Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

Modifications etc. (not altering text)

C1 Pt. 1 extended (with modifications) by S.I. 1989/988, art. 2(3), 4, 5, **Sch. 4** (with art. 6) (which S.I. was revoked by S.I. 1989/1293, **Sch. 5**)

C2 Pt. 1 extended (with modifications) by S.I. 1989/1293, arts. 2(3), 3, 4, 5, **Sch. 4** (with art. 6) (which S.I. was revoked by S.I.1993/942, art. 8, **Sch. 5**)

C3 Pt. 1 extended (with modifications) by S.I. 1993/942, arts. 2(3), 4, 5, **Sch. 4** (with art. 6) (as amended by S.I.1994/263, **art. 2** and S.I. 1995/2987, **art. 3**) (which S.I. and amending S.Is. were revoked by S.I. 1999/1751, art. 8, **Sch. 6**)

C4 Pt. 1 extended (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(3), 3, 4(3)(5), 5, 7, Schs. 2, 4, **5** (as amended (22.4.2003) by S.I. 2003/774, **arts. 2-5**) (which S.I. and amending S.I. were revoked (1.5.2005) by S.I. 2005/852, **art. 8**)

C5 Pt. 1 extended in part (with modifications) (coming into force in accordance with art. 1 of the amending S.I.) by The Copyright (Bermuda) Order 2003 (S.I. 2003/1517), art. 2, **Sch.** (which S.I. was revoked (12.11.2009) by S.I. 2009/2749, arts. 1, **2**)

C6 Pt. 1 modified (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 37(2)** (with regs. 31-40)

C7 Pt. 1 extended (with modifications) (1.5.2005) by The Copyright and Performances (Application to Other Countries) Order 2005 (S.I. 2005/852), arts. 2-5, **Sch.** (with art. 7) (which S.I. was revoked (6.4.2006) by S.I. 2006/316, **art. 1(3)**)

C8 Pt. 1 extended in part (with modifications) (coming into force in accordance with art. 1 of the amending S.I.) by The Copyright (Gibraltar) Order 2005 (S.I. 2005/853), art. 2, **Sch.** (which S.I. is revoked (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2006/1039, arts. 1, **2**)

C9 Pt. 1 extended (with modifications) (6.4.2006) by The Copyright and Performances (Application to Other Countries) Order 2006 (S.I. 2006/316), arts. 2-5, **Sch.** (with art. 7) (which S.I. was revoked (6.4.2007) by S.I. 2007/273, **art. 1(3)**)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

C10 Pt. 1 extended (with modifications) (6.4.2007) by The Copyright and Performances (Application to Other Countries) Order 2007 (S.I. 2007/273), arts. 2-5, **Sch.** (with art. 7) (which S.I. was revoked (6.4.2008) by S.I. 2008/677, **art. 1(3)**)

C11 Pt. 1 extended (with modifications) (6.4.2008) by The Copyright and Performances (Application to Other Countries) Order 2008 (S.I. 2008/677), arts. 2-5, **Sch.** (with art. 7) (which S.I. was revoked (6.4.2012) by S.I. 2012/799, **art. 1(3)**)

CHAPTER I

SUBSISTENCE, OWNERSHIP AND DURATION OF COPYRIGHT

Modifications etc. (not altering text)

C12 Pt. 1 Ch. 1 applied in part (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Introductory

1 Copyright and copyright works.

(1) Copyright is a property right which subsists in accordance with this Part in the following descriptions of work—

(a) original literary, dramatic, musical or artistic works,

(b) sound recordings, films **[**[F1]or broadcasts**]**, and

(c) the typographical arrangement of published editions.

(2) In this Part "copyright work" means a work of any of those descriptions in which copyright subsists.

(3) Copyright does not subsist in a work unless the requirements of this Part with respect to qualification for copyright protection are met (see section 153 and the provisions referred to there).

Textual Amendments

F1 Words in s. 1(1)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 5(2)** (with regs. 31-40)

2 Rights subsisting in copyright works.

(1) The owner of the copyright in a work of any description has the exclusive right to do the acts specified in Chapter II as the acts restricted by the copyright in a work of that description.

(2) In relation to certain descriptions of copyright work the following rights conferred by Chapter IV (moral rights) subsist in favour of the author, director or commissioner of the work, whether or not he is the owner of the copyright—

(a) section 77 (right to be identified as author or director),

(b) section 80 (right to object to derogatory treatment of work), and

(c) section 85 (right to privacy of certain photographs and films).

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Descriptions of work and related provisions

3 Literary, dramatic and musical works.

(1) In this Part—

"literary work" means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

(a) a table or compilation **[**[F2]other than a database**]**, [F3]. . .

(b) a computer program; [F4]. . .**[**[F5](c) preparatory design material for a computer program**][**[F6]and

[F6](d) a database**]**

"dramatic work" includes a work of dance or mime; and

"musical work" means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music.

(2) Copyright does not subsist in a literary, dramatic or musical work unless and until it is recorded, in writing or otherwise; and references in this Part to the time at which such a work is made are to the time at which it is so recorded.

(3) It is immaterial for the purposes of subsection (2) whether the work is recorded by or with the permission of the author; and where it is not recorded by the author, nothing in that subsection affects the question whether copyright subsists in the record as distinct from the work recorded.

Textual Amendments

F2 Words in s. 3(1)(a) inserted (1.1.1998) by S.I. 1997/3032, **reg. 5(a)** (with Pt. IV)

F3 Word in s. 3(1) omitted (1.1.1993) by virtue of S.I. 1992/3233, **reg. 3**

F4 Word in s. 3(1)(b) left out (1.1.1998) by virtue of S.I. 1997/3032, **reg. 5(b)** (with Pt. IV)

F5 Word and s. 3(1)(c) inserted (1.1.1993) by S.I. 1992/3233, **reg. 3**

F6 S. 3(1)(d) and word preceding it inserted (1.1.1998) by S.I. 1997/3032, **reg. 5(c)** (with Pt. IV)

[[F7]3A Databases

(1) In this Part "database" means a collection of independent works, data or other materials which—

(a) are arranged in a systematic or methodical way, and

(b) are individually accessible by electronic or other means.

(2) For the purposes of this Part a literary work consisting of a database is original if, and only if, by reason of the selection or arrangement of the contents of the database the database constitutes the author's own intellectual creation.**]**

Textual Amendments

F7 S. 3A inserted (1.1.1998) by S.I. 1997/3032, **reg. 6** (with Pt. IV)

4 Artistic works.

(1) In this Part "artistic work" means—

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
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(a) a graphic work, photograph, sculpture or collage, irrespective of artistic quality,
(b) a work of architecture being a building or a model for a building, or
(c) a work of artistic craftsmanship.

(2) In this Part—

"building" includes any fixed structure, and a part of a building or fixed structure;

"graphic work" includes—

(a) any painting, drawing, diagram, map, chart or plan, and
(b) any engraving, etching, lithograph, woodcut or similar work;

"photograph" means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced, and which is not part of a film;

"sculpture" includes a cast or model made for purposes of sculpture.

[F8 5A Sound recordings.

(1) In this Part "sound recording" means—
(a) a recording of sounds, from which the sounds may be reproduced, or
(b) a recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or part may be produced,

regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced.

(2) Copyright does not subsist in a sound recording which is, or to the extent that it is, a copy taken from a previous sound recording.]

Textual Amendments

F8 Ss. 5A, 5B substituted for s. 5 (1.1.1996) by S.I. 1995/3297, **reg. 9(1)** (with Pt. III)

[F9 5B Films.

(1) In this Part "film" means a recording on any medium from which a moving image may by any means be produced.

(2) The sound track accompanying a film shall be treated as part of the film for the purposes of this Part.

(3) Without prejudice to the generality of subsection (2), where that subsection applies—
(a) references in this Part to showing a film include playing the film sound track to accompany the film, and
(b) references to playing a sound recording do not include playing the film sound track to accompany the film.

(4) Copyright does not subsist in a film which is, or to the extent that it is, a copy taken from a previous film.

(5) Nothing in this section affects any copyright subsisting in a film sound track as a sound recording.]

Textual Amendments

F9 Ss. 5A, 5B substituted for s. 5 (1.1.1996) by S.I. 1995/3297, **reg. 9(1)** (with Pt. III)

6 Broadcasts.

[[F10](1) In this Part a "broadcast" means an electronic transmission of visual images, sounds or other information which—

(a) is transmitted for simultaneous reception by members of the public and is capable of being lawfully received by them, or

(b) is transmitted at a time determined solely by the person making the transmission for presentation to members of the public,

and which is not excepted by subsection (1A); and references to broadcasting shall be construed accordingly.

(1A) Excepted from the definition of "broadcast" is any internet transmission unless it is—

(a) a transmission taking place simultaneously on the internet and by other means,

(b) a concurrent transmission of a live event, or

(c) a transmission of recorded moving images or sounds forming part of a programme service offered by the person responsible for making the transmission, being a service in which programmes are transmitted at scheduled times determined by that person.**]**

(2) An encrypted transmission shall be regarded as capable of being lawfully received by members of the public only if decoding equipment has been made available to members of the public by or with the authority of the person making the transmission or the person providing the contents of the transmission.

(3) References in this Part to the person making a broadcast, **[**[F11]or a transmission which is a broadcast**]** are—

(a) to the person transmitting the programme, if he has responsibility to any extent for its contents, and

(b) to any person providing the programme who makes with the person transmitting it the arrangements necessary for its transmission;

and references in this Part to a programme, in the context of broadcasting, are to any item included in a broadcast.

[[F12](4) For the purposes of this Part, the place from which a **[**[F13]wireless**]** broadcast is made is the place where, under the control and responsibility of the person making the broadcast, the programme-carrying signals are introduced into an uninterrupted chain of communication (including, in the case of a satellite transmission, the chain leading to the satellite and down towards the earth).**]**

[[F14](4A) Subsections (3) and (4) have effect subject to section 6A (safeguards in case of certain satellite broadcasts).**]**

(5) References in this Part to the reception of a broadcast include reception of a broadcast relayed by means of a telecommunications system.

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[[F15](5A) The relaying of a broadcast by reception and immediate re-transmission shall be regarded for the purposes of this Part as a separate act of broadcasting from the making of the broadcast which is so re-transmitted.**]**

(6) Copyright does not subsist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast [F16]. . . .

Textual Amendments

F10 S. 6(1)(1A) substituted (31.10.2003) for s. 6(1) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 4(a)** (with regs. 31-40)

F11 Words in s. 6(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 4(b)** (with regs. 31-40)

F12 S. 6(4) substituted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by S.I. 1996/2967, **reg. 5**

F13 Word in s. 6(4) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 4(c)** (with regs. 31-40)

F14 S. 6(4A) inserted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by S.I. 1996/2967, **reg. 6(1)**

F15 S. 6(5A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 4(d)** (with regs. 31-40)

F16 Words in s. 6(6) 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)

[[F17]**6A Safeguards in case of certain satellite broadcasts.**

(1) This section applies where the place from which a broadcast by way of satellite transmission is made is located in a country other than an EEA State and the law of that country fails to provide at least the following level of protection—

(a) exclusive rights in relation to **[**[F18]wireless**]** broadcasting equivalent to those conferred by section 20 (**[**[F19]infringement by communication to the public**]**) on the authors of literary, dramatic, musical and artistic works, films and broadcasts;

(b) a right in relation to live **[**[F20]wireless**]** broadcasting equivalent to that conferred on a performer by section 182(1)(b) (consent required for live broadcast of performance); and

(c) a right for authors of sound recordings and performers to share in a single equitable remuneration in respect of the **[**[F20]wireless**]** broadcasting of sound recordings.

(2) Where the place from which the programme-carrying signals are transmitted to the satellite ("the uplink station") is located in an EEA State—

(a) that place shall be treated as the place from which the broadcast is made, and

(b) the person operating the uplink station shall be treated as the person making the broadcast.

(3) Where the uplink station is not located in an EEA State but a person who is established in an EEA State has commissioned the making of the broadcast—

(a) that person shall be treated as the person making the broadcast, and

(b) the place in which he has his principal establishment in the European Economic Area shall be treated as the place from which the broadcast is made.**]**

Textual Amendments

F17 S. 6A inserted (1.12.1996 with effect as mentioned in reg. 28 of the amending S.I.) by S.I. 1996/2967, **reg. 6(2)**

F18 Words in s. 6A(1)(a) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 5(3)(a)(i)** (with regs. 31-40)

F19 Words in s. 6A(1)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 5(3)(a)(ii)** (with regs. 31-40)

F20 Word in s. 6A(1)(b)(c) inserted (31.10.2003.) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 5(3)(b)** (with regs. 31-40)

7 Cable programmes.

F21 . . . . . .

Textual Amendments

F21 S. 7 repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), regs. 2(2), 5(1), **Sch. 2** (with regs. 31-40)

8 Published editions.

(1) In this Part "published edition", in the context of copyright in the typographical arrangement of a published edition, means a published edition of the whole or any part of one or more literary, dramatic or musical works.

(2) Copyright does not subsist in the typographical arrangement of a published edition if, or to the extent that, it reproduces the typographical arrangement of a previous edition.

Authorship and ownership of copyright

9 Authorship of work.

(1) In this Part "author", in relation to a work, means the person who creates it.

(2) That person shall be taken to be—

[F22F22(aa) in the case of a sound recording, the producer;

F22(ab) in the case of a film, the producer and the principal director;**]**

(b) in the case of a broadcast, the person making the broadcast (see section 6(3)) or, in the case of a broadcast which relays another broadcast by reception and immediate re-transmission, the person making that other broadcast;

(c) F23 . . . . . .

(d) in the case of the typographical arrangement of a published edition, the publisher.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken.

(4) For the purposes of this Part a work is of "unknown authorship" if the identity of the author is unknown or, in the case of a work of joint authorship, if the identity of none of the authors is known.

(5) For the purposes of this Part the identity of an author shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if his identity is once known it shall not subsequently be regarded as unknown.

Textual Amendments

F22 S. 9(2)(aa)(ab) substituted for s. 9(2)(a) (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **regs. 18(1)**, 36

F23 S. 9(2)(c) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), regs. 2(2), 5(4), **Sch. 2** (with regs. 31-40)

10 Works of joint authorship.

(1) In this Part a "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is not distinct from that of the other author or authors.

[[F24](1A) A film shall be treated as a work of joint authorship unless the producer and the principal director are the same person.**]**

(2) A broadcast shall be treated as a work of joint authorship in any case where more than one person is to be taken as making the broadcast (see section 6(3)).

(3) References in this Part to the author of a work shall, except as otherwise provided, be construed in relation to a work of joint authorship as references to all the authors of the work.

Textual Amendments

F24 S. 10(1A) inserted (1.12.1996 with effet in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **regs. 18(2)**, 36

11 First ownership of copyright.

(1) The author of a work is the first owner of any copyright in it, subject to the following provisions.

(2) Where a literary, dramatic, musical or artistic work **[**[F25], or a film,**]** is made by an employee in the course of his employment, his employer is the first owner of any copyright in the work subject to any agreement to the contrary.

(3) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 and 165) or to copyright which subsists by virtue of section 168 (copyright of certain international organisations).

Textual Amendments

F25 Words in s. 11(2) inserted (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **regs. 18(3)**, 36

Duration of copyright

[F26 12 Duration of copyright in literary, dramatic, musical or artistic works.

(1) The following provisions have effect with respect to the duration of copyright in a literary, dramatic, musical or artistic work.

(2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the author dies, subject as follows.

(3) If the work is of unknown authorship, copyright expires—

(a) at the end of the period of 70 years from the end of the calendar year in which the work was made, or

(b) if during that period the work is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available,

subject as follows.

(4) Subsection (2) applies if the identity of the author becomes known before the end of the period specified in paragraph (a) or (b) of subsection (3).

(5) For the purposes of subsection (3) making available to the public includes—

(a) in the case of a literary, dramatic or musical work—

(i) performance in public, or

[F27 (ii) communication to the public;]

(b) in the case of an artistic work—

(i) exhibition in public,

(ii) a film including the work being shown in public, or

[F28 (iii) communication to the public;]

but in determining generally for the purposes of that subsection whether a work has been made available to the public no account shall be taken of any unauthorised act.

(6) Where the country of origin of the work is not an EEA state and the author of the work is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (5).

(7) If the work is computer-generated the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the work was made.

(8) The provisions of this section are adapted as follows in relation to a work of joint authorship—

(a) the reference in subsection (2) to the death of the author shall be construed—

(i) if the identity of all the authors is known, as a reference to the death of the last of them to die, and

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(ii) if the identity of one or more of the authors is known and the identity of one or more others is not, as a reference to the death of the last whose identity is known;

(b) the reference in subsection (4) to the identity of the author becoming known shall be construed as a reference to the identity of any of the authors becoming known;

(c) the reference in subsection (6) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.

(9) This section does not apply to Crown copyright or Parliamentary copyright (see sections 163 to **[**[F29]166B**]**) or to copyright which subsists by virtue of section 168 (copyright of certain international organisations).**]**

Textual Amendments

F26 S. 12 substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(1)** (with Pt. III)

F27 S. 12(5)(a)(ii) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003, (S.I. 2003/2498), reg. 2(1), {Sch. 1 para. 4(1)} (with regs. 31-40)

F28 S. 12(5)(b)(iii) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003, (S.I. 2003/2498), reg. 2(1), {Sch. 1 para. 4(2)} (with regs. 31-40)

F29 Words in s. 12(9) substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(2)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

[[F30]**13A Duration of copyright in sound recordings.**

(1) The following provisions have effect with respect to the duration of copyright in a sound recording.

[[F31](2) Subject to subsections (4) and (5), copyright expires—

(a) at the end of the period of 50 years from the end of the calendar year in which the recording is made, or

(b) if during that period the recording is published, 50 years from the end of the calendar year in which it is first published, or

(c) if during that period the recording is not published but is made available to the public by being played in public or communicated to the public, 50 years from the end of the calendar year in which it is first so made available,

but in determining whether a sound recording has been published, played in public or communicated to the public, no account shall be taken of any unauthorised act.**]**

(3) [F32]. . . . . .

(4) Where the author of a sound recording is not a national of an EEA state, the duration of copyright is that to which the sound recording is entitled in the country of which the author is a national, provided that does not exceed the period which would apply under **[**[F33]subsection (2)**]**.

(5) If or to the extent that the application of subsection (4) would be at variance with an international obligation to which the United Kingdom became subject prior to 29th October 1993, the duration of copyright shall be as specified in **[**[F33]subsection (2)**]**.**]**

Textual Amendments

F30 Ss. 13A, 13B substituted for s. 13 (1.1.1996) by S.I. 1995/3297, **reg. 6(1)** (with Pt. IV)

F31 S. 13A(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 29(a)** (with regs. 31-40)

F32 S. 13A(3) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), regs. 2(2), 29(b), **Sch. 2** (with regs. 31-40)

F33 Words in s. 13A(4)(5) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I.2003/2498), **reg. 29(c)** (with regs. 31-40)

[F34 13B Duration of copyright in films.

(1) The following provisions have effect with respect to the duration of copyright in a film.

(2) Copyright expires at the end of the period of 70 years from the end of the calendar year in which the death occurs of the last to die of the following persons—

(a) the principal director,

(b) the author of the screenplay,

(c) the author of the dialogue, or

(d) the composer of music specially created for and used in the film;

subject as follows.

(3) If the identity of one or more of the persons referred to in subsection (2)(a) to (d) is known and the identity of one or more others is not, the reference in that subsection to the death of the last of them to die shall be construed as a reference to the death of the last whose identity is known.

(4) If the identity of the persons referred to in subsection (2)(a) to (d) is unknown, copyright expires at—

(a) the end of the period of 70 years from the end of the calendar year in which the film was made, or

(b) if during that period the film is made available to the public, at the end of the period of 70 years from the end of the calendar year in which it is first so made available.

(5) Subsections (2) and (3) apply if the identity of any of those persons becomes known before the end of the period specified in paragraph (a) or (b) of subsection (4).

(6) For the purposes of subsection (4) making available to the public includes—

(a) showing in public, or

[F35 (b) communicating to the public;]

but in determining generally for the purposes of that subsection whether a film has been made available to the public no account shall be taken of any unauthorised act.

(7) Where the country of origin is not an EEA state and the author of the film is not a national of an EEA state, the duration of copyright is that to which the work is entitled in the country of origin, provided that does not exceed the period which would apply under subsections (2) to (6).

(8) In relation to a film of which there are joint authors, the reference in subsection (7) to the author not being a national of an EEA state shall be construed as a reference to none of the authors being a national of an EEA state.

(9) If in any case there is no person falling within paragraphs (a) to (d) of subsection (2), the above provisions do not apply and copyright expires at the end of the period of 50 years from the end of the calendar year in which the film was made.

(10) For the purposes of this section the identity of any of the persons referred to in subsection (2)(a) to (d) shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; but if the identity of any such person is once known it shall not subsequently be regarded as unknown.**]**

Textual Amendments

F34 Ss. 13A, 13B substituted for s. 13 (1.1.1996) by S.I. 1995/3297, **reg. 6(1)** (with Pt. IV)

F35 S. 13B(6)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 4(3)** (with regs. 31-40)

[[F37]14 Duration of copyright in broadcasts [F36]. . . .

(1) The following provisions have effect with respect to the duration of copyright in a broadcast [F38]. . . .

(2) Copyright in a broadcast [F38]. . . expires at the end of the period of 50 years from the end of the calendar year in which the broadcast was made [F39]. . . , subject as follows.

(3) Where the author of the broadcast [F38]. . . is not a national of an EEA state, the duration of copyright in the broadcast [F38]. . . is that to which it is entitled in the country of which the author is a national, provided that does not exceed the period which would apply under subsection (2).

(4) If or to the extent that the application of subsection (3) would be at variance with an international obligation to which the United Kingdom became subject prior to 29th October 1993, the duration of copyright shall be as specified in subsection (2).

(5) Copyright in a repeat broadcast [F38]. . . expires at the same time as the copyright in the original broadcast [F38]. . . ; and accordingly no copyright arises in respect of a repeat broadcast [F38]. . . which is broadcast [F40]. . . after the expiry of the copyright in the original broadcast [F38]. . . .

(6) A repeat broadcast [F38]. . . means one which is a repeat [F41]. . . of a broadcast previously made [F41]. . . .**]**

Textual Amendments

F36 Words in s. 14 heading 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)

F37 S. 14 substituted (1.1.1996) by S.I. 1995/3297, **reg. 7(1)** (with Pt. IV)

F38 Words in s. 14 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)

F39 Words in s. 14(2) 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)

F40 Words in s. 14(5) 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)

F41 Words in s. 14(6) 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)

15 Duration of copyright in typographical arrangement of published editions.

Copyright in the typographical arrangement of a published edition expires at the end of the period of 25 years from the end of the calendar year in which the edition was first published.

[[F42]15A Meaning of country of origin.

(1) For the purposes of the provisions of this Part relating to the duration of copyright the country of origin of a work shall be determined as follows.

(2) If the work is first published in a Berne Convention country and is not simultaneously published elsewhere, the country of origin is that country.

(3) If the work is first published simultaneously in two or more countries only one of which is a Berne Convention country, the country of origin is that country.

(4) If the work is first published simultaneously in two or more countries of which two or more are Berne Convention countries, then—

(a) if any of those countries is an EEA state, the country of origin is that country; and

(b) if none of those countries is an EEA state, the country of origin is the Berne Convention country which grants the shorter or shortest period of copyright protection.

(5) If the work is unpublished or is first published in a country which is not a Berne Convention country (and is not simultaneously published in a Berne Convention country), the country of origin is—

(a) if the work is a film and the maker of the film has his headquarters in, or is domiciled or resident in a Berne Convention country, that country;

(b) if the work is—

(i) a work of architecture constructed in a Berne Convention country, or

(ii) an artistic work incorporated in a building or other structure situated in a Berne Convention country,

that country;

(c) in any other case, the country of which the author of the work is a national.

(6) In this section—

(a) a "Berne Convention country" means a country which is a party to any Act of the International Convention for the Protection of Literary and Artistic Works signed at Berne on 9th September 1886; and

(b) references to simultaneous publication are to publication within 30 days of first publication.**]**

Textual Amendments

F42 S. 15A inserted (1.1.1996) by S.I. 1995/3297, **reg. 8(1)** (with Pt. IV)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

CHAPTER II

RIGHTS OF COPYRIGHT OWNER

Modifications etc. (not altering text)

C13 Pt. I Ch. II (ss. 16-27) applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 17(1)** (with Pt. III)

The acts restricted by copyright

16 The acts restricted by copyright in a work.

(1) The owner of the copyright in a work has, in accordance with the following provisions of this Chapter, the exclusive right to do the following acts in the United Kingdom—

(a) to copy the work (see section 17);

(b) to issue copies of the work to the public (see section 18);

[[F43](ba) to rent or lend the work to the public (see section 18A);**]**

(c) to perform, show or play the work in public (see section 19);

[[F44](d) to communicate the work to the public (see section 20);**]**

(e) to make an adaptation of the work or do any of the above in relation to an adaptation (see section 21);

and those acts are referred to in this Part as the "acts restricted by the copyright".

(2) Copyright in a work is infringed by a person who without the licence of the copyright owner does, or authorises another to do, any of the acts restricted by the copyright.

(3) References in this Part to the doing of an act restricted by the copyright in a work are to the doing of it—

(a) in relation to the work as a whole or any substantial part of it, and

(b) either directly or indirectly;

and it is immaterial whether any intervening acts themselves infringe copyright.

(4) This Chapter has effect subject to—

(a) the provisions of Chapter III (acts permitted in relation to copyright works), and

(b) the provisions of Chapter VII (provisions with respect to copyright licensing).

Textual Amendments

F43 S. 16(1)(ba) inserted (1.12.1996) by S.I. 1996/2967, **reg. 10(1)** (with Pt. III)

F44 S. 16(1)(d) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 6(2)** (with regs. 31-40)

17 Infringement of copyright by copying.

(1) The copying of the work is an act restricted by the copyright in every description of copyright work; and references in this Part to copying and copies shall be construed as follows.

(2) Copying in relation to a literary, dramatic, musical or artistic work means reproducing the work in any material form.

This includes storing the work in any medium by electronic means.

(3) In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work and the making of a copy in two dimensions of a three-dimensional work.

(4) Copying in relation to a film **[**[F45]or broadcast**]** includes making a photograph of the whole or any substantial part of any image forming part of the film **[**[F45]or broadcast**]**.

(5) Copying in relation to the typographical arrangement of a published edition means making a facsimile copy of the arrangement.

(6) Copying in relation to any description of work includes the making of copies which are transient or are incidental to some other use of the work.

Textual Amendments

F45 Words in s. 17(4) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), regs. 2(1), **5(5)**, Sch. 1 para. 3(1)(a) (with regs. 31-40)

18 Infringement by issue of copies to the public.

(1) The issue to the public of copies of the work is an act restricted by the copyright in every description of copyright work.

[[F46F46](2) References in this Part to the issue to the public of copies of a work are to—

(a) the act of putting into circulation in the EEA copies not previously put into circulation in the EEA by or with the consent of the copyright owner, or

(b) the act of putting into circulation outside the EEA copies not previously put into circulation in the EEA or elsewhere.

[F46](3) References in this Part to the issue to the public of copies of a work do not include—

(a) any subsequent distribution, sale, hiring or loan of copies previously put into circulation (but see section 18A: infringement by rental or lending), or

(b) any subsequent importation of such copies into the United Kingdom or another EEA state,

except so far as paragraph (a) of subsection (2) applies to putting into circulation in the EEA copies previously put into circulation outside the EEA.**]**

[[F47](4) References in this Part to the issue of copies of a work include the issue of the original.**]**

Textual Amendments

F46 S. 18(2)(3) substituted (1.12.1996) by S.I. 1996/2967, **reg. 9(2)** (with Pt. III)

F47 S. 18(4) added (1.12.1996) by S.I. 1996/2967, **reg. 9(3)** (with Pt. III)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

[F48 18A Infringement by rental or lending of work to the public.

(1) The rental or lending of copies of the work to the public is an act restricted by the copyright in—

(a) a literary, dramatic or musical work,

(b) an artistic work, other than—

(i) a work of architecture in the form of a building or a model for a building, or

(ii) a work of applied art, or

(c) a film or a sound recording.

