### **44 Copy of work required to be made as condition of export.**

If an article of cultural or historical importance or interest cannot lawfully be exported from the United Kingdom unless a copy of it is made and deposited in an appropriate library or archive, it is not an infringement of copyright to make that copy.

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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)*

VALID FROM 01/02/2004

#### **[<sup>F15</sup>44A Legal deposit libraries**

- (1) Copyright is not infringed by the copying of a work from the internet by a deposit library or person acting on its behalf if—
  - (a) the work is of a description prescribed by regulations under section 10(5) of the 2003 Act,
  - (b) its publication on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and
  - (c) the copying is done in accordance with any conditions so prescribed.
- (2) Copyright is not infringed by the doing of anything in relation to relevant material permitted to be done under regulations under section 7 of the 2003 Act.
- (3) The Secretary of State may by regulations make provision excluding, in relation to prescribed activities done in relation to relevant material, the application of such of the provisions of this Chapter as are prescribed.
- (4) Regulations under subsection (3) may in particular make provision prescribing activities—
  - (a) done for a prescribed purpose,
  - (b) done by prescribed descriptions of reader,
  - (c) done in relation to prescribed descriptions of relevant material,
  - (d) done other than in accordance with prescribed conditions.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
  - (a) “the 2003 Act” means the Legal Deposit Libraries Act 2003;
  - (b) “deposit library”, “reader” and “relevant material” have the same meaning as in section 7 of the 2003 Act;
  - (c) “prescribed” means prescribed by regulations made by the Secretary of State.]

#### **Textual Amendments**

**F15** S. 44A inserted (1.2.2004) by [Legal Deposit Libraries Act 2003 \(c. 28\)](#), **ss. 8(1), 16(1)** (with s. 16(4)); [S.I. 2004/130](#), **art. 2**

#### *Public administration*

#### **45 Parliamentary and judicial proceedings.**

- (1) Copyright is not infringed by anything done for the purposes of parliamentary or judicial proceedings.



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- (2) Copyright is not infringed by anything done for the purposes of reporting such proceedings; but this shall not be construed as authorising the copying of a work which is itself a published report of the proceedings.

#### **46 Royal Commissions and statutory inquiries.**

- (1) Copyright is not infringed by anything done for the purposes of the proceedings of a Royal Commission or statutory inquiry.
- (2) Copyright is not infringed by anything done for the purpose of reporting any such proceedings held in public; but this shall not be construed as authorising the copying of a work which is itself a published report of the proceedings.
- (3) Copyright in a work is not infringed by the issue to the public of copies of the report of a Royal Commission or statutory inquiry containing the work or material from it.
- (4) In this section—

“Royal Commission” includes a Commission appointed for Northern Ireland by the Secretary of State in pursuance of the prerogative powers of Her Majesty delegated to him under section 7(2) of the <sup>M1</sup>Northern Ireland Constitution Act 1973; and

“statutory inquiry” means an inquiry held or investigation conducted in pursuance of a duty imposed or power conferred by or under an enactment.

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#### **Marginal Citations**

**M1** 1973 c. 36.

#### **47 Material open to public inspection or on official register.**

- (1) Where material is open to public inspection pursuant to a statutory requirement, or is on a statutory register, any copyright in the material as a literary work is not infringed by the copying of so much of the material as contains factual information of any description, by or with the authority of the appropriate person, for a purpose which does not involve the issuing of copies to the public.
- (2) Where material is open to public inspection pursuant to a statutory requirement, copyright is not infringed by the copying or issuing to the public of copies of the material, by or with the authority of the appropriate person, for the purpose of enabling the material to be inspected at a more convenient time or place or otherwise facilitating the exercise of any right for the purpose of which the requirement is imposed.
- (3) Where material which is open to public inspection pursuant to a statutory requirement, or which is on a statutory register, contains information about matters of general scientific, technical, commercial or economic interest, copyright is not infringed by the copying or issuing to the public of copies of the material, by or with the authority of the appropriate person, for the purpose of disseminating that information.
- (4) The Secretary of State may by order provide that subsection (1), (2) or (3) shall, in such cases as may be specified in the order, apply only to copies marked in such manner as may be so specified.

