
STATUTORY INSTRUMENTS

2014 No. 1372

The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014

Citation and Commencement

1. These Regulations may be cited as the Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014 and come into force at 00.02 on 1st June 2014.

Amendments to the Copyright, Designs and Patents Act 1988 etc.

2.—(1) The Copyright, Designs and Patents Act 1988(1) is amended in accordance with these Regulations.

(2) The Schedule (which contains consequential amendments, repeals and revocations) has effect.

Research, private study and text and data analysis for non-commercial research

3.—(1) In section 29(2)—

- (a) in subsection (1), omit “literary, dramatic, musical or artistic”,
- (b) in subsection (1C), omit “literary, dramatic, musical or artistic”,
- (c) omit subsection (2),
- (d) for subsection (3)(a), substitute—

“(a) in the case of a librarian, or a person acting on behalf of a librarian, that person does anything which is not permitted under section 42A (copying by librarians: single copies of published works), or”, and

(e) after subsection (4A) insert—

“(4B) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”

(2) After section 29 insert—

“29A Copies for text and data analysis for non-commercial research

(1) The making of a copy of a work by a person who has lawful access to the work does not infringe copyright in the work provided that—

- (a) the copy is made in order that a person who has lawful access to the work may carry out a computational analysis of anything recorded in the work for the sole purpose of research for a non-commercial purpose, and
- (b) the copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

(1) 1988 c.48.

(2) Section 29 was amended by S.I. 1992/3233, regulation 7, S.I. 1997/3032, regulation 8 and S.I. 2003/2498, regulation 9.

- (2) Where a copy of a work has been made under this section, copyright in the work is infringed if—
- (a) the copy is transferred to any other person, except where the transfer is authorised by the copyright owner, or
 - (b) the copy is used for any purpose other than that mentioned in subsection (1)(a), except where the use is authorised by the copyright owner.
- (3) If a copy made under this section is subsequently dealt with—
- (a) it is to be treated as an infringing copy for the purposes of that dealing, and
 - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (4) In subsection (3) “dealt with” means sold or let for hire, or offered or exposed for sale or hire.
- (5) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable.”.
- (3) In Schedule 2(3), immediately before paragraph 2, insert—

“Research and private study

- 1C.**—(1) Fair dealing with a performance or a recording of a performance for the purposes of research for a non-commercial purpose does not infringe the rights conferred by this Chapter.
- (2) Fair dealing with a performance or recording of a performance for the purposes of private study does not infringe the rights conferred by this Chapter.
- (3) Copying of a recording by a person other than the researcher or student is not fair dealing if—
- (a) in the case of a librarian, or a person acting on behalf of a librarian, that person does anything which is not permitted under paragraph 6F (copying by librarians: single copies of published recordings), or
 - (b) in any other case, the person doing the copying knows or has reason to believe that it will result in copies of substantially the same material being provided to more than one person at substantially the same time and for substantially the same purpose.
- (4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.
- (5) Expressions used in this paragraph have the same meaning as in section 29.

Copies for text and data analysis for non-commercial research

- 1D.**—(1) The making of a copy of a recording of a performance by a person who has lawful access to the recording does not infringe any rights conferred by this Chapter provided that the copy is made in order that a person who has lawful access to the recording may carry out a computational analysis of anything recorded in the recording for the sole purpose of research for a non-commercial purpose.
- (2) Where a copy of a recording has been made under this paragraph, the rights conferred by this Chapter are infringed if—

- (a) the copy is transferred to any other person, except where the transfer is authorised by the rights owner, or
 - (b) the copy is used for any purpose other than that mentioned in sub-paragraph (1), except where the use is authorised by the rights owner.
- (3) If a copy of a recording made under this paragraph is subsequently dealt with—
- (a) it is to be treated as an illicit recording for the purposes of that dealing, and
 - (b) if that dealing infringes any right conferred by this Chapter, it is to be treated as an illicit recording for all subsequent purposes.
- (4) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.
- (5) Expressions used in this paragraph have the same meaning as in section 29A.”.