(2) In this Part, subject to the following provisions of this section—

(a) "rental" means making a copy of the work available for use, on terms that it will or may be returned, for direct or indirect economic or commercial advantage, and

(b) "lending" means making a copy of the work available for use, on terms that it will or may be returned, otherwise than for direct or indirect economic or commercial advantage, through an establishment which is accessible to the public.

(3) The expressions "rental" and "lending" do not include—

(a) making available for the purpose of public performance, playing or showing in public **[**F49 or communication to the public**]**;

(b) making available for the purpose of exhibition in public; or

(c) making available for on-the-spot reference use.

(4) The expression "lending" does not include making available between establishments which are accessible to the public.

(5) Where lending by an establishment accessible to the public gives rise to a payment the amount of which does not go beyond what is necessary to cover the operating costs of the establishment, there is no direct or indirect economic or commercial advantage for the purposes of this section.

(6) References in this Part to the rental or lending of copies of a work include the rental or lending of the original.**]**

Textual Amendments

F48 S. 18A inserted (1.12.1996) by S.I. 1996/2967, **reg. 10(2)** (with Pt. III)

F49 Words in s. 18A(3)(a) substituted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 6(2)(a)** (with regs. 31-40)

19 Infringement by performance, showing or playing of work in public.

(1) The performance of the work in public is an act restricted by the copyright in a literary, dramatic or musical work.

(2) In this Part "performance", in relation to a work—

(a) includes delivery in the case of lectures, addresses, speeches and sermons, and

(b) in general, includes any mode of visual or acoustic presentation, including presentation by means of a sound recording, film **[**F50 or broadcast**]** of the work.

(3) The playing or showing of the work in public is an act restricted by the copyright in a sound recording, film **[**[F50]or broadcast**]**.

(4) Where copyright in a work is infringed by its being performed, played or shown in public by means of apparatus for receiving visual images or sounds conveyed by electronic means, the person by whom the visual images or sounds are sent, and in the case of a performance the performers, shall not be regarded as responsible for the infringement.

Textual Amendments

F50 Words in s. 19(2)(b)(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(b)(c)** (with regs. 31-40)

[[F51]**20 Infringement by communication to the public**

(1) The communication to the public of the work is an act restricted by the copyright in—
- (a) a literary, dramatic, musical or artistic work,
- (b) a sound recording or film, or
- (c) a broadcast.

(2) References in this Part to communication to the public are to communication to the public by electronic transmission, and in relation to a work include—
- (a) the broadcasting of the work;
- (b) the making available to the public of the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them.**]**

Textual Amendments

F51 S. 20 substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 6(1)** (with regs. 31-40)

21 Infringement by making adaptation or act done in relation to adaptation.

(1) The making of an adaptation of the work is an act restricted by the copyright in a literary, dramatic or musical work.

For this purpose an adaptation is made when it is recorded, in writing or otherwise.

(2) The doing of any of the acts specified in sections 17 to 20, or subsection (1) above, in relation to an adaptation of the work is also an act restricted by the copyright in a literary, dramatic or musical work.

For this purpose it is immaterial whether the adaptation has been recorded, in writing or otherwise, at the time the act is done.

(3) In this Part "adaptation"—
- (a) in relation to a literary **[**[F52]work, **[**[F53]other than a computer program or a database, or in relation to a**]]** dramatic work, means—
  - (i) a translation of the work;

(ii) a version of a dramatic work in which it is converted into a non-dramatic work or, as the case may be, of a non-dramatic work in which it is converted into a dramatic work;

(iii) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical;

[[F54](ab) in relation to a computer program, means an arrangement or altered version of the program or a translation of it;**]**

[[F55](ac) in relation to a database, means an arrangement or altered version of the database or a translation of it;**]**

(b) in relation to a musical work, means an arrangement or transcription of the work.

(4) In relation to a computer program a "translation" includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code [F56]. . .

(5) No inference shall be drawn from this section as to what does or does not amount to copying a work.

Textual Amendments

F52 Words in s. 21(3)(a) inserted (1.1.1993) by S.I. 1992/3233, **reg. 5(1)**

F53 Words in s. 21(3)(a) substituted (1.1.1998) by S.I. 1997/3032, **reg. 7(a)** (with Pt. IV)

F54 S. 21(3)(ab) inserted (1.1.1993) by S.I. 1992/3233, **reg. 5(2)**

F55 S. 21(3)(ac) inserted (1.1.1998) by S.I. 1997/3032, **reg. 7(b)** (with Pt. IV)

F56 Words in s. 21(4) omitted (1.1.1993) by virtue of S.I. 1992/3233, **reg. 5(3)**

Secondary infringement of copyright

22 Secondary infringement: importing infringing copy.

The copyright in a work is infringed by a person who, without the licence of the copyright owner, imports into the United Kingdom, otherwise than for his private and domestic use, an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

23 Secondary infringement: possessing or dealing with infringing copy.

The copyright in a work is infringed by a person who, without the licence of the copyright owner—

(a) possesses in the course of a business,

(b) sells or lets for hire, or offers or exposes for sale or hire,

(c) in the course of a business exhibits in public or distributes, or

(d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,

an article which is, and which he knows or has reason to believe is, an infringing copy of the work.

24 Secondary infringement: providing means for making infringing copies.

(1) Copyright in a work is infringed by a person who, without the licence of the copyright owner—

(a) makes,

(b) imports into the United Kingdom,

(c) possesses in the course of a business, or

(d) sells or lets for hire, or offers or exposes for sale or hire,

an article specifically designed or adapted for making copies of that work, knowing or having reason to believe that it is to be used to make infringing copies.

(2) Copyright in a work is infringed by a person who without the licence of the copyright owner transmits the work by means of a telecommunications system (otherwise than by **[**[F57]communication to the public**]**), knowing or having reason to believe that infringing copies of the work will be made by means of the reception of the transmission in the United Kingdom or elsewhere.

Textual Amendments

F57 Words in s. 24(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 5(a)** (with regs. 31-40)

25 Secondary infringement: permitting use of premises for infringing performance.

(1) Where the copyright in a literary, dramatic or musical work is infringed by a performance at a place of public entertainment, any person who gave permission for that place to be used for the performance is also liable for the infringement unless when he gave permission he believed on reasonable grounds that the performance would not infringe copyright.

(2) In this section "place of public entertainment" includes premises which are occupied mainly for other purposes but are from time to time made available for hire for the purposes of public entertainment.

26 Secondary infringement: provision of apparatus for infringing performance, &c.

(1) Where copyright in a work is infringed by a public performance of the work, or by the playing or showing of the work in public, by means of apparatus for—

(a) playing sound recordings,

(b) showing films, or

(c) receiving visual images or sounds conveyed by electronic means,

the following persons are also liable for the infringement.

(2) A person who supplied the apparatus, or any substantial part of it, is liable for the infringement if when he supplied the apparatus or part—

(a) he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright, or

(b) in the case of apparatus whose normal use involves a public performance, playing or showing, he did not believe on reasonable grounds that it would not be so used as to infringe copyright.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) An occupier of premises who gave permission for the apparatus to be brought onto the premises is liable for the infringement if when he gave permission he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright.

(4) A person who supplied a copy of a sound recording or film used to infringe copyright is liable for the infringement if when he supplied it he knew or had reason to believe that what he supplied, or a copy made directly or indirectly from it, was likely to be so used as to infringe copyright.

Infringing copies

27 Meaning of "infringing copy".

(1) In this Part "infringing copy", in relation to a copyright work, shall be construed in accordance with this section.

(2) An article is an infringing copy if its making constituted an infringement of the copyright in the work in question.

(3) [F58]. . . An article is also an infringing copy if—

(a) it has been or is proposed to be imported into the United Kingdom, and

(b) its making in the United Kingdom would have constituted an infringement of the copyright in the work in question, or a breach of an exclusive licence agreement relating to that work.

[F59](3A) . . . . . .

(4) Where in any proceedings the question arises whether an article is an infringing copy and it is shown—

(a) that the article is a copy of the work, and

(b) that copyright subsists in the work or has subsisted at any time,

it shall be presumed until the contrary is proved that the article was made at a time when copyright subsisted in the work.

(5) Nothing in subsection (3) shall be construed as applying to an article which may lawfully be imported into the United Kingdom by virtue of any enforceable Community right within the meaning of section 2(1) of the [M1]European Communities Act 1972.

(6) In this Part "infringing copy" includes a copy falling to be treated as an infringing copy by virtue of any of the following provisions —

[[F60]section 31A(6) and (9) (making a single accessible copy for personal use),

section 31B(9) and (10) (multiple copies for visually impaired persons),

section 31C(2) (intermediate copies held by approved bodies)**]**

section 32(5) (copies made for purposes of instruction or examination),

section 35(3) (recordings made by educational establishments for educational purposes),

section 36(5) (reprographic copying by educational establishments for purposes of instruction),

section 37(3)(b) (copies made by librarian or archivist in reliance on false declaration),

section 56(2) (further copies, adaptations, &c. of work in electronic form retained on transfer of principal copy),
section 63(2) (copies made for purpose of advertising artistic work for sale),
section 68(4) (copies made for purpose of broadcast [F61]. . .),
[[F62]section 70(2) (recording for the purposes of time-shifting),
section 71(2) (photographs of broadcasts), or]
any provision of an order under section 141 (statutory licence for certain reprographic copying by educational establishments).

Textual Amendments

F58 Words in s. 27(3) omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 9(4)** (with Pt. III)
F59 S. 27(3A) omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 9(4)** (with Pt. III)
F60 Words in s. 27(6) inserted (31.10.2003) by 2002 c. 33, ss. 7(1), 8(2); S.I. 2003/2499, **art. 2**
F61 Words in s. 27(6) 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)
F62 S. 27(6): entries substituted (31.10.2003) for word "or" appearing at end of entry for s. 68(4) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 20(3)** (with regs. 31-40)

Marginal Citations

M1 1972 c. 68.

CHAPTER III

ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

Modifications etc. (not altering text)

C14 Pt. I Ch. III (ss. 28–76) amended by Broadcasting Act 1990 (c. 42, SIF 96), s. 176, **Sch. 17 para. 7(1)**
C15 Pt. I Ch. III (ss. 28-76) applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 17(1)-(3)** (with Pt. III)
C16 Pt. I Ch. III (ss. 28-76) continued (31.10.2003) by virtue of The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 33**, (with regs. 31-40)

Introductory

28 Introductory provisions.

(1) The provisions of this Chapter specify acts which may be done in relation to copyright works notwithstanding the subsistence of copyright; they relate only to the question of infringement of copyright and do not affect any other right or obligation restricting the doing of any of the specified acts.

(2) Where it is provided by this Chapter that an act does not infringe copyright, or may be done without infringing copyright, and no particular description of copyright work is mentioned, the act in question does not infringe the copyright in a work of any description.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) No inference shall be drawn from the description of any act which may by virtue of this Chapter be done without infringing copyright as to the scope of the acts restricted by the copyright in any description of work.

(4) The provisions of this Chapter are to be construed independently of each other, so that the fact that an act does not fall within one provision does not mean that it is not covered by another provision.

General

[F63 28A Making of temporary copies

Copyright in a literary work, other than a computer program or a database, or in a dramatic, musical or artistic work, the typographical arrangement of a published edition, a sound recording or a film, is not infringed by the making of a temporary copy which is transient or incidental, which is an integral and essential part of a technological process and the sole purpose of which is to enable—

(a) a transmission of the work in a network between third parties by an intermediary; or

(b) a lawful use of the work;

and which has no independent economic significance.**]**

Textual Amendments

F63 S. 28A inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 8(1)** (with regs. 31-40)

29 Research and private study.

[F64(1) Fair dealing with a literary, dramatic, musical or artistic work for the purposes of research for a non-commercial purpose does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement.**]**

[F65(1B) No acknowledgement is required in connection with fair dealing for the purposes mentioned in subsection (1) where this would be impossible for reasons of practicality or otherwise.

(1C) Fair dealing with a literary, dramatic, musical or artistic work for the purposes of private study does not infringe any copyright in the work.**]**

(2) Fair dealing with the typographical arrangement of a published edition for the purposes **[**F66of research or private study**]** does not infringe any copyright in the arrangement.

(3) Copying by a person other than the researcher or student himself is not fair dealing if—

(a) in the case of a librarian, or a person acting on behalf of a librarian, he does anything which regulations under section 40 would not permit to be done under section 38 or 39 (articles or parts of published works: restriction on multiple copies of same material), 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.

[[F67](4) It is not fair dealing—

(a) to convert a computer program expressed in a low level language into a version expressed in a higher level language, or

(b) incidentally in the course of so converting the program, to copy it,

(these acts being permitted if done in accordance with section 50B (decompilation)).**]**

[[F68](4A) It is not fair dealing to observe, study or test the functioning of a computer program in order to determine the ideas and principles which underlie any element of the program (these acts being permitted if done in accordance with section 50BA (observing, studying and testing)).**]**

(5) [F69] . . . . . .

Textual Amendments

F64 S. 29(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 9(a)**, (with regs 31-40)

F65 S. 29(1B)(1C) substituted (31.10.2003) for s. 29(1A) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 9(b)** (with regs. 31-40)

F66 Words in s. 29(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 9(c)** (with regs. 31-40)

F67 S. 29(4) inserted (1.1.1993) by S.I. 1992/3233, **reg. 7**

F68 S. 29(4A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 9(d)** (with regs. 31-40)

F69 S. 29(5) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), regs. 2(2), **9(e)**, Sch. 2 (with regs. 31-40)

30 Criticism, review and news reporting.

(1) Fair dealing with a work for the purpose of criticism or review, of that or another work or of a performance of a work, does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement **[**[F70] and provided that the work has been made available to the public**]**.

[[F71](1A) For the purposes of subsection (1) a work has been made available to the public if it has been made available by any means, including—

(a) the issue of copies to the public;

(b) making the work available by means of an electronic retrieval system;

(c) the rental or lending of copies of the work to the public;

(d) the performance, exhibition, playing or showing of the work in public;

(e) the communication to the public of the work,

but in determining generally for the purposes of that subsection whether a work has been made available to the public no account shall be taken of any unauthorised act.**]**

(2) Fair dealing with a work (other than a photograph) for the purpose of reporting current events does not infringe any copyright in the work provided that (subject to subsection (3)) it is accompanied by a sufficient acknowledgement.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) No acknowledgement is required in connection with the reporting of current events by means of a sound recording, film **[**[F72] or broadcast where this would be impossible for reasons of practicality or otherwise**]**.

Textual Amendments

F70 Words in s. 30(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 10(1)(a)** (with regs. 31-40)

F71 S. 30(1A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 10(1)(b)** (with regs. 31-40)

F72 Words in s. 30(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 10(1)(c)** (with regs. 31-40)

31 Incidental inclusion of copyright material.

(1) Copyright in a work is not infringed by its incidental inclusion in an artistic work, sound recording, film **[**[F73]or broadcast**]**.

(2) Nor is the copyright infringed by the issue to the public of copies, or the playing, showing **[**[F74]or communication to the public**]**, of anything whose making was, by virtue of subsection (1), not an infringement of the copyright.

(3) A musical work, words spoken or sung with music, or so much of a sound recording **[**[F73]or broadcast**]** as includes a musical work or such words, shall not be regarded as incidentally included in another work if it is deliberately included.

Textual Amendments

F73 Words in s. 31(1)(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(d)(e)** (with regs. 31-40)

F74 Words in s. 31(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (31.10.2003), reg. 2(1), {Sch. 1 para. 6(2)(b)} (with reg. 31-40)

[[F75]*Visual impairment]*

Textual Amendments

F75 S. 31A and cross-heading inserted (31.10.2003) by 2002 c. 33, ss. 1, 8(2); S.I. 2003/2499, **art. 2**

[[F76]31A Making a single accessible copy for personal use

(1) If a visually impaired person has lawful possession or lawful use of a copy ("the master copy") of the whole or part of—

(a) a literary, dramatic, musical or artistic work; or

(b) a published edition,

which is not accessible to him because of the impairment, it is not an infringement of copyright in the work, or in the typographical arrangement of the published edition, for an accessible copy of the master copy to be made for his personal use.

(2) Subsection (1) does not apply—

(a) if the master copy is of a musical work, or part of a musical work, and the making of an accessible copy would involve recording a performance of the work or part of it; or

(b) if the master copy is of a database, or part of a database, and the making of an accessible copy would infringe copyright in the database.

(3) Subsection (1) does not apply in relation to the making of an accessible copy for a particular visually impaired person if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to that person.

(4) An accessible copy made under this section must be accompanied by—

(a) a statement that it is made under this section; and

(b) a sufficient acknowledgement.

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

(6) If a person holds an accessible copy made under subsection (1) when he is not entitled to have it made under that subsection, the copy is to be treated as an infringing copy, unless he is a person falling within subsection (7)(b).

(7) A person who holds an accessible copy made under subsection (1) may transfer it to—

(a) a visually impaired person entitled to have the accessible copy made under subsection (1); or

(b) a person who has lawful possession of the master copy and intends to transfer the accessible copy to a person falling within paragraph (a).

(8) The transfer by a person ("V") of an accessible copy made under subsection (1) to another person ("T") is an infringement of copyright by V unless V has reasonable grounds for believing that T is a person falling within subsection (7)(a) or (b).

(9) If an accessible copy which would be an infringing copy but for 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, is to be treated as an infringing copy for all subsequent purposes.

(10) In subsection (9), "dealt with" means sold or let for hire or offered or exposed for sale or hire or communicated to the public.**]**

Textual Amendments

F76 S. 31A and cross-heading inserted (31.10.2003) by 2002 c. 33, ss. 1, 8(2) (as amended by S.I. 2003/2498, regs. 1, 2(1), **Sch. 1 para. 22(a)**); S.I. 2003/2499, **art. 2**

[F77 31B Multiple copies for visually impaired persons

(1) If an approved body has lawful possession of a copy ("the master copy") of the whole or part of—

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(a) a commercially published literary, dramatic, musical or artistic work; or
(b) a commercially published edition,

it is not an infringement of copyright in the work, or in the typographical arrangement of the published edition, for the body to make, or supply, accessible copies for the personal use of visually impaired persons to whom the master copy is not accessible because of their impairment.

(2) Subsection (1) does not apply—
(a) if the master copy is of a musical work, or part of a musical work, and the making of an accessible copy would involve recording a performance of the work or part of it; or
(b) if the master copy is of a database, or part of a database, and the making of an accessible copy would infringe copyright in the database.

(3) Subsection (1) does not apply in relation to the making of an accessible copy if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to the same or substantially the same degree.

(4) Subsection (1) does not apply in relation to the supply of an accessible copy to a particular visually impaired person if, or to the extent that, copies of the copyright work are commercially available, by or with the authority of the copyright owner, in a form that is accessible to that person.

(5) An accessible copy made under this section must be accompanied by—
(a) a statement that it is made under this section; and
(b) a sufficient acknowledgement.

(6) If an approved body charges for supplying a copy made under this section, the sum charged must not exceed the cost of making and supplying the copy.

(7) An approved body making copies under this section must, if it is an educational establishment, ensure that the copies will be used only for its educational purposes.

(8) If the master copy is in copy-protected electronic form, any accessible copy made of it under this section must, so far as it is reasonably practicable to do so, incorporate the same, or equally effective, copy protection (unless the copyright owner agrees otherwise).

(9) If an approved body continues to hold an accessible copy made under subsection (1) when it would no longer be entitled to make or supply such a copy under that subsection, the copy is to be treated as an infringing copy.

(10) If an accessible copy which would be an infringing copy but for 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, is to be treated as an infringing copy for all subsequent purposes.

(11) In subsection (10), “dealt with” means sold or let for hire or offered or exposed for sale or hire or communicated to the public.

(12) “Approved body” means an educational establishment or a body that is not conducted for profit.

(13) "Supplying" includes lending.**]**

Textual Amendments

F77 S. 31B inserted (31.10.2003) by 2002 c. 33, ss. 2, 8(2) (as amended by S.I. 2003/2498, regs. 1, 2(1), **Sch. 1 para. 22(b)**); S.I. 2003/2499, **art. 2**

[F78 31C Intermediate copies and records

(1) An approved body entitled to make accessible copies under section 31B may hold an intermediate copy of the master copy which is necessarily created during the production of the accessible copies, but only—
   (a) if and so long as the approved body continues to be entitled to make accessible copies of that master copy; and
   (b) for the purposes of the production of further accessible copies.

(2) An intermediate copy which is held in breach of subsection (1) is to be treated as an infringing copy.

(3) An approved body may lend or transfer the intermediate copy to another approved body which is entitled to make accessible copies of the work or published edition under section 31B.

(4) The loan or transfer by an approved body ("A") of an intermediate copy to another person ("B") is an infringement of copyright by A unless A has reasonable grounds for believing that B—
   (a) is another approved body which is entitled to make accessible copies of the work or published edition under section 31B; and
   (b) will use the intermediate copy only for the purposes of the production of further accessible copies.

(5) If an approved body charges for lending or transferring the intermediate copy, the sum charged must not exceed the cost of the loan or transfer.

(6) An approved body must—
   (a) keep records of accessible copies made under section 31B and of the persons to whom they are supplied;
   (b) keep records of any intermediate copy lent or transferred under this section and of the persons to whom it is lent or transferred; and
   (c) allow the copyright owner or a person acting for him, on giving reasonable notice, to inspect the records at any reasonable time.

(7) Within a reasonable time of making an accessible copy under section 31B, or lending or transferring an intermediate copy under this section, the approved body must—
   (a) notify each relevant representative body; or
   (b) if there is no such body, notify the copyright owner.

(8) A relevant representative body is a body which—
   (a) represents particular copyright owners, or owners of copyright in the type of copyright work concerned; and
   (b) has given notice to the Secretary of State of the copyright owners, or the classes of copyright owner, represented by it.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(9) The requirement to notify the copyright owner under subsection (7)(b) does not apply if it is not reasonably possible for the approved body to ascertain the name and address of the copyright owner.**]**

Textual Amendments

F78 S. 31C inserted (31.10.2003) by 2002 c. 33, ss. 3, 8(2); S.I. 2003/2499, **art. 2**

[F79 31D Licensing schemes

(1) Section 31B does not apply to the making of an accessible copy in a particular form if—

(a) a licensing scheme operated by a licensing body is in force under which licences may be granted by the licensing body permitting the making and supply of copies of the copyright work in that form;

(b) the scheme is not unreasonably restrictive; and

(c) the scheme and any modification made to it have been notified to the Secretary of State by the licensing body.

(2) A scheme is unreasonably restrictive if it includes a term or condition which—

(a) purports to prevent or limit the steps that may be taken under section 31B or 31C; or

(b) has that effect.

(3) But subsection (2) does not apply if—

(a) the copyright work is no longer published by or with the authority of the copyright owner; and

(b) there are reasonable grounds for preventing or restricting the making of accessible copies of the work.

(4) If section 31B or 31C is displaced by a licensing scheme, sections 119 to 122 apply in relation to the scheme as if it were one to which those sections applied as a result of section 117.**]**

Textual Amendments

F79 S. 31D inserted (31.10.2003) by 2002 c. 33, ss. 4, 8(2); S.I. 2003/2499, **art. 2**

[F80 31E Limitations, etc. following infringement of copyright

(1) The Secretary of State may make an order under this section if it appears to him that the making of copies—

(a) under section 31B; or

(b) under a licence granted under a licensing scheme that has been notified under section 31D,

has led to infringement of copyright on a scale which, in the Secretary of State's opinion, would not have occurred if section 31B had not been in force, or the licence had not been granted.

(2) The order may prohibit one or more named approved bodies, or one or more specified categories of approved body, from—
  (a) acting under section 31B; or
  (b) acting under a licence of a description specified in the order.

(3) The order may disapply—
  (a) the provisions of section 31B; or
  (b) the provisions of a licence, or a licensing scheme, of a description specified in the order,

in respect of the making of copies of a description so specified.

(4) If the Secretary of State proposes to make an order he must, before making it, consult—
  (a) such bodies representing copyright owners as he thinks fit; and
  (b) such bodies representing visually impaired persons as he thinks fit.

(5) If the Secretary of State proposes to make an order which includes a prohibition he must, before making it, consult—
  (a) if the proposed order is to apply to one or more named approved bodies, that body or those bodies;
  (b) if it is to apply to one or more specified categories of approved body, to such bodies representing approved bodies of that category or those categories as he thinks fit.

(6) An approved body which is prohibited by an order from acting under a licence may not apply to the Copyright Tribunal under section 121(1) in respect of a refusal or failure by a licensing body to grant such a licence.**]**

Textual Amendments

F80 S. 31E inserted (31.10.2003) by 2002 c. 33, ss. 5, 8(2); S.I. 2003/2499, **art. 2**

[F81 31F Definitions and other supplementary provision for sections 31A to 31E

(1) This section supplements sections 31A to 31E and includes definitions.

(2) A copy of a copyright work (other than an accessible copy made under section 31A or 31B) is to be taken to be accessible to a visually impaired person only if it is as accessible to him as it would be if he were not visually impaired.

(3) "Accessible copy", in relation to a copyright work, means a version which provides for a visually impaired person improved access to the work.

(4) An accessible copy may include facilities for navigating around the version of the copyright work but may not include—
  (a) changes that are not necessary to overcome problems caused by visual impairment; or
  (b) changes which infringe the right (provided by section 80) not to have the work subjected to derogatory treatment.

(5) "Approved body" has the meaning given in section 31B(12).

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(6) "Lending", in relation to a copy, means making it available for use, otherwise than for direct or indirect economic or commercial advantage, on terms that it will or may be returned.

(7) For the purposes of subsection (6), a loan is not to be treated as being for direct or indirect economic or commercial advantage if a charge is made for the loan which does not exceed the cost of making and supplying the copy.

(8) The definition of "lending" in section 18A does not apply for the purposes of sections 31B and 31C.

(9) "Visually impaired person" means a person—
- (a) who is blind;
- (b) who has an impairment of visual function which cannot be improved, by the use of corrective lenses, to a level that would normally be acceptable for reading without a special level or kind of light;
- (c) who is unable, through physical disability, to hold or manipulate a book; or
- (d) who is unable, through physical disability, to focus or move his eyes to the extent that would normally be acceptable for reading.

(10) The Secretary of State may by regulations prescribe—
- (a) the form in which; or
- (b) the procedure in accordance with which,

any notice required under section 31C(7) or (8), or 31D(1), must be given.

(11) Any power to make regulations or orders is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F81 S. 31F inserted (31.10.2003) by 2002 c. 33, ss. 6, 8(2); S.I. 2003/2499, **art. 2**

Education

32 Things done for purposes of instruction or examination.

[[F82](1) Copyright in a literary, dramatic, musical or artistic work is not infringed by its being copied in the course of instruction or of preparation for instruction, provided the copying—
- (a) is done by a person giving or receiving instruction,
- (b) is not done by means of a reprographic process, and
- (c) is accompanied by a sufficient acknowledgement,

and provided that the instruction is for a non-commercial purpose.

(2) Copyright in a sound recording, film or broadcast is not infringed by its being copied by making a film or film sound-track in the course of instruction, or of preparation for instruction, in the making of films or film sound-tracks, provided the copying—
- (a) is done by a person giving or receiving instruction, and
- (b) is accompanied by a sufficient acknowledgement,

and provided that the instruction is for a non-commercial purpose.

(2A) Copyright in a literary, dramatic, musical or artistic work which has been made available to the public is not infringed by its being copied in the course of instruction or of preparation for instruction, provided the copying—

(a) is fair dealing with the work,

(b) is done by a person giving or receiving instruction,

(c) is not done by means of a reprographic process, and

(d) is accompanied by a sufficient acknowledgement.

(2B) The provisions of section 30(1A) (works made available to the public) apply for the purposes of subsection (2A) as they apply for the purposes of section 30(1).**]**

(3) Copyright is not infringed by anything done for the purposes of an examination by way of setting the questions, communicating the questions to the candidates or answering the questions **[**[F83], provided that the questions are accompanied by a sufficient acknowledgement**]**.

[[F84](3A) No acknowledgement is required in connection with copying as mentioned in subsection (1), (2) or (2A), or in connection with anything done for the purposes mentioned in subsection (3), where this would be impossible for reasons of practicality or otherwise.**]**

(4) Subsection (3) does not extend to the making of a reprographic copy of a musical work for use by an examination candidate in performing the work.