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- (5) The Secretary of State may by order provide that subsections (1) to (3) apply, to such extent and with such modifications as may be specified in the order—
- (a) to material made open to public inspection by—
    - (i) an international organisation specified in the order, or
    - (ii) a person so specified who has functions in the United Kingdom under an international agreement to which the United Kingdom is party, or
  - (b) to a register maintained by an international organisation specified in the order, as they apply in relation to material open to public inspection pursuant to a statutory requirement or to a statutory register.
- (6) In this section—
- “appropriate person” means the person required to make the material open to public inspection or, as the case may be, the person maintaining the register;
- “statutory register” means a register maintained in pursuance of a statutory requirement; and
- “statutory requirement” means a requirement imposed by provision made by or under an enactment.
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

- C7** S. 47(1) extended with modifications by [S.I. 1989/1098, art. 2](#)
- C8** S. 47(2) modified by [S.I. 1990/1427, art. 2](#)
- C9** S. 47(2)(3) extended with modifications by [S.I. 1989/1098, art. 2](#)
- C10** S. 47(2)(3) modified by [S.I. 1989/1099, art. 2](#)
- C11** S. 47(6) modified (1.3.2010) by [The Scottish Register of Tartans Act 2008 \(Consequential Modifications\) Order 2010 \(S.I. 2010/180\), art. 2\(2\)](#) (with art. 2(4))

**48 Material communicated to the Crown in the course of public business.**

- (1) This section applies where a literary, dramatic, musical or artistic work has in the course of public business been communicated to the Crown for any purpose, by or with the licence of the copyright owner and a document or other material thing recording or embodying the work is owned by or in the custody or control of the Crown.
- (2) The Crown may, for the purpose for which the work was communicated to it, or any related purpose which could reasonably have been anticipated by the copyright owner, copy the work and issue copies of the work to the public without infringing any copyright in the work.
- (3) The Crown may not copy a work, or issue copies of a work to the public, by virtue of this section if the work has previously been published otherwise than by virtue of this section.
- (4) In subsection (1) “public business” includes any activity carried on by the Crown.
- (5) This section has effect subject to any agreement to the contrary between the Crown and the copyright owner.

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[<sup>F16</sup>(6) In this section “the Crown” includes a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, [<sup>F17</sup>the Commission for Health Improvement] and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978 [<sup>F18</sup>and also includes a health and social services body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991, and a Health and Social Services trust established under that Order], and the reference in subsection (1) above to public business shall be construed accordingly.]

#### Textual Amendments

- F16** S. 48(6) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), Sch. 8 para. 3
- F17** Words in s. 48(6) inserted (E.W.) (1.11.1999) by S.I. 1999/2795, art. 3
- F18** Words in s. 48(6) inserted (1.4.1992) by S.I. 1991/194, art. 7(2), Sch. 2 Pt. I para. 3; S.R. 1991/131, art. 2(e), Sch. Pt. III

#### 49 Public records.

Material which is comprised in public records within the meaning of the <sup>M2</sup>Public Records Act 1958, the <sup>M3</sup>Public Records (Scotland) Act 1937 or the <sup>M4</sup>Public Records Act (Northern Ireland) 1923 [<sup>F19</sup>, or in Welsh public records (as defined in the Government of Wales Act 1998),] which are open to public inspection in pursuance of that Act, may be copied, and a copy may be supplied to any person, by or with the authority of any officer appointed under that Act, without infringement of copyright.

#### Textual Amendments

- F19** Words in s. 49 inserted (1.4.1999) by 1998 c. 38, s. 125, Sch. 12 para. 27 (with ss. 139(2), 143(2)); S.I. 1999/782, art. 2

#### Marginal Citations

- M2** 1958 c. 51.
- M3** 1937 c. 43.
- M4** 1923 c. 20 (N.I.).

#### 50 Acts done under statutory authority.

- (1) Where the doing of a particular act is specifically authorised by an Act of Parliament, whenever passed, then, unless the Act provides otherwise, the doing of that act does not infringe copyright.
- (2) Subsection (1) applies in relation to an enactment contained in Northern Ireland legislation as it applies in relation to an Act of Parliament.
- (3) Nothing in this section shall be construed as excluding any defence of statutory authority otherwise available under or by virtue of any enactment.

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**Changes to legislation:** There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)

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

- C12** S. 50 applied by [Freedom of Information Act 2000 \(c. 36\)](#), s. 80(3) (as added (1.1.2005) by [The Freedom of Information \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/3089\)](#), [art. 3\(2\)](#))
- C13** S. 50(1) modified (1.3.2010) by [The Scottish Register of Tartans Act 2008 \(Consequential Modifications\) Order 2010 \(S.I. 2010/180\)](#), [art. 2\(3\)](#) (with [art. 2\(4\)](#))

*[<sup>F20</sup>Computer programs: lawful users]*

#### Textual Amendments

- F20** Cross-heading and ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).