Education

- 4.—(1) For section 32(4), substitute—

“32 Illustration for instruction

(1) Fair dealing with a work for the sole purpose of illustration for instruction does not infringe copyright in the work provided that the dealing is—

- (a) for a non-commercial purpose,
- (b) by a person giving or receiving instruction (or preparing for giving or receiving instruction), and
- (c) accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

(2) For the purposes of subsection (1), “giving or receiving instruction” includes setting examination questions, communicating the questions to pupils and answering the questions.

(3) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”.

- (2) For section 35(5), substitute—

“35 Recording by educational establishments of broadcasts

(1) A recording of a broadcast, or a copy of such a recording, may be made by or on behalf of an educational establishment for the educational purposes of that establishment without infringing copyright in the broadcast, or in any work included in it, provided that—

- (a) the educational purposes are non-commercial, and
- (b) the recording or copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

(2) Copyright is not infringed where a recording of a broadcast or a copy of such a recording, made under subsection (1), is communicated by or on behalf of the educational establishment to its pupils or staff for the non-commercial educational purposes of that establishment.

(4) Section 32 was amended by S.I. 2003/2498, regulation 11.

(5) Section 35 was amended by S.I. 2003/2498, regulation 12 and regulation 2(2) and Schedule 2.

(3) Subsection (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment's pupils and staff.

(4) Acts which would otherwise be permitted by this section are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.

(5) If a copy made under this section is subsequently dealt with—

- (a) it is to be treated as an infringing copy for the purposes of that dealing, and
- (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.

(6) In this section “dealt with” means—

- (a) sold or let for hire,
- (b) offered or exposed for sale or hire, or
- (c) communicated otherwise than as permitted by subsection (2).”.

(3) For section 36(6), substitute—

“36 Copying and use of extracts of works by educational establishments

(1) The copying of extracts of a relevant work by or on behalf of an educational establishment does not infringe copyright in the work, provided that—

- (a) the copy is made for the purposes of instruction for a non-commercial purpose, and
- (b) the copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

(2) Copyright is not infringed where a copy of an extract made under subsection (1) is communicated by or on behalf of the educational establishment to its pupils or staff for the purposes of instruction for a non-commercial purpose.

(3) Subsection (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment's pupils and staff.

(4) In this section “relevant work” means a copyright work other than—

- (a) a broadcast, or
- (b) an artistic work which is not incorporated into another work.

(5) Not more than 5% of a work may be copied under this section by or on behalf of an educational establishment in any period of 12 months, and for these purposes a work which incorporates another work is to be treated as a single work.

(6) Acts which would otherwise be permitted by this section are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.

(7) The terms of a licence granted to an educational establishment authorising acts permitted by this section are of no effect so far as they purport to restrict the proportion of a work which may be copied (whether on payment or free of charge) to less than that which would be permitted by this section.

(8) If a copy made under this section is subsequently dealt with—

- (a) it is to be treated as an infringing copy for the purposes of that dealing, and

- (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (9) In this section “dealt with” means—
 - (a) sold or let for hire,
 - (b) offered or exposed for sale or hire, or
 - (c) communicated otherwise than as permitted by subsection (2).”.
- (4) For paragraph 4 of Schedule 2(7), substitute—

“Illustration for instruction

- 4.—(1) Fair dealing with a performance or a recording of a performance for the sole purpose of illustration for instruction does not infringe the rights conferred by this Chapter provided that the dealing is—
 - (a) for a non-commercial purpose, and
 - (b) by a person giving or receiving instruction (or preparing for giving or receiving instruction).
- (2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.
- (3) Expressions used in this paragraph have the same meaning as in section 32.”.
- (5) For paragraph 6 of Schedule 2(8), substitute—