(5) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purpose of that dealing, and if that dealing infringes copyright for all subsequent purposes.

[[F85]For this purpose "dealt with" means—

(a) sold or let for hire, offered or exposed for sale or hire; or

(b) communicated to the public, unless that communication, by virtue of subsection (3), is not an infringement of copyright.**]**

Textual Amendments

F82 S. 32(1)-(2B) substituted (31.10.2003) for s. 32(1)(2) by The Copyright and Related Rights Regulations 2003 (S.I 2003/2498), {reg. 11(a)} (with regs. 31-40)

F83 Words in s. 32(3) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 11(b)** (with reg. 31-40)

F84 S. 32(3A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2598), **reg. 11(c)** (with regs. 31-40)

F85 Words in s. 32(5) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 11(d)** (with regs. 31-40)

33 Anthologies for educational use.

(1) The inclusion of a short passage from a published literary or dramatic work in a collection which—

(a) is intended for use in educational establishments and is so described in its title, and in any advertisements issued by or on behalf of the publisher, and

(b) consists mainly of material in which no copyright subsists,

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

does not infringe the copyright in the work if the work itself is not intended for use in such establishments and the inclusion is accompanied by a sufficient acknowledgement.

(2) Subsection (1) does not authorise the inclusion of more than two excerpts from copyright works by the same author in collections published by the same publisher over any period of five years.

(3) In relation to any given passage the reference in subsection (2) to excerpts from works by the same author—

(a) shall be taken to include excerpts from works by him in collaboration with another, and

(b) if the passage in question is from such a work, shall be taken to include excerpts from works by any of the authors, whether alone or in collaboration with another.

(4) References in this section to the use of a work in an educational establishment are to any use for the educational purposes of such an establishment.

34 Performing, playing or showing work in course of activities of educational establishment.

(1) The performance of a literary, dramatic or musical work before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the activities of the establishment—

(a) by a teacher or pupil in the course of the activities of the establishment, or

(b) at the establishment by any person for the purposes of instruction,

is not a public performance for the purposes of infringement of copyright.

(2) The playing or showing of a sound recording, film **[**[F86]or broadcast**]** before such an audience at an educational establishment for the purposes of instruction is not a playing or showing of the work in public for the purposes of infringement of copyright.

(3) A person is not for this purpose directly connected with the activities of the educational establishment simply because he is the parent of a pupil at the establishment.

Textual Amendments

F86 Words in s. 34(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(f)** (with regs. 31-40)

35 Recording by educational establishments of broadcasts [F87]. . . .

(1) A recording of a broadcast [F88]. . . , 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 thereby infringing the copyright in the broadcast [F88]. . . , or in any work included in it **[**[F89], provided that it is accompanied by a sufficient acknowledgement of the broadcast and that the educational purposes are non-commercial**]**.

[[F90](1A) Copyright is not infringed where a recording of a broadcast or a copy of such a recording, whose making was by virtue of subsection (1) not an infringement of

copyright, is communicated to the public by a person situated within the premises of an educational establishment provided that the communication cannot be received by any person situated outside the premises of that establishment.**]**

(2) This section does not apply if or to the extent that there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

(3) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose "dealt with" means sold or let for hire **[**[F91], offered or exposed for sale or hire, or communicated from within the premises of an educational establishment to any person situated outside those premises.**]**

Textual Amendments

F87 Words in s. 35 heading 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)

F88 Words in s. 35(1) 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)

F89 Words in s. 35(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 12(1)(a)** (with regs. 31-40)

F90 S. 35(1A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 12(1)(b)** (with regs. 31-40)

F91 Words in s. 35(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 12(1)(c)** (with regs. 31-40)

Modifications etc. (not altering text)

C17 Ss. 35, 36 extended by S.I. 1989/1067, **art. 2**

36 Reprographic copying by educational establishments of passages from published works.

(1) Reprographic copies of passages from published literary, dramatic or musical works may, to the extent permitted by this section, be made by or on behalf of an educational establishment for the purposes of instruction without infringing any copyright in the work, **[**[F92]provided that they are accompanied by a sufficient acknowledgement and the instruction is for a non-commercial purpose**]**.

[[F93](1A) No acknowledgement is required in connection with the making of copies as mentioned in subsection (1) where this would be impossible for reasons of practicality or otherwise.

(1B) Reprographic copies of passages from published editions may, to the extent permitted by this section, be made by or on behalf of an educational establishment for the purposes of instruction without infringing any copyright in the typographical arrangement of the edition.**]**

(2) Not more than one per cent. of any work may be copied by or on behalf of an establishment by virtue of this section in any quarter, that is, in any period 1st January to 31st March, 1st April to 30th June, 1st July to 30th September or 1st October to 31st December.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) Copying is not authorised by this section if, or to the extent that, licences are available authorising the copying in question and the person making the copies knew or ought to have been aware of that fact.

(4) The terms of a licence granted to an educational establishment authorising the reprographic copying for the purposes of instruction of passages from published [F94]. . . works 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 under this section.

(5) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose "dealt with" means sold or let for hire **[**[F95], offered or exposed for sale or hire or communicated to the public.**]**

Textual Amendments

F92 Words in s. 36(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 13(a)** (with regs. 31-40)

F93 S. 36(1A)(1B) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 13(b)** (with regs. 31-40)

F94 Words in s. 36(4) 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)

F95 Words in s. 36(5) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 13(c)** (with regs. 31-40)

Modifications etc. (not altering text)

C18 Ss. 35, 36 extended by S.I. 1989/1067, **art. 2**

[[F96]**36A Lending of copies by educational establishments**

Copyright in a work is not infringed by the lending of copies of the work by an educational establishment.**]**

Textual Amendments

F96 S. 36A inserted (1.12.1996) by S.I. 1996/2967, **reg. 11(1)** (with Pt. III)

Libraries and archives

37 Libraries and archives: introductory.

(1) In sections 38 to 43 (copying by librarians and archivists)—

(a) references in any provision to a prescribed library or archive are to a library or archive of a description prescribed for the purposes of that provision by regulations made by the Secretary of State; and

(b) references in any provision to the prescribed conditions are to the conditions so prescribed.

(2) The regulations may provide that, where a librarian or archivist is required to be satisfied as to any matter before making or supplying a copy of a work—

(a) he may rely on a signed declaration as to that matter by the person requesting the copy, unless he is aware that it is false in a material particular, and

(b) in such cases as may be prescribed, he shall not make or supply a copy in the absence of a signed declaration in such form as may be prescribed.

(3) Where a person requesting a copy makes a declaration which is false in a material particular and is supplied with a copy which would have been an infringing copy if made by him—

(a) he is liable for infringement of copyright as if he had made the copy himself, and

(b) the copy shall be treated as an infringing copy.

(4) The regulations may make different provision for different descriptions of libraries or archives and for different purposes.

(5) Regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) References in this section, and in sections 38 to 43, to the librarian or archivist include a person acting on his behalf.

38 Copying by librarians: articles in periodicals.

(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply a copy of an article in a periodical without infringing any copyright in the text, in any illustrations accompanying the text or in the typographical arrangement.

(2) The prescribed conditions shall include the following—

[[F97](a) that copies are supplied only to persons satisfying the librarian that they require them for the purposes of—

(i) research for a non-commercial purpose, or

(ii) private study,

and will not use them for any other purpose;**]**

(b) that no person is furnished with more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical; and

(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

Textual Amendments

F97 S. 38(2)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 14(1)** (with regs. 31-40)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

39 Copying by librarians: parts of published works.

(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply from a published edition a copy of part of a literary, dramatic or musical work (other than an article in a periodical) without infringing any copyright in the work, in any illustrations accompanying the work or in the typographical arrangement.

(2) The prescribed conditions shall include the following—

[[F98](a) that copies are supplied only to persons satisfying the librarian that they require them for the purposes of—

(i) research for a non-commercial purpose, or

(ii) private study,

and will not use them for any other purpose;**]**

(b) that no person is furnished with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and

(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.

Textual Amendments

F98 S. 39(2)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 14(1)** (with regs. 31-40)

40 Restriction on production of multiple copies of the same material.

(1) Regulations for the purposes of sections 38 and 39 (copying by librarian of article or part of published work) shall contain provision to the effect that a copy shall be supplied only to a person satisfying the librarian that his requirement is not related to any similar requirement of another person.

(2) The regulations may provide—

(a) that requirements shall be regarded as similar if the requirements are for copies of substantially the same material at substantially the same time and for substantially the same purpose; and

(b) that requirements of persons shall be regarded as related if those persons receive instruction to which the material is relevant at the same time and place.

[F99 40A Lending of copies by libraries or archives.

(1) Copyright in a work of any description is not infringed by the lending of a book by a public library if the book is within the public lending right scheme. For this purpose—

(a) "the public lending right scheme" means the scheme in force under section 1 of the Public Lending Right Act 1979, and

(b) a book is within the public lending right scheme if it is a book within the meaning of the provisions of the scheme relating to eligibility, whether or not it is in fact eligible.

(2) Copyright in a work is not infringed by the lending of copies of the work by a prescribed library or archive (other than a public library) which is not conducted for profit.**]**

Textual Amendments

F99 S. 40A inserted (1.12.1996) by S.I. 1996/2967, **reg. 11(2)** (with Pt. III)

Modifications etc. (not altering text)

C19 S. 40A(2) modified (1.12.1996) by S.I. 1996/2967, **reg. 35** (with Pt. III)

41 Copying by librarians: supply of copies to other libraries.

(1) The librarian of a prescribed library may, if the prescribed conditions are complied with, make and supply to another prescribed library a copy of—

(a) an article in a periodical, or

(b) the whole or part of a published edition of a literary, dramatic or musical work,

without infringing any copyright in the text of the article or, as the case may be, in the work, in any illustrations accompanying it or in the typographical arrangement.

(2) Subsection (1)(b) does not apply if at the time the copy is made the librarian making it knows, or could by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy.

42 Copying by librarians or archivists: replacement copies of works.

(1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make a copy from any item in the permanent collection of the library or archive—

(a) in order to preserve or replace that item by placing the copy in its permanent collection in addition to or in place of it, or

(b) in order to replace in the permanent collection of another prescribed library or archive an item which has been lost, destroyed or damaged,

without infringing the copyright in any literary, dramatic or musical work, in any illustrations accompanying such a work or, in the case of a published edition, in the typographical arrangement.

(2) The prescribed conditions shall include provision for restricting the making of copies to cases where it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose.

43 Copying by librarians or archivists: certain unpublished works.

(1) The librarian or archivist of a prescribed library or archive may, if the prescribed conditions are complied with, make and supply a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive without infringing any copyright in the work or any illustrations accompanying it.

(2) This section does not apply if—

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

(a) the work had been published before the document was deposited in the library or archive, or

(b) the copyright owner has prohibited copying of the work,

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

(3) The prescribed conditions shall include the following—

[[F100](a) that copies are supplied only to persons satisfying the librarian or archivist that they require them for the purposes of—

(i) research for a non-commercial purpose, or

(ii) private study,

and will not use them for any other purpose;**]**

(b) that no person is furnished with more than one copy of the same material; and

(c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.

Textual Amendments

F100 S. 43(3)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 14(2)** (with regs. 31-40)

44 Copy of work required to be made as condition of export.

If an article of cultural or historical importance or interest cannot lawfully be exported from the United Kingdom unless a copy of it is made and deposited in an appropriate library or archive, it is not an infringement of copyright to make that copy.

[F101 44A Legal deposit libraries

(1) Copyright is not infringed by the copying of a work from the internet by a deposit library or person acting on its behalf if—

(a) the work is of a description prescribed by regulations under section 10(5) of the 2003 Act,

(b) its publication on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and

(c) the copying is done in accordance with any conditions so prescribed.

(2) Copyright is not infringed by the doing of anything in relation to relevant material permitted to be done under regulations under section 7 of the 2003 Act.

(3) The Secretary of State may by regulations make provision excluding, in relation to prescribed activities done in relation to relevant material, the application of such of the provisions of this Chapter as are prescribed.

(4) Regulations under subsection (3) may in particular make provision prescribing activities—

(a) done for a prescribed purpose,

(b) done by prescribed descriptions of reader,

(c) done in relation to prescribed descriptions of relevant material,

(d) done other than in accordance with prescribed conditions.

(5) Regulations under this section may make different provision for different purposes.

(6) Regulations 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.

(7) In this section—

(a) "the 2003 Act" means the Legal Deposit Libraries Act 2003;

(b) "deposit library", "reader" and "relevant material" have the same meaning as in section 7 of the 2003 Act;

(c) "prescribed" means prescribed by regulations made by the Secretary of State.**]**

Textual Amendments

F101 S. 44A inserted (1.2.2004) by Legal Deposit Libraries Act 2003 (c. 28), **ss. 8(1)**, 16(1) (with s. 16(4)); S.I. 2004/130, **art. 2**

Public administration

45 Parliamentary and judicial proceedings.

(1) Copyright is not infringed by anything done for the purposes of parliamentary or judicial proceedings.

(2) Copyright is not infringed by anything done for the purposes of reporting such proceedings; but this shall not be construed as authorising the copying of a work which is itself a published report of the proceedings.

46 Royal Commissions and statutory inquiries.

(1) Copyright is not infringed by anything done for the purposes of the proceedings of a Royal Commission or statutory inquiry.

(2) Copyright is not infringed by anything done for the purpose of reporting any such proceedings held in public; but this shall not be construed as authorising the copying of a work which is itself a published report of the proceedings.

(3) Copyright in a work is not infringed by the issue to the public of copies of the report of a Royal Commission or statutory inquiry containing the work or material from it.

(4) In this section—

"Royal Commission" includes a Commission appointed for Northern Ireland by the Secretary of State in pursuance of the prerogative powers of Her Majesty delegated to him under section 7(2) of the [M2]Northern Ireland Constitution Act 1973; and

"statutory inquiry" means an inquiry held or investigation conducted in pursuance of a duty imposed or power conferred by or under an enactment.

Marginal Citations

M2 1973 c. 36.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

47 Material open to public inspection or on official register.

(1) Where material is open to public inspection pursuant to a statutory requirement, or is on a statutory register, any copyright in the material as a literary work is not infringed by the copying of so much of the material as contains factual information of any description, by or with the authority of the appropriate person, for a purpose which does not involve the issuing of copies to the public.

(2) Where material is open to public inspection pursuant to a statutory requirement, copyright is not infringed by the copying or issuing to the public of copies of the material, by or with the authority of the appropriate person, for the purpose of enabling the material to be inspected at a more convenient time or place or otherwise facilitating the exercise of any right for the purpose of which the requirement is imposed.

(3) Where material which is open to public inspection pursuant to a statutory requirement, or which is on a statutory register, contains information about matters of general scientific, technical, commercial or economic interest, copyright is not infringed by the copying or issuing to the public of copies of the material, by or with the authority of the appropriate person, for the purpose of disseminating that information.

(4) The Secretary of State may by order provide that subsection (1), (2) or (3) shall, in such cases as may be specified in the order, apply only to copies marked in such manner as may be so specified.

(5) The Secretary of State may by order provide that subsections (1) to (3) apply, to such extent and with such modifications as may be specified in the order—

(a) to material made open to public inspection by—

(i) an international organisation specified in the order, or

(ii) a person so specified who has functions in the United Kingdom under an international agreement to which the United Kingdom is party, or

(b) to a register maintained by an international organisation specified in the order,

as they apply in relation to material open to public inspection pursuant to a statutory requirement or to a statutory register.

(6) In this section—

"appropriate person" means the person required to make the material open to public inspection or, as the case may be, the person maintaining the register;

"statutory register" means a register maintained in pursuance of a statutory requirement; and

"statutory requirement" means a requirement imposed by provision made by or under an enactment.

(7) 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.

Modifications etc. (not altering text)

C20 S. 47(1) extended with modifications by S.I. 1989/1098, **art. 2**

C21 S. 47(2) modified by S.I. 1990/1427, **art. 2**

C22 S. 47(2)(3) extended with modifications by S.I. 1989/1098, **art. 2**

C23 S. 47(2)(3) modified by S.I. 1989/1099, **art. 2**

C24 S. 47(6) modified (1.3.2010) by The Scottish Register of Tartans Act 2008 (Consequential Modifications) Order 2010 (S.I. 2010/180), **art. 2(2)** (with art. 2(4))

48 Material communicated to the Crown in the course of public business.

(1) This section applies where a literary, dramatic, musical or artistic work has in the course of public business been communicated to the Crown for any purpose, by or with the licence of the copyright owner and a document or other material thing recording or embodying the work is owned by or in the custody or control of the Crown.

(2) The Crown may, for the purpose for which the work was communicated to it, or any related purpose which could reasonably have been anticipated by the copyright owner, copy the work and issue copies of the work to the public without infringing any copyright in the work.

(3) The Crown may not copy a work, or issue copies of a work to the public, by virtue of this section if the work has previously been published otherwise than by virtue of this section.

(4) In subsection (1) "public business" includes any activity carried on by the Crown.

(5) This section has effect subject to any agreement to the contrary between the Crown and the copyright owner.

[[F102](6) In this section "the Crown" includes a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990, **[**[F103]a Primary Care Trust established under section 16A of the National Health Service Act 1977, **[**[F104]the Commission for Social Care Inspection,**]][**[F105]the **[**[F106]Commission for Healthcare Audit and Inspection**]]** and a National Health Service trust established under Part I of that Act or the National Health Service (Scotland) Act 1978 **[**[F107]and an NHS foundation trust**][**[F108]and also includes a health and social services body, as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991, and a Health and Social Services trust established under that Order**]**, and the reference in subsection (1) above to public business shall be construed accordingly.**]**

Textual Amendments

F102 S. 48(6) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8 para. 3**

F103 Words in s. 48(6) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 22**

F104 Words in s. 48(6) inserted (11.11.2004) by The Health and Social Care Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 (S.I. 2004/2987), **art. 2(1)(b)(i)**

F105 Words in s. 48(6) inserted (E.W.) (1.11.1999) by S.I. 1999/2795, **art. 3**

F106 Words in s. 48(6) substituted (11.11.2004) by The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 (S.I. 2004/2987), **art. 2(1)(b)(ii)**

F107 Words in s. 48(6) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1), **Sch. 4 para. 72**; S.I. 2004/759, **art. 2**

F108 Words in s. 48(6) inserted (1.4.1992) by S.I. 1991/194, art. 7(2), **Sch. 2 Pt. I para. 3**; S.R. 1991/131, art. 2(e), **Sch. Pt. III**

49 Public records.

Material which is comprised in public records within the meaning of the [M3]Public Records Act 1958, the [M4]Public Records (Scotland) Act 1937 or the [M5]Public Records Act (Northern Ireland) 1923 **[**[F109], or in Welsh public records (as defined in the

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Government of Wales Act 1998),**]** which are open to public inspection in pursuance of that Act, may be copied, and a copy may be supplied to any person, by or with the authority of any officer appointed under that Act, without infringement of copyright.

Textual Amendments

F109 Words in s. 49 inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 27** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

Marginal Citations

M3 1958 c. 51.
M4 1937 c. 43.
M5 1923 c. 20 (N.I.).

50 Acts done under statutory authority.

(1) Where the doing of a particular act is specifically authorised by an Act of Parliament, whenever passed, then, unless the Act provides otherwise, the doing of that act does not infringe copyright.

(2) Subsection (1) applies in relation to an enactment contained in Northern Ireland legislation as it applies in relation to an Act of Parliament.

(3) Nothing in this section shall be construed as excluding any defence of statutory authority otherwise available under or by virtue of any enactment.

Modifications etc. (not altering text)

C25 S. 50 applied by Freedom of Information Act 2000 (c. 36), s. 80(3) (as added (1.1.2005) by The Freedom of Information (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/3089), **art. 3(2)**)

C26 S. 50(1) modified (1.3.2010) by The Scottish Register of Tartans Act 2008 (Consequential Modifications) Order 2010 (S.I. 2010/180), **art. 2(3)** (with art. 2(4))

[F110 Computer programs: lawful users

Textual Amendments

F110 Cross-heading and ss. 50A-50C inserted (1.1.1993) by S.I. 1992/3233, **reg.8**.

F111 50A Back up copies.

(1) It is not an infringement of copyright for a lawful user of a copy of a computer program to make any back up copy of it which it is necessary for him to have for the purposes of his lawful use.

(2) For the purposes of this section and sections 50B **[F112**, 50BA**]** and 50C a person is a lawful user of a computer program if (whether under a licence to do any acts restricted by the copyright in the program or otherwise), he has a right to use the program.

(3) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).

Textual Amendments

F111 Ss. 50A-50C inserted (1.1.1993) by S.I. 1992/3233, **reg.8**.

F112 S. 50A(2): ", 50BA" inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 15(2)** (with regs. 31-40)

[F113]50B Decompilation.

(1) It is not an infringement of copyright for a lawful user of a copy of a computer program expressed in a low level language—

(a) to convert it into a version expressed in a higher level language, or

(b) incidentally in the course of so converting the program, to copy it,

(that is, to "decompile" it), provided that the conditions in subsection (2) are met.

(2) The conditions are that—

(a) it is necessary to decompile the program to obtain the information necessary to create an independent program which can be operated with the program decompiled or with another program ("the permitted objective"); and

(b) the information so obtained is not used for any purpose other than the permitted objective.

(3) In particular, the conditions in subsection (2) are not met if the lawful user—

(a) has readily available to him the information necessary to achieve the permitted objective;

(b) does not confine the decompiling to such acts as are necessary to achieve the permitted objective;

(c) supplies the information obtained by the decompiling to any person to whom it is not necessary to supply it in order to achieve the permitted objective; or

(d) uses the information to create a program which is substantially similar in its expression to the program decompiled or to do any act restricted by copyright.

(4) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).

Textual Amendments

F113 Ss. 50A-50C inserted (1.1.1993) by S.I. 1992/3233, **reg.8**.

[F114]50BA [Observing, studying and testing of computer programs

(1) It is not an infringement of copyright for a lawful user of a copy of a computer program to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.

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

(2) Where an act is permitted under this section, it is irrelevant whether or not there exists any term or condition in an agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296A, void).**]**

Textual Amendments

F114 S. 50BA inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 15(1)** (with regs. 31-40)

[F115]50C Other acts permitted to lawful users.

(1) It is not an infringement of copyright for a lawful user of a copy of a computer program to copy or adapt it, provided that the copying or adapting—

(a) is necessary for his lawful use; and

(b) is not prohibited under any term or condition of an agreement regulating the circumstances in which his use is lawful.

(2) It may, in particular, be necessary for the lawful use of a computer program to copy it or adapt it for the purpose of correcting errors in it.

(3) This section does not apply to any copying or adapting permitted under **[**[F116]section 50A, 50B or 50BA**].]**

Textual Amendments

F115 Ss. 50A-50C inserted (1.1.1993) by S.I. 1992/3233, **reg.8**.

F116 Words in s. 50C(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 15(3)** (with regs. 31-40)

[[F117]*Databases: permitted acts]*

Textual Amendments

F117 S. 50D and crossheading inserted (1.1.1998) by S.I. 1997/3032, **reg. 9** (with Pt. IV)

50D [[F118] Acts permitted in relation to databases.]

(1) It is not an infringement of copyright in a database for a person who has a right to use the database or any part of the database, (whether under a licence to do any of the acts restricted by the copyright in the database or otherwise) to do, in the exercise of that right, anything which is necessary for the purposes of access to and use of the contents of the database or of that part of the database.

(2) Where an act which would otherwise infringe copyright in a database is permitted under this section, it is irrelevant whether or not there exists any term or condition in any agreement which purports to prohibit or restrict the act (such terms being, by virtue of section 296B, void).

Textual Amendments

F118 S. 50D inserted (1.1.1998) by S.I. 1997/3032, **reg. 9** (with Pt. IV)

Designs

51 Design documents and models.

(1) It is not an infringement of any copyright in a design document or model recording or embodying a design for anything other than an artistic work or a typeface to make an article to the design or to copy an article made to the design.

(2) Nor is it an infringement of the copyright to issue to the public, or include in a film **[**[F119]or communicate to the public**]**, anything the making of which was, by virtue of subsection (1), not an infringement of that copyright.

(3) In this section—

"design" means the design of any aspect of the shape or configuration (whether internal or external) of the whole or part of an article, other than surface decoration; and

"design document" means any record of a design, whether in the form of a drawing, a written description, a photograph, data stored in a computer or otherwise.

Textual Amendments

F119 Words in s. 51(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 8(3)** (with regs. 31-40)

52 Effect of exploitation of design derived from artistic work.

(1) This section applies where an artistic work has been exploited, by or with the licence of the copyright owner, by—

(a) making by an industrial process articles falling to be treated for the purposes of this Part as copies of the work, and

(b) marketing such articles, in the United Kingdom or elsewhere.

(2) After the end of the period of 25 years from the end of the calendar year in which such articles are first marketed, the work may be copied by making articles of any description, or doing anything for the purpose of making articles of any description, and anything may be done in relation to articles so made, without infringing copyright in the work.

(3) Where only part of an artistic work is exploited as mentioned in subsection (1), subsection (2) applies only in relation to that part.

(4) The Secretary of State may by order make provision—

(a) as to the circumstances in which an article, or any description of article, is to be regarded for the purposes of this section as made by an industrial process;

(b) excluding from the operation of this section such articles of a primarily literary or artistic character as he thinks fit.

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(5) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section—

(a) references to articles do not include films; and

(b) references to the marketing of an article are to its being sold or let for hire or offered or exposed for sale or hire.

Modifications etc. (not altering text)

C27 S. 52 excluded by S.I. 1989/1070, **art. 3**

53 Things done in reliance on registration of design.

(1) The copyright in an artistic work is not infringed by anything done—

(a) in pursuance of an assignment or licence made or granted by a person registered under the [M6]Registered Designs Act 1949 as the proprietor of a corresponding design, and

(b) in good faith in reliance on the registration and without notice of any proceedings for the cancellation **[**[F120]or invalidation**]** of the registration or for rectifying the relevant entry in the register of designs;

and this is so notwithstanding that the person registered as the proprietor was not the proprietor of the design for the purposes of the 1949 Act.

(2) In subsection (1) a "corresponding design", in relation to an artistic work, means a design within the meaning of the 1949 Act which if applied to an article would produce something which would be treated for the purposes of this Part as a copy of the artistic work.

Textual Amendments

F120 Words in s. 53(1)(b) inserted (9.12.2001) by S.I. 2001/3949, reg. 9(1), **Sch. 1 para. 16** (with transitional provisions in regs. 10-14)

Marginal Citations

M6 1949 c. 88.

Typefaces

54 Use of typeface in ordinary course of printing.

(1) It is not an infringement of copyright in an artistic work consisting of the design of a typeface—

(a) to use the typeface in the ordinary course of typing, composing text, typesetting or printing,

(b) to possess an article for the purpose of such use, or

(c) to do anything in relation to material produced by such use;

and this is so notwithstanding that an article is used which is an infringing copy of the work.

(2) However, the following provisions of this Part apply in relation to persons making, importing or dealing with articles specifically designed or adapted for producing material in a particular typeface, or possessing such articles for the purpose of dealing with them, as if the production of material as mentioned in subsection (1) did infringe copyright in the artistic work consisting of the design of the typeface—

section 24 (secondary infringement: making, importing, possessing or dealing with article for making infringing copy),

sections 99 and 100 (order for delivery up and right of seizure),

section 107(2) (offence of making or possessing such an article), and

section 108 (order for delivery up in criminal proceedings).

(3) The references in subsection (2) to "dealing with" an article are to selling, letting for hire, or offering or exposing for sale or hire, exhibiting in public, or distributing.

55 Articles for producing material in particular typeface.

(1) This section applies to the copyright in an artistic work consisting of the design of a typeface where articles specifically designed or adapted for producing material in that typeface have been marketed by or with the licence of the copyright owner.

(2) After the period of 25 years from the end of the calendar year in which the first such articles are marketed, the work may be copied by making further such articles, or doing anything for the purpose of making such articles, and anything may be done in relation to articles so made, without infringing copyright in the work.

(3) In subsection (1) "marketed" means sold, let for hire or offered or exposed for sale or hire, in the United Kingdom or elsewhere.