#### <sup>F21</sup>**50A Back up copies.**

- (1) It is not an infringement of copyright for a lawful user of a copy of a computer program to make any back up copy of it which it is necessary for him to have for the purposes of his lawful use.
- (2) For the purposes of this section and sections 50B and 50C a person is a lawful user of a computer program if (whether under a licence to do any acts restricted by the copyright in the program or otherwise), he has a right to use the program.
- (3) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).

#### Textual Amendments

- F21** Ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).

#### <sup>F20F22</sup>**50B Decompilation.**

- (1) It is not an infringement of copyright for a lawful user of a copy of a computer program expressed in a low level language—
  - (a) to convert it into a version expressed in a higher level language, or
  - (b) incidentally in the course of so converting the program, to copy it, (that is, to “decompile” it), provided that the conditions in subsection (2) are met.
- (2) The conditions are that—
  - (a) it is necessary to decompile the program to obtain the information necessary to create an independent program which can be operated with the program decompiled or with another program (“the permitted objective”); and
  - (b) the information so obtained is not used for any purpose other than the permitted objective.
- (3) In particular, the conditions in subsection (2) are not met if the lawful user—

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- (a) has readily available to him the information necessary to achieve the permitted objective;
  - (b) does not confine the decompiling to such acts as are necessary to achieve the permitted objective;
  - (c) supplies the information obtained by the decompiling to any person to whom it is not necessary to supply it in order to achieve the permitted objective; or
  - (d) uses the information to create a program which is substantially similar in its expression to the program decompiled or to do any act restricted by copyright.
- (4) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).

#### Textual Amendments

**F22** Ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).

VALID FROM 31/10/2003

#### **F23** **50BA** Observing, studying and testing of computer programs

- (1) It is not an infringement of copyright for a lawful user of a copy of a computer program to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.
- (2) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).]]

#### Textual Amendments

**F23** S. 50BA inserted (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), [reg. 15\(1\)](#) (with [regs. 31-40](#))

#### **F24** **50C** Other acts permitted to lawful users.

- (1) It is not an infringement of copyright for a lawful user of a copy of a computer program to copy or adapt it, provided that the copying or adapting—
  - (a) is necessary for his lawful use; and
  - (b) is not prohibited under any term or condition of an agreement regulating the circumstances in which his use is lawful.
- (2) It may, in particular, be necessary for the lawful use of a computer program to copy it or adapt it for the purpose of correcting errors in it.
- (3) This section does not apply to any copying or adapting permitted under section 50A or 50B.

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#### Textual Amendments

**F24** Ss. 50A-50C inserted (1.1.1993) by S.I. 1992/3233, **reg. 8**.

*[<sup>F25</sup>Databases: permitted acts]*

#### Textual Amendments

**F25** S. 50D and crossheading inserted (1.1.1998) by S.I. 1997/3032, **reg. 9** (with Pt. IV)

### 50D [<sup>F26</sup> Acts permitted in relation to databases.]

- (1) It is not an infringement of copyright in a database for a person who has a right to use the database or any part of the database, (whether under a licence to do any of the acts restricted by the copyright in the database or otherwise) to do, in the exercise of that right, anything which is necessary for the purposes of access to and use of the contents of the database or of that part of the database.
- (2) Where an act which would otherwise infringe copyright in a database is permitted under this section, it is irrelevant whether or not there exists any term or condition in any agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296B, void).

#### Textual Amendments

**F26** S. 50D inserted (1.1.1998) by S.I. 1997/3032, **reg. 9** (with Pt. IV)

*Designs*

### 51 Design documents and models.

- (1) It is not an infringement of any copyright in a design document or model recording or embodying a design for anything other than an artistic work or a typeface to make an article to the design or to copy an article made to the design.
- (2) Nor is it an infringement of the copyright to issue to the public, or include in a film, broadcast or cable programme service, anything the making of which was, by virtue of subsection (1), not an infringement of that copyright.
- (3) In this section—
  - “design” means the design of any aspect of the shape or configuration (whether internal or external) of the whole or part of an article, other than surface decoration; and
  - “design document” means any record of a design, whether in the form of a drawing, a written description, a photograph, data stored in a computer or otherwise.