“Recording by educational establishments of broadcasts

- 6.—(1) A recording of a broadcast, or a copy of such a recording, may be made by or on behalf of an educational establishment for the educational purposes of that establishment without infringing any of the rights conferred by this Chapter in relation to any performance or recording included in it, provided that the educational purposes are non-commercial.
- (2) The rights conferred by this Chapter are not infringed where a recording of a broadcast or a copy of such a recording, made under sub-paragraph (1), is communicated by or on behalf of the educational establishment to its pupils or staff for the non-commercial educational purposes of that establishment.
- (3) Sub-paragraph (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment’s pupils and staff.
- (4) Acts which would otherwise be permitted by this paragraph are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.
- (5) If a recording made under this paragraph is subsequently dealt with—
 - (a) it is to be treated as an illicit recording for the purposes of that dealing, and
 - (b) if that dealing infringes any right conferred by this Chapter, it is to be treated as an illicit recording for all subsequent purposes.
- (6) In this paragraph “dealt with” means—

(7) Paragraph 4 of Schedule 2 was amended by [S.I. 2003/2498](#), regulation 11(2).

(8) Paragraph 6 of Schedule 2 was amended by [S.I. 2003/2498](#), regulation 12(2).

- (a) sold or let for hire,
- (b) offered or exposed for sale or hire, or
- (c) communicated otherwise than as permitted by sub-paragraph (2).

(7) Expressions used in this paragraph (other than “dealt with”) have the same meaning as in section 35 and any provision made under section 174(2) with respect to the application of that section also applies for the purposes of this paragraph.

Copying and use of extracts of recordings by educational establishments

6ZA.—(1) The copying of extracts of a recording of a performance by or on behalf of an educational establishment does not infringe any of the rights conferred by this Chapter in the recording provided that the copy is made for the purposes of instruction for a non-commercial purpose.

(2) The rights conferred by this Chapter are not infringed where an extract of a recording of a performance, made under sub-paragraph (1), is communicated by or on behalf of the educational establishment to its pupils or staff for the purposes of instruction for a non-commercial purpose.

(3) Sub-paragraph (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment’s pupils and staff.

(4) Not more than 5% of a recording may be copied under this paragraph by or on behalf of an educational establishment in any period of 12 months.

(5) Acts which would otherwise be permitted by this paragraph are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.

(6) The terms of a licence granted to an educational establishment authorising acts permitted by this paragraph are of no effect so far as they purport to restrict the proportion of a recording which may be copied (whether on payment or free of charge) to less than that which would be permitted by this paragraph.

(7) If a recording made under this paragraph is subsequently dealt with—

- (a) it is to be treated as an illicit recording for the purposes of that dealing, and
- (b) if that dealing infringes any right conferred by this Chapter, it is to be treated as an illicit recording for all subsequent purposes.

(8) In this paragraph “dealt with” means—

- (a) sold or let for hire,
- (b) offered or exposed for sale or hire, or
- (c) communicated otherwise than as permitted by sub-paragraph (2).

(9) Expressions used in this paragraph (other than “dealt with”) have the same meaning as in section 36 and any provision made under section 174(2) with respect to the application of that section also applies for the purposes of this paragraph.”

Libraries and archives: amendments to Part 1 of the Act

5.—(1) After section 40A(9) insert—

(9) Section 40A was inserted by [S.I. 1996/2967](#), regulation 11(2) and is prospectively amended by section 43 of the Digital Economy Act 2010 (c.24).

“40B Libraries and educational establishments etc: making works available through dedicated terminals

(1) Copyright in a work is not infringed by an institution specified in subsection (2) communicating the work to the public or making it available to the public by means of a dedicated terminal on its premises, if the conditions in subsection (3) are met.

(2) The institutions are—

- (a) a library,
- (b) an archive,
- (c) a museum, and
- (d) an educational establishment.

(3) The conditions are that the work or a copy of the work—

- (a) has been lawfully acquired by the institution,
- (b) is communicated or made available to individual members of the public for the purposes of research or private study, and
- (c) is communicated or made available in compliance with any purchase or licensing terms to which the work is subject.”.

(2) For sections 41 to 43(10), substitute—

“41 Copying by librarians: supply of single copies to other libraries

(1) A librarian may, if the conditions in subsection (2) are met, make a single copy of the whole or part of a published work and supply it to another library, without infringing copyright in the work.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
- (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the work.