Works in electronic form

56 Transfers of copies of works in electronic form.

(1) This section applies where a copy of a work in electronic form has been purchased on terms which, expressly or impliedly or by virtue of any rule of law, allow the purchaser to copy the work, or to adapt it or make copies of an adaptation, in connection with his use of it.

(2) If there are no express terms—

(a) prohibiting the transfer of the copy by the purchaser, imposing obligations which continue after a transfer, prohibiting the assignment of any licence or terminating any licence on a transfer, or

(b) providing for the terms on which a transferee may do the things which the purchaser was permitted to do,

anything which the purchaser was allowed to do may also be done without infringement of copyright by a transferee; but any copy, adaptation or copy of an adaptation made by the purchaser which is not also transferred shall be treated as an infringing copy for all purposes after the transfer.

(3) The same applies where the original purchased copy is no longer usable and what is transferred is a further copy used in its place.

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(4) The above provisions also apply on a subsequent transfer, with the substitution for references in subsection (2) to the purchaser of references to the subsequent transferor.

Miscellaneous: literary, dramatic, musical and artistic works

57 Anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author.

(1) Copyright in a literary, dramatic, musical or artistic work is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—
- (a) it is not possible by reasonable inquiry to ascertain the identity of the author, and
- (b) it is reasonable to assume—
  - (i) that copyright has expired, or
  - (ii) that the author died **[**[F121]70 years**]** or more before the beginning of the calendar year in which the act is done or the arrangements are made.

(2) Subsection (1)(b)(ii) does not apply in relation to—
- (a) a work in which Crown copyright subsists, or
- (b) a work in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than **[**[F121]70 years**]**.

(3) In relation to a work of joint authorship—
- (a) the reference in subsection (1) to its being possible to ascertain the identity of the author shall be construed as a reference to its being possible to ascertain the identity of any of the authors, and
- (b) the reference in subsection (1)(b)(ii) to the author having died shall be construed as a reference to all the authors having died.

Textual Amendments

F121 Words in s. 57(1)(b)(ii)(2)(b) substituted (with saving) (1.1.1996) by S.I. 1995/3297, **regs. 5(2)**, 15(2) (with Pt. III)

58 Use of notes or recordings of spoken words in certain cases.

(1) Where a record of spoken words is made, in writing or otherwise, for the purpose—
- (a) of reporting current events, or
- (b) of **[**[F122]communicating to the public**]** the whole or part of the work,

it is not an infringement of any copyright in the words as a literary work to use the record or material taken from it (or to copy the record, or any such material, and use the copy) for that purpose, provided the following conditions are met.

(2) The conditions are that—
- (a) the record is a direct record of the spoken words and is not taken from a previous record or from a broadcast [F123]. . . ;
- (b) the making of the record was not prohibited by the speaker and, where copyright already subsisted in the work, did not infringe copyright;

(c) the use made of the record or material taken from it is not of a kind prohibited by or on behalf of the speaker or copyright owner before the record was made; and

(d) the use is by or with the authority of a person who is lawfully in possession of the record.

Textual Amendments

F122 Words in s. 58(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 12(a)** (with regs. 31-40)

F123 Words in s. 58(2)(b) 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)

59 Public reading or recitation.

(1) The reading or recitation in public by one person of a reasonable extract from a published literary or dramatic work does not infringe any copyright in the work if it is accompanied by a sufficient acknowledgement.

(2) Copyright in a work is not infringed by the making of a sound recording, or the **[**[F124]communication to the public**]**, of a reading or recitation which by virtue of subsection (1) does not infringe copyright in the work, provided that the recording **[**[F125]or communication to the public**]** consists mainly of material in relation to which it is not necessary to rely on that subsection.

Textual Amendments

F124 Words in s. 59(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 5(b)** (with regs. 31-40)

F125 Words in s. 59(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 9(1)(a)** (with regs. 31-40)

60 Abstracts of scientific or technical articles.

(1) Where an article on a scientific or technical subject is published in a periodical accompanied by an abstract indicating the contents of the article, it is not an infringement of copyright in the abstract, or in the article, to copy the abstract or issue copies of it to the public.

(2) This section does not apply if or to the extent that there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

61 Recordings of folksongs.

(1) A sound recording of a performance of a song may be made for the purpose of including it in an archive maintained by a designated body without infringing any copyright in the words as a literary work or in the accompanying musical work, provided the conditions in subsection (2) below are met.

(2) The conditions are that—

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(a) the words are unpublished and of unknown authorship at the time the recording is made,
(b) the making of the recording does not infringe any other copyright, and
(c) its making is not prohibited by any performer.

(3) Copies of a sound recording made in reliance on subsection (1) and included in an archive maintained by a designated body may, if the prescribed conditions are met, be made and supplied by the archivist without infringing copyright in the recording or the works included in it.

(4) The prescribed conditions shall include the following—
[[F126](a) that copies are only supplied to persons satisfying the archivist that they require them for the purposes of—
(i) research for a non-commercial purpose, or
(ii) private study,
and will not use them for any other purpose, and.**]**
(b) that no person is furnished with more than one copy of the same recording.

(5) In this section—
(a) "designated" means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless satisfied that it is not established or conducted for profit,
(b) "prescribed" means prescribed for the purposes of this section by order of the Secretary of State, and
(c) references to the archivist include a person acting on his behalf.

(6) 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
F126 S. 61(4)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 16** (with regs. 31-40)

62 Representation of certain artistic works on public display.

(1) This section applies to—
(a) buildings, and
(b) sculptures, models for buildings and works of artistic craftsmanship, if permanently situated in a public place or in premises open to the public.

(2) The copyright in such a work is not infringed by—
(a) making a graphic work representing it,
(b) making a photograph or film of it, or
(c) **[**[F127]making a broadcast of**]** a visual image of it.

(3) Nor is the copyright infringed by the issue to the public of copies, or the **[**[F128]communication to the public**]**, of anything whose making was, by virtue of this section, not an infringement of the copyright.

Textual Amendments

F127 Words in s. 62(2)(c) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 14** (with regs. 31-40)

F128 Words in s. 62(3)(c) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 5(c)** (with regs. 31-40)

63 Advertisement of sale of artistic work.

(1) It is not an infringement of copyright in an artistic work to copy it, or to issue copies to the public, for the purpose of advertising the sale of the work.

(2) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with for any other purpose, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

For this purpose "dealt with" means sold or let for hire, offered or exposed for sale or hire, exhibited in public **[**[F129], distributed or communicated to the public**]**.

Textual Amendments

F129 Words in s. 63(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 17** (with regs. 31-40)

64 Making of subsequent works by same artist.

Where the author of an artistic work is not the copyright owner, he does not infringe the copyright by copying the work in making another artistic work, provided he does not repeat or imitate the main design of the earlier work.

65 Reconstruction of buildings.

Anything done for the purposes of reconstructing a building does not infringe any copyright—

(a) in the building, or

(b) in any drawings or plans in accordance with which the building was, by or with the licence of the copyright owner, constructed.

[[F130]*Miscellaneous: lending of works and playing of sound recordings****]***

Textual Amendments

F130 S. 66 and crossheading substituted (1.12.1996) by S.I. 1996/2967, **reg. 11(3)** (with Pt. III)

66 [[F131] Lending to public of copies of certain works.]

(1) The Secretary of State may by order provide that in such cases as may be specified in the order the lending to the public of copies of literary, dramatic, musical or artistic

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works, sound recordings or films shall be treated as licensed by the copyright owner subject only to the payment of such reasonable royalty or other payment as may be agreed or determined in default of agreement by the Copyright Tribunal.

(2) No such order shall apply if, or to the extent that, there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

(3) An order may make different provision for different cases and may specify cases by reference to any factor relating to the work, the copies lent, the lender or the circumstances of the lending.

(4) An order shall be made by statutory instrument; and no order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(5) Nothing in this section affects any liability under section 23 (secondary infringement: possessing or dealing with infringing copy) in respect of the lending of infringing copies.

Textual Amendments

F131 S. 66 substituted (1.12.1996) by S.I. 1996/2967, **reg. 11(3)** (with Pt. III)

[F132 MISCellaneous: films and sound recordings]

Textual Amendments

F132 S. 66A and crossheading inserted (1.1.1996) by S.I. 1995/3297, **reg. 6(2)** (with Pt. III)

66A [F133 Films: acts permitted on assumptions as to expiry of copyright, &c.]

(1) Copyright in a film is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when—

(a) it is not possible by reasonable inquiry to ascertain the identity of any of the persons referred to in section 13B(2)(a) to (d) (persons by reference to whose life the copyright period is ascertained), and

(b) it is reasonable to assume—

(i) that copyright has expired, or

(ii) that the last to die of those persons died 70 years or more before the beginning of the calendar year in which the act is done or the arrangements are made.

(2) Subsection (1)(b)(ii) does not apply in relation to—

(a) a film in which Crown copyright subsists, or

(b) a film in which copyright originally vested in an international organisation by virtue of section 168 and in respect of which an Order under that section specifies a copyright period longer than 70 years.

Textual Amendments

F133 S. 66A inserted (1.1.1996) by S.I. 1995/3297, **reg. 6(2)** (with Pt. III)

67 Playing of sound recordings for purposes of club, society, &c.

(1) It is not an infringement of the copyright in a sound recording to play it as part of the activities of, or for the benefit of, a club, society or other organisation if the following conditions are met.

(2) The conditions are—

(a) that the organisation is not established or conducted for profit and its main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,

[[F134](b) that the sound recording is played by a person who is acting primarily and directly for the benefit of the organisation and who is not acting with a view to gain,

(c) that the proceeds of any charge for admission to the place where the recording is to be heard are applied solely for the purposes of the organisation, and

(d) that the proceeds from any goods or services sold by, or on behalf of, the organisation—

(i) in the place where the sound recording is heard, and

(ii) on the occasion when the sound recording is played, are applied solely for the purposes of the organisation.**]**

Textual Amendments

F134 S. 67(2)(b)-(d) substituted (31.10.2003) for word "and" at the end of s. 67(2)(a) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 18(1)** (with regs. 31-40)

Miscellaneous: broadcasts [F135]. . .

Textual Amendments

F135 Words in heading before s. 68 repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(2), **Sch. 2** (with regs. 32, 33)

68 Incidental recording for purposes of broadcast [F136]. . . .

(1) This section applies where by virtue of a licence or assignment of copyright a person is authorised to broadcast [F137]. . . —

(a) a literary, dramatic or musical work, or an adaptation of such a work,

(b) an artistic work, or

(c) a sound recording or film.

(2) He shall by virtue of this section be treated as licensed by the owner of the copyright in the work to do or authorise any of the following for the purposes of the broadcast [F137]. . . —

(a) in the case of a literary, dramatic or musical work, or an adaptation of such a work, to make a sound recording or film of the work or adaptation;

(b) in the case of an artistic work, to take a photograph or make a film of the work;

(c) in the case of a sound recording or film, to make a copy of it.

(3) That licence is subject to the condition that the recording, film, photograph or copy in question—

(a) shall not be used for any other purpose, and

(b) shall be destroyed within 28 days of being first used for broadcasting the work [F137] . . . .

(4) A recording, film, photograph or copy made in accordance with this section shall be treated as an infringing copy—

(a) for the purposes of any use in breach of the condition mentioned in subsection (3)(a), and

(b) for all purposes after that condition or the condition mentioned in subsection (3)(b) is broken.

Textual Amendments

F136 Words in s. 68 heading 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)

F137 Words in s. 68(1)(2)(3)(b) 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)

69 Recording for purposes of supervision and control of broadcasts and [F138other services].

(1) Copyright is not infringed by the making or use by the British Broadcasting Corporation, for the purpose of maintaining supervision and control over programmes broadcast by them, of recordings of those programmes.

[F139F140(2) Copyright is not infringed by anything done in pursuance of—

[F141(a) section 167(1) of the Broadcasting Act 1990, section 115(4) or (6) or 117 of the Broadcasting Act 1996 or paragraph 20 of Schedule 12 to the Communications Act 2003;]

(b) a condition which, [F142by virtue of section 334(1) of the Communications Act 2003], is included in a licence granted under Part I or III of that Act or Part I or II of the Broadcasting Act 1996; [F143]. . .

(c) a direction given under section 109(2) of the Broadcasting Act 1990 (power of [F144OFCOM] to require production of recordings etc).

[F145(d) [section 334(3) of the Communications Act 2003.]

[F139(3) Copyright is not infringed by the use by OFCOM in connection with the performance of any of their functions under the Broadcasting Act 1990, the Broadcasting Act 1996 or the Communications Act 2003 of—

(a) any recording, script or transcript which is provided to them under or by virtue of any provision of those Acts; or

(b) any existing material which is transferred to them by a scheme made under section 30 of the Communications Act 2003.

(4) In subsection (3), "existing material" means—

(a) any recording, script or transcript which was provided to the Independent Television Commission or the Radio Authority under or by virtue of any provision of the Broadcasting Act 1990 or the Broadcasting Act 1996; and

(b) any recording or transcript which was provided to the Broadcasting Standards Commission under section 115(4) or (6) or 116(5) of the Broadcasting Act 1996.**]]**

Textual Amendments

F138 Words in s. 69 heading substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 2(1)** (with regs. 31-40)

F139 S. 69(3)(4) substituted (29.12.2003) for s. 69(3) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 91(3)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F140 S. 69(2)(3) substituted (1.10.1996 for specified purposes and otherwise 1.4.1997) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. III para. 31** (with s. 43(6)); S.I. 1996/2120, art. 4, **Sch. 1**; S.I. 1997/1005, **art. 4**

F141 S. 69(2)(a) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 91(2)(a)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F142 Words in s. 69(2)(b) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 91(2)(b)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F143 Word in s. 69(2)(b) repealed (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 19(1)** (with Sch. 18, Sch. 19(1) Note 1); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F144 Words in s. 69(2)(c) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 91(2)(c)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F145 S. 69(2)(d) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 91(2)(d)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

Modifications etc. (not altering text)

C28 S. 69 modified (20.7.2004) The Contracting Out (Functions relating to Broadcast Advertising) and Specification of Relevant Functions Order 2004 (S.I. 2004/1975), **art. 9(1)(2)** (with reg. 5)

70 Recording for purposes of time-shifting.

[[F146](1)**]** The making **[**[F147] in domestic premises**]** for private and domestic use of a recording of a broadcast [F148]. . . solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast [F148]. . . or in any work included in it.

[[F149](2) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with—

(a) it shall be treated as an infringing copy for the purposes of that dealing; and

(b) if that dealing infringes copyright, it shall be treated as an infringing copy for all subsequent purposes.

(3) In subsection (2), "dealt with" means sold or let for hire, offered or exposed for sale or hire or communicated to the public.**]**

Textual Amendments

F146 S. 70 renumbered (31.10.2003) as s. 70(1) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 19(1)** (with regs. 31-40)

F147 Words in s. 70(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 19(2)** (with regs. 31-40)

F148 Words in s. 70(1) 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)

F149 S. 70(2)(3) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 19(2)** (with regs. 31-40)

[F150 71 Photographs of broadcasts

(1) The making in domestic premises for private and domestic use of a photograph of the whole or any part of an image forming part of a broadcast, or a copy of such a photograph, does not infringe any copyright in the broadcast or in any film included in it.

(2) Where a copy which would otherwise be an infringing copy is made in accordance with this section but is subsequently dealt with—

(a) it shall be treated as an infringing copy for the purposes of that dealing; and

(b) if that dealing infringes copyright, it shall be treated as an infringing copy for all subsequent purposes.

(3) In subsection (2), "dealt with" means sold or let for hire, offered or exposed for sale or hire or communicated to the public.**]**

Textual Amendments

F150 S. 71 substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 20(1)** (with regs. 31-40)

72 Free public showing or playing of broadcast F151. . . .

(1) The showing or playing in public of a broadcast F152. . . to an audience who have not paid for admission to the place where the broadcast F152. . . is to be seen or heard does not infringe any copyright in—

[F153(a) the broadcast;

(b) any sound recording (except so far as it is an excepted sound recording) included in it; or

(c) any film included in it.**]**

[F154(1A) For the purposes of this Part an "excepted sound recording" is a sound recording—

(a) whose author is not the author of the broadcast in which it is included; and

(b) which is a recording of music with or without words spoken or sung.

(1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public—

(a) forms part of the activities of an organisation that is not established or conducted for profit; or

(b) is necessary for the purposes of—

(i) repairing equipment for the reception of broadcasts;

(ii) demonstrating that a repair to such equipment has been carried out; or

(iii) demonstrating such equipment which is being sold or let for hire or offered or exposed for sale or hire.**]**

(2) The audience shall be treated as having paid for admission to a place—

(a) if they have paid for admission to a place of which that place forms part; or

(b) if goods or services are supplied at that place (or a place of which it forms part)—

(i) at prices which are substantially attributable to the facilities afforded for seeing or hearing the broadcast [F155]. . . , or

(ii) at prices exceeding those usually charged there and which are partly attributable to those facilities.

(3) The following shall not be regarded as having paid for admission to a place—

(a) persons admitted as residents or inmates of the place;

(b) persons admitted as members of a club or society where the payment is only for membership of the club or society and the provision of facilities for seeing or hearing broadcasts [F156]. . . is only incidental to the main purposes of the club or society.

(4) Where the making of the broadcast [F157]. . . was an infringement of the copyright in a sound recording or film, the fact that it was heard or seen in public by the reception of the broadcast [F157]. . . shall be taken into account in assessing the damages for that infringement.

Textual Amendments

F151 Words in s. 72 heading 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)

F152 Words in S. 72(1) 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)

F153 S. 72(1)(a)-(c) substituted (31.10.2003) for s. 72(1)(a)(b) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(1)(a)** (with regs. 31-40)

F154 S. 72(1A)(1B) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(1)(b)** (with regs. 31-40)

F155 Words in S. 72(2)(b)(i) 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)

F156 Words in S. 72(3)(b) 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)

F157 Words in S. 72(4) 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)

[[F159]73 Reception and re-transmission of [[F158]wireless broadcast by cable].

(1) This section applies where a **[**[F160]wireless**]** broadcast made from a place in the United Kingdom is, b **[**[F161]received and immediately re-transmitted by cable**]** .

(2) The copyright in the broadcast is not infringed—

(a) if the **[**[F162]re-transmission by cable**]** 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 **[**[F163]it is re-transmitted by cable**]** and forms part of a qualifying service.

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

(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 **[**[F163]it is re-transmitted by cable**]**; but where the making of the broadcast was an infringement of the copyright in the work, the fact that the broadcast was re-transmitted **[**[F164]by cable**]** shall be taken into account in assessing the damages for that infringement.

(4) Where—

(a) the **[**[F165]re-transmission by cable**]** is in pursuance of a relevant requirement, but

(b) to any extent, the area in which the **[**[F166]re-transmission by cable takes place**]** ("the cable area") falls outside the area for reception in which the broadcast is made ("the broadcast area"),

the **[**[F167]re-transmission by cable**]** (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 **[**[F168]re-transmission by cable of the broadcast**]** 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 **[**[F169]re-transmission of the work by cable**]** 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,

[[F170](c) the public teletext service,

(d) S4C Digital, and**]**

(e) the television broadcasting services and teletext service of the British Broadcasting Corporation;

[[F171]and expressions used in this subsection have the same meanings as in Part 3 of the Communications Act 2003.**]**

[[F172](7) In this section "relevant requirement" means a requirement imposed by a general condition (within the meaning of Chapter 1 of Part 2 of the Communications Act 2003) the setting of which is authorised under section 64 of that Act (must-carry obligations).**]**

(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.

(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.

[F173](13) **[** In this section references to re-transmission by cable include the transmission of microwave energy between terrestrial fixed points.**]]**

Textual Amendments

F158 Words in s. 73 heading substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(a)** (with regs. 31-40)

F159 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**

F160 Words in s. 73(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(b)** (with regs. 31-40)

F161 Words in s. 73(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(b)** (with regs. 32, 33)

F162 Words in s. 73(2)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(c)** (with regs. 31-40)

F163 Words in s. 73(2)(b)(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(d)** (with regs. 31-40)

F164 Words in s. 73(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(e)** (with regs. 31-40)

F165 Words in s. 73(4)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(f)(i)** (with regs. 31-40)

F166 Words in s. 73(4)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(f)(ii)** (with regs. 31-40)

F167 Words in s. 73(4) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(f)(iii)** (with regs. 31-40)

F168 Words in s. 73(4) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(f)(iv)** (with regs. 31-40)

F169 Words in s. 73(5) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(g)** (with regs. 31-40)

F170 S. 73(6)(c)(d) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 92(2)(a)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F171 Words in s. 73(6) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 92(2)(b)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F172 S. 73(7) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 406, 411, **Sch. 17 para. 92(3)** (with Sch. 18); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)

F173 S. 73(13) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(1)(h)** (with regs. 31-40)

[F174]73A Royalty or other sum payable in pursuance of section 73(4).

(1) An application to settle the royalty or other sum payable in pursuance of subsection (4) of section 73 (reception and re-transmission of **[**[F175]wireless broadcast by cable**]**) may be made to the Copyright Tribunal by the copyright owner or the person making the broadcast.

(2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.

(3) Either party may subsequently apply to the Tribunal to vary the order, and 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 application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.

(5) An order under subsection (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.

Textual Amendments

F174 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**

F175 Words in s. 73A(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 22(2)** (with regs. 31-40)

74 Provision of sub-titled copies of broadcast [F176]. . . .

(1) A designated body may, for the purpose of providing people who are deaf or hard of hearing, or physically or mentally handicapped in other ways, with copies which are sub-titled or otherwise modified for their special needs, make copies of [F177]. . . broadcasts [F177]. . . and issue **[**[F178] or lend**]** copies to the public, without infringing any copyright in the broadcasts [F177]. . . or works included in them.

(2) A "designated body" means a body designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.

(3) 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.

(4) This section does not apply if, or to the extent that, there is a licensing scheme certified for the purposes of this section under section 143 providing for the grant of licences.

Textual Amendments

F176 Words in s. 74 heading 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)

F177 Words in s. 74(1) 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)

F178 Words in s. 74(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 23(1)** (with regs. 31-40)

75 Recording for archival purposes.

(1) A recording of a broadcast [F179]. . . of a designated class, or a copy of such a recording, may be made for the purpose of being placed in an archive maintained by a designated

body without thereby infringing any copyright in the broadcast [F179]. . . or in any work included in it.

(2) In subsection (1) "designated" means designated for the purposes of this section by order of the Secretary of State, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.

(3) 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

F179 Words in s. 75(1) 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)

Adaptations

76 Adaptations.

An act which by virtue of this Chapter may be done without infringing copyright in a literary, dramatic or musical work does not, where that work is an adaptation, infringe any copyright in the work from which the adaptation was made.

CHAPTER IV

MORAL RIGHTS

Right to be identified as author or director

77 Right to be identified as author or director.

(1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right to be identified as the author or director of the work in the circumstances mentioned in this section; but the right is not infringed unless it has been asserted in accordance with section 78.

(2) The author of a literary work (other than words intended to be sung or spoken with music) or a dramatic work has the right to be identified whenever—

(a) the work is published commercially, performed in public **[**[F180]or communicated to the public**]**; or

(b) copies of a film or sound recording including the work are issued to the public;

and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.

(3) The author of a musical work, or a literary work consisting of words intended to be sung or spoken with music, has the right to be identified whenever—

(a) the work is published commercially;

(b) copies of a sound recording of the work are issued to the public; or

(c) a film of which the sound-track includes the work is shown in public or copies of such a film are issued to the public;

and that right includes the right to be identified whenever any of those events occur in relation to an adaptation of the work as the author of the work from which the adaptation was made.

(4) The author of an artistic work has the right to be identified whenever—

(a) the work is published commercially or exhibited in public, or a visual image of it is **[**[F181]communicated to the public**]**;

(b) a film including a visual image of the work is shown in public or copies of such a film are issued to the public; or

(c) in the case of a work of architecture in the form of a building or a model for a building, a sculpture or a work of artistic craftsmanship, copies of a graphic work representing it, or of a photograph of it, are issued to the public.

(5) The author of a work of architecture in the form of a building also has the right to be identified on the building as constructed or, where more than one building is constructed to the design, on the first to be constructed.

(6) The director of a film has the right to be identified whenever the film is shown in public **[**[F180]or communicated to the public**]** or copies of the film are issued to the public.

(7) The right of the author or director under this section is—

(a) in the case of commercial publication or the issue to the public of copies of a film or sound recording, to be identified in or on each copy or, if that is not appropriate, in some other manner likely to bring his identity to the notice of a person acquiring a copy,

(b) in the case of identification on a building, to be identified by appropriate means visible to persons entering or approaching the building, and

(c) in any other case, to be identified in a manner likely to bring his identity to the attention of a person seeing or hearing the performance, exhibition, showing **[**[F182]or communication to the public**]** in question;

and the identification must in each case be clear and reasonably prominent.

(8) If the author or director in asserting his right to be identified specifies a pseudonym, initials or some other particular form of identification, that form shall be used; otherwise any reasonable form of identification may be used.

(9) This section has effect subject to section 79 (exceptions to right).

Textual Amendments

F180 Words in s. 77(2)(a)(6) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 8(1)(a)(b)** (with regs. 31-40)

F181 Words in s. 77(4)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 8(2)(a)** (with regs. 31-40)

F182 Words in s. 77(7)(c) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 9(1)(b)** (with regs. 31-40)

78 Requirement that right be asserted.

(1) A person does not infringe the right conferred by section 77 (right to be identified as author or director) by doing any of the acts mentioned in that section unless the right has been asserted in accordance with the following provisions so as to bind him in relation to that act.

(2) The right may be asserted generally, or in relation to any specified act or description of acts—

(a) on an assignment of copyright in the work, by including in the instrument effecting the assignment a statement that the author or director asserts in relation to that work his right to be identified, or

(b) by instrument in writing signed by the author or director.

(3) The right may also be asserted in relation to the public exhibition of an artistic work—

(a) by securing that when the author or other first owner of copyright parts with possession of the original, or of a copy made by him or under his direction or control, the author is identified on the original or copy, or on a frame, mount or other thing to which it is attached, or

(b) by including in a licence by which the author or other first owner of copyright authorises the making of copies of the work a statement signed by or on behalf of the person granting the licence that the author asserts his right to be identified in the event of the public exhibition of a copy made in pursuance of the licence.

(4) The persons bound by an assertion of the right under subsection (2) or (3) are—

(a) in the case of an assertion under subsection (2)(a), the assignee and anyone claiming through him, whether or not he has notice of the assertion;

(b) in the case of an assertion under subsection (2)(b), anyone to whose notice the assertion is brought;

(c) in the case of an assertion under subsection (3)(a), anyone into whose hands that original or copy comes, whether or not the identification is still present or visible;

(d) in the case of an assertion under subsection (3)(b), the licensee and anyone into whose hands a copy made in pursuance of the licence comes, whether or not he has notice of the assertion.

(5) In an action for infringement of the right the court shall, in considering remedies, take into account any delay in asserting the right.

79 Exceptions to right.

(1) The right conferred by section 77 (right to be identified as author or director) is subject to the following exceptions.

(2) The right does not apply in relation to the following descriptions of work—

(a) a computer program;

(b) the design of a typeface;

(c) any computer-generated work.

(3) The right does not apply to anything done by or with the authority of the copyright owner where copyright in the work originally **[**[F183] vested in the author's or director's employer by virtue of section 11(2) (works produced in the course of employment).**]**

(4) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—

(a) section 30 (fair dealing for certain purposes), so far as it relates to the reporting of current events by means of a sound recording, film **[**[F184]or broadcast**]**;

(b) section 31 (incidental inclusion of work in an artistic work, sound recording, film **[**[F184]or broadcast**]**);

(c) section 32(3) (examination questions);

(d) section 45 (parliamentary and judicial proceedings);

(e) section 46(1) or (2) (Royal Commissions and statutory inquiries);

(f) section 51 (use of design documents and models);

(g) section 52 (effect of exploitation of design derived from artistic work);

(h) **[**[F185]section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.)**]**;

(5) The right does not apply in relation to any work made for the purpose of reporting current events.

(6) The right does not apply in relation to the publication in—

(a) a newspaper, magazine or similar periodical, or

(b) an encyclopaedia, dictionary, yearbook or other collective work of reference,

of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.