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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)*

## 52 Effect of exploitation of design derived from artistic work.

- (1) This section applies where an artistic work has been exploited, by or with the licence of the copyright owner, by—
  - (a) making by an industrial process articles falling to be treated for the purposes of this Part as copies of the work, and
  - (b) marketing such articles, in the United Kingdom or elsewhere.
- (2) After the end of the period of 25 years from the end of the calendar year in which such articles are first marketed, the work may be copied by making articles of any description, or doing anything for the purpose of making articles of any description, and anything may be done in relation to articles so made, without infringing copyright in the work.
- (3) Where only part of an artistic work is exploited as mentioned in subsection (1), subsection (2) applies only in relation to that part.
- (4) The Secretary of State may by order make provision—
  - (a) as to the circumstances in which an article, or any description of article, is to be regarded for the purposes of this section as made by an industrial process;
  - (b) excluding from the operation of this section such articles of a primarily literary or artistic character as he thinks fit.
- (5) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section—
  - (a) references to articles do not include films; and
  - (b) references to the marketing of an article are to its being sold or let for hire or offered or exposed for sale or hire.

### Modifications etc. (not altering text)

C14 S. 52 excluded by [S.I. 1989/1070](#), [art. 3](#)

## 53 Things done in reliance on registration of design.

- (1) The copyright in an artistic work is not infringed by anything done—
  - (a) in pursuance of an assignment or licence made or granted by a person registered under the <sup>M5</sup>Registered Designs Act 1949 as the proprietor of a corresponding design, and
  - (b) in good faith in reliance on the registration and without notice of any proceedings for the cancellation of the registration or for rectifying the relevant entry in the register of designs;and this is so notwithstanding that the person registered as the proprietor was not the proprietor of the design for the purposes of the 1949 Act.
- (2) In subsection (1) a “corresponding design”, in relation to an artistic work, means a design within the meaning of the 1949 Act which if applied to an article would produce something which would be treated for the purposes of this Part as a copy of the artistic work.

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*Changes to legislation:* There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)

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#### Marginal Citations

M5 1949 c. 88.

### *Typefaces*

#### **54 Use of typeface in ordinary course of printing.**

- (1) It is not an infringement of copyright in an artistic work consisting of the design of a typeface—
  - (a) to use the typeface in the ordinary course of typing, composing text, typesetting or printing,
  - (b) to possess an article for the purpose of such use, or
  - (c) to do anything in relation to material produced by such use;and this is so notwithstanding that an article is used which is an infringing copy of the work.
- (2) However, the following provisions of this Part apply in relation to persons making, importing or dealing with articles specifically designed or adapted for producing material in a particular typeface, or possessing such articles for the purpose of dealing with them, as if the production of material as mentioned in subsection (1) did infringe copyright in the artistic work consisting of the design of the typeface—
  - section 24 (secondary infringement: making, importing, possessing or dealing with article for making infringing copy),
  - sections 99 and 100 (order for delivery up and right of seizure),
  - section 107(2) (offence of making or possessing such an article), and
  - section 108 (order for delivery up in criminal proceedings).
- (3) The references in subsection (2) to “dealing with” an article are to selling, letting for hire, or offering or exposing for sale or hire, exhibiting in public, or distributing.

#### **55 Articles for producing material in particular typeface.**

- (1) This section applies to the copyright in an artistic work consisting of the design of a typeface where articles specifically designed or adapted for producing material in that typeface have been marketed by or with the licence of the copyright owner.
- (2) After the period of 25 years from the end of the calendar year in which the first such articles are marketed, the work may be copied by making further such articles, or doing anything for the purpose of making such articles, and anything may be done in relation to articles so made, without infringing copyright in the work.
- (3) In subsection (1) “marketed” means sold, let for hire or offered or exposed for sale or hire, in the United Kingdom or elsewhere.



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*Changes to legislation:* There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)

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### *Works in electronic form*

#### **56 Transfers of copies of works in electronic form.**

- (1) This section applies where a copy of a work in electronic form has been purchased on terms which, expressly or impliedly or by virtue of any rule of law, allow the purchaser to copy the work, or to adapt it or make copies of an adaptation, in connection with his use of it.
- (2) If there are no express terms—
  - (a) prohibiting the transfer of the copy by the purchaser, imposing obligations which continue after a transfer, prohibiting the assignment of any licence or terminating any licence on a transfer, or
  - (b) providing for the terms on which a transferee may do the things which the purchaser was permitted to do,anything which the purchaser was allowed to do may also be done without infringement of copyright by a transferee; but any copy, adaptation or copy of an adaptation made by the purchaser which is not also transferred shall be treated as an infringing copy for all purposes after the transfer.
- (3) The same applies where the original purchased copy is no longer usable and what is transferred is a further copy used in its place.
- (4) The above provisions also apply on a subsequent transfer, with the substitution for references in subsection (2) to the purchaser of references to the subsequent transferor.