(3) The condition in subsection (2)(b) does not apply where the request is for a copy of an article in a periodical.

(4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

42 Copying by librarians etc: replacement copies of works

(1) A librarian, archivist or curator of a library, archive or museum may, without infringing copyright, make a copy of an item in that institution’s permanent collection—

- (a) in order to preserve or replace that item in that collection, or
- (b) where an item in the permanent collection of another library, archive or museum has been lost, destroyed or damaged, in order to replace the item in the collection of that other library, archive or museum,

provided that the conditions in subsections (2) and (3) are met.

(2) The first condition is that the item is—

- (a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution's premises,
- (b) included in a part of the collection not accessible to the public, or
- (c) available on loan only to other libraries, archives or museums.

(3) The second condition is that it is not reasonably practicable to purchase a copy of the item to achieve either of the purposes mentioned in subsection (1).

(4) The reference in subsection (1)(b) to a library, archive or museum is to a library, archive or museum which is not conducted for profit.

(5) Where an institution makes a charge for supplying a copy to another library, archive or museum under subsection (1)(b), the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(6) In this section "item" means a work or a copy of a work.

(7) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

42A Copying by librarians: single copies of published works

(1) A librarian of a library which is not conducted for profit may, if the conditions in subsection (2) are met, make and supply a single copy of—

- (a) one article in any one issue of a periodical, or
- (b) a reasonable proportion of any other published work,

without infringing copyright in the work.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a person who has provided the librarian with a declaration in writing which includes the information set out in subsection (3), and
- (b) the librarian is not aware that the declaration is false in a material particular.

(3) The information which must be included in the declaration is—

- (a) the name of the person who requires the copy and the material which that person requires,
- (b) a statement that the person has not previously been supplied with a copy of that material by any library,
- (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person, and
- (d) a statement that to the best of the person's knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person's request, a request for substantially the same material for substantially the same purpose.

(4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) Where a person ("P") makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—

- (a) P is liable for infringement of copyright as if P had made the copy, and
 - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.
- (6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

43 Copying by librarians or archivists: single copies of unpublished works

(1) A librarian or archivist may make and supply a single copy of the whole or part of a work without infringing copyright in the work, provided that—

- (a) the copy is supplied in response to a request from a person who has provided the librarian or archivist with a declaration in writing which includes the information set out in subsection (2), and
 - (b) the librarian or archivist is not aware that the declaration is false in a material particular.
- (2) The information which must be included in the declaration is—
- (a) the name of the person who requires the copy and the material which that person requires,
 - (b) a statement that the person has not previously been supplied with a copy of that material by any library or archive, and
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (3) But copyright is infringed if—
- (a) the work had been published or communicated to the public before the date it was deposited in the library or archive, or
 - (b) the copyright owner has prohibited the copying of the work,

and at the time of making the copy the librarian or archivist is, or ought to be, aware of that fact.

(4) Where a library or archive makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—

- (a) P is liable for infringement of copyright as if P had made the copy, and
- (b) the copy supplied to P is to be treated as an infringing copy for all purposes.

43A Sections 40A to 43: interpretation

- (1) The following definitions have effect for the purposes of sections 40A to 43.
- (2) “Library” means—
 - (a) a library which is publicly accessible, or
 - (b) a library of an educational establishment.
- (3) “Museum” includes a gallery.
- (4) “Conducted for profit”, in relation to a library, archive or museum, means a body of that kind which is established or conducted for profit or which forms part of, or is administered by, a body established or conducted for profit.

(5) References to a librarian, archivist or curator include a person acting on behalf of a librarian, archivist or curator.”.

Libraries and archives: amendments to Part 2 of the Act

6. In Schedule 2, after paragraph 6B(11), insert—

“Libraries and educational establishments etc: making recordings of performances available through dedicated terminals

6C.—(1) The rights conferred by this Chapter in a recording of a performance are not infringed by an institution specified in sub-paragraph (2) communicating the recording to the public or making it available to the public by means of a dedicated terminal on its premises, if the conditions in sub-paragraph (3) are met.