(7) The right does not apply in relation to—

(a) a work in which Crown copyright or Parliamentary copyright subsists, or

(b) a work in which copyright originally vested in an international organisation by virtue of section 168,

unless the author or director has previously been identified as such in or on published copies of the work.

Textual Amendments

F183 Words in s. 79(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 18(1)** (with regs. 31-40)

F184 Words in s. 79(4)(a)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(g)(h)** (with regs. 31-40)

F185 Words in s. 79(4) substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(3)** (with Pt. III)

Right to object to derogatory treatment of work

80 Right to object to derogatory treatment of work.

(1) The author of a copyright literary, dramatic, musical or artistic work, and the director of a copyright film, has the right in the circumstances mentioned in this section not to have his work subjected to derogatory treatment.

(2) For the purposes of this section—

(a) "treatment" of a work means any addition to, deletion from or alteration to or adaptation of the work, other than—
  (i) a translation of a literary or dramatic work, or
  (ii) an arrangement or transcription of a musical work involving no more than a change of key or register; and
(b) the treatment of a work is derogatory if it amounts to distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of the author or director;

and in the following provisions of this section references to a derogatory treatment of a work shall be construed accordingly.

(3) In the case of a literary, dramatic or musical work the right is infringed by a person who—
(a) publishes commercially, performs in public **[**[F186]or communicates to the public**]** a derogatory treatment of the work; or
(b) issues to the public copies of a film or sound recording of, or including, a derogatory treatment of the work.

(4) In the case of an artistic work the right is infringed by a person who—
(a) publishes commercially or exhibits in public a derogatory treatment of the work, **[**[F187]or communicates to the public**]** a visual image of a derogatory treatment of the work,
(b) shows in public a film including a visual image of a derogatory treatment of the work or issues to the public copies of such a film, or
(c) in the case of—
  (i) a work of architecture in the form of a model for a building,
  (ii) a sculpture, or
  (iii) a work of artistic craftsmanship,

issues to the public copies of a graphic work representing, or of a photograph of, a derogatory treatment of the work.

(5) Subsection (4) does not apply to a work of architecture in the form of a building; but where the author of such a work is identified on the building and it is the subject of derogatory treatment he has the right to require the identification to be removed.

(6) In the case of a film, the right is infringed by a person who—
(a) shows in public **[**[F186]or communicates to the public**]** a derogatory treatment of the film; or
(b) issues to the public copies of a derogatory treatment of the film,

[F188] . . .

(7) The right conferred by this section extends to the treatment of parts of a work resulting from a previous treatment by a person other than the author or director, if those parts are attributed to, or are likely to be regarded as the work of, the author or director.

(8) This section has effect subject to sections 81 and 82 (exceptions to and qualifications of right).

Textual Amendments

F186 Words in s. 80(3)(a)(6)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 10(1)** (with regs. 31-40)

F187 Words in s. 80(4)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 13(2)** (with regs. 31-40)

F188 Words in s. 80(6) omitted (1.1.1996) by virtue of S.I. 1995/3297, **reg. 9(2)** (with Pt. III)

81 Exceptions to right.

(1) The right conferred by section 80 (right to object to derogatory treatment of work) is subject to the following exceptions.

(2) The right does not apply to a computer program or to any computer-generated work.

(3) The right does not apply in relation to any work made for the purpose of reporting current events.

(4) The right does not apply in relation to the publication in—

(a) a newspaper, magazine or similar periodical, or

(b) an encyclopaedia, dictionary, yearbook or other collective work of reference,

of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication.

Nor does the right apply in relation to any subsequent exploitation elsewhere of such a work without any modification of the published version.

(5) The right is not infringed by an act which by virtue of **[**[F189]section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.)**]** would not infringe copyright.

(6) The right is not infringed by anything done for the purpose of—

(a) avoiding the commission of an offence,

(b) complying with a duty imposed by or under an enactment, or

(c) in the case of the British Broadcasting Corporation, avoiding the inclusion in a programme broadcast by them of anything which offends against good taste or decency or which is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling,

provided, where the author or director is identified at the time of the relevant act or has previously been identified in or on published copies of the work, that there is a sufficient disclaimer.

Textual Amendments

F189 Words in s. 81(5) substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(3)** (with Pt. III)

82 Qualification of right in certain cases.

(1) This section applies to—

(a) works in which copyright originally vested in the author's [F190 or director's] employer by virtue of section 11(2) (works produced in course of employment) F191. . .

(b) works in which Crown copyright or Parliamentary copyright subsists, and

(c) works in which copyright originally vested in an international organisation by virtue of section 168.

(2) The right conferred by section 80 (right to object to derogatory treatment of work) does not apply to anything done in relation to such a work by or with the authority of the copyright owner unless the author or director—

(a) is identified at the time of the relevant act, or

(b) has previously been identified in or on published copies of the work;

and where in such a case the right does apply, it is not infringed if there is a sufficient disclaimer.

Textual Amendments

F190 Words in s. 82(1)(a) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 18(2)** (with regs. 31-40)

F191 Words in s. 82(1)(a) repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2, Sch. 1 para. 18(2), **Sch. 2** (with regs. 31-40)

83 Infringement of right by possessing or dealing with infringing article.

(1) The right conferred by section 80 (right to object to derogatory treatment of work) is also infringed by a person who—

(a) possesses in the course of a business, or

(b) sells or lets for hire, or offers or exposes for sale or hire, or

(c) in the course of a business exhibits in public or distributes, or

(d) distributes otherwise than in the course of a business so as to affect prejudicially the honour or reputation of the author or director,

an article which is, and which he knows or has reason to believe is, an infringing article.

(2) An "infringing article" means a work or a copy of a work which—

(a) has been subjected to derogatory treatment within the meaning of section 80, and

(b) has been or is likely to be the subject of any of the acts mentioned in that section in circumstances infringing that right.

False attribution of work

84 False attribution of work.

(1) A person has the right in the circumstances mentioned in this section—

(a) not to have a literary, dramatic, musical or artistic work falsely attributed to him as author, and

(b) not to have a film falsely attributed to him as director;

and in this section an "attribution", in relation to such a work, means a statement (express or implied) as to who is the author or director.

(2) The right is infringed by a person who—

(a) issues to the public copies of a work of any of those descriptions in or on which there is a false attribution, or

(b) exhibits in public an artistic work, or a copy of an artistic work, in or on which there is a false attribution.

(3) The right is also infringed by a person who—

(a) in the case of a literary, dramatic or musical work, performs the work in public **[**[F192]or communicates it to the public**]** as being the work of a person, or

(b) in the case of a film, shows it in public **[**[F192]or communicates it to the public**]** as being directed by a person,

knowing or having reason to believe that the attribution is false.

(4) The right is also infringed by the issue to the public or public display of material containing a false attribution in connection with any of the acts mentioned in subsection (2) or (3).

(5) The right is also infringed by a person who in the course of a business—

(a) possesses or deals with a copy of a work of any of the descriptions mentioned in subsection (1) in or on which there is a false attribution, or

(b) in the case of an artistic work, possesses or deals with the work itself when there is a false attribution in or on it,

knowing or having reason to believe that there is such an attribution and that it is false.

(6) In the case of an artistic work the right is also infringed by a person who in the course of a business—

(a) deals with a work which has been altered after the author parted with possession of it as being the unaltered work of the author, or

(b) deals with a copy of such a work as being a copy of the unaltered work of the author,

knowing or having reason to believe that that is not the case.

(7) References in this section to dealing are to selling or letting for hire, offering or exposing for sale or hire, exhibiting in public, or distributing.

(8) This section applies where, contrary to the fact—

(a) a literary, dramatic or musical work is falsely represented as being an adaptation of the work of a person, or

(b) a copy of an artistic work is falsely represented as being a copy made by the author of the artistic work,

as it applies where the work is falsely attributed to a person as author.

Textual Amendments

F192 Words in s. 84(3)(a)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 10(2)** (with regs. 31-40)

Right to privacy of certain photographs and films

85 Right to privacy of certain photographs and films.

(1) A person who for private and domestic purposes commissions the taking of a photograph or the making of a film has, where copyright subsists in the resulting work, the right not to have—

(a) copies of the work issued to the public,

(b) the work exhibited or shown in public, or

(c) the work **[**[F193]communicated to the public**]**;

and, except as mentioned in subsection (2), a person who does or authorises the doing of any of those acts infringes that right.

(2) The right is not infringed by an act which by virtue of any of the following provisions would not infringe copyright in the work—

(a) section 31 (incidental inclusion of work in an artistic work, film **[**[F194]or broadcast**]**);

(b) section 45 (parliamentary and judicial proceedings);

(c) section 46 (Royal Commissions and statutory inquiries);

(d) section 50 (acts done under statutory authority);

(e) **[**[F195]section 57 or 66A (acts permitted on assumptions as to expiry of copyright, &c.)**]**.

Textual Amendments

F193 Words in s. 85(1)(c) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 8(2)(b)** (with regs. 31-40)

F194 Words in s. 85(2)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(i)** (with regs. 31-40)

F195 Words in s. 85(2) substituted (1.1.1996) by S.I. 1995/3297, **reg. 6(3)** (with Pt. III)

Supplementary

86 Duration of rights.

(1) The rights conferred by section 77 (right to be identified as author or director), section 80 (right to object to derogatory treatment of work) and section 85 (right to privacy of certain photographs and films) continue to subsist so long as copyright subsists in the work.

(2) The right conferred by section 84 (false attribution) continues to subsist until 20 years after a person's death.

87 Consent and waiver of rights.

(1) It is not an infringement of any of the rights conferred by this Chapter to do any act to which the person entitled to the right has consented.

(2) Any of those rights may be waived by instrument in writing signed by the person giving up the right.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) A waiver—

(a) may relate to a specific work, to works of a specified description or to works generally, and may relate to existing or future works, and

(b) may be conditional or unconditional and may be expressed to be subject to revocation;

and if made in favour of the owner or prospective owner of the copyright in the work or works to which it relates, it shall be presumed to extend to his licensees and successors in title unless a contrary intention is expressed.

(4) Nothing in this Chapter shall be construed as excluding the operation of the general law of contract or estoppel in relation to an informal waiver or other transaction in relation to any of the rights mentioned in subsection (1).

88 Application of provisions to joint works.

(1) The right conferred by section 77 (right to be identified as author or director) is, in the case of a work of joint authorship, a right of each joint author to be identified as a joint author and must be asserted in accordance with section 78 by each joint author in relation to himself.

(2) The right conferred by section 80 (right to object to derogatory treatment of work) is, in the case of a work of joint authorship, a right of each joint author and his right is satisfied if he consents to the treatment in question.

(3) A waiver under section 87 of those rights by one joint author does not affect the rights of the other joint authors.

(4) The right conferred by section 84 (false attribution) is infringed, in the circumstances mentioned in that section—

(a) by any false statement as to the authorship of a work of joint authorship, and

(b) by the false attribution of joint authorship in relation to a work of sole authorship;

and such a false attribution infringes the right of every person to whom authorship of any description is, whether rightly or wrongly, attributed.

(5) The above provisions also apply (with any necessary adaptations) in relation to a film which was, or is alleged to have been, jointly directed, as they apply to a work which is, or is alleged to be, a work of joint authorship.

A film is "jointly directed" if it is made by the collaboration of two or more directors and the contribution of each director is not distinct from that of the other director or directors.

(6) The right conferred by section 85 (right to privacy of certain photographs and films) is, in the case of a work made in pursuance of a joint commission, a right of each person who commissioned the making of the work, so that—

(a) the right of each is satisfied if he consents to the act in question, and

(b) a waiver under section 87 by one of them does not affect the rights of the others.

89 Application of provisions to parts of works.

(1) The rights conferred by section 77 (right to be identified as author or director) and section 85 (right to privacy of certain photographs and films) apply in relation to the whole or any substantial part of a work.

(2) The rights conferred by section 80 (right to object to derogatory treatment of work) and section 84 (false attribution) apply in relation to the whole or any part of a work.

CHAPTER V

DEALINGS WITH RIGHTS IN COPYRIGHT WORKS

Modifications etc. (not altering text)
C29 Pt. I Ch. V (ss. 90-95) applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 17(1)-(3)** (with Pt. III)

Copyright

90 Assignment and licences.

(1) Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as personal or moveable property.

(2) An assignment or other transmission of copyright may be partial, that is, limited so as to apply—
  (a) to one or more, but not all, of the things the copyright owner has the exclusive right to do;
  (b) to part, but not the whole, of the period for which the copyright is to subsist.

(3) An assignment of copyright is not effective unless it is in writing signed by or on behalf of the assignor.

(4) A licence granted by a copyright owner is binding on every successor in title to his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Part to doing anything with, or without, the licence of the copyright owner shall be construed accordingly.

Modifications etc. (not altering text)
C30 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

91 Prospective ownership of copyright.

(1) Where by an agreement made in relation to future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person, then if, on the copyright coming into existence, the assignee or another person claiming under him would be

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

entitled as against all other persons to require the copyright to be vested in him, the copyright shall vest in the assignee or his successor in title by virtue of this subsection.

(2) In this Part—

"future copyright" means copyright which will or may come into existence in respect of a future work or class of works or on the occurrence of a future event; and

"prospective owner" shall be construed accordingly, and includes a person who is prospectively entitled to copyright by virtue of such an agreement as is mentioned in subsection (1).

(3) A licence granted by a prospective owner of copyright is binding on every successor in title to his interest (or prospective interest) in the right, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Part to doing anything with, or without, the licence of the copyright owner shall be construed accordingly.

Modifications etc. (not altering text)

C31 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

92 Exclusive licences.

(1) In this Part an "exclusive licence" means a licence in writing signed by or on behalf of the copyright owner authorising the licensee to the exclusion of all other persons, including the person granting the licence, to exercise a right which would otherwise be exercisable exclusively by the copyright owner.

(2) The licensee under an exclusive licence has the same rights against a successor in title who is bound by the licence as he has against the person granting the licence.

Modifications etc. (not altering text)

C32 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

93 Copyright to pass under will with unpublished work.

Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to—

(a) an original document or other material thing recording or embodying a literary, dramatic, musical or artistic work which was not published before the death of the testator, or

(b) an original material thing containing a sound recording or film which was not published before the death of the testator,

the bequest shall, unless a contrary intention is indicated in the testator's will or a codicil to it, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Modifications etc. (not altering text)
C33 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

[F196 93A Presumption of transfer of rental right in case of film production agreement.

(1) Where an agreement concerning film production is concluded between an author and a film producer, the author shall be presumed, unless the agreement provides to the contrary, to have transferred to the film producer any rental right in relation to the film arising by virtue of the inclusion of a copy of the author's work in the film.

(2) In this section "author" means an author, or prospective author, of a literary, dramatic, musical or artistic work.

(3) Subsection (1) does not apply to any rental right in relation to the film arising by virtue of the inclusion in the film of the screenplay, the dialogue or music specifically created for and used in the film.

(4) Where this section applies, the absence of signature by or on behalf of the author does not exclude the operation of section 91(1) (effect of purported assignment of future copyright).

(5) The reference in subsection (1) to an agreement concluded between an author and a film producer includes any agreement having effect between those persons, whether made by them directly or through intermediaries.

(6) Section 93B (right to equitable remuneration on transfer of rental right) applies where there is a presumed transfer by virtue of this section as in the case of an actual transfer.]

Textual Amendments
F196 S. 93A inserted (1.12.1996) by S.I. 1996/2967, **reg. 12** (with Pt. III)

Modifications etc. (not altering text)
C34 S. 93A applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 32(1)** (with Pt. III)

[F197 Right to equitable remuneration where rental right transferred

Textual Amendments
F197 S. 93B and crossheading inserted (1.12.1996) by S.I. 1996/2967, **reg. 14(1)** (with Pt. III)

F198 93B Right to equitable remuneration where rental right transferred.

(1) Where an author to whom this section applies has transferred his rental right concerning a sound recording or a film to the producer of the sound recording or film, he retains the right to equitable remuneration for the rental.

The authors to whom this section applies are—

(a) the author of a literary, dramatic, musical or artistic work, and

(b) the principal director of a film.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(2) The right to equitable remuneration under this section may not be assigned by the author except to a collecting society for the purpose of enabling it to enforce the right on his behalf.

The right is, however, transmissible by testamentary disposition or by operation of law as personal or moveable property; and it may be assigned or further transmitted by any person into whose hands it passes.

(3) Equitable remuneration under this section is payable by the person for the time being entitled to the rental right, that is, the person to whom the right was transferred or any successor in title of his.

(4) The amount payable by way of equitable remuneration is as agreed by or on behalf of the persons by and to whom it is payable, subject to section 93C (reference of amount to Copyright Tribunal).

(5) An agreement is of no effect in so far as it purports to exclude or restrict the right to equitable remuneration under this section.

(6) References in this section to the transfer of rental right by one person to another include any arrangement having that effect, whether made by them directly or through intermediaries.

(7) In this section a "collecting society" means a society or other organisation which has as its main object, or one of its main objects, the exercise of the right to equitable remuneration under this section on behalf of more than one author.

Textual Amendments

F198 S. 93B inserted (1.12.1996) by S.I. 1996/2967, **reg. 14(1)** (with Pt. III)

Modifications etc. (not altering text)

C35 S. 93B applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 32(2)** (with Pt. III)

C36 S. 93B restricted (1.12.1996) by S.I. 1996/2967, **reg. 33** (with Pt. III)

[F199]93C Equitable remuneration: reference of amount to Copyright Tribunal.

(1) In default of agreement as to the amount payable by way of equitable remuneration under section 93B, the person by or to whom it is payable may apply to the Copyright Tribunal to determine the amount payable.

(2) A person to or by whom equitable remuneration is payable under that section may also apply to the Copyright Tribunal—

(a) to vary any agreement as to the amount payable, or

(b) to vary any previous determination of the Tribunal as to that matter; but except with the special leave of the Tribunal no such application may be made within twelve months from the date of a previous determination.

An order made on an application under this subsection has effect from the date on which it is made or such later date as may be specified by the Tribunal.

(3) On an application under this section the Tribunal shall consider the matter and make such order as to the method of calculating and paying equitable remuneration as it may

determine to be reasonable in the circumstances, taking into account the importance of the contribution of the author to the film or sound recording.

(4) Remuneration shall not be considered inequitable merely because it was paid by way of a single payment or at the time of the transfer of the rental right.

(5) An agreement is of no effect in so far as it purports to prevent a person questioning the amount of equitable remuneration or to restrict the powers of the Copyright Tribunal under this section.**]**

Textual Amendments

F199 S. 93C inserted (1.12.1996) by S.I. 1996/2967, **reg. 14(1)** (with Pt. III)

Moral rights

94 Moral rights not assignable.

The rights conferred by Chapter IV (moral rights) are not assignable.

95 Transmission of moral rights on death.

(1) On the death of a person entitled to the right conferred by section 77 (right to identification of author or director), section 80 (right to object to derogatory treatment of work) or section 85 (right to privacy of certain photographs and films)—

(a) the right passes to such person as he may by testamentary disposition specifically direct,

(b) if there is no such direction but the copyright in the work in question forms part of his estate, the right passes to the person to whom the copyright passes, and

(c) if or to the extent that the right does not pass under paragraph (a) or (b) it is exercisable by his personal representatives.

(2) Where copyright forming part of a person's estate passes in part to one person and in part to another, as for example where a bequest is limited so as to apply—

(a) to one or more, but not all, of the things the copyright owner has the exclusive right to do or authorise, or

(b) to part, but not the whole, of the period for which the copyright is to subsist,

any right which passes with the copyright by virtue of subsection (1) is correspondingly divided.

(3) Where by virtue of subsection (1)(a) or (b) a right becomes exercisable by more than one person—

(a) it may, in the case of the right conferred by section 77 (right to identification of author or director), be asserted by any of them;

(b) it is, in the case of the right conferred by section 80 (right to object to derogatory treatment of work) or section 85 (right to privacy of certain photographs and films), a right exercisable by each of them and is satisfied in relation to any of them if he consents to the treatment or act in question; and

(c) any waiver of the right in accordance with section 87 by one of them does not affect the rights of the others.

(4) A consent or waiver previously given or made binds any person to whom a right passes by virtue of subsection (1).

(5) Any infringement after a person's death of the right conferred by section 84 (false attribution) is actionable by his personal representatives.

(6) Any damages recovered by personal representatives by virtue of this section in respect of an infringement after a person's death shall devolve as part of his estate as if the right of action had subsisted and been vested in him immediately before his death.

CHAPTER VI

REMEDIES FOR INFRINGEMENT

Modifications etc. (not altering text)

C37 Pt. I Ch. VI (ss. 96-115) applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 17** (with Pt. III)

Rights and remedies of copyright owner

96 Infringement actionable by copyright owner.

(1) An infringement of copyright is actionable by the copyright owner.

(2) In an action for infringement of copyright all such relief by way of damages, injunctions, accounts or otherwise is available to the plaintiff as is available in respect of the infringement of any other property right.

(3) This section has effect subject to the following provisions of this Chapter.

Modifications etc. (not altering text)

C38 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

97 Provisions as to damages in infringement action.

(1) Where in an action for infringement of copyright it is shown that at the time of the infringement the defendant did not know, and had no reason to believe, that copyright subsisted in the work to which the action relates, the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.

(2) The court may in an action for infringement of copyright having regard to all the circumstances, and in particular to—

(a) the flagrancy of the infringement, and

(b) any benefit accruing to the defendant by reason of the infringement,

award such additional damages as the justice of the case may require.

Modifications etc. (not altering text)

C39 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

[[F200]97A Injunctions against service providers

(1) The High Court (in Scotland, the Court of Session) shall have power to grant an injunction against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright.

(2) In determining whether a service provider has actual knowledge for the purpose of this section, a court shall take into account all matters which appear to it in the particular circumstances to be relevant and, amongst other things, shall have regard to—

(a) whether a service provider has received a notice through a means of contact made available in accordance with regulation 6(1)(c) of the Electronic Commerce (EC Directive) Regulations 2002 (SI 2002/2013); and

(b) the extent to which any notice includes—

(i) the full name and address of the sender of the notice;

(ii) details of the infringement in question.

(3) In this section "service provider" has the meaning given to it by regulation 2 of the Electronic Commerce (EC Directive) Regulations 2002.**]**

Textual Amendments

F200 S. 97A inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 27(1)** (with regs. 31-40)

98 Undertaking to take licence of right in infringement proceedings.

(1) If in proceedings for infringement of copyright in respect of which a licence is available as of right under section 144 (powers exercisable in consequence of report of **[**[F201]Competition Commission**]**) the defendant undertakes to take a licence on such terms as may be agreed or, in default of agreement, settled by the Copyright Tribunal under that section—

(a) no injunction shall be granted against him,

(b) no order for delivery up shall be made under section 99, and

(c) the amount recoverable against him by way of damages or on an account of profits shall not exceed double the amount which would have been payable by him as licensee if such a licence on those terms had been granted before the earliest infringement.

(2) An undertaking may be given at any time before final order in the proceedings, without any admission of liability.

(3) Nothing in this section affects the remedies available in respect of an infringement committed before licences of right were available.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Textual Amendments

F201 Words in s. 98(1) substituted (1.4.1999) by S.I. 1999/506, **art. 23**

Modifications etc. (not altering text)

C40 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

99 Order for delivery up.

(1) Where a person—

(a) has an infringing copy of a work in his possession, custody or control in the course of a business, or

(b) has in his possession, custody or control an article specifically designed or adapted for making copies of a particular copyright work, knowing or having reason to believe that it has been or is to be used to make infringing copies,

the owner of the copyright in the work may apply to the court for an order that the infringing copy or article be delivered up to him or to such other person as the court may direct.

(2) An application shall not be made after the end of the period specified in section 113 (period after which remedy of delivery up not available); and no order shall be made unless the court also makes, or it appears to the court that there are grounds for making, an order under section 114 (order as to disposal of infringing copy or other article).

(3) A person to whom an infringing copy or other article is delivered up in pursuance of an order under this section shall, if an order under section 114 is not made, retain it pending the making of an order, or the decision not to make an order, under that section.

(4) Nothing in this section affects any other power of the court.

Modifications etc. (not altering text)

C41 S. 99 extended by S.I. 1991/724, **art. 2(1)(n)**

100 Right to seize infringing copies and other articles.

(1) An infringing copy of a work which is found exposed or otherwise immediately available for sale or hire, and in respect of which the copyright owner would be entitled to apply for an order under section 99, may be seized and detained by him or a person authorised by him.

The right to seize and detain is exercisable subject to the following conditions and is subject to any decision of the court under section 114.

(2) Before anything is seized under this section notice of the time and place of the proposed seizure must be given to a local police station.

(3) A person may for the purpose of exercising the right conferred by this section enter premises to which the public have access but may not seize anything in the possession, custody or control of a person at a permanent or regular place of business of his, and may not use any force.

(4) At the time when anything is seized under this section there shall be left at the place where it was seized a notice in the prescribed form containing the prescribed particulars as to the person by whom or on whose authority the seizure is made and the grounds on which it is made.

(5) In this section—

"premises" includes land, buildings, moveable structures, vehicles, vessels, aircraft and hovercraft; and "prescribed" means prescribed by order of the Secretary of State.

(6) An order of the Secretary of State 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.

Rights and remedies of exclusive licensee

101 Rights and remedies of exclusive licensee.

(1) An exclusive licensee has, except against the copyright owner, the same rights and remedies in respect of matters occurring after the grant of the licence as if the licence had been an assignment.

(2) His rights and remedies are concurrent with those of the copyright owner; and references in the relevant provisions of this Part to the copyright owner shall be construed accordingly.

(3) In an action brought by an exclusive licensee by virtue of this section a defendant may avail himself of any defence which would have been available to him if the action had been brought by the copyright owner.

Modifications etc. (not altering text)
C42 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

[F202 101A Certain infringements actionable by a non-exclusive licensee

(1) A non-exclusive licensee may bring an action for infringement of copyright if—
  (a) the infringing act was directly connected to a prior licensed act of the licensee; and
  (b) the licence—
    (i) is in writing and is signed by or on behalf of the copyright owner; and
    (ii) expressly grants the non-exclusive licensee a right of action under this section.

(2) In an action brought under this section, the non-exclusive licensee shall have the same rights and remedies available to him as the copyright owner would have had if he had brought the action.

(3) The rights granted under this section are concurrent with those of the copyright owner and references in the relevant provisions of this Part to the copyright owner shall be construed accordingly.

(4) In an action brought by a non-exclusive licensee by virtue of this section a defendant may avail himself of any defence which would have been available to him if the action had been brought by the copyright owner.

(5) Subsections (1) to (4) of section 102 shall apply to a non-exclusive licensee who has a right of action by virtue of this section as it applies to an exclusive licensee.

(6) In this section a "non-exclusive licensee" means the holder of a licence authorising the licensee to exercise a right which remains exercisable by the copyright owner.**]**

Textual Amendments

F202 S. 101A inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 28** (with regs. 31-40)

102 Exercise of concurrent rights.

(1) Where an action for infringement of copyright brought by the copyright owner or an exclusive licensee relates (wholly or partly) to an infringement in respect of which they have concurrent rights of action, the copyright owner or, as the case may be, the exclusive licensee may not, without the leave of the court, proceed with the action unless the other is either joined as a plaintiff or added as a defendant.

(2) A copyright owner or exclusive licensee who is added as a defendant in pursuance of subsection (1) is not liable for any costs in the action unless he takes part in the proceedings.

(3) The above provisions do not affect the granting of interlocutory relief on an application by a copyright owner or exclusive licensee alone.

(4) Where an action for infringement of copyright is brought which relates (wholly or partly) to an infringement in respect of which the copyright owner and an exclusive licensee have or had concurrent rights of action—

(a) the court shall in assessing damages take into account—

(i) the terms of the licence, and

(ii) any pecuniary remedy already awarded or available to either of them in respect of the infringement;

(b) no account of profits shall be directed if an award of damages has been made, or an account of profits has been directed, in favour of the other of them in respect of the infringement; and

(c) the court shall if an account of profits is directed apportion the profits between them as the court considers just, subject to any agreement between them;

and these provisions apply whether or not the copyright owner and the exclusive licensee are both parties to the action.

(5) The copyright owner shall notify any exclusive licensee having concurrent rights before applying for an order under section 99 (order for delivery up) or exercising the right conferred by section 100 (right of seizure); and the court may on the application of the licensee make such order under section 99 or, as the case may be, prohibiting or permitting the exercise by the copyright owner of the right conferred by section 100, as it thinks fit having regard to the terms of the licence.