*Miscellaneous: literary, dramatic, musical and artistic works*

#### **57 Anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author.**

- (1) Copyright in a literary, dramatic, musical or artistic work is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—
  - (a) it is not possible by reasonable inquiry to ascertain the identity of the author, and
  - (b) it is reasonable to assume—
    - (i) that copyright has expired, or
    - (ii) that the author died [<sup>F27</sup>70 years] or more before the beginning of the calendar year in which the act is done or the arrangements are made.
- (2) Subsection (1)(b)(ii) does not apply in relation to—
  - (a) a work in which Crown copyright subsists, or
  - (b) a work in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than [<sup>F27</sup>70 years].
- (3) In relation to a work of joint authorship—
  - (a) the reference in subsection (1) to its being possible to ascertain the identity of the author shall be construed as a reference to its being possible to ascertain the identity of any of the authors, and
  - (b) the reference in subsection (1)(b)(ii) to the author having died shall be construed as a reference to all the authors having died.

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### Textual Amendments

**F27** Words in s. 57(1)(b)(ii)(2)(b) substituted (with saving) (1.1.1996) by S.I. 1995/3297, **regs. 5(2), 15(2)** (with Pt. III)

## 58 Use of notes or recordings of spoken words in certain cases.

- (1) Where a record of spoken words is made, in writing or otherwise, for the purpose—
- (a) of reporting current events, or
  - (b) of broadcasting or including in a cable programme service the whole or part of the work,

it is not an infringement of any copyright in the words as a literary work to use the record or material taken from it (or to copy the record, or any such material, and use the copy) for that purpose, provided the following conditions are met.

- (2) The conditions are that—
- (a) the record is a direct record of the spoken words and is not taken from a previous record or from a broadcast or cable programme;
  - (b) the making of the record was not prohibited by the speaker and, where copyright already subsisted in the work, did not infringe copyright;
  - (c) the use made of the record or material taken from it is not of a kind prohibited by or on behalf of the speaker or copyright owner before the record was made; and
  - (d) the use is by or with the authority of a person who is lawfully in possession of the record.

## 59 Public reading or recitation.

- (1) The reading or recitation in public by one person of a reasonable extract from a published literary or dramatic work does not infringe any copyright in the work if it is accompanied by a sufficient acknowledgement.
- (2) Copyright in a work is not infringed by the making of a sound recording, or the broadcasting or inclusion in a cable programme service, of a reading or recitation which by virtue of subsection (1) does not infringe copyright in the work, provided that the recording, broadcast or cable programme consists mainly of material in relation to which it is not necessary to rely on that subsection.

## 60 Abstracts of scientific or technical articles.

- (1) Where an article on a scientific or technical subject is published in a periodical accompanied by an abstract indicating the contents of the article, it is not an infringement of copyright in the abstract, or in the article, to copy the abstract or issue copies of it to the public.
- (2) This section does not apply if or to the extent that there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

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## **61 Recordings of folksongs.**

- (1) A sound recording of a performance of a song may be made for the purpose of including it in an archive maintained by a designated body without infringing any copyright in the words as a literary work or in the accompanying musical work, provided the conditions in subsection (2) below are met.
- (2) The conditions are that—
  - (a) the words are unpublished and of unknown authorship at the time the recording is made,
  - (b) the making of the recording does not infringe any other copyright, and
  - (c) its making is not prohibited by any performer.
- (3) Copies of a sound recording made in reliance on subsection (1) and included in an archive maintained by a designated body may, if the prescribed conditions are met, be made and supplied by the archivist without infringing copyright in the recording or the works included in it.
- (4) The prescribed conditions shall include the following—
  - (a) that copies are only supplied to persons satisfying the archivist that they require them for purposes of research or private study and will not use them for any other purpose, and
  - (b) that no person is furnished with more than one copy of the same recording.
- (5) In this section—
  - (a) “designated” means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless satisfied that it is not established or conducted for profit,
  - (b) “prescribed” means prescribed for the purposes of this section by order of the Secretary of State, and
  - (c) references to the archivist include a person acting on his behalf.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **62 Representation of certain artistic works on public display.**

- (1) This section applies to—
  - (a) buildings, and
  - (b) sculptures, models for buildings and works of artistic craftsmanship, if permanently situated in a public place or in premises open to the public.
- (2) The copyright in such a work is not infringed by—
  - (a) making a graphic work representing it,
  - (b) making a photograph or film of it, or
  - (c) broadcasting or including in a cable programme service a visual image of it.
- (3) Nor is the copyright infringed by the issue to the public of copies, or the broadcasting or inclusion in a cable programme service, of anything whose making was, by virtue of this section, not an infringement of the copyright.

