
STATUTORY INSTRUMENTS

2014 No. 1384

**The Copyright and Rights in Performances
(Disability) Regulations 2014**

Amendments to Schedule 2 to the 1988 Act

3. After paragraph 3 of Schedule 2 to the 1988 Act, insert—

“Disabled persons: copies of recordings for personal use

3A.—(1) This paragraph applies if—

- (a) a disabled person has lawful possession or lawful use of a copy of the whole or part of a recording of a performance, and
- (b) the person’s disability prevents the person from enjoying the recording to the same degree as a person who does not have that disability.

(2) The making of an accessible copy of the copy of the recording referred to in sub-paragraph (1)(a) does not infringe the rights conferred by this Chapter if—

- (a) the copy is made by the disabled person or by a person acting on behalf of the disabled person,
- (b) the copy is made for the disabled person’s personal use, and
- (c) the same kind of accessible copies of the recording are not commercially available on reasonable terms by or with the authority of the rights owner.

(3) If a person makes an accessible copy under this paragraph on behalf of a disabled person and charges the disabled person for it, the sum charged must not exceed the cost of making and supplying the copy.

(4) The rights conferred by this Chapter are infringed by the transfer of an accessible copy of a recording made under this paragraph to any person other than—

- (a) a person by or for whom an accessible copy of the recording may be made under this paragraph, or

(b) a person who intends to transfer the copy to a person falling within paragraph (a), except where the transfer is authorised by the rights owner.

(5) An accessible copy of a recording made under this paragraph is to be treated for all purposes as an illicit recording if it is held by a person at a time when the person does not fall within sub-paragraph (4)(a) or (b).

(6) If an accessible 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.

Making and supply of accessible copies by authorised bodies

3B.—(1) If an authorised body has lawful possession of or lawful access to a copy of the whole or part of a recording of a performance (including a recording of a performance included in a broadcast), the body may, without infringing the rights conferred by this Chapter, make and supply accessible copies of the recording for the personal use of disabled persons.

(2) If an authorised body has lawful access to the whole or part of a broadcast, the body may, without infringing the rights conferred by this Chapter, make a recording of the broadcast, and make and supply accessible copies of the recording, for the personal use of disabled persons.

(3) But sub-paragraphs (1) and (2) do not apply if the same kind of accessible copies of the recording, or of the broadcast, are commercially available on reasonable terms by or with the consent of the rights owner.

(4) For the purposes of sub-paragraphs (1) and (2), supply “for the personal use of disabled persons” includes supply to a person acting on behalf of a disabled person.

(5) An authorised body which is an educational establishment conducted for profit must ensure that any accessible copies which it makes under this paragraph are used only for its educational purposes.

(6) An accessible copy made under this paragraph must be accompanied by a statement that it is made under this paragraph, unless it is accompanied by an equivalent statement in accordance with section 31B(7).

(7) If an accessible copy is made under this paragraph of a recording which is in copy-protected electronic form, the accessible copy must, so far as is reasonably practicable, incorporate the same or equally effective copy protection (unless the rights owner agrees otherwise).

(8) An authorised body which has made an accessible copy of a recording under this paragraph may supply it to another authorised body which is entitled to make accessible copies of the recording under this paragraph for the purposes of enabling that other body to make accessible copies of the recording.

(9) If an authorised body supplies an accessible copy it has made under this paragraph to a person or authorised body as permitted by this paragraph and charges the person or body for it, the sum charged must not exceed the cost of making and supplying the copy.

(10) If an accessible 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.

Making and supply of intermediate copies by authorised bodies

3C.—(1) An authorised body which is entitled to make an accessible copy of a recording of a performance under paragraph 3B may, without infringing the rights conferred by this Chapter, make a copy of the recording (“an intermediate copy”) if this is necessary in order to make the accessible copy.

(2) An authorised body which has made an intermediate copy of a recording under this paragraph may supply it to another authorised body which is entitled to make accessible

copies of the recording under paragraph 3B for the purposes of enabling that other body to make accessible copies of the recording.

(3) The rights conferred by this Chapter are infringed by the transfer of an intermediate copy made under this paragraph to a person other than another authorised body as permitted by sub-paragraph (2), except where the transfer is authorised by the rights owner.

(4) If an authorised body supplies an intermediate copy to an authorised body under sub-paragraph (2) and charges the body for it, the sum charged must not exceed the cost of making and supplying the copy.

Accessible and intermediate copies: records

3D.—(1) An authorised body must keep a record of—

- (a) accessible copies it makes under paragraph 3B,
- (b) intermediate copies it makes under paragraph 3C, and
- (c) the persons to whom such copies are supplied.

(2) An authorised body must allow the rights owner or a person acting for the rights owner, on giving reasonable notice, to inspect the records at any reasonable time.

Paragraphs 3A to 3D: interpretation and general

3E.—(1) This paragraph supplements paragraphs 3A to 3D and includes definitions.

(2) “Disabled person” means a person who has a physical or mental impairment which prevents the person from enjoying a recording of a performance to the same degree as a person who does not have that impairment, and “disability” is to be construed accordingly.

(3) But a person is not to be regarded as disabled by reason only of an impairment of visual function which can be improved, by the use of corrective lenses, to a level that is normally acceptable for reading without a special level or kind of light.

(4) An “accessible copy” of a recording of a performance means a version of the recording which enables the fuller enjoyment of the recording by disabled persons.

(5) An accessible copy—

- (a) may include facilities for navigating around the version of the recording, but
- (b) must not include any changes to the recording which are not necessary to overcome the problems suffered by the disabled persons for whom the accessible copy is intended.

(6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of paragraph 3A, 3B or 3C, would not infringe any right conferred by this Chapter, that term is unenforceable.

(7) “Authorised body” and “supply” have the meaning given in section 31F, and other expressions used in paragraphs 3A to 3D but not defined in this paragraph have the same meaning as in sections 31A to 31BB.”.