Modifications etc. (not altering text)

C43 Ss. 90-93, 96-98, 101, 102 applied (1.1.1998) by S.I. 1997/3032, **reg. 23** (with Pt. IV)

C44 S. 102(5) extended by S.I.1991/724, **art. 2(1)(n)**

Remedies for infringement of moral rights

103 Remedies for infringement of moral rights.

(1) An infringement of a right conferred by Chapter IV (moral rights) is actionable as a breach of statutory duty owed to the person entitled to the right.

(2) In proceedings for infringement of the right conferred by section 80 (right to object to derogatory treatment of work) the court may, if it thinks it is an adequate remedy in the circumstances, grant an injunction on terms prohibiting the doing of any act unless a disclaimer is made, in such terms and in such manner as may be approved by the court, dissociating the author or director from the treatment of the work.

Presumptions

104 Presumptions relevant to literary, dramatic, musical and artistic works.

(1) The following presumptions apply in proceedings brought by virtue of this Chapter with respect to a literary, dramatic, musical or artistic work.

(2) Where a name purporting to be that of the author appeared on copies of the work as published or on the work when it was made, the person whose name appeared shall be presumed, until the contrary is proved—

(a) to be the author of the work;

(b) to have made it in circumstances not falling within section 11(2), 163, 165 or 168 (works produced in course of employment, Crown copyright, Parliamentary copyright or copyright of certain international organisations).

(3) In the case of a work alleged to be a work of joint authorship, subsection (2) applies in relation to each person alleged to be one of the authors.

(4) Where no name purporting to be that of the author appeared as mentioned in subsection (2) but—

(a) the work qualifies for copyright protection by virtue of section 155 (qualification by reference to country of first publication), and

(b) a name purporting to be that of the publisher appeared on copies of the work as first published,

the person whose name appeared shall be presumed, until the contrary is proved, to have been the owner of the copyright at the time of publication.

(5) If the author of the work is dead or the identity of the author cannot be ascertained by reasonable inquiry, it shall be presumed, in the absence of evidence to the contrary—

(a) that the work is an original work, and

(b) that the plaintiff's allegations as to what was the first publication of the work and as to the country of first publication are correct.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

105 Presumptions relevant to sound recordings and films.

(1) In proceedings brought by virtue of this Chapter with respect to a sound recording, where copies of the recording as issued to the public bear a label or other mark stating—

(a) that a named person was the owner of copyright in the recording at the date of issue of the copies, or

(b) that the recording was first published in a specified year or in a specified country,

the label or mark shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

(2) In proceedings brought by virtue of this Chapter with respect to a film, where copies of the film as issued to the public bear a statement—

(a) that a named person was the **[**[F203]director or producer**]** of the film,

[[F204](aa) that a named person was the principal director, the author of the screenplay, the author of the dialogue or the composer of music specifically created for and used in the film,**]**

(b) that a named person was the owner of copyright in the film at the date of issue of the copies, or

(c) that the film was first published in a specified year or in a specified country,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

(3) In proceedings brought by virtue of this Chapter with respect to a computer program, where copies of the program are issued to the public in electronic form bearing a statement—

(a) that a named person was the owner of copyright in the program at the date of issue of the copies, or

(b) that the program was first published in a specified country or that copies of it were first issued to the public in electronic form in a specified year,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

(4) The above presumptions apply equally in proceedings relating to an infringement alleged to have occurred before the date on which the copies were issued to the public.

(5) In proceedings brought by virtue of this Chapter with respect to a film, where the film as shown in public **[**[F205]or communicated to the public**]** bears a statement—

(a) that a named person was the **[**[F203]director or producer**]** of the film, or

[[F206](aa) that a named person was the principal director of the film, the author of the screenplay, the author of the dialogue or the composer of music specifically created for and used in the film, or,**]**

(b) that a named person was the owner of copyright in the film immediately after it was made,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

This presumption applies equally in proceedings relating to an infringement alleged to have occurred before the date on which the film was shown in public, broadcast or included in a cable programme service.

[[F207](6) For the purposes of this section, a statement that a person was the director of a film shall be taken, unless a contrary indication appears, as meaning that he was the principal director of the film.**]**

Textual Amendments

F203 Words in s. 105(2)(a)(5)(a) substituted (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **regs. 18(4)(a)**, 36 (with Pt. III)

F204 S. 105(2)(aa) inserted (1.1.1996) by S.I. 1995/3297, **Pt. II reg. 5(4)** (with Pt. III)

F205 Words in s. 105(5) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 8(1)(c)** (with regs. 31-40)

F206 S. 105(5)(aa) inserted (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **reg. 18(4)(b)** (with Pt. III)

F207 S. 105(6) added (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **reg. 18(4)(c)** (with Pt. III)

106 Presumptions relevant to works subject to Crown copyright.

In proceedings brought by virtue of this Chapter with respect to a literary, dramatic or musical work in which Crown copyright subsists, where there appears on printed copies of the work a statement of the year in which the work was first published commercially, that statement shall be admissible as evidence of the fact stated and shall be presumed to be correct in the absence of evidence to the contrary.

Offences

107 Criminal liability for making or dealing with infringing articles, &c.

(1) A person commits an offence who, without the licence of the copyright owner—

(a) makes for sale or hire, or

(b) imports into the United Kingdom otherwise than for his private and domestic use, or

(c) possesses in the course of a business with a view to committing any act infringing the copyright, or

(d) in the course of a business —

(i) sells or lets for hire, or

(ii) offers or exposes for sale or hire, or

(iii) exhibits in public, or

(iv) distributes, or

(e) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,

an article which is, and which he knows or has reason to believe is, an infringing copy of a copyright work.

(2) A person commits an offence who—

(a) makes an article specifically designed or adapted for making copies of a particular copyright work, or

(b) has such an article in his possession,

knowing or having reason to believe that it is to be used to make infringing copies for sale or hire or for use in the course of a business.

[[F208](2A) A person who infringes copyright in a work by communicating the work to the public—

(a) in the course of a business, or

(b) otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,

commits an offence if he knows or has reason to believe that, by doing so, he is infringing copyright in that work.**]**

(3) Where copyright is infringed (otherwise than by reception of a **[**[F209]communication to the public**]**)—

(a) by the public performance of a literary, dramatic or musical work, or

(b) by the playing or showing in public of a sound recording or film,

any person who caused the work to be so performed, played or shown is guilty of an offence if he knew or had reason to believe that copyright would be infringed.

(4) A person guilty of an offence under subsection (1)(a), (b), (d)(iv) or (e) is liable—

(a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding **[**[F210]ten**]** years, or both.

[[F211](4A) A person guilty of an offence under subsection (2A) is liable—

(a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.**]**

(5) A person guilty of any other offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.

(6) Sections 104 to 106 (presumptions as to various matters connected with copyright) do not apply to proceedings for an offence under this section; but without prejudice to their application in proceedings for an order under section 108 below.

Textual Amendments

F208 S. 107(2A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(1)(a)** (with regs. 31-40)

F209 Words in s. 107(3) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 9(2)** (with regs. 31-40)

F210 Word in s. 107(4)(b) substituted (20.11.2002) by 2002 c. 25, **s. 1(2)(5)**; S.I. 2002/2749, **art. 2**

F211 S. 107(4A) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(1)(b)** (with regs. 31-40)

VALID FROM 06/04/2007

[F212 107A Enforcement by local weights and measures authority.

(1) It is the duty of every local weights and measures authority to enforce within their area the provisions of section 107.

(2) The following provisions of the M7 Trade Descriptions Act 1968 apply in relation to the enforcement of that section by such an authority as in relation to the enforcement of that Act—

section 27 (power to make test purchases),

section 28 (power to enter premises and inspect and seize goods and documents),

section 29 (obstruction of authorised officers), and

section 33 (compensation for loss, &c. of goods seized).

(3) Subsection (1) above does not apply in relation to the enforcement of section 107 in Northern Ireland, but it is the duty of the Department of Economic Development to enforce that section in Northern Ireland.

For that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.

(4) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the Trade Descriptions Act 1968 shall apply as if section 107 were contained in that Act and as if the functions of any person in relation to the enforcement of that section were functions under that Act.

(5) Nothing in this section shall be construed as authorising a local weights and measures authority to bring proceedings in Scotland for an offence.**]**

Textual Amendments

F212 S. 107A inserted (6.4.2007) by 1994 c. 33, ss. 165(2), 172(2); S.I. 2007/621, **art. 2**

Marginal Citations

M7 1968 c. 29.

108 Order for delivery up in criminal proceedings.

(1) The court before which proceedings are brought against a person for an offence under section 107 may, if satisfied that at the time of his arrest or charge—

(a) he had in his possession, custody or control in the course of a business an infringing copy of a copyright work, or

(b) he had in his possession, custody or control an article specifically designed or adapted for making copies of a particular copyright work, knowing or having reason to believe that it had been or was to be used to make infringing copies,

order that the infringing copy or article be delivered up to the copyright owner or to such other person as the court may direct.

(2) For this purpose a person shall be treated as charged with an offence—

(a) in England, Wales and Northern Ireland, when he is orally charged or is served with a summons or indictment;

(b) in Scotland, when he is cautioned, charged or served with a complaint or indictment.

(3) An order may be made by the court of its own motion or on the application of the prosecutor (or, in Scotland, the Lord Advocate or procurator-fiscal), and may be made whether or not the person is convicted of the offence, but shall not be made—

(a) after the end of the period specified in section 113 (period after which remedy of delivery up not available), or

(b) if it appears to the court unlikely that any order will be made under section 114 (order as to disposal of infringing copy or other article).

(4) An appeal lies from an order made under this section by a magistrates' court—

(a) in England and Wales, to the Crown Court, and

(b) in Northern Ireland, to the county court;

and in Scotland, where an order has been made under this section, the person from whose possession, custody or control the infringing copy or article has been removed may, without prejudice to any other form of appeal under any rule of law, appeal against that order in the same manner as against sentence.

(5) A person to whom an infringing copy or other article is delivered up in pursuance of an order under this section shall retain it pending the making of an order, or the decision not to make an order, undersection 114.

(6) Nothing in this section affects the powers of the court under **[**[F213]section 143 of the Powers of Criminal Courts (Sentencing)Act 2000**]**, **[**[F214]Part II of the Proceeds of Crime (Scotland) Act 1995**]** or **[**[F215]Article 11 of the Criminal Justice (Northern Ireland) Order 1994**]** (general provisions as to forfeiture in criminal proceedings).

Textual Amendments

F213 Words in s. 108(6) substituted (25.8.2000) by 2000 c. 6, ss. 165(3), 168(1), **Sch. 9 para. 115**

F214 Words in s. 108(6) substituted (1.4.1996) by virtue of 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 70(2)**

F215 Words in s. 108(6) substituted (9.1.1995) by S.I. 1994/2795 (N.I. 15), art. 26(1), **Sch. 2 para. 13**; S.R. 1994/446, **art. 2**

109 Search warrants.

(1) Where a justice of the peace (in Scotland, a sheriff or justice of the peace) is satisfied by information on oath given by a constable (in Scotland, by evidence on oath) that there are reasonable grounds for believing—

(a) that an offence under **[**[F216]section 107(1), (2) or (2A)**]** has been or is about to be committed in any premises, and

(b) that evidence that such an offence has been or is about to be committed is in those premises,

he may issue a warrant authorising a constable to enter and search the premises, using such reasonable force as is necessary.

(2) The power conferred by subsection (1) does not, in England and Wales, extend to authorising a search for material of the kinds mentioned in section 9(2) of the [M8]Police and Criminal Evidence Act 1984 (certain classes of personal or confidential material).

(3) A warrant under this section—
  (a) may authorise persons to accompany any constable executing the warrant, and
  (b) remains in force for 28 days from the date of its issue.

(4) In executing a warrant issued under this section a constable may seize an article if he reasonably believes that it is evidence that any offence under **[**[F217]section 107(1), (2) or (2A)**]** has been or is about to be committed.

(5) In this section "premises" includes land, buildings **[**[F218]fixed or**]**, moveable structures, vehicles, vessels, aircraft and hovercraft.

Textual Amendments

F216 Words in s. 109(1)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(2)(i)** (with regs. 31-40)

F217 Words in s. 109(4) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(2)(ii)** (with regs. 31-40)

F218 Words in s. 109(5) inserted (20.11.2002) by 2002 c. 25, **s. 2(2)(c)**; S.I. 2002/2749, **art. 2**

Modifications etc. (not altering text)

C45 S. 109(4): power of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, 138(2) Sch. 1 Pt. 1 para. 48; S.I. 2003/708, **art. 2**
S. 109(4) modified (E.W.N.I.) (1.4.2003) by 2001 c. 16, ss. 55, 68, 138(2), Sch. 1 Pt. 3 para. 106 (with s. 57(3)); S.I. 2003/708, **art. 2**

Marginal Citations

M8 1984 c. 60.

110 Offence by body corporate: liability of officers.

(1) Where an offence under section 107 committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In relation to a body corporate whose affairs are managed by its members "director" means a member of the body corporate.

Provision for preventing importation of infringing copies

111 Infringing copies may be treated as prohibited goods.

(1) The owner of the copyright in a published literary, dramatic or musical work may give notice in writing to the Commissioners of Customs and Excise—

(a) that he is the owner of the copyright in the work, and

(b) that he requests the Commissioners, for a period specified in the notice, to treat as prohibited goods printed copies of the work which are infringing copies.

(2) The period specified in a notice under subsection (1) shall not exceed five years and shall not extend beyond the period for which copyright is to subsist.

(3) The owner of the copyright in a sound recording or film may give notice in writing to the Commissioners of Customs and Excise—

(a) that he is the owner of the copyright in the work,

(b) that infringing copies of the work are expected to arrive in the United Kingdom at a time and a place specified in the notice, and

(c) that he requests the Commissioners to treat the copies as prohibited goods.

[[F219F220](3A) The Commissioners may treat as prohibited goods only infringing copies of works which arrive in the United Kingdom—

(a) from outside the European Economic Area, or

(b) from within that Area but not having been entered for free circulation.

[[F219](3B) This section does not apply to goods placed in, or expected to be placed in, one of the situations referred to in Article 1(1), in respect of which an application may be made under Article 5(1), of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights.**]]**

(4) When a notice is in force under this section the importation of goods to which the notice relates, otherwise than by a person for his private and domestic use, **[**[F221]subject to subsections (3A) and (3B), is prohibited**]**; but a person is not by reason of the prohibition liable to any penalty other than forfeiture of the goods.

Textual Amendments

F219 S. 111(3B) substituted (1.7.2004) by The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (S.I. 2004/1473), **reg. 12** (with reg. 2(2)(3))

F220 S. 111(3A)(3B) inserted (1.7.1995) by S.I. 1995/1445, **reg. 2(2)**

F221 Words in s. 111(4) substituted (1.7.1995) by S.I. 1995/1445, **reg. 2(3)**

112 Power of Commissioners of Customs and Excise to make regulations.

(1) The Commissioners of Customs and Excise may make regulations prescribing the form in which notice is to be given under section 111 and requiring a person giving notice—

(a) to furnish the Commissioners with such evidence as may be specified in the regulations, either on giving notice or when the goods are imported, or at both those times, and

(b) to comply with such other conditions as may be specified in the regulations.

(2) The regulations may, in particular, require a person giving such a notice—

(a) to pay such fees in respect of the notice as may be specified by the regulations;

(b) to give such security as may be so specified in respect of any liability or expense which the Commissioners may incur in consequence of the notice by reason of the detention of any article or anything done to an article detained;

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(c) to indemnify the Commissioners against any such liability or expense, whether security has been given or not.

(3) The regulations may make different provision as respects different classes of case to which they apply and may include such incidental and supplementary provisions as the Commissioners consider expedient.

(4) Regulations 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.

(5) [F222] . . . . . .

Textual Amendments

F222 S. 112(5) repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50(6), 52(2), 53(1), Sch. 4 para. 38, **Sch. 5**; S.I. 2005/1126, **art. 2(2)(h)(i)**

Supplementary

113 Period after which remedy of delivery up not available.

(1) An application for an order under section 99 (order for delivery up in civil proceedings) may not be made after the end of the period of six years from the date on which the infringing copy or article in question was made, subject to the following provisions.

(2) If during the whole or any part of that period the copyright owner—

(a) is under a disability, or

(b) is prevented by fraud or concealment from discovering the facts entitling him to apply for an order,

an application may be made at any time before the end of the period of six years from the date on which he ceased to be under a disability or, as the case may be, could with reasonable diligence have discovered those facts.

(3) In subsection (2) "disability"—

(a) in England and Wales, has the same meaning as in the [M9]Limitation Act 1980;

(b) in Scotland, means legal disability within the meaning of the [M10]Prescription and Limitation (Scotland) Act 1973;

(c) in Northern Ireland, has the same meaning as in the [M11]Statute of Limitations (Northern Ireland) 1958.

(4) An order under section 108 (order for delivery up in criminal proceedings) shall not, in any case, be made after the end of the period of six years from the date on which the infringing copy or article in question was made.

Marginal Citations

M9 1980 c. 58.

M10 1973 c. 52.

M11 1958 c. 10 (N.I.).

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

114 Order as to disposal of infringing copy or other article.

(1) An application may be made to the court for an order that an infringing copy or other article delivered up in pursuance of an order under section 99 or 108, or seized and detained in pursuance of the right conferred by section 100, shall be—

(a) forfeited to the copyright owner, or

(b) destroyed or otherwise dealt with as the court may think fit,

or for a decision that no such order should be made.

(2) In considering what order (if any) should be made, the court shall consider whether other remedies available in an action for infringement of copyright would be adequate to compensate the copyright owner and to protect his interests.

(3) Provision shall be made by rules of court as to the service of notice on persons having an interest in the copy or other articles, and any such person is entitled—

(a) to appear in proceedings for an order under this section, whether or not he was served with notice, and

(b) to appeal against any order made, whether or not he appeared;

and an order shall not take effect until the end of the period within which notice of an appeal may be given or, if before the end of that period notice of appeal is duly given, until the final determination or abandonment of the proceedings on the appeal.

(4) Where there is more than one person interested in a copy or other article, the court shall make such order as it thinks just and may (in particular) direct that the article be sold, or otherwise dealt with, and the proceeds divided.

(5) If the court decides that no order should be made under this section, the person in whose possession, custody or control the copy or other article was before being delivered up or seized is entitled to its return.

(6) References in this section to a person having an interest in a copy or other article include any person in whose favour an order could be made in respect of it under this section or under section 204 or 231 of this Act or **[**[F223]section 19 of the Trade Marks Act 1994**]** (which make similar provision in relation to infringement of rights in performances, design right and trade marks).

Textual Amendments

F223 Words in s. 114(6) substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 8(2)**; S.I. 1994/2550, **art. 2**

Modifications etc. (not altering text)

C46 S. 114 extended by S.I. 1991/724, **art. 2(1)(n)**

[[F224]114A Forfeiture of infringing copies, etc.: England and Wales or Northern Ireland

(1) In England and Wales or Northern Ireland where there have come into the possession of any person in connection with the investigation or prosecution of a relevant offence—

(a) infringing copies of a copyright work, or

(b) articles specifically designed or adapted for making copies of a particular copyright work,

that person may apply under this section for an order for the forfeiture of the infringing copies or articles.

(2) For the purposes of this section "relevant offence" means—

(a) an offence under **[**[F225]section 107(1), (2) or (2A)**]** (criminal liability for making or dealing with infringing articles, etc.),

(b) an offence under the Trade Descriptions Act 1968 (c. 29), or

(c) an offence involving dishonesty or deception.

(3) An application under this section may be made—

(a) where proceedings have been brought in any court for a relevant offence relating to some or all of the infringing copies or articles, to that court, or

(b) where no application for the forfeiture of the infringing copies or articles has been made under paragraph (a), by way of complaint to a magistrates' court.

(4) On an application under this section, the court shall make an order for the forfeiture of any infringing copies or articles only if it is satisfied that a relevant offence has been committed in relation to the infringing copies or articles.

(5) A court may infer for the purposes of this section that such an offence has been committed in relation to any infringing copies or articles if it is satisfied that such an offence has been committed in relation to infringing copies or articles which are representative of the infringing copies or articles in question (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(6) Any person aggrieved by an order made under this section by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision—

(a) in England and Wales, to the Crown Court, or

(b) in Northern Ireland, to the county court.

(7) An order under this section may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980 (c. 43) or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (statement of case)).

(8) Subject to subsection (9), where any infringing copies or articles are forfeited under this section they shall be destroyed in accordance with such directions as the court may give.

(9) On making an order under this section the court may direct that the infringing copies or articles to which the order relates shall (instead of being destroyed) be forfeited to the owner of the copyright in question or dealt with in such other way as the court considers appropriate.**]**

Textual Amendments

F224 Ss. 114A, 114B inserted (20.11.2002) by 2002 c. 25, **s. 3**; S.I. 2002/2749, **art. 2**

F225 Words in s. 114A(2)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(2)(iii)** (with regs. 31-40)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

[F226]114BForfeiture of infringing copies, etc.: Scotland

(1) In Scotland the court may make an order under this section for the forfeiture of any—
  (a) infringing copies of a copyright work, or
  (b) articles specifically designed or adapted for making copies of a particular copyright work.

(2) An order under this section may be made—
  (a) on an application by the procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995 (c. 46), or
  (b) where a person is convicted of a relevant offence, in addition to any other penalty which the court may impose.

(3) On an application under subsection (2)(a), the court shall make an order for the forfeiture of any infringing copies or articles only if it is satisfied that a relevant offence has been committed in relation to the infringing copies or articles.

(4) The court may infer for the purposes of this section that such an offence has been committed in relation to any infringing copies or articles if it is satisfied that such an offence has been committed in relation to infringing copies or articles which are representative of the infringing copies or articles in question (whether by reason of being of the same design or part of the same consignment or batch or otherwise).

(5) The procurator-fiscal making the application under subsection (2)(a) shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the infringing copies or articles to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the infringing copies or articles should not be forfeited.

(6) Service under subsection (5) shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1995.

(7) Any person upon whom notice is served under subsection (5) and any other person claiming to be the owner of, or otherwise to have an interest in, infringing copies or articles to which an application under this section relates shall be entitled to appear at the hearing of the application to show cause why the infringing copies or articles should not be forfeited.

(8) The court shall not make an order following an application under subsection (2)(a)—
  (a) if any person on whom notice is served under subsection (5) does not appear, unless service of the notice on that person is proved, or
  (b) if no notice under subsection (5) has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve such notice.

(9) Where an order for the forfeiture of any infringing copies or articles is made following an application under subsection (2)(a), any person who appeared, or was entitled to appear, to show cause why infringing copies or articles should not be forfeited may, within 21 days of the making of the order, appeal to the High Court by Bill of Suspension.

(10) Section 182(5)(a) to (e) of the Criminal Procedure (Scotland) Act 1995 (c. 46) shall apply to an appeal under subsection (9) as it applies to a stated case under Part 2 of that Act.

(11) An order following an application under subsection (2)(a) shall not take effect—

(a) until the end of the period of 21 days beginning with the day after the day on which the order is made, or

(b) if an appeal is made under subsection (9) above within that period, until the appeal is determined or abandoned.

(12) An order under subsection (2)(b) shall not take effect—

(a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1995, or

(b) if an appeal is made within that period, until the appeal is determined or abandoned.

(13) Subject to subsection (14), infringing copies or articles forfeited under this section shall be destroyed in accordance with such directions as the court may give.

(14) On making an order under this section the court may direct that the infringing copies or articles to which the order relates shall (instead of being destroyed) be forfeited to the owner of the copyright in question or dealt with in such other way as the court considers appropriate.

(15) For the purposes of this section—

"relevant offence" means an offence under **[**[F227]section 107(1), (2) or (2A)**]** (criminal liability for making or dealing with infringing articles, etc.), or under the Trade Descriptions Act 1968 (c. 29) or any offence involving dishonesty or deception;

"the court" means—

(a) in relation to an order made on an application under subsection (2)(a), the sheriff, and

(b) in relation to an order made under subsection (2)(b), the court which imposed the penalty.

Textual Amendments

F226 Ss. 114A, 114B inserted (20.11.2002) by 2002 c. 25, **s. 3**; S.I. 2002/2749, **art. 2**

F227 Words in s. 114B(15) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 26(2)(iv)** (with regs. 31-40)

115 Jurisdiction of county court and sheriff court.

(1) In England, Wales and Northern Ireland a county court may entertain proceedings under—

section 99 (order for delivery up of infringing copy or other article),

section 102(5) (order as to exercise of rights by copyright owner where exclusive licensee has concurrent rights), or

section 114 (order as to disposal of infringing copy or other article),

[[F228]save that, in Northern Ireland, a county court may entertain such proceedings only**]**where the value of the infringing copies and other articles in question does not exceed the county court limit for actions in tort.

(2) In Scotland proceedings for an order under any of those provisions may be brought in the sheriff court.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(3) Nothing in this section shall be construed as affecting the jurisdiction of the High Court or, in Scotland, the Court of Session.

Textual Amendments

F228 Words in s. 115(1) inserted by S.I. 1991/724, art. 2(8), **Sch**edule Pt. I

CHAPTER VII

COPYRIGHT LICENSING

Modifications etc. (not altering text)

C47 Pt. I Ch. VII (ss. 116-144) applied (with modifications) (1.12.1996) by S.I. 1996/2967, **reg. 17(1)-(3)** (with Pt. III)

Licensing schemes and licensing bodies

116 Licensing schemes and licensing bodies.

(1) In this Part a "licensing scheme" means a scheme setting out—

(a) the classes of case in which the operator of the scheme, or the person on whose behalf he acts, is willing to grant copyright licences, and

(b) the terms on which licences would be granted in those classes of case;

and for this purpose a "scheme" includes anything in the nature of a scheme, whether described as a scheme or as a tariff or by any other name.

(2) In this Chapter a "licensing body" means a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting, either as owner or prospective owner of copyright or as agent for him, of copyright licences, and whose objects include the granting of licences covering works of more than one author.

(3) In this section "copyright licences" means licences to do, or authorise the doing of, any of the acts restricted by copyright.

(4) References in this Chapter to licences or licensing schemes covering works of more than one author do not include licences or schemes covering only—

(a) a single collective work or collective works of which the authors are the same, or

(b) works made by, or by employees of or commissioned by, a single individual, firm, company or group of companies.

For this purpose a group of companies means a holding company and its subsidiaries, within the meaning of section 736 of the [M12]Companies Act 1985.

Marginal Citations

M12 1985 c. 6.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

References and applications with respect to licensing schemes

[F229 117 Licensing schemes to which following sections apply.

Sections 118 to 123 (references and applications with respect to licensing schemes) apply to licensing schemes which are operated by licensing bodies and cover works of more than one author, so far as they relate to licences for—

(a) copying the work,

(b) rental or lending of copies of the work to the public,

(c) performing, showing or playing the work in public, or

[F230(d) communicating the work to the public;**]**

and references in those sections to a licensing scheme shall be construed accordingly.**]**

Textual Amendments

F229 S. 117 substituted (1.12.1996) by S.I. 1996/2967, **reg. 15(2)** (with Pt. III)

F230 S. 117(d) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 4(4)** (with regs. 31-40)

118 Reference of proposed licensing scheme to tribunal.

(1) The terms of a licensing scheme proposed to be operated by a licensing body may be referred to the Copyright Tribunal by an organisation claiming to be representative of persons claiming that they require licences in cases of a description to which the scheme would apply, either generally or in relation to any description of case.

(2) The Tribunal shall first decide whether to entertain the reference, and may decline to do so on the ground that the reference is premature.

(3) If the Tribunal decides to entertain the reference it shall considerthe matter referred and make such order, either confirming or varying the proposed scheme, either generally or so far as it relates to cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

119 Reference of licensing scheme to tribunal.

(1) If while a licensing scheme is in operation a dispute arises between the operator of the scheme and—

(a) a person claiming that he requires a licence in a case of a description to which the scheme applies, or

(b) an organisation claiming to be representative of such persons,

that person or organisation may refer the scheme to the Copyright Tribunal in so far as it relates to cases of that description.

