



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER IV

#### MORAL RIGHTS

##### *Right to be identified as author or director*

#### **77 Right to be identified as author or director.**

- (1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right to be identified as the author or director of the work in the circumstances mentioned in this section; but the right is not infringed unless it has been asserted in accordance with section 78.
- (2) The author of a literary work (other than words intended to be sung or spoken with music) or a dramatic work has the right to be identified whenever—
  - (a) the work is published commercially, performed in public, broadcast or included in a cable programme service; or
  - (b) copies of a film or sound recording including the work are issued to the public; and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.
- (3) The author of a musical work, or a literary work consisting of words intended to be sung or spoken with music, has the right to be identified whenever—
  - (a) the work is published commercially;
  - (b) copies of a sound recording of the work are issued to the public; or

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- (c) a film of which the sound-track includes the work is shown in public or copies of such a film are issued to the public;
- and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.
- (4) The author of an artistic work has the right to be identified whenever—
- (a) the work is published commercially or exhibited in public, or a visual image of it is broadcast or included in a cable programme service;
  - (b) a film including a visual image of the work is shown in public or copies of such a film are issued to the public; or
  - (c) in the case of a work of architecture in the form of a building or a model for a building, a sculpture or a work of artistic craftsmanship, copies of a graphic work representing it, or of a photograph of it, are issued to the public.
- (5) The author of a work of architecture in the form of a building also has the right to be identified on the building as constructed or, where more than one building is constructed to the design, on the first to be constructed.
- (6) The director of a film has the right to be identified whenever the film is shown in public, broadcast or included in a cable programme service or copies of the film are issued to the public.
- (7) The right of the author or director under this section is—
- (a) in the case of commercial publication or the issue to the public of copies of a film or sound recording, to be identified in or on each copy or, if that is not appropriate, in some other manner likely to bring his identity to the notice of a person acquiring a copy,
  - (b) in the case of identification on a building, to be identified by appropriate means visible to persons entering or approaching the building, and
  - (c) in any other case, to be identified in a manner likely to bring his identity to the attention of a person seeing or hearing the performance, exhibition, showing, broadcast or cable programme in question;
- and the identification must in each case be clear and reasonably prominent.
- (8) If the author or director in asserting his right to be identified specifies a pseudonym, initials or some other particular form of identification, that form shall be used; otherwise any reasonable form of identification may be used.
- (9) This section has effect subject to section 79 (exceptions to right).

## **78 Requirement that right be asserted.**

- (1) A person does not infringe the right conferred by section 77 (right to be identified as author or director) by doing any of the acts mentioned in that section unless the right has been asserted in accordance with the following provisions so as to bind him in relation to that act.
- (2) The right may be asserted generally, or in relation to any specified act or description of acts—
  - (a) on an assignment of copyright in the work, by including in the instrument effecting the assignment a statement that the author or director asserts in relation to that work his right to be identified, or

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- (b) by instrument in writing signed by the author or director.
- (3) The right may also be asserted in relation to the public exhibition of an artistic work—
- (a) by securing that when the author or other first owner of copyright parts with possession of the original, or of a copy made by him or under his direction or control, the author is identified on the original or copy, or on a frame, mount or other thing to which it is attached, or
  - (b) by including in a licence by which the author or other first owner of copyright authorises the making of copies of the work a statement signed by or on behalf of the person granting the licence that the author asserts his right to be identified in the event of the public exhibition of a copy made in pursuance of the licence.
- (4) The persons bound by an assertion of the right under subsection (2) or (3) are—
- (a) in the case of an assertion under subsection (2)(a), the assignee and anyone claiming through him, whether or not he has notice of the assertion;
  - (b) in the case of an assertion under subsection (2)(b), anyone to whose notice the assertion is brought;
  - (c) in the case of an assertion under subsection (3)(a), anyone into whose hands that original or copy comes, whether or not the identification is still present or visible;
  - (d) in the case of an assertion under subsection (3)(b), the licensee and anyone into whose hands a copy made in pursuance of the licence comes, whether or not he has notice of the assertion.
- (5) In an action for infringement of the right the court shall, in considering remedies, take into account any delay in asserting the right.

