



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER VII

#### COPYRIGHT LICENSING

*Powers exercisable in consequence of competition report*

**144 Powers exercisable in consequence of report of [<sup>F1</sup>Competition and Markets Authority].**

[<sup>F2</sup>( 1 ) Subsection (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State [<sup>F3</sup>or (as the case may be) the Competition and Markets Authority] under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2)[<sup>F4</sup>, 147A(2)] or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following references to the [<sup>F5</sup>Competition and Markets Authority] in connection with public bodies and certain other persons, mergers or market investigations) consists of or includes—

- (a) conditions in licences granted by the owner of copyright in a work restricting the use of the work by the licensee or the right of the copyright owner to grant other licences; or
- (b) a refusal of a copyright owner to grant licences on reasonable terms.

(1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the copyright shall be available as of right.

( 2 ) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a),

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84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.]

- (2) The references in sections 56(2) and 73(2) of that Act, and [F<sup>6</sup>section] 12(5) of the M<sup>1</sup>Competition Act 1980, to the powers specified in that Part of that Schedule shall be construed accordingly.
- (3) [F<sup>7</sup>The Secretary of State [F<sup>8</sup>or (as the case may be) the Competition and Markets Authority]] shall only exercise the powers available by virtue of this section if he [F<sup>9</sup>or it] is satisfied that to do so does not contravene any Convention relating to copyright to which the United Kingdom is a party.
- (4) The terms of a licence available by virtue of this section shall, in default of agreement, be settled by the Copyright Tribunal on an application by the person requiring the licence; and terms so settled shall authorise the licensee to do everything in respect of which a licence is so available.
- (5) Where the terms of a licence are settled by the Tribunal, the licence has effect from the date on which the application to the Tribunal was made.

#### Textual Amendments

- F1** Words in s. 144 heading substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 57(4)** (with art. 3)
- F2** S. 144(1)(1A)(2) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) for s. 144(1)(2) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(2); S.I. 2003/1397, **arts. 2, 3(1)**, Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)
- F3** Words in s. 144(1) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 57(2)(a)** (with art. 3)
- F4** Word in s. 144(1) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 57(2)(b)** (with art. 3)
- F5** Words in s. 144(1) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 57(2)(c)** (with art. 3)
- F6** Words in s. 144(2) substituted (1.3.2000) by S.I. 2000/311, **art. 22(2)**
- F7** Words in s. 144(3) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(a); S.I. 2003/1397, **arts. 2, 3(1)**, Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)
- F8** Words in s. 144(3) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 57(3)** (with art. 3)
- F9** Words in s. 144(3) inserted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(b); S.I. 2003/1397, **arts. 2, 3(1)**, Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)

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

- C1** S. 144(1) amended (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 16, **Sch. 4 para. 7(1)(a)** (as amended (1.4.2014) by S.I. 2014/891, arts. 1, 19(3) (with arts. 20-23))
- C2** S. 144(2) amended (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 16, **Sch. 4 para. 7(1)(b)**

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**Marginal Citations**

**M1** 1980 c. 21.

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