(2) The institutions are—

- (a) a library,
- (b) an archive,
- (c) a museum, and
- (d) an educational establishment.

(3) The conditions are that the recording or a copy of the recording—

- (a) has been lawfully acquired by the institution,
- (b) is communicated or made available to individual members of the public for the purposes of research or private study, and
- (c) is communicated or made available in compliance with any purchase or licensing terms to which the recording is subject.

Copying by librarians: supply of single copies to other libraries

6D.—(1) A librarian may, if the conditions in sub-paragraph (2) are met, make a single copy of the whole or part of a published recording of a performance and supply it to another library, without infringing any rights conferred by this Chapter in the recording.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
- (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the recording.

(3) Where a library makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

(11) Paragraph 6B was inserted into Schedule 2 by [S.I. 1996/2967](#), regulation 20(3), was amended by [S.I. 2006/18](#), paragraph 9 of the Schedule and is prospectively amended by section 43 of the Digital Economy Act 2010 ([c.24](#)).

Copying by librarians etc: replacement copies of recordings

6E.—(1) A librarian, archivist or curator of a library, archive or museum may, without infringing any rights conferred by this Chapter, make a copy of a recording of a performance in that institution’s permanent collection—

- (a) in order to preserve or replace that recording in that collection, or
- (b) where a recording in the permanent collection of another library, archive or museum has been lost, destroyed or damaged, in order to replace the recording in the collection of that other library, archive or museum,

provided that the conditions in sub-paragraphs (2) and (3) are met.

(2) The first condition is that the recording is—

- (a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution’s premises,
- (b) included in a part of the collection not accessible to the public, or
- (c) available on loan only to other libraries, archives or museums.

(3) The second condition is that it is not reasonably practicable to purchase a copy of the recording to achieve either of the purposes mentioned in sub-paragraph (1).

(4) The reference in sub-paragraph (1)(b) to a library, archive or museum is to a library, archive or museum which is not conducted for profit.

(5) Where an institution makes a charge for supplying a copy to another library, archive or museum under sub-paragraph (1)(b), the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

Copying by librarians: single copies of published recordings

6F.—(1) A librarian of a library which is not conducted for profit may, if the conditions in sub-paragraph (2) are met, make and supply a single copy of a reasonable proportion of a published recording without infringing any of the rights in the recording conferred by this Chapter.

(2) The conditions are—

- (a) the copy is supplied in response to a request from a person who has provided the librarian with a declaration in writing which includes the information set out in sub-paragraph (3), and
- (b) the librarian is not aware that the declaration is false in a material particular.

(3) The information which must be included in the declaration is—

- (a) the name of the person who requires the copy and the material which that person requires,
- (b) a statement that the person has not previously been supplied with a copy of that material by any library,
- (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person, and

- (d) a statement that to the best of the person’s knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person’s request, a request for substantially the same material for substantially the same purpose.

(4) Where a library makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) Where a person (“P”) makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—

- (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
- (b) the copy supplied to P is to be treated as an illicit recording for all purposes.

(6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

Copying by librarians or archivists: single copies of unpublished recordings

6G.—(1) A librarian or archivist may make and supply a single copy of the whole or part of a recording without infringing any of the rights conferred by this Chapter in the recording, provided that—

- (a) the copy is supplied in response to a request from a person who has provided the librarian or archivist with a declaration in writing which includes the information set out in sub-paragraph (2), and
- (b) the librarian or archivist is not aware that the declaration is false in a material particular.

(2) The information which must be included in the declaration is—

- (a) the name of the person who requires the copy and the material which that person requires,
- (b) a statement that the person has not previously been supplied with a copy of that material by any library or archive, and
- (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.

(3) But the rights conferred by this Chapter are infringed if—

- (a) the recording had been published or communicated to the public before the date it was deposited in the library or archive, or
- (b) the rights owner has prohibited the copying of the recording,

and at the time of making the copy the librarian or archivist is, or ought to be, aware of that fact.

(4) Where a library or archive makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(5) Where a person (“P”) makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—

- (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
- (b) the copy supplied to P is to be treated as an illicit recording for all purposes.

