Changes to legislation: *Broadcasting Act 1990, SCHEDULE 17 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 17

Section 176.

INFORMATION ABOUT PROGRAMMES: COPYRIGHT

PART I

COPYRIGHT LICENSING

1 (1) This paragraph applies where the person providing a programme service has assigned to another the copyright in works containing information to which this Schedule applies.

(2) The person providing the programme service, not the assignee, is to be treated as the owner of the copyright for the purposes of licensing any act restricted by the copyright done on or after the day on which this paragraph comes into force.

(3) Where the assignment by the person providing the programme service occurred before 29th September 1989 then, in relation to any act restricted by the copyright so assigned—

(a) sub-paragraph (2) does not have effect, and

(b) references below in this Schedule to the person providing the programme service are to the assignee.

PART II

USE OF INFORMATION AS OF RIGHT

Circumstances in which right available

2 (1) Paragraph 4 applies to any act restricted by the copyright in works containing information to which this Schedule applies done by the publisher if—

(a) a licence to do the act could be granted by the person providing the programme service but no such licence is held by the publisher,

(b) the person providing the programme service refuses to grant to the publisher a licence to do the act, being a licence of such duration, and of which the terms as to payment for doing the act are such, as would be acceptable to the publisher, and

(c) the publisher has complied with paragraph 3.

(2) The reference in sub-paragraph (1) to refusing to grant a licence includes failing to do so within a reasonable time of being asked.

(3) References below in this Schedule to the terms of payment are to the terms as to payment for doing any act restricted by the copyright in works containing information to which this Schedule applies.

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Notice of intention to exercise right

3 (1) A publisher intending to avail himself of the right conferred by paragraph 4 must—

(a) give notice of his intention to the person providing the programme service, asking that person to propose terms of payment, and

(b) after receiving the proposal or the expiry of a reasonable time, give reasonable notice to the person providing the programme service of the date on which he proposes to begin exercising the right and the terms of payment in accordance with which he intends to do so.

(2) Before exercising the right the publisher must—

(a) give reasonable notice to the Copyright Tribunal of his intention to exercise the right and of the date on which he proposes to begin to do so, and

(b) apply to the Tribunal under paragraph 5 to settle the terms of payment.

Conditions for exercise of right

4 (1) Where the publisher, on or after the date specified in a notice under paragraph 3(1)(b), does any act in circumstances in which this paragraph applies, he shall, if he makes the payments required by this paragraph, be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence to do so granted by the person providing the programme service.

(2) Payments are to be made at not less than quarterly intervals in arrears.

(3) The amount of any payment is that determined in accordance with any order of the Copyright Tribunal under paragraph 5 or, if no such order has been made—

(a) in accordance with any proposal for terms of payment made by the person providing the programme service pursuant to a request under paragraph 3(1)(a), or

(b) where no proposal has been so made or the amount determined in accordance with the proposal so made appears to the publisher to be unreasonably high, in accordance with the terms of payment notified under paragraph 3(1)(b).

Applications to settle payments

5 (1) On an application to settle the terms of payment, the Copyright Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.

(2) An order under sub-paragraph (1) has effect from the date the applicant begins to exercise the right conferred by paragraph 4 and any necessary repayments, or further payments, shall be made in respect of amounts that have fallen due.

Application for review of order

6 (1) A person exercising the right conferred by paragraph 4, or the person providing the programme service, may apply to the Tribunal to review any order under paragraph 5.

(2) An application under sub-paragraph (1) shall not be made, except with the special leave of the Tribunal—

(a) within twelve months from the date of the order, or of the decision on a previous application under this paragraph, or

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(b) if the order was made so as to be in force for fifteen months or less, or as a result of a decision on a previous application is due to expire within fifteen months of that decision, until the last three months before the expiry date.

(3) On the application 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 order under this paragraph has effect from the date on which it is made or such later date as may be specified by the Tribunal.

PART III

SUPPLEMENTARY

7 (1) This Schedule and the [M1]Copyright, Designs and Patents Act 1988 shall have effect as if the Schedule were included in Chapter III of Part I of that Act, and that Act shall have effect as if proceedings under this Schedule were listed in section 149 of that Act (jurisdiction of the Copyright Tribunal).

(2) References in this Schedule to anything done by the publisher include anything done on his behalf.

(3) References in this Schedule to works include future works, and references to the copyright in works include future copyright.

Marginal Citations

M1 1988 c. 48.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18A applied (with modifications) by 2003 c. 21, Sch. 9 para. 8(7) (as substituted) by 2024 c. 15 s. 19(6)
- s. 18A inserted by 2024 c. 15 s. 19(3)
- s. 61A(4A) inserted by 2024 c. 15 Sch. 4 para. 6(4)
- s. 97B(5) inserted by 2024 c. 15 s. 41(3)
- s. 104AA(4ZA)-(4ZC) inserted by 2024 c. 15 s. 42(3)(b)
- s. 193(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3A(2)(b) (as inserted) by S.I. 2019/1245 reg. 20 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Sch. 7 Pt. 1 para. 1(5) inserted by 2024 c. 15 s. 19(5)