(2) A scheme which has been referred to the Tribunal under this section shall remain in operation until proceedings on the reference are concluded.

(3) The Tribunal shall consider the matter in dispute and make such order, either confirming or varying the scheme so far as it relates to cases of the description to

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

which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

120 Further reference of scheme to tribunal.

(1) Where the Copyright Tribunal has on a previous reference of a licensing scheme under **[**[F231]section 118, 119 or 128A**]**, or under this section, made an order with respect to the scheme, then, while the order remains in force—

(a) the operator of the scheme,

(b) a person claiming that he requires a licence in a case of the description to which the order applies, or

(c) an organisation claiming to be representative of such persons,

may refer the scheme again to the Tribunal so far as it relates to cases of that description.

(2) A licensing scheme shall not, except with the special leave of the Tribunal, be referred again to the Tribunal in respect of the same description of cases—

(a) within twelve months from the date of the order on the previous reference, or

(b) if the order was made so as to be in force for 15 months or less, until the last three months before the expiry of the order.

(3) A scheme which has been referred to the Tribunal under this section shall remain in operation until proceedings on the reference are concluded.

(4) The Tribunal shall consider the matter in dispute and make such order, either confirming, varying or further varying the scheme so far as it relates to cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

Textual Amendments

F231 Words in s. 120(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(4)** (with regs. 31-40)

121 Application for grant of licence in connection with licensing scheme.

(1) A person who claims, in a case covered by a licensing scheme, that the operator of the scheme has refused to grant him or procure the grant to him of a licence in accordance with the scheme, or has failed to do so within a reasonable time after being asked, may apply to the Copyright Tribunal.

(2) A person who claims, in a case excluded from a licensing scheme, that the operator of the scheme either—

(a) has refused to grant him a licence or procure the grant to him of a licence, or has failed to do so within a reasonable time of being asked, and that in the circumstances it is unreasonable that a licence should not be granted, or

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

(b) proposes terms for a licence which are unreasonable,

may apply to the Copyright Tribunal.

(3) A case shall be regarded as excluded from a licensing scheme for the purposes of subsection (2) if—

(a) the scheme provides for the grant of licences subject to terms excepting matters from the licence and the case falls within such an exception, or

(b) the case is so similar to those in which licences are granted under the scheme that it is unreasonable that it should not be dealt with in the same way.

(4) If the Tribunal is satisfied that the claim is well-founded, it shall make an order declaring that, in respect of the matters specified in the order, the applicant is entitled to a licence on such terms as the Tribunal may determine to be applicable in accordance with the scheme or, as the case may be, to be reasonable in the circumstances.

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

122 Application for review of order as to entitlement to licence.

(1) Where the Copyright Tribunal has made an order under section 121 that a person is entitled to a licence under a licensing scheme, the operator of the scheme or the original applicant may apply to the Tribunal to review its order.

(2) An application 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 section, or

(b) if the order was made so as to be in force for 15 months or less, or as a result of the decision on a previous application under this section is due to expire within 15 months of that decision, until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable having regard to the terms applicable in accordance with the licensing scheme or, as the case may be, the circumstances of the case.

123 Effect of order of tribunal as to licensing scheme.

(1) A licensing scheme which has been confirmed or varied by the Copyright Tribunal—

(a) under section 118 (reference of terms of proposed scheme), or

(b) under section 119 or 120 (reference of existing scheme to Tribunal),

shall be in force or, as the case may be, remain in operation, so far as it relates to the description of case in respect of which the order was made, so long as the order remains in force.

(2) While the order is in force a person who in a case of a class to which the order applies—

(a) pays to the operator of the scheme any charges payable under the scheme in respect of a licence covering the case in question or, if the amount cannot be ascertained, gives an undertaking to the operator to pay them when ascertained, and

(b) complies with the other terms applicable to such a licence under the scheme,

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shall be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question in accordance with the scheme.

(3) The Tribunal may direct that the order, so far as it varies the amount of charges payable, has effect from a date before that on which it is made, but not earlier than the date on which the reference was made or, if later, on which the scheme came into operation.

If such a direction is made—

(a) any necessary repayments, or further payments, shall be made in respect of charges already paid, and

(b) the reference in subsection (2)(a) to the charges payable under the scheme shall be construed as a reference to the charges so payable by virtue of the order.

No such direction may be made where subsection (4) below applies.

(4) An order of the Tribunal under section 119 or 120 made with respect to a scheme which is certified for any purpose under section 143 has effect, so far as it varies the scheme by reducing the charges payable for licences, from the date on which the reference was made to the Tribunal.

(5) Where the Tribunal has made an order under section 121 (order as to entitlement to licence under licensing scheme) and the order remains in force, the person in whose favour the order is made shall if he—

(a) pays to the operator of the scheme any charges payable in accordance with the order or, if the amount cannot be ascertained, gives an undertaking to pay the charges when ascertained, and

(b) complies with the other terms specified in the order,

be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question on the terms specified in the order.

References and applications with respect to licensing by licensing bodies

[F232 124 Licences to which following sections apply.

Sections 125 to 128 (references and applications with respect to licensing by licensing bodies) apply to licences which are granted by a licensing body otherwise than in pursuance of a licensing scheme and cover works of more than one author, so far as they authorise—

(a) copying the work,

(b) rental or lending of copies of the work to the public,

(c) performing, showing or playing the work in public, or

[F233 (d) communicating the work to the public;**]**

and references in those sections to a licence shall be construed accordingly.**]**

Textual Amendments

F232 S. 124 substituted (1.12.1996) by S.I. 1996/2967, **reg. 15(3)** (with Pt. III)

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F233 S. 124(d) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 4(4)** (with regs. 31-40)

125 Reference to tribunal of proposed licence.

(1) The terms on which a licensing body proposes to grant a licence may be referred to the Copyright Tribunal by the prospective licensee.

(2) The Tribunal shall first decide whether to entertain the reference, and may decline to do so on the ground that the reference is premature.

(3) If the Tribunal decides to entertain the reference it shall consider the terms of the proposed licence and make such order, either confirming or varying the terms, as it may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

126 Reference to tribunal of expiring licence.

(1) A licensee under a licence which is due to expire, by effluxion of time or as a result of notice given by the licensing body, may apply to the Copyright Tribunal on the ground that it is unreasonable in the circumstances that the licence should cease to be in force.

(2) Such an application may not be made until the last three months before the licence is due to expire.

(3) A licence in respect of which a reference has been made to the Tribunal shall remain in operation until proceedings on the reference are concluded.

(4) If the Tribunal finds the application well-founded, it shall make an order declaring that the licensee shall continue to be entitled to the benefit of the licence on such terms as the Tribunal may determine to be reasonable in the circumstances.

(5) An order of the Tribunal under this section may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

127 Application for review of order as to licence.

(1) Where the Copyright Tribunal has made an order under **[**[F234]section 125, 126 or 128B (where that order did not relate to a licensing scheme)**]**, the licensing body or the person entitled to the benefit of the order may apply to the Tribunal to review its order.

(2) An application 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 section, or
   (b) if the order was made so as to be in force for 15 months or less, or as a result of the decision on a previous application under this section is due to expire within 15 months of that decision, until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable in the circumstances.

Textual Amendments

F234 Words in s. 127(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(5)** (with regs. 31-40)

128 Effect of order of tribunal as to licence.

(1) Where the Copyright Tribunal has made an order under section 125 or 126 and the order remains in force, the person entitled to the benefit of the order shall if he—

(a) pays to the licensing body any charges payable in accordance with the order or, if the amount cannot be ascertained, gives an undertaking to pay the charges when ascertained, and

(b) complies with the other terms specified in the order,

be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question on the terms specified in the order.

(2) The benefit of the order may be assigned—

(a) in the case of an order under section 125, if assignment is not prohibited under the terms of the Tribunal's order; and

(b) in the case of an order under section 126, if assignment was not prohibited under the terms of the original licence.

(3) The Tribunal may direct that an order under section 125 or 126, or an order under section 127 varying such an order, so far as it varies the amount of charges payable, has effect from a date before that on which it is made, but not earlier than the date on which the reference or application was made or, if later, on which the licence was granted or, as the case may be, was due to expire.

If such a direction is made—

(a) any necessary repayments, or further payments, shall be made in respect of charges already paid, and

(b) the reference in subsection (1)(a) to the charges payable in accordance with the order shall be construed, where the order is varied by a later order, as a reference to the charges so payable by virtue of the later order.

[F235 128A Notification of licence or licensing scheme for excepted sound recordings

(1) This section only applies to a proposed licence or licensing scheme that will authorise the playing in public of excepted sound recordings included in broadcasts, in circumstances where by reason of the exclusion of excepted sound recordings from section 72(1), the playing in public of such recordings would otherwise infringe the copyright in them.

(2) A licensing body must notify the Secretary of State of the details of any proposed licence or licensing scheme for excepted sound recordings before it comes into operation.

(3) A licence or licensing scheme, which has been notified under subsection (2), may not be operated by the licensing body until 28 days have elapsed since that notification.

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(4) Subject to subsection (5), the Secretary of State shall take into account the matters set out in subsection (6) and then either—

(a) refer the licence or licensing scheme to the Copyright Tribunal for a determination of whether the licence or licensing scheme is reasonable in the circumstances, or

(b) notify the licensing body that he does not intend to refer the licence or licensing scheme to the Tribunal.

(5) If the Secretary of State becomes aware—

(a) that a licensing body has failed to notify him of a licence or licensing scheme under subsection (2) before it comes into operation; or

(b) that a licence or licensing scheme has been operated within 28 days of a notification under subsection (2),

subsection (4) does not apply, but the Secretary of State may at any time refer the licence or licensing scheme to the Tribunal for a determination of whether the licence or licensing scheme is reasonable in the circumstances, or may notify the licensing body that he does not intend to refer it to the Tribunal.

(6) The matters referred to in subsection (4) are—

(a) whether the terms and conditions of the proposed licence or licensing scheme have taken into account the factors set out in subsection (7);

(b) any written representations received by the Secretary of State;

(c) previous determinations of the Tribunal;

(d) the availability of other schemes, or the granting of other licences, to other persons in similar circumstances, and the terms of those schemes or licences; and

(e) the extent to which the licensing body has consulted any person who would be affected by the proposed licence or licensing scheme, or organisations representing such persons, and the steps, if any, it has taken as a result.

(7) The factors referred to in subsection (6) are—

(a) the extent to which the broadcasts to be shown or played by a potential licensee in circumstances mentioned in subsection (1) are likely to include excepted sound recordings;

(b) the size and the nature of the audience that a licence or licensing scheme would permit to hear the excepted sound recordings;

(c) what commercial benefit a potential licensee is likely to obtain from playing the excepted sound recordings; and

(d) the extent to which the owners of copyright in the excepted sound recordings will receive equitable remuneration, from sources other than the proposed licence or licensing scheme, for the inclusion of their recordings in the broadcasts to be shown or played in public by a potential licensee.

(8) A proposed licence or licensing scheme that must be notified to the Secretary of State under subsection (2) may only be referred to the Tribunal under section 118 or 125 before such notification takes place.

(9) A proposed licensing scheme that has been notified to the Secretary of State under subsection (2) may only be referred to the Tribunal under section 119 after the Secretary of State has notified the licensing body that he does not intend to refer the licensing scheme to the Tribunal.

(10) If a reference made to the Tribunal under section 118 or 125 is permitted under subsection (8) then—

(a) the reference shall not be considered premature only because the licence or licensing scheme has not been notified to the Secretary of State under subsection (2); and

(b) where the Tribunal decides to entertain the reference, subsection (2) to (5) shall not apply.

(11) Nothing in this section shall be taken to prejudice any right to make a reference or application to the Tribunal under sections 120 to 122, 126 or 127.

(12) This section applies to modifications to an existing licence or licensing scheme as it applies to a proposed licence or licensing scheme.

(13) In this section and in section 128B, any reference to a "licence" means a licence granted by a licensing body otherwise than in pursuance of a licensing scheme and which covers works of more than one author.**]**

Textual Amendments

F235 Ss. 128A, 128B inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(3)** (with regs. 31-40)

[F235 128B References to the Tribunal by the Secretary of State under section 128A

(1) The Copyright Tribunal may make appropriate enquiries to establish whether a licence or licensing scheme referred to it by the Secretary of State under section 128A(4)(a) or (5) is reasonable in the circumstances.

(2) When considering the matter referred, and after concluding any such enquiries, the Tribunal shall take into account—

(a) whether the terms and conditions of the proposed licence or licensing scheme have taken into account the factors set out in section 128A(7); and

(b) any other factors it considers relevant,

and shall then make an order under subsection (3).

(3) The Tribunal shall make such order—

(a) in the case of a licensing scheme, either confirming or varying the proposed scheme, either generally or so far as it relates to cases of any description; or

(b) in the case of a licence, either confirming or varying the proposed licence, as the Tribunal may determine to be reasonable in the circumstances.

(4) The Tribunal may direct that the order, so far as it reduces the amount of charges payable, has effect from a date before that on which it is made.

If such a direction is made, any necessary repayments to a licensee shall be made in respect of charges already paid.

(5) The Tribunal may award simple interest on repayments, at such rate and for such period, ending not later than the date of the order, as it thinks fit.**]**

Textual Amendments

F235 Ss. 128A, 128B inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(3)** (with regs. 31-40)

Factors to be taken into account in certain classes of case

129 General considerations: unreasonable discrimination.

In determining what is reasonable on a reference or application under this Chapter relating to a licensing scheme or licence, the Copyright Tribunal shall have regard to—

(a) the availability of other schemes, or the granting of other licences, to other persons in similar circumstances, and

(b) the terms of those schemes or licences,

and shall exercise its powers so as to secure that there is no unreasonable discrimination between licensees, or prospective licensees, under the scheme or licence to which the reference or application relates and licensees under other schemes operated by, or other licences granted by, the same person.

130 Licences for reprographic copying.

Where a reference or application is made to the Copyright Tribunal under this Chapter relating to the licensing of reprographic copying of published literary, dramatic, musical or artistic works, or the typographical arrangement of published editions, the Tribunal shall have regard to—

(a) the extent to which published editions of the works in question are otherwise available,

(b) the proportion of the work to be copied, and

(c) the nature of the use to which the copies are likely to be put.

131 Licences for educational establishments in respect of works included in broadcasts [F236]. . . .

(1) This section applies to references or applications under this Chapter relating to licences for the recording by or on behalf of educational establishments of broadcasts [F237]. . . which include copyright works, or the making of copies of such recordings, for educational purposes.

(2) The Copyright Tribunal shall, in considering what charges (if any) should be paid for a licence, have regard to the extent to which the owners of copyright in the works included in the broadcast [F237]. . . have already received, or are entitled to receive, payment in respect of their inclusion.

Textual Amendments

F236 Words in s. 131 heading 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)

F237 Words in s. 131(1)(2) 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)

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

132 Licences to reflect conditions imposed by promoters of events.

(1) This section applies to references or applications under this Chapter in respect of licences relating to sound recordings, films **[**[F238]or broadcasts**]** which include, or are to include, any entertainment or other event.

(2) The Copyright Tribunal shall have regard to any conditions imposed by the promoters of the entertainment or other event; and, in particular, the Tribunal shall not hold a refusal or failure to grant a licence to be unreasonable if it could not have been granted consistently with those conditions.

(3) Nothing in this section shall require the Tribunal to have regard to any such conditions in so far as they—

(a) purport to regulate the charges to be imposed in respect of the grant of licences, or

(b) relate to payments to be made to the promoters of any event in consideration of the grant of facilities for making the recording, film **[**[F239]or broadcast**]**.

Textual Amendments

F238 Words in s. 132(1) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 3 para. 3(2)(a)** (with regs. 31-40)

F239 Words in s. 132(3)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 3(1)(j)** (with regs. 31-40)

133 Licences to reflect payments in respect of underlying rights.

[[F240](1) In considering what charges should be paid for a licence—

(a) on a reference or application under this Chapter relating to licences for the rental or lending of copies of a work, or

(b) on an application under section 142 (royalty or other sum payable for lending of certain works), the Copyright Tribunal shall take into account any reasonable payments which the owner of the copyright in the work is liable to make in consequence of the granting of the licence, or of the acts authorised by the licence, to owners of copyright in works included in that work.**]**

(2) On any reference or application under this Chapter relating to licensing in respect of the copyright in sound recordings, films **[**[F241]or broadcasts**]**, the Copyright Tribunal shall take into account, in considering what charges should be paid for a licence, any reasonable payments which the copyright owner is liable to make in consequence of the granting of the licence, or of the acts authorised by the licence, in respect of any performance included in the recording, film **[**[F242]or broadcast**]**.

Textual Amendments

F240 S. 133(1) substituted (1.12.1996) by S.I. 1996/2967, **reg. 13(1)** (with Pt. III)

F241 Words in s. 133(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 3 para. 3(2)(b)** (with regs. 31-40)

F242 Words in s. 133(2) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 3 para. 3(1)(k)** (with regs. 31-40)

134 Licences in respect of works included in re-transmissions.

(1) **[**[F243]Subject to subsection (3A)**]** this section applies to references or applications under this Chapter relating to licences to include in a broadcast [F244]. . . —

(a) literary, dramatic, musical or artistic works, or,

(b) sound recordings or films,

where one broadcast [F244]. . . ("the first transmission") is, by reception and immediate re-transmission, to be further broadcast [F244]. . . ("the further transmission").

(2) So far as the further transmission is to the same area as the first transmission, the Copyright Tribunal shall, in considering what charges (if any) should be paid for licences for either transmission, have regard to the extent to which the copyright owner has already received, or is entitled to receive, payment for the other transmission which adequately remunerates him in respect of transmissions to that area.

(3) So far as the further transmission is to an area outside that to which the first transmission was made, the Tribunal shall [F244]. . . leave the further transmission out of account in considering what charges (if any) should be paid for licences for the first transmission.

[[F245](3A) This section does not apply in relation to any application under section 73A (royalty or other sum payable in pursuance of section 73(4)).**]**

[F246](4) . . . . . .

Textual Amendments

F243 Words in s. 134(1) inserted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 2(2)** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**

F244 Words in s. 134(1)(3) 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)

F245 S. 134(3A) inserted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 2(3)** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**

F246 S. 134(4) repealed by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(3), **Sch. 21**

135 Mention of specific matters not to exclude other relevant considerations.

The mention in sections 129 to 134 of specific matters to which the Copyright Tribunal is to have regard in certain classes of case does not affect the Tribunal's general obligation in any case to have regard to all relevant considerations.

[[F247] *Use as of right of sound recordings in broadcasts* [F248]. . .

Textual Amendments

F247 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

F248 Words in heading preceding s. 135A 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)

135A Circumstances in which right available.

(1) Section 135C applies to the inclusion in a broadcast [F249]. . . of any sound recordings if—

(a) a licence to include those recordings in the broadcast [F249]. . . could be granted by a licensing body or such a body could procure the grant of a licence to do so,

(b) the condition in subsection (2) or (3) applies, and

(c) the person including those recordings in the broadcast [F249]. . . has complied with section 135B.

(2) Where the person including the recordings in the broadcast [F249]. . . does not hold a licence to do so, the condition is that the licensing body refuses to grant, or procure the grant of, such a licence, being a licence—

(a) whose terms as to payment for including the recordings in the broadcast [F249]. . . would be acceptable to him or comply with an order of the Copyright Tribunal under section 135D relating to such a licence or any scheme under which it would be granted, and

(b) allowing unlimited needletime or such needletime as he has demanded.

(3) Where he holds a licence to include the recordings in the broadcast [F249]. . . , the condition is that the terms of the licence limit needletime and the licensing body refuses to substitute or procure the substitution of terms allowing unlimited needletime or such needletime as he has demanded, or refuses to do so on terms that fall within subsection (2)(a).

(4) The references in subsection (2) to refusing to grant, or procure the grant of, a licence, and in subsection (3) to refusing to substitute or procure the substitution of terms, include failing to do so within a reasonable time of being asked.

(5) In the group of sections from this section to section 135G—

[[F250]"broadcast" does not include any broadcast which is a transmission of the kind specified in section 6(1A)(b) or (c);**]**

"needletime" means the time in any period (whether determined as a number of hours in the period or a proportion of the period, or otherwise) in which any recordings may be included in a broadcast [F249]. . . ;

"sound recording" does not include a film sound track when accompanying a film.

(6) In sections 135B to 135G, "terms of payment" means terms as to payment for including sound recordings in a broadcast [F249]. . . .**]**

Textual Amendments

F249 Words in s. 135A 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)

F250 S. 135A(5): definition of "broadcast" inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(1)** (with regs. 31-40)

[[F251]**135B Notice of intention to exercise right.**

(1) A person intending to avail himself of the right conferred by section 135C must—

(a) give notice to the licensing body of his intention to exercise the right, asking the body to propose terms of payment, and

(b) after receiving the proposal or the expiry of a reasonable period, give reasonable notice to the licensing body of the date on which he proposes to begin exercising that right, and the terms of payment in accordance with which he intends to do so.

(2) Where he has a licence to include the recordings in a broadcast [F252]. . . , the date specified in a notice under subsection (1)(b) must not be sooner than the date of expiry of that licence except in a case falling within section 135A(3).

(3) Before the person intending to avail himself of the right begins to exercise it, he 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 section 135D to settle the terms of payment.**]**

Textual Amendments

F251 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

F252 Words in s. 135B(2) 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)

[[F253]135C Conditions for exercise of right.

(1) A person who, on or after the date specified in a notice under section 135B(1)(b), includes in a broadcast [F254]. . . any sound recordings in circumstances in which this section applies, and who—

(a) complies with any reasonable condition, notice of which has been given to him by the licensing body, as to inclusion in the broadcast [F254]. . . of those recordings,

(b) provides that body with such information about their inclusion in the broadcast [F254]. . . as it may reasonably require, and

(c) makes the payments to the licensing body that are required by this section,

shall be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question.

(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 section 135D or, if no such order has been made—

(a) in accordance with any proposal for terms of payment made by the licensing body pursuant to a request under section 135B, or

(b) where no proposal has been so made or the amount determined in accordance with the proposal so made is unreasonably high, in accordance with the terms of payment notified to the licensing body under section 135B(1)(b).

(4) Where this section applies to the inclusion in a broadcast [F254]. . . of any sound recordings, it does so in place of any licence.**]**

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Textual Amendments

F253 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

F254 Words in s. 135C(1)(4) 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)

[F255 135D Applications to settle payments.

(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 subsection (1) has effect from the date the applicant begins to exercise the right conferred by section 135C and any necessary repayments, or further payments, shall be made in respect of amounts that have fallen due.**]**

Textual Amendments

F255 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

[F256 135E References etc. about conditions, information and other terms.

(1) A person exercising the right conferred by section 135C, or who has given notice to the Copyright Tribunal of his intention to do so, may refer to the Tribunal—

(a) any question whether any condition as to the inclusion in a broadcast F257 . . . of sound recordings, notice of which has been given to him by the licensing body in question, is a reasonable condition, or

(b) any question whether any information is information which the licensing body can reasonably require him to provide.

(2) On a reference under this section, the Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.**]**

Textual Amendments

F256 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

F257 Words in s. 135E(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)

[F258 135F Application for review of order.

(1) A person exercising the right conferred by section 135C or the licensing body may apply to the Copyright Tribunal to review any order under section 135D or 135E.

(2) An application 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 section, or

(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 section has effect from the date on which it is made or such later date as may be specified by the Tribunal.**]**

Textual Amendments

F258 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

[F259 135G Factors to be taken into account.

(1) In determining what is reasonable on an application or reference under section 135D or 135E, or on reviewing any order under section 135F, the Copyright Tribunal shall—

(a) have regard to the terms of any orders which it has made in the case of persons in similar circumstances exercising the right conferred by section 135C, and

(b) exercise its powers so as to secure that there is no unreasonable discrimination between persons exercising that right against the same licensing body.

(2) In settling the terms of payment under section 135D, the Tribunal shall not be guided by any order it has made under any enactment other than that section.

(3) Section 134 (factors to be taken into account: retransmissions) applies on an application or reference under sections 135D to 135F as it applies on an application or reference relating to a licence.**]**

Textual Amendments

F259 Ss. 135A–135G inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(1)**

[F260 135H Power to amend sections 135A to 135G.

(1) The Secretary of State may by order, subject to such transitional provision as appears to him to be appropriate, amend sections 135A to 135G so as—

(a) to include in any reference to sound recordings any works of a description specified in the order; or

(b) to exclude from any reference to a broadcast F261. . . any broadcast F261. . . of a description so specified.

(2) An order shall be made by statutory instrument; and no order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.**]**

Textual Amendments

F260 S. 135H inserted (1.11.1996) by 1996 c. 55, **s. 139(1)** (with s. 43(6)); S.I. 1996/2120, art. 5, **Sch. 2**

F261 Words in s. 135H(1)(b) 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)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Implied indemnity in schemes or licences for reprographic copying

136 Implied indemnity in certain schemes and licences for reprographic copying.

(1) This section applies to—

(a) schemes for licensing reprographic copying of published literary, dramatic, musical or artistic works, or the typographical arrangement of published editions, and

(b) licences granted by licensing bodies for such copying,

where the scheme or licence does not specify the works to which it applies with such particularity as to enable licensees to determine whether a work falls within the scheme or licence by inspection of the scheme or licence and the work.

(2) There is implied—

(a) in every scheme to which this section applies an undertaking by the operator of the scheme to indemnify a person granted a licence under the scheme, and

(b) in every licence to which this section applies an undertaking by the licensing body to indemnify the licensee,

against any liability incurred by him by reason of his having infringed copyright by making or authorising the making of reprographic copies of a work in circumstances within the apparent scope of his licence.

(3) The circumstances of a case are within the apparent scope of a licence if—

(a) it is not apparent from inspection of the licence and the work that it does not fall within the description of works to which the licence applies; and

(b) the licence does not expressly provide that it does not extend to copyright of the description infringed.

(4) In this section "liability" includes liability to pay costs; and this section applies in relation to costs reasonably incurred by a licensee in connection with actual or contemplated proceedings against him for infringement of copyright as it applies to sums which he is liable to pay in respect of such infringement.

(5) A scheme or licence to which this section applies may contain reasonable provision—

(a) with respect to the manner in which, and time within which, claims under the undertaking implied by this section are to be made;

(b) enabling the operator of the scheme or, as the case may be, the licensing body to take over the conduct of any proceedings affecting the amount of his liability to indemnify.

Reprographic copying by educational establishments

137 Power to extend coverage of scheme or licence.

(1) This section applies to—

(a) a licensing scheme to which sections 118 to 123 apply (see section 117) and which is operated by a licensing body, or

(b) a licence to which sections 125 to 128 apply (see section 124),

so far as it provides for the grant of licences, or is a licence, authorising the making by or on behalf of educational establishments for the purposes of instruction of

reprographic copies of published literary, dramatic, musical or artistic works, or of the typographical arrangement of published editions.

(2) If it appears to the Secretary of State with respect to a scheme or licence to which this section applies that—

(a) works of a description similar to those covered by the scheme or licence are unreasonably excluded from it, and

(b) making them subject to the scheme or licence would not conflict with the normal exploitation of the works or unreasonably prejudice the legitimate interests of the copyright owners,

he may by order provide that the scheme or licence shall extend to those works.

(3) Where he proposes to make such an order, the Secretary of State shall give notice of the proposal to—

(a) the copyright owners,

(b) the licensing body in question, and

(c) such persons or organisations representative of educational establishments, and such other persons or organisations, as the Secretary of State thinks fit.

(4) The notice shall inform those persons of their right to make written or oral representations to the Secretary of State about the proposal within six months from the date of the notice; and if any of them wishes to make oral representations, the Secretary of State shall appoint a person to hear the representations and report to him.

(5) In considering whether to make an order the Secretary of State shall take into account any representations made to him in accordance with subsection (4), and such other matters as appear to him to be relevant.

Modifications etc. (not altering text)

C48 Ss. 137–141 extended by S.I. 1989/1067, **art. 2**

138 Variation or discharge of order extending scheme or licence.

(1) The owner of the copyright in a work in respect of which an order is in force under section 137 may apply to the Secretary of State for the variation or discharge of the order, stating his reasons for making the application.

(2) The Secretary of State shall not entertain an application made within two years of the making of the original order, or of the making of an order on a previous application under this section, unless it appears to him that the circumstances are exceptional.