Paragraphs 6B to 6G: interpretation

6H. Expressions used in paragraphs 6B to 6G have the same meaning as in sections 40A to 43.”.

Recordings of folksongs

7.—(1) In section 61(1), for “designated body” substitute “body not established or conducted for profit”.

(2) For section 61(3) to (6)(**12**), substitute—

“(3) A single copy of a sound recording made in reliance on subsection (1) and included in an archive referred to in that subsection may be made and supplied by the archivist without infringing copyright in the recording or the works included in it, provided that—

- (a) the copy is supplied in response to a request from a person who has provided the archivist with a declaration in writing which includes the information set out in subsection (4), and
- (b) the archivist is not aware that the declaration is false in a material particular.

(4) The information which must be included in the declaration is—

- (a) the name of the person who requires the copy and the sound recording which is the subject of the request,
- (b) a statement that the person has not previously been supplied with a copy of that sound recording by any archivist, and
- (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.

(5) Where an archive makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

(6) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—

- (a) P is liable for infringement of copyright as if P had made the copy, and
- (b) the copy supplied to P is to be treated as an infringing copy for all purposes.

(7) In this section references to an archivist include a person acting on behalf of an archivist.”.

(3) In paragraph 14(1)(**13**) of Schedule 2, for “designated body” substitute “body not established or conducted for profit”.

(4) For paragraph 14(3) and (4), substitute—

“(3) A single copy of a recording made in reliance on sub-paragraph (1) and included in an archive referred to in that sub-paragraph may be made and supplied by the archivist without infringing any right conferred by this Chapter, provided that—

(12) Section 61(4) was amended by [S.I. 2003/2498](#), regulation 16.

(13) Paragraph 14 was amended by [S.I. 2006/18](#), paragraph 9 of the Schedule.

- (a) the copy is supplied in response to a request from a person who has provided the archivist with a declaration in writing which includes the information set out in sub-paragraph (4), and
- (b) the archivist is not aware that the declaration is false in a material particular.
- (4) The information which must be included in the declaration is—
 - (a) the name of the person who requires the copy and the recording which is the subject of the request,
 - (b) a statement that the person has not previously been supplied with a copy of that recording by any archivist, and
 - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (5) Where an archive makes a charge for supplying a copy under this paragraph, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (6) Where a person (“P”) makes a declaration under this paragraph that is false in a material particular and is supplied with a copy of a recording which would have been an illicit recording if made by P—
 - (a) P is liable for infringement of the rights conferred by this Chapter as if P had made the copy, and
 - (b) the copy supplied to P is to be treated as an illicit recording for all purposes.
- (7) In this paragraph references to an archivist include a person acting on behalf of an archivist.
- (8) Expressions used in this paragraph have the same meaning as in section 61.”.

Recording of broadcasts for archival purposes

8.—(1) For section 75(14), substitute—

“75 Recording of broadcast for archival purposes

(1) A recording of a broadcast or a copy of such a recording may be made for the purpose of being placed in an archive maintained by a body which is not established or conducted for profit without infringing any copyright in the broadcast or in any work included in it.

(2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”.

(2) For paragraph 21(15) of Schedule 2, substitute—

“Recording of broadcast for archival purposes

21.—(1) A recording of a broadcast or a copy of such a recording may be made for the purpose of being placed in an archive maintained by a body which is not established or conducted for profit without infringing any right conferred by this Chapter in relation to a performance or recording included in the broadcast.

(14) Section 75 was amended by S.I. 2003/2498, regulation 2(2) and Schedule 2.

(15) Paragraph 21 of Schedule 2 was amended by S.I. 2003/2498, Schedule 2 and S.I. 2006/18, paragraph 9 of the Schedule.

(2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this paragraph, would not infringe any right conferred by this Chapter, that term is unenforceable.

(3) Expressions used in this paragraph have the same meaning as in section 75.”.

19th May 2014

Younger of Leckie
Parliamentary Under Secretary of State for
Business, Innovation and Skills
Department for Business, Innovation and Skills