



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER III

ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

Miscellaneous: broadcasts and cable programmes

[^{F1}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

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Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 73. (See end of Document for details)

- (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 ^{M1}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;

and expressions used in this subsection have the same meaning as in Part I of the ^{M2}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 ^{M3}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.

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(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

F1 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

M1 1990 c. 42.

M2 1990 c. 42.

M3 1984 c. 46.

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Changes to legislation:

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