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### 63 Advertisement of sale of artistic work.

- (1) It is not an infringement of copyright in an artistic work to copy it, or to issue copies to the public, for the purpose of advertising the sale of the work.
- (2) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with for any other purpose, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose “dealt with” means sold or let for hire, offered or exposed for sale or hire, exhibited in public or distributed.

### 64 Making of subsequent works by same artist.

Where the author of an artistic work is not the copyright owner, he does not infringe the copyright by copying the work in making another artistic work, provided he does not repeat or imitate the main design of the earlier work.

### 65 Reconstruction of buildings.

Anything done for the purposes of reconstructing a building does not infringe any copyright—

- (a) in the building, or
- (b) in any drawings or plans in accordance with which the building was, by or with the licence of the copyright owner, constructed.

*[<sup>F28</sup>Miscellaneous: lending of works and playing of sound recordings]*

#### Textual Amendments

**F28** S. 66 and crossheading substituted (1.12.1996) by [S.I. 1996/2967](#), [reg. 11\(3\)](#) (with [Pt. III](#))

### 66 [<sup>F29</sup> Lending to public of copies of certain works.]

- (1) The Secretary of State may by order provide that in such cases as may be specified in the order the lending to the public of copies of literary, dramatic, musical or artistic works, sound recordings or films shall be treated as licensed by the copyright owner subject only to the payment of such reasonable royalty or other payment as may be agreed or determined in default of agreement by the Copyright Tribunal.
- (2) No such order shall apply if, or to the extent that, there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.
- (3) An order may make different provision for different cases and may specify cases by reference to any factor relating to the work, the copies lent, the lender or the circumstances of the lending.
- (4) An order shall be made by statutory instrument; and no order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III. (See end of Document for details)*

- (5) Nothing in this section affects any liability under section 23 (secondary infringement: possessing or dealing with infringing copy) in respect of the lending of infringing copies.

**Textual Amendments**

**F29** S. 66 substituted (1.12.1996) by S.I. 1996/2967, **reg. 11(3)** (with Pt. III)

*[<sup>F30</sup> MISCellaneous: films and sound recordings]*

**Textual Amendments**

**F30** S. 66A and crossheading inserted (1.1.1996) by S.I. 1995/3297, **reg. 6(2)** (with Pt. III)

**66A** [<sup>F31</sup> **Films: acts permitted on assumptions as to expiry of copyright, &c.**]

- (1) Copyright in a film is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—
- (a) it is not possible by reasonable inquiry to ascertain the identity of any of the persons referred to in section 13B(2)(a) to (d) (persons by reference to whose life the copyright period is ascertained), and
  - (b) it is reasonable to assume—
    - (i) that copyright has expired, or
    - (ii) that the last to die of those persons died 70 years or more before the beginning of the calendar year in which the act is done or the arrangements are made.
- (2) Subsection (1)(b)(ii) does not apply in relation to—
- (a) a film in which Crown copyright subsists, or
  - (b) a film in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than 70 years.

**Textual Amendments**

**F31** S. 66A inserted (1.1.1996) by S.I. 1995/3297, **reg. 6(2)** (with Pt. III)

**67** **Playing of sound recordings for purposes of club, society, &c.**

- (1) It is not an infringement of the copyright in a sound recording to play it as part of the activities of, or for the benefit of, a club, society or other organisation if the following conditions are met.
- (2) The conditions are—
- (a) that the organisation is not established or conducted for profit and its main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare, and

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- (b) that the proceeds of any charge for admission to the place where the recording is to be heard are applied solely for the purposes of the organisation.

*Miscellaneous: broadcasts and cable programmes*

**68 Incidental recording for purposes of broadcast or cable programme.**

- (1) This section applies where by virtue of a licence or assignment of copyright a person is authorised to broadcast or include in a cable programme service—
- (a) a literary, dramatic or musical work, or an adaptation of such a work,
  - (b) an artistic work, or
  - (c) a sound recording or film.
- (2) He shall by virtue of this section be treated as licensed by the owner of the copyright in the work to do or authorise any of the following for the purposes of the broadcast or cable programme—
- (a) in the case of a literary, dramatic or musical work, or an adaptation of such a work, to make a sound recording or film of the work or adaptation;
  - (b) in the case of an artistic work, to take a photograph or make a film of the work;
  - (c) in the case of a sound recording or film, to make a copy of it.
- (3) That licence is subject to the condition that the recording, film, photograph or copy in question—
- (a) shall not be used for any other purpose, and
  - (b) shall be destroyed within 28 days of being first used for broadcasting the work or, as the case may be, including it in a cable programme service.
- (4) A recording, film, photograph or copy made in accordance with this section shall be treated as an infringing copy—
- (a) for the purposes of any use in breach of the condition mentioned in subsection (3)(a), and
  - (b) for all purposes after that condition or the condition mentioned in subsection (3)(b) is broken.