## **79 Exceptions to right.**

- (1) The right conferred by section 77 (right to be identified as author or director) is subject to the following exceptions.
- (2) The right does not apply in relation to the following descriptions of work—
- (a) a computer program;
  - (b) the design of a typeface;
  - (c) any computer-generated work.
- (3) The right does not apply to anything done by or with the authority of the copyright owner where copyright in the work originally vested—
- (a) in the author's employer by virtue of section 11(2) (works produced in course of employment), or
  - (b) in the director's employer by virtue of section 9(2)(a) (person to be treated as author of film).
- (4) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—
- (a) section 30 (fair dealing for certain purposes), so far as it relates to the reporting of current events by means of a sound recording, film, broadcast or cable programme;
  - (b) section 31 (incidental inclusion of work in an artistic work, sound recording, film, broadcast or cable programme);

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- (c) section 32(3) (examination questions);
  - (d) section 45 (parliamentary and judicial proceedings);
  - (e) section 46(1) or (2) (Royal Commissions and statutory inquiries);
  - (f) section 51 (use of design documents and models);
  - (g) section 52 (effect of exploitation of design derived from artistic work);
  - (h) section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author).
- (5) The right does not apply in relation to any work made for the purpose of reporting current events.
- (6) The right does not apply in relation to the publication in—
- (a) a newspaper, magazine or similar periodical, or
  - (b) an encyclopaedia, dictionary, yearbook or other collective work of reference, of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.
- (7) The right does not apply in relation to—
- (a) a work in which Crown copyright or Parliamentary copyright subsists, or
  - (b) a work in which copyright originally vested in an international organisation by virtue of section 168,
- unless the author or director has previously been identified as such in or on published copies of the work.

*Right to object to derogatory treatment of work*

**80 Right to object to derogatory treatment of work.**

- (1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right in the circumstances mentioned in this section not to have his work subjected to derogatory treatment.
- (2) For the purposes of this section—
- (a) “treatment” of a work means any addition to, deletion from or alteration to or adaptation of the work, other than—
    - (i) a translation of a literary or dramatic work, or
    - (ii) an arrangement or transcription of a musical work involving no more than a change of key or register; and
  - (b) the treatment of a work is derogatory if it amounts to distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of the author or director;
- and in the following provisions of this section references to a derogatory treatment of a work shall be construed accordingly.
- (3) In the case of a literary, dramatic or musical work the right is infringed by a person who—
- (a) publishes commercially, performs in public, broadcasts or includes in a cable programme service a derogatory treatment of the work; or

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- (b) issues to the public copies of a film or sound recording of, or including, a derogatory treatment of the work.
- (4) In the case of an artistic work the right is infringed by a person who—
  - (a) publishes commercially or exhibits in public a derogatory treatment of the work, or broadcasts or includes in a cable programme service a visual image of a derogatory treatment of the work,
  - (b) shows in public a film including a visual image of a derogatory treatment of the work or issues to the public copies of such a film, or
  - (c) in the case of—
    - (i) a work of architecture in the form of a model for a building,
    - (ii) a sculpture, or
    - (iii) a work of artistic craftsmanship,issues to the public copies of a graphic work representing, or of a photograph of, a derogatory treatment of the work.
- (5) Subsection (4) does not apply to a work of architecture in the form of a building; but where the author of such a work is identified on the building and it is the subject of derogatory treatment he has the right to require the identification to be removed.
- (6) In the case of a film, the right is infringed by a person who—
  - (a) shows in public, broadcasts or includes in a cable programme service a derogatory treatment of the film; or
  - (b) issues to the public copies of a derogatory treatment of the film,or who, along with the film, plays in public, broadcasts or includes in a cable programme service, or issues to the public copies of, a derogatory treatment of the film sound-track.
- (7) The right conferred by this section extends to the treatment of parts of a work resulting from a previous treatment by a person other than the author or director, if those parts are attributed to, or are likely to be regarded as the work of, the author or director.
- (8) This section has effect subject to sections 81 and 82 (exceptions to and qualifications of right).

