Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART VII

MISCELLANEOUS AND GENERAL

Fraudulent reception of transmissions

[F1298 Rights and remedies in respect of apparatus, &c. for unauthorised reception of transmissions.

(1) A person who—

(a) makes charges for the reception of programmes included in a broadcasting F2. . . service provided from a place in the United Kingdom F3...,

(b) sends encrypted tranmissions of any other description from a place in the United Kingdom F4..., or

(c) provides conditional access services from a place in the United Kingdom F5...,

is entitled to the following rights and remedies.

(2) He has the same rights and remedies against a person—

(a) who—

(i) makes, imports, distributes, sells or lets for hire, offers or exposes for sale or hire, or advertises for sale or hire,

(ii) has in his possession for commercial purposes, or

(iii) instals, maintains or replaces for commercial purposes,

any apparatus designed or adapted to enable or assist persons to access the programmes or other transmissions or circumvent conditional access technology related to the programmes or other transmissions when they are not entitled to do so, or

(b) who publishes or otherwise promotes by means of commercial communications any information which is calculated to enable or assist persons to access the programmes or other transmissions or circumvent

conditional access technology related to the programmes or other transmissions when they are not entitled to do so,

as a copyright owner has in respect of an infringement of copyright.

(3) Further, he has the same rights under section 99 or 100 (delivery up or seizure of certain articles) in relation to any such apparatus as a copyright owner has in relation to an infringing copy.

(4) Section 72 of the [M1]**[**[F6]Senior Courts Act 1981**]**, section 15 of the [M2]Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 and section 94A of the [M3]Judicature (Northern Ireland) Act 1978 (withdrawal of privilege against self-incrimination in certain proceedings relating to intellectual property) apply to proceedings under this section as to proceedings under Part I of this Act (copyright).

(5) In section 97(1) (innocent infringement of copyright) as it applies to proceedings for infringement of the rights conferred by this section, the reference to the defendant not knowing or having reason to believe that copyright subsisted in the work shall be construed as a reference to his not knowing or having reason to believe that his acts infringed the rights conferred by this section.

(6) Section 114 applies, with the necessary modifications, in relation to the disposal of anything delivered up or seized by virtue of subsection (3) above.

(7) In this section "apparatus", "conditional access technology" and "encrypted" have the same meanings as in section 297A, "transmission" includes transmissions as defined in that section and "conditional access services" means services comprising the provision of conditional access technology.**]**

Textual Amendments

F1 S. 298 substituted (25.5.2000) by S.I. 2000/1175, **art. 2(3)**

F2 Words in s. 298(1)(a) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(2), **Sch. 2** (with regs. 31-40)

F3 Words in s. 298(1)(a) omitted (31.12.2020) by virtue of The Broadcasting (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/224), reg. 1(2), **Sch. 1 para. 35(3)** (with reg. 6) (as amended by S.I. 2020/1536, reg. 5(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)

F4 Words in s. 298(1)(b) omitted (31.12.2020) by virtue of The Broadcasting (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/224), reg. 1(2), **Sch. 1 para. 35(3)** (with reg. 6) (as amended by S.I. 2020/1536, reg. 5(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)

F5 Words in s. 298(1)(c) omitted (31.12.2020) by virtue of The Broadcasting (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/224), reg. 1(2), **Sch. 1 para. 35(3)** (with reg. 6) (as amended by S.I. 2020/1536, reg. 5(2)(3)); 2020 c. 1, Sch. 5 para. 1(1)

F6 S. 298(4): words wherever they occur in any enactment substituted (1.10.2009) by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

Marginal Citations

M1 1981 c. 54.

M2 1985 c. 37.

M3 1978 c. 23.

Changes to legislation:
There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 298.