**69 Recording for purposes of supervision and control of broadcasts and cable programmes.**

- (1) Copyright is not infringed by the making or use by the British Broadcasting Corporation, for the purpose of maintaining supervision and control over programmes broadcast by them, of recordings of those programmes.
- [<sup>F32</sup>(2) Copyright is not infringed by anything done in pursuance of—
- (a) section 11(1), 95(1) or 167(1) of the Broadcasting Act 1990 or section 115(4) or (6), 116(5) or 117 of the Broadcasting Act 1996;
  - (b) a condition which, by virtue of section 11(2) or 95(2) of the Broadcasting Act 1990, is included in a licence granted under Part I or III of that Act or Part I or II of the Broadcasting Act 1996; or
  - (c) a direction given under section 109(2) of the Broadcasting Act 1990 (power of Radio Authority to require production of recordings etc).
- (3) Copyright is not infringed by—

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- (a) the use by the Independent Television Commission or the Radio Authority, in connection with the performance of any of their functions under the Broadcasting Act 1990 or the Broadcasting Act 1996, of any recording, script or transcript which is provided to them under or by virtue of any provision of those Acts; or
- (b) the use by the Broadcasting Standards Commission, in connection with any complaint made to them under the Broadcasting Act 1996, of any recording or transcript requested or required to be provided to them, and so provided, under section 115(4) or (6) or 116(5) of that Act.]

#### Textual Amendments

**F32** S. 69(2)(3) substituted (1.10.1996 for specified purposes and otherwise 1.4.1997) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. III para. 31** (with s. 43(6)); S.I. 1996/2120, art. 4, **Sch. 1**; S.I. 1997/1005, art. 4

#### 70 Recording for purposes of time-shifting.

The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it.

#### 71 Photographs of television broadcasts or cable programmes.

The making for private and domestic use of a photograph of the whole or any part of an image forming part of a television broadcast or cable programme, or a copy of such a photograph, does not infringe any copyright in the broadcast or cable programme or in any film included in it.

#### 72 Free public showing or playing of broadcast or cable programme.

- (1) The showing or playing in public of a broadcast or cable programme to an audience who have not paid for admission to the place where the broadcast or programme is to be seen or heard does not infringe any copyright in—
  - (a) the broadcast or cable programme, or
  - (b) any sound recording or film included in it.
- (2) The audience shall be treated as having paid for admission to a place—
  - (a) if they have paid for admission to a place of which that place forms part; or
  - (b) if goods or services are supplied at that place (or a place of which it forms part)—
    - (i) at prices which are substantially attributable to the facilities afforded for seeing or hearing the broadcast or programme, or
    - (ii) at prices exceeding those usually charged there and which are partly attributable to those facilities.
- (3) The following shall not be regarded as having paid for admission to a place—
  - (a) persons admitted as residents or inmates of the place;
  - (b) persons admitted as members of a club or society where the payment is only for membership of the club or society and the provision of facilities for seeing

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or hearing broadcasts or programmes is only incidental to the main purposes of the club or society.

- (4) Where the making of the broadcast or inclusion of the programme in a cable programme service was an infringement of the copyright in a sound recording or film, the fact that it was heard or seen in public by the reception of the broadcast or programme shall be taken into account in assessing the damages for that infringement.