## **81 Exceptions to right.**

- (1) The right conferred by section 80 (right to object to derogatory treatment of work) is subject to the following exceptions.
- (2) The right does not apply to a computer program or to any computer-generated work.
- (3) The right does not apply in relation to any work made for the purpose of reporting current events.
- (4) The right does not apply in relation to the publication in—
  - (a) a newspaper, magazine or similar periodical, or
  - (b) an encyclopaedia, dictionary, yearbook or other collective work of reference, of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.

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Nor does the right apply in relation to any subsequent exploitation elsewhere of such a work without any modification of the published version.

- (5) The right is not infringed by an act which by virtue of section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author) would not infringe copyright.
- (6) The right is not infringed by anything done for the purpose of—
- (a) avoiding the commission of an offence,
  - (b) complying with a duty imposed by or under an enactment, or
  - (c) in the case of the British Broadcasting Corporation, avoiding the inclusion in a programme broadcast by them of anything which offends against good taste or decency or which is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling,

provided, where the author or director is identified at the time of the relevant act or has previously been identified in or on published copies of the work, that there is a sufficient disclaimer.

## **82 Qualification of right in certain cases.**

- (1) This section applies to—
- (a) works in which copyright originally vested in the author’s employer by virtue of section 11(2) (works produced in course of employment) or in the director’s employer by virtue of section 9(2)(a) (person to be treated as author of film),
  - (b) works in which Crown copyright or Parliamentary copyright subsists, and
  - (c) works in which copyright originally vested in an international organisation by virtue of section 168.
- (2) The right conferred by section 80 (right to object to derogatory treatment of work) does not apply to anything done in relation to such a work by or with the authority of the copyright owner unless the author or director—
- (a) is identified at the time of the relevant act, or
  - (b) has previously been identified in or on published copies of the work;
- and where in such a case the right does apply, it is not infringed if there is a sufficient disclaimer.

## **83 Infringement of right by possessing or dealing with infringing article.**

- (1) The right conferred by section 80 (right to object to derogatory treatment of work) is also infringed by a person who—
- (a) possesses in the course of a business, or
  - (b) sells or lets for hire, or offers or exposes for sale or hire, or
  - (c) in the course of a business exhibits in public or distributes, or
  - (d) distributes otherwise than in the course of a business so as to affect prejudicially the honour or reputation of the author or director,
- an article which is, and which he knows or has reason to believe is, an infringing article.
- (2) An “infringing article” means a work or a copy of a work which—
- (a) has been subjected to derogatory treatment within the meaning of section 80, and

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- (b) has been or is likely to be the subject of any of the acts mentioned in that section in circumstances infringing that right.

*False attribution of work*

**84 False attribution of work.**

- (1) A person has the right in the circumstances mentioned in this section—
- (a) not to have a literary, dramatic, musical or artistic work falsely attributed to him as author, and
  - (b) not to have a film falsely attributed to him as director;
- and in this section an “attribution”, in relation to such a work, means a statement (express or implied) as to who is the author or director.
- (2) The right is infringed by a person who—
- (a) issues to the public copies of a work of any of those descriptions in or on which there is a false attribution, or
  - (b) exhibits in public an artistic work, or a copy of an artistic work, in or on which there is a false attribution.
- (3) The right is also infringed by a person who—
- (a) in the case of a literary, dramatic or musical work, performs the work in public, broadcasts it or includes it in a cable programme service as being the work of a person, or
  - (b) in the case of a film, shows it in public, broadcasts it or includes it in a cable programme service as being directed by a person,
- knowing or having reason to believe that the attribution is false.
- (4) The right is also infringed by the issue to the public or public display of material containing a false attribution in connection with any of the acts mentioned in subsection (2) or (3).
- (5) The right is also infringed by a person who in the course of a business—
- (a) possesses or deals with a copy of a work of any of the descriptions mentioned in subsection (1) in or on which there is a false attribution, or
  - (b) in the case of an artistic work, possesses or deals with the work itself when there is a false attribution in or on it,
- knowing or having reason to believe that there is such an attribution and that it is false.
- (6) In the case of an artistic work the right is also infringed by a person who in the course of a business—
- (a) deals with a work which has been altered after the author parted with possession of it as being the unaltered work of the author, or
  - (b) deals with a copy of such a work as being a copy of the unaltered work of the author,
- knowing or having reason to believe that that is not the case.
- (7) References in this section to dealing are to selling or letting for hire, offering or exposing for sale or hire, exhibiting in public, or distributing.
- (8) This section applies where, contrary to the fact—

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- (a) a literary, dramatic or musical work is falsely represented as being an adaptation of the work of a person, or
  - (b) a copy of an artistic work is falsely represented as being a copy made by the author of the artistic work,
- as it applies where the work is falsely attributed to a person as author.