**[<sup>F33</sup>73 Reception and re-transmission of broadcast in cable programme service.**

- (1) This section applies where a broadcast made from a place in the United Kingdom is, by reception and immediate re-transmission, included in a cable programme service.
- (2) The copyright in the broadcast is not infringed—
- (a) if the inclusion is in pursuance of a relevant requirement, or
  - (b) if and to the extent that the broadcast is made for reception in the area in which the cable programme service is provided and forms part of a qualifying service.
- (3) The copyright in any work included in the broadcast is not infringed if and to the extent that the broadcast is made for reception in the area in which the cable programme service is provided; but where the making of the broadcast was an infringement of the copyright in the work, the fact that the broadcast was re-transmitted as a programme in a cable programme service shall be taken into account in assessing the damages for that infringement.
- (4) Where—
- (a) the inclusion is in pursuance of a relevant requirement, but
  - (b) to any extent, the area in which the cable programme service is provided (“the cable area”) falls outside the area for reception in which the broadcast is made (“the broadcast area”),
- the inclusion in the cable programme service (to the extent that it is provided for so much of the cable area as falls outside the broadcast area) of any work included in the broadcast shall, subject to subsection (5), be treated as licensed by the owner of the copyright in the work, subject only to the payment to him by the person making the broadcast of such reasonable royalty or other payment in respect of the inclusion of the broadcast in the cable programme service as may be agreed or determined in default of agreement by the Copyright Tribunal.
- (5) Subsection (4) does not apply if, or to the extent that, the inclusion of the work in the cable programme service is (apart from that subsection) licensed by the owner of the copyright in the work.
- (6) In this section “qualifying service” means, subject to subsection (8), any of the following services—
- (a) a regional or national Channel 3 service,
  - (b) Channel 4, Channel 5 and S4C,
  - (c) the teletext service referred to in section 49(2) of the <sup>M6</sup>Broadcasting Act 1990,
  - (d) the service referred to in section 57(1A)(a) of that Act (power of S4C to provide digital service), and
  - (e) the television broadcasting services and teletext service of the British Broadcasting Corporation;



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and expressions used in this subsection have the same meaning as in Part I of the <sup>M7</sup>Broadcasting Act 1990.

- (7) In this section “relevant requirement” means a requirement imposed under—
- (a) section 78A of the Broadcasting Act 1990 (inclusion of certain services in local delivery services provided by digital means), or
  - (b) paragraph 4 of Part III of Schedule 12 to that Act (inclusion of certain services in diffusion services originally licensed under the <sup>M8</sup>Cable and Broadcasting Act 1984).
- (8) The Secretary of State may by order amend subsection (6) so as to add any service to, or remove any service from, the definition of “qualifying service”.
- (9) The Secretary of State may also by order—
- (a) provide that in specified cases subsection (3) is to apply in relation to broadcasts of a specified description which are not made as mentioned in that subsection, or
  - (b) exclude the application of that subsection in relation to broadcasts of a specified description made as mentioned in that subsection.
- (10) Where the Secretary of State exercises the power conferred by subsection (9)(b) in relation to broadcasts of any description, the order may also provide for subsection (4) to apply, subject to such modifications as may be specified in the order, in relation to broadcasts of that description.
- (11) An order under this section may contain such transitional provision as appears to the Secretary of State to be appropriate.
- (12) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F33** Ss. 73, 73A substituted for s. 73 (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 1** (with s. 43(6)); S.I. 1996/2120, art. 4, **Sch. 1**

#### Marginal Citations

**M6** 1990 c. 42.

**M7** 1990 c. 42.

**M8** 1984 c. 46.

#### <sup>F34</sup>**73A Royalty or other sum payable in pursuance of section 73(4).**

- (1) An application to settle the royalty or other sum payable in pursuance of subsection (4) of section 73 (reception and re-transmission of broadcast in cable programme service) may be made to the Copyright Tribunal by the copyright owner or the person making the broadcast.
- (2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.

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- (3) Either party may subsequently apply to the Tribunal to vary the order, and the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.
- (4) An application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.
- (5) An order under subsection (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.

#### Textual Amendments

**F34** Ss. 73, 73A substituted for s. 73 (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 1** (with s. 43(6)); S.I. 1996/2120, art. 4, **Sch. 1**

#### 74 Provision of sub-titled copies of broadcast or cable programme.

- (1) A designated body may, for the purpose of providing people who are deaf or hard of hearing, or physically or mentally handicapped in other ways, with copies which are sub-titled or otherwise modified for their special needs, make copies of television broadcasts or cable programmes and issue copies to the public, without infringing any copyright in the broadcasts or cable programmes or works included in them.
- (2) A “designated body” means a body designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.
- (3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section does not apply if, or to the extent that, there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

#### 75 Recording for archival purposes.

- (1) A recording of a broadcast or cable programme of a designated class, or a copy of such a recording, may be made for the purpose of being placed in an archive maintained by a designated body without thereby infringing any copyright in the broadcast or cable programme or in any work included in it.
- (2) In subsection (1) “designated” means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.
- (3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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## *Adaptations*

### **76 Adaptations.**

An act which by virtue of this Chapter may be done without infringing copyright in a literary, dramatic or musical work does not, where that work is an adaptation, infringe any copyright in the work from which the adaptation was made.

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**Changes to legislation:**

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