*Right to privacy of certain photographs and films*

**85 Right to privacy of certain photographs and films.**

- (1) A person who for private and domestic purposes commissions the taking of a photograph or the making of a film has, where copyright subsists in the resulting work, the right not to have—
- (a) copies of the work issued to the public,
  - (b) the work exhibited or shown in public, or
  - (c) the work broadcast or included in a cable programme service;
- and, except as mentioned in subsection (2), a person who does or authorises the doing of any of those acts infringes that right.
- (2) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—
- (a) section 31 (incidental inclusion of work in an artistic work, film, broadcast or cable programme);
  - (b) section 45 (parliamentary and judicial proceedings);
  - (c) section 46 (Royal Commissions and statutory inquiries);
  - (d) section 50 (acts done under statutory authority);
  - (e) section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author).

*Supplementary*

**86 Duration of rights.**

- (1) The rights conferred by section 77 (right to be identified as author or director), section 80 (right to object to derogatory treatment of work) and section 85 (right to privacy of certain photographs and films) continue to subsist so long as copyright subsists in the work.
- (2) The right conferred by section 84 (false attribution) continues to subsist until 20 years after a person's death.

**87 Consent and waiver of rights.**

- (1) It is not an infringement of any of the rights conferred by this Chapter to do any act to which the person entitled to the right has consented.
- (2) Any of those rights may be waived by instrument in writing signed by the person giving up the right.
- (3) A waiver—



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- (a) may relate to a specific work, to works of a specified description or to works generally, and may relate to existing or future works, and
- (b) may be conditional or unconditional and may be expressed to be subject to revocation;

and if made in favour of the owner or prospective owner of the copyright in the work or works to which it relates, it shall be presumed to extend to his licensees and successors in title unless a contrary intention is expressed.

- (4) Nothing in this Chapter shall be construed as excluding the operation of the general law of contract or estoppel in relation to an informal waiver or other transaction in relation to any of the rights mentioned in subsection (1).

## **88 Application of provisions to joint works.**

- (1) The right conferred by section 77 (right to be identified as author or director) is, in the case of a work of joint authorship, a right of each joint author to be identified as a joint author and must be asserted in accordance with section 78 by each joint author in relation to himself.
- (2) The right conferred by section 80 (right to object to derogatory treatment of work) is, in the case of a work of joint authorship, a right of each joint author and his right is satisfied if he consents to the treatment in question.
- (3) A waiver under section 87 of those rights by one joint author does not affect the rights of the other joint authors.
- (4) The right conferred by section 84 (false attribution) is infringed, in the circumstances mentioned in that section—
  - (a) by any false statement as to the authorship of a work of joint authorship, and
  - (b) by the false attribution of joint authorship in relation to a work of sole authorship;

and such a false attribution infringes the right of every person to whom authorship of any description is, whether rightly or wrongly, attributed.

- (5) The above provisions also apply (with any necessary adaptations) in relation to a film which was, or is alleged to have been, jointly directed, as they apply to a work which is, or is alleged to be, a work of joint authorship.

A film is “jointly directed” if it is made by the collaboration of two or more directors and the contribution of each director is not distinct from that of the other director or directors.

- (6) The right conferred by section 85 (right to privacy of certain photographs and films) is, in the case of a work made in pursuance of a joint commission, a right of each person who commissioned the making of the work, so that—
  - (a) the right of each is satisfied if he consents to the act in question, and
  - (b) a waiver under section 87 by one of them does not affect the rights of the others.

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## **89 Application of provisions to parts of works.**

- (1) The rights conferred by section 77 (right to be identified as author or director) and section 85 (right to privacy of certain photographs and films) apply in relation to the whole or any substantial part of a work.
- (2) The rights conferred by section 80 (right to object to derogatory treatment of work) and section 84 (false attribution) apply in relation to the whole or any part of a work.

**Status:**

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