(3) On considering the reasons for the application the Secretary of State may confirm the order forthwith; if he does not do so, he shall give notice of the application to—

(a) the licensing body in question, and

(b) such persons or organisations representative of educational establishments, and such other persons or organisations, as he thinks fit.

(4) The notice shall inform those persons of their right to make written or oral representations to the Secretary of State about the application within the period of two months from the date of the notice; and if any of them wishes to make oral representations, the Secretary of State shall appoint a person to hear the representations and report to him.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(5) In considering the application the Secretary of State shall take into account the reasons for the application, any representations made to him in accordance with subsection (4), and such other matters as appear to him to be relevant.

(6) The Secretary of State may make such order as he thinks fit confirming or discharging the order (or, as the case may be, the order as previously varied), or varying (or further varying) it so as to exclude works from it.

Modifications etc. (not altering text)
C49 Ss. 137–141 extended by S.I. 1989/1067, **art. 2**

139 Appeals against orders.

(1) The owner of the copyright in a work which is the subject of an order under section 137 (order extending coverage of scheme or licence) may appeal to the Copyright Tribunal which may confirm or discharge the order, or vary it so as to exclude works from it, as it thinks fit having regard to the considerations mentioned in subsection (2) of that section.

(2) Where the Secretary of State has made an order under section 138 (order confirming, varying or discharging order extending coverage of scheme or licence)—

(a) the person who applied for the order, or

(b) any person or organisation representative of educational establishments who was given notice of the application for the order and made representations in accordance with subsection (4) of that section,

may appeal to the Tribunal which may confirm or discharge the order or make any other order which the Secretary of State might have made.

(3) An appeal under this section shall be brought within six weeks of the making of the order or such further period as the Tribunal may allow.

(4) An order under section 137 or 138 shall not come into effect until the end of the period of six weeks from the making of the order or, if an appeal is brought before the end of that period, until the appeal proceedings are disposed of or withdrawn.

(5) If an appeal is brought after the end of that period, any decision of the Tribunal on the appeal does not affect the validity of anything done in reliance on the order appealed against before that decision takes effect.

Modifications etc. (not altering text)
C50 Ss. 137–141 extended by S.I. 1989/1067, **art. 2**

140 Inquiry whether new scheme or general licence required.

(1) The Secretary of State may appoint a person to inquire into the question whether new provision is required (whether by way of a licensing scheme or general licence) to authorise the making by or on behalf of educational establishments for the purposes of instruction of reprographic copies of—

(a) published literary, dramatic, musical or artistic works, or

(b) the typographical arrangement of published editions,

of a description which appears to the Secretary of State not to be covered by an existing licensing scheme or general licence and not to fall within the power conferred by section 137 (power to extend existing schemes and licences to similar works).

(2) The procedure to be followed in relation to an inquiry shall be such as may be prescribed by regulations made by the Secretary of State.

(3) The regulations shall, in particular, provide for notice to be given to—

(a) persons or organisations appearing to the Secretary of State to represent the owners of copyright in works of that description, and

(b) persons or organisations appearing to the Secretary of State to represent educational establishments,

and for the making of written or oral representations by such persons; but without prejudice to the giving of notice to, and the making of representations by, other persons and organisations.

(4) The person appointed to hold the inquiry shall not recommend the making of new provision unless he is satisfied—

(a) that it would be of advantage to educational establishments to be authorised to make reprographic copies of the works in question, and

(b) that making those works subject to a licensing scheme or general licence would not conflict with the normal exploitation of the works or unreasonably prejudice the legitimate interests of the copyright owners.

(5) If he does recommend the making of new provision he shall specify any terms, other than terms as to charges payable, on which authorisation under the new provision should be available.

(6) Regulations 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.

(7) In this section (and section 141) a "general licence" means a licence granted by a licensing body which covers all works of the description to which it applies.

Modifications etc. (not altering text)

C51 Ss. 137–141 extended by S.I. 1989/1067, **art. 2**

141 Statutory licence where recommendation not implemented.

(1) The Secretary of State may, within one year of the making of a recommendation under section 140 by order provide that if, or to the extent that, provision has not been made in accordance with the recommendation, the making by or on behalf of an educational establishment, for the purposes of instruction, of reprographic copies of the works to which the recommendation relates shall be treated as licensed by the owners of the copyright in the works.

(2) For that purpose provision shall be regarded as having been made in accordance with the recommendation if—

(a) a certified licensing scheme has been established under which a licence is available to the establishment in question, or

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(b) a general licence has been—

(i) granted to or for the benefit of that establishment, or

(ii) referred by or on behalf of that establishment to the Copyright Tribunal under section 125 (reference of terms of proposed licence), or

(iii) offered to or for the benefit of that establishment and refused without such a reference,

and the terms of the scheme or licence accord with the recommendation.

(3) The order shall also provide that any existing licence authorising the making of such copies (not being a licence granted under a certified licensing scheme or a general licence) shall cease to have effect to the extent that it is more restricted or more onerous than the licence provided for by the order.

(4) The order shall provide for the licence to be free of royalty but, as respects other matters, subject to any terms specified in the recommendation and to such other terms as the Secretary of State may think fit.

(5) The order may provide that where a copy which would otherwise be an infringing copy is made in accordance with the licence provided by the order but is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing, and if that dealing infringes copyright for all subsequent purposes.

In this subsection "dealt with" means sold or let for hire, offered or exposed for sale or hire, or exhibited in public.

(6) The order shall not come into force until at least six months after it is made.

(7) An order may be varied from time to time, but not so as to include works other than those to which the recommendation relates or remove any terms specified in the recommendation, and may be revoked.

(8) 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.

(9) In this section a "certified licensing scheme" means a licensing scheme certified for the purposes of this section under section 143.

Modifications etc. (not altering text)

C52 Ss. 137–141 extended by S.I. 1989/1067, **art. 2**

[F262 Royalty or other sum payable for lending of certain works]

Textual Amendments

F262 S. 142 and crossheading substituted (1.12.1996) by S.I. 1996/2967, **reg. 13(2)** (with Pt. III)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

142 [[F263] Royalty or other sum payable for lending of certain works.]

(1) An application to settle the royalty or other sum payable in pursuance of section 66 (lending of copies of certain copyright works) may be made to the Copyright Tribunal by the copyright owner or the person claiming to be treated as licensed by him.

(2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.

(3) Either party may subsequently apply to the Tribunal to vary the order, and 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 application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.

(5) An order under subsection (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.

Textual Amendments

F263 S. 142 substituted (1.12.1996) by S.I. 1996/2967, **reg. 13(2)** (with Pt. III)

Certification of licensing schemes

143 Certification of licensing schemes.

(1) A person operating or proposing to operate a licensing scheme may apply to the Secretary of State to certify the scheme for the purposes of—

(a) section 35 (educational recording of broadcasts [F264]. . .),

(b) section 60 (abstracts of scientific or technical articles),

[[F265](c) section 66 (lending to public of copies of certain works),]

(d) section 74 (sub-titled copies of broadcasts [F264]. . . for people who are deaf or hard of hearing), or

(e) section 141 (reprographic copying of published works by educational establishments).

(2) The Secretary of State shall by order made by statutory instrument certify the scheme if he is satisfied that it—

(a) enables the works to which it relates to be identified with sufficient certainty by persons likely to require licences, and

(b) sets out clearly the charges (if any) payable and the other terms on which licences will be granted.

(3) The scheme shall be scheduled to the order and the certification shall come into operation for the purposes of section 35, 60, 66, 74 or 141, as the case may be—

(a) on such date, not less than eight weeks after the order is made, as may be specified in the order, or

(b) if the scheme is the subject of a reference under section 118 (reference of proposed scheme), any later date on which the order of the Copyright Tribunal under that section comes into force or the reference is withdrawn.

(4) A variation of the scheme is not effective unless a corresponding amendment of the order is made; and the Secretary of State shall make such an amendment in the case of a variation ordered by the Copyright Tribunal on a reference under section 118, 119 or 120, and may do so in any other case if he thinks fit.

(5) The order shall be revoked if the scheme ceases to be operated and may be revoked if it appears to the Secretary of State that it is no longer being operated according to its terms.

Textual Amendments

F264 Words in s. 143(1)(a)(d) 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)

F265 S. 143(1)(c) substituted (1.12.1996) by S.I. 1996/2967, **reg. 11(4)** (with Pt. III)

Powers exercisable in consequence of competition report

144 Powers exercisable in consequence of report of Monopolies and Mergers Commission.

[[F266](1) Subsection (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following references to the Commission in connection with public bodies and certain other persons, mergers or market investigations) consists of or includes—

(a) conditions in licences granted by the owner of copyright in a work restricting the use of the work by the licensee or the right of the copyright owner to grant other licences; or

(b) a refusal of a copyright owner to grant licences on reasonable terms.

(1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the copyright shall be available as of right.

(2) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.**]**

(2) The references in sections 56(2) and 73(2) of that Act, and **[**[F267]section**]** 12(5) of the [M13]Competition Act 1980, to the powers specified in that Part of that Schedule shall be construed accordingly.

(3) **[**[F268]The Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission**]** shall only exercise the powers available by virtue of this section if he **[**[F269]or it**]** is satisfied that to do so does not contravene any Convention relating to copyright to which the United Kingdom is a party.

(4) The terms of a licence available by virtue of this section shall, in default of agreement, be settled by the Copyright Tribunal on an application by the person requiring the

licence; and terms so settled shall authorise the licensee to do everything in respect of which a licence is so available.

(5) Where the terms of a licence are settled by the Tribunal, the licence has effect from the date on which the application to the Tribunal was made.

Textual Amendments

F266 S. 144(1)(1A)(2) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) for s. 144(1)(2) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(2); S.I. 2003/1397, **arts. 2**, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)

F267 Words in s. 144(2) substituted (1.3.2000) by S.I. 2000/311, **art. 22(2)**

F268 Words in s. 144(3) substituted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(a); S.I. 2003/1397, **arts. 2**, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)

F269 Words in s. 144(3) inserted (20.6.2003 for certain purposes and 29.12.2004 otherwise) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 18(3)(b); S.I. 2003/1397, **arts. 2**, 3(1), Sch. (with arts. 4-12); S.I. 2004/3233, **art. 2**, Sch. (with arts. 3-5)

Modifications etc. (not altering text)

C53 S. 144(1) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 16, **Sch. 4 para. 7(1)(a)** (as amended (1.4.2014) by S.I. 2014/891, arts. 1, 19(3) (with arts. 20-23))

C54 S. 144(2) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 16, **Sch. 4 para. 7(1)(b)**

Marginal Citations

M13 1980 c. 21.

[F270 Compulsory collective administration of certain rights]

Textual Amendments

F270 S. 144A and crossheading inserted (1.12.1996) by S.I. 1996/2967, **reg. 7** (with Pt. III)

[F271 144A Collective exercise of certain rights in relation to cable re-transmission.

(1) This section applies to the right of the owner of copyright in a literary, dramatic, musical or artistic work, sound recording or film to grant or refuse authorisation for cable re-transmission of a **[**F272 wireless**]** broadcast from another EEA member state in which the work is included. That right is referred to below as "cable re-transmission right".

(2) Cable re-transmission right may be exercised against a cable operator only through a licensing body.

(3) Where a copyright owner has not transferred management of his cable re-transmission right to a licensing body, the licensing body which manages rights of the same category shall be deemed to be mandated to manage his right. Where more than one licensing body manages rights of that category, he may choose which of them is deemed to be mandated to manage his right.

(4) A copyright owner to whom subsection (3) applies has the same rights and obligations resulting from any relevant agreement between the cable operator and the licensing body as have copyright owners who have transferred management of their cable re-transmission right to that licensing body.

(5) Any rights to which a copyright owner may be entitled by virtue of subsection (4) must be claimed within the period of three years beginning with the date of the cable re-transmission concerned.

(6) This section does not affect any rights exercisable by the maker of the broadcast, whether in relation to the broadcast or a work included in it.

[[F273](7) In this section—

"cable operator" means a person responsible for cable re-transmission of a wireless broadcast; and

"cable re-transmission" means the reception and immediate re-transmission by cable, including the transmission of microwave energy between terrestrial fixed points, of a wireless broadcast.**]]**

Textual Amendments

F271 S. 144A inserted (1.12.1996) by S.I. 1996/2967, **reg. 7** (with Pt. III)

F272 Word in s. 144A(1) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 5(6)** (with regs. 31-40)

F273 S. 144A(7) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(2)** (with regs. 31-40)

CHAPTER VIII

THE COPYRIGHT TRIBUNAL

Modifications etc. (not altering text)

C55 Pt. I Ch. VIII (ss. 145-152) applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)
Pt. I Ch. VIII (ss. 145-152) applied (1.1.1998) by S.I. 1997/3032, **reg. 25(2)** (with Pt. IV)

The Tribunal

145 The Copyright Tribunal.

(1) The Tribunal established under section 23 of the [M14]Copyright Act 1956 is renamed the Copyright Tribunal.

(2) The Tribunal shall consist of a chairman and two deputy chairmen appointed by the Lord Chancellor, after consultation with the Lord Advocate, and not less than two or more than eight ordinary members appointed by the Secretary of State.

(3) A person is not eligible for appointment as chairman or deputy chairman **[**[F274]unless—

(a) he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is an advocate or solicitor in Scotland of at least 7 years' standing;

(c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing; or

(d) he has held judicial office.**]**

Textual Amendments

F274 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 73**

Modifications etc. (not altering text)

C56 S. 145: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)
S. 145 modified (30.6.1999) by S.I. 1999/1748, art. 3, **Sch. 1 para. 10**

C57 S. 145(2): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1**(with art. 7); S.I. 1998/3178, **art. 3**

Marginal Citations

M14 1956 c. 74.

146 Membership of the Tribunal.

(1) The members of the Copyright Tribunal shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.

(2) A member of the Tribunal may resign his office by notice in writing to the Secretary of State or, in the case of the chairman or a deputy chairman, to the Lord Chancellor.

(3) The Secretary of State or, in the case of the chairman or a deputy chairman, the Lord Chancellor may by notice in writing to the member concerned remove him from office if—

(a) he has become bankrupt or made an arrangement with his creditors or, in Scotland, his estate has been sequestrated or he has executed a trust deed for his creditors or entered into a composition contract, or

(b) he is incapacitated by physical or mental illness,

or if he is in the opinion of the Secretary of State or, as the case may be, the Lord Chancellor otherwise unable or unfit to perform his duties as member.

[[F275](3A) A person who is the chairman or a deputy chairman of the Tribunal shall vacate his office on the day on which he attains the age of 70 years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).**]**

(4) If a member of the Tribunal is by reason of illness, absence or other reasonable cause for the time being unable to perform the duties of his office, either generally or in relation to particular proceedings, a person may be appointed to discharge his duties for a period not exceeding six months at one time or, as the case may be, in relation to those proceedings.

(5) The appointment shall be made—

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(a) in the case of the chairman or deputy chairman, by the Lord Chancellor, who shall appoint a person who would be eligible for appointment to that office, and

(b) in the case of an ordinary member, by the Secretary of State;

and a person so appointed shall have during the period of his appointment, or in relation to the proceedings in question, the same powers as the person in whose place he is appointed.

(6) The Lord Chancellor shall consult the Lord Advocate before exercising his powers under this section.

Textual Amendments

F275 S. 146(3A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.49**; S.I. 1995/631, **art. 2**

147 Financial provisions.

(1) There shall be paid to the members of the Copyright Tribunal such remuneration (whether by way of salaries or fees), and such allowances, as the Secretary of State with the approval of the Treasury may determine.

(2) The Secretary of State may appoint such staff for the Tribunal as, with the approval of the Treasury as to numbers and remuneration, he may determine.

(3) The remuneration and allowances of members of the Tribunal, the remuneration of any staff and such other expenses of the Tribunal as the Secretary of State with the approval of the Treasury may determine shall be paid out of money provided by Parliament.

148 Constitution for purposes of proceedings.

(1) For the purposes of any proceedings the Copyright Tribunal shall consist of—

(a) a chairman, who shall be either the chairman or a deputy chairman of the Tribunal, and

(b) two or more ordinary members.

(2) If the members of the Tribunal dealing with any matter are not unanimous, the decision shall be taken by majority vote; and if, in such a case, the votes are equal the chairman shall have a further, casting vote.

(3) Where part of any proceedings before the Tribunal has been heard and one or more members of the Tribunal are unable to continue, the Tribunal shall remain duly constituted for the purpose of those proceedings so long as the number of members is not reduced to less than three.

(4) If the chairman is unable to continue, the chairman of the Tribunal shall—

(a) appoint one of the remaining members to act as chairman, and

(b) appoint a suitably qualified person to attend the proceedings and advise the members on any questions of law arising.

(5) A person is "suitably qualified" for the purposes of subsection (4)(b) if he is, or is eligible for appointment as, a deputy chairman of the Tribunal.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Jurisdiction and procedure

149 Jurisdiction of the Tribunal.

[[F276]The Copyright Tribunal has jurisdiction under this Part**]** to hear and determine proceedings under—

[[F277](za) section 73 (determination of royalty or other remuneration to be paid with respect to re-transmission of broadcast including work);**]**

[[F278](zb) section 93C (application to determine amount of equitable remuneration under section 93B);**]**

(a) section 118, 119, or 120 (reference of licensing scheme);

(b) section 121 or 122 (application with respect to entitlement to licence under licensing scheme);

(c) section 125, 126 or 127 (reference or application with respect to licensing by licensing body);

[[F279](ca) section 128B (reference by the Secretary of State under section 128A);**]**

[[F280](cc) section 135D or 135E (application or reference with respect to use as of right of sound recordings in broadcasts [F281]. . .);**]**

(d) section 139 (appeal against order as to coverage of licensing scheme or licence);

(e) section 142 (application to settle royalty or other sum payable for **[**[F282]lending of certain works**]**;

(f) section 144(4) (application to settle terms of copyright licence available as of right);

[F283](g) . . . . . .

[F283](h) . . . . . .

Textual Amendments

F276 Words in s. 149 substituted (1.12.1996) by S.I. 1996/2967, **reg. 24(2)(a)** (with Pt. III)

F277 S. 149(za) inserted (1.10.1996) by 1996 c. 55, s. 138, **Sch. 9 para. 3** (with s. 43(6)); S.I. 1996/2120, art. 4(1), **Sch. 1**

F278 S. 149(zb) inserted (1.12.1996) by S.I. 1996/2967, **reg. 14(2)** (with Pt. III)

F279 S. 149(ca) inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(6)** (with regs. 31-40)

F280 S. 149(cc) inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 175(2)**

F281 Words in s. 149(cc) 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)

F282 Words in s. 149(e) substituted (1.12.1996) by S.I. 1996/2967, **reg. 13(3)** (with Pt. III)

F283 S. 149(g)(h) omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 24(2)(b)** (with Pt. III)

Modifications etc. (not altering text)

C58 S. 149 amended by Broadcasting Act 1990 (c. 42, SIF 96), s. 176, **Sch. 17 para. 7(1)**

150 General power to make rules.

(1) The Lord Chancellor may, after consultation with the Lord Advocate, make rules for regulating proceedings before the Copyright Tribunal and, subject to the approval of the Treasury, as to the fees chargeable in respect of such proceedings.

[[F284](2) The rules may apply in relation to the Tribunal, as respects proceedings in England and Wales or Northern Ireland, any of the provisions of Part I of the Arbitration Act 1996.**]**

(3) Provision shall be made by the rules—

(a) prohibiting the Tribunal from entertaining a reference under section 118, 119 or 120 by a representative organisation unless the Tribunal is satisfied that the organisation is reasonably representative of the class of persons which it claims to represent;

(b) specifying the parties to any proceedings and enabling the Tribunal to make a party to the proceedings any person or organisation satisfying the Tribunal that they have a substantial interest in the matter; and

(c) requiring the Tribunal to give the parties to proceedings an opportunity to state their case, in writing or orally as the rules may provide.

(4) The rules may make provision for regulating or prescribing any matters incidental to or consequential upon any appeal from the Tribunal under section 152 (appeal to the court on point of law).

(5) Rules 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

F284 S. 150(2) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 50** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with Sch. 2)

Modifications etc. (not altering text)

C59 S. 150: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)

S. 150 modified (30.6.1999) by S.I. 1999/1748, art. 3, **Sch. 1 para. 10**

C60 S. 150(1): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

151 Costs, proof of orders, &c.

(1) The Copyright Tribunal may order that the costs of a party to proceedings before it shall be paid by such other party as the Tribunal may direct; and the Tribunal may tax or settle the amount of the costs, or direct in what manner they are to be taxed.

(2) A document purporting to be a copy of an order of the Tribunal and to be certified by the chairman to be a true copy shall, in any proceedings, be sufficient evidence of the order unless the contrary is proved.

(3) As respect proceedings in Scotland, the Tribunal has the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath, as an arbiter under a submission.

[[F285]151A Award of interest.

(1) Any of the following, namely—

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

(a) a direction under section 123(3) so far as relating to a licence for **[**[F286]communicating a work to the public**]**;
(b) a direction under section 128(3) so far as so relating;
(c) an order under section 135D(1); and
(d) an order under section 135F confirming or varying an order under section 135D(1),

may award simple interest at such rate and for such period, beginning not earlier than the relevant date and ending not later than the date of the order, as the Copyright Tribunal thinks reasonable in the circumstances.

(2) In this section "the relevant date" means—
(a) in relation to a direction under section 123(3), the date on which the reference was made;
(b) in relation to a direction under section 128(3), the date on which the reference or application was made;
(c) in relation to an order section 135D(1), the date on which the first payment under section 135C(2) became due; and
(d) in relation to an order under section 135F, the date on which the application was made.**]**

Textual Amendments

F285 S. 151A inserted (1.11.1996 with effect as mentioned in s. 139(3)) by 1996 c. 55, **s. 139(2)** (with s. 43(6)); S.I. 1996/2120, art. 5, **Sch. 2**

F286 Words in s. 151A(1)(a) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I.2003/2498), reg. 2(1), **Sch. 1 para. 7** (with regs. 31-40)

Appeals

152 Appeal to the court on point of law.

(1) An appeal lies on any point of law arising from a decision of the Copyright Tribunal to the High Court or, in the case of proceedings of the Tribunal in Scotland, to the Court of Session.

(2) Provision shall be made by rules under section 150 limiting the time within which an appeal may be brought.

(3) Provision may be made by rules under that section—
(a) for suspending, or authorising or requiring the Tribunal to suspend, the operation of orders of the Tribunal in cases where its decision is appealed against;
(b) for modifying in relation to an order of the Tribunal whose operation is suspended the operation of any provision of this Act as to the effect of the order;
(c) for the publication of notices or the taking of other steps for securing that persons affected by the suspension of an order of the Tribunal will be informed of its suspension.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

CHAPTER IX

QUALIFICATION FOR AND EXTENT OF COPYRIGHT PROTECTION

Qualification for copyright protection

153 Qualification for copyright protection.

(1) Copyright does not subsist in a work unless the qualification requirements of this Chapter are satisfied as regards—

(a) the author (see section 154), or

(b) the country in which the work was first published (see section 155), or

(c) in the case of a broadcast [F287]. . . , the country from which the broadcast was made [F287]. . . (see section 156).

(2) Subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright (see sections 163 to **[**[F288]166B**]**) or to copyright subsisting by virtue of section 168 (copyright of certain international organisations).

(3) If the qualification requirements of this Chapter, or section 163, 165 or 168, are once satisfied in respect of a work, copyright does not cease to subsist by reason of any subsequent event.

Textual Amendments

F287 Words in s. 153(1)(c) 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)

F288 Words in s. 153(2) substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(3)** (with s. 95); S.I. 1999/3209, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C61 Ss. 153, 154 extended by S.I. 1989/988, **art. 2(1)**

C62 S. 153 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C63 Ss. 153, 154 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts. 2, 3, 4, 5, **Sch. 4** (with art. 6)

Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, **arts. 4(1)(2)(5)**, 5 (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

154 Qualification by reference to author.

(1) A work qualifies for copyright protection if the author was at the material time a qualifying person, that is—

(a) a British citizen, a British Dependent Territories citizen, a British National (Overseas), a British Overseas citizen, a British subject or a British protected person within the meaning of the [M15]British Nationality Act 1981, or

(b) an individual domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend, or

(c) a body incorporated under the law of a part of the United Kingdom or of another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a work also qualifies for copyright protection if at the material time the author was a citizen or subject of, an individual domiciled or resident in, or a body incorporated under the law of, a country to which the Order relates.

(3) A work of joint authorship qualifies for copyright protection if at the material time any of the authors satisfies the requirements of subsection (1) or (2); but where a work qualifies for copyright protection only under this section, only those authors who satisfy those requirements shall be taken into account for the purposes of—

section 11(1) and (2) (first ownership of copyright; entitlement of author or author's employer),

[[F289]section 12 (duration of copyright), and section 9(4) (meaning of "unknown authorship") so far as it applies for the purposes of section 12, and**]**

section 57 (anonymous or pseudonymous works: acts permitted on assumptions as to expiry of copyright or death of author).

(4) The material time in relation to a literary, dramatic, musical or artistic work is—

(a) in the case of an unpublished work, when the work was made or, if the making of the work extended over a period, a substantial part of that period;

(b) in the case of a published work, when the work was first published or, if the author had died before that time, immediately before his death.

(5) The material time in relation to other descriptions of work is as follows—

(a) in the case of a sound recording or film, when it was made;

(b) in the case of a broadcast, when the broadcast was made;

(c) [F290] . . . . . .

(d) in the case of the typographical arrangement of a published edition, when the edition was first published.

Textual Amendments

F289 Paragraph in s. 154(3) substituted (1.1.1996) by S.I. 1995/3297, **reg. 5(3)** (with Pt. III)

F290 S. 154(5)(c) 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)

Modifications etc. (not altering text)

C64 Ss. 153, 154 extended by S.I. 1989/988, **art. 2(1)**

C65 S. 154 extended (1.7.1992) by S.I. 1992/1313, **art. 2**

C66 Ss. 153, 154 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts. 2, 3, 4, 5, **Sch. 4** (with art. 6)

Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 4(1)(2)(5), 5, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Marginal Citations

M15 1981 c. 61.

155 Qualification by reference to country of first publication.

(1) A literary, dramatic, musical or artistic work, a sound recording or film, or the typographical arrangement of a published edition, qualifies for copyright protection if it is first published—

(a) in the United Kingdom, or

(b) in another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), such a work also qualifies for copyright protection if it is first published in a country to which the Order relates.

(3) For the purposes of this section, publication in one country shall not be regarded as other than the first publication by reason of simultaneous publication elsewhere; and for this purpose publication elsewhere within the previous 30 days shall be treated as simultaneous.

Modifications etc. (not altering text)

C67 S. 155 extended with modifications by S.I. 1989/1293, arts. 2(1), 3, 5, 6, Schs. 1, 2, 3, **4**

C68 S. 155 extended (1.7.1992) by S.I. 1992/1313, **art.2**

C69 S. 155 applied (with modifications) (4.5.1993) by S.I. 1993/942, arts.2, 3, 5, **Sch. 4** (with art. 6)
Ss. 153-155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 5, Sch. 1, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)
Ss. 153, 154, 155 applied (with modifications) (22.7.1999) by S.I. 1999/1751, arts. 2(1)(2), 3, 5, Sch. 1, Sch. 2, **Sch. 5** (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

156 Qualification by reference to place of transmission.

(1) A broadcast qualifies for copyright protection if it is made from [F291]. . . a place in—

(a) the United Kingdom, or

(b) another country to which the relevant provisions of this Part extend.

(2) Where, or so far as, provision is made by Order under section 159 (application of this Part to countries to which it does not extend), a broadcast [F291]. . . also qualifies for copyright protection if it is made from [F291]. . . a place in a country to which the Order relates.

Textual Amendments

F291 Words in s. 156(1)(2) 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)

Modifications etc. (not altering text)

C70 S. 156 extended (1.7.1992) by S.I. 1992/1313, **art.2**

C71 S. 156 applied (with modifications) (4.5.1993) by S.I. 1993/942, art.4, 5, **Sch. 4** (with art. 6)

Ss. 153, 154, 156 applied (with modifications) (22.7.1999) by S.I. 1999/1751, **arts. 4(1)(2)(5)**, 5 (as amended 22.4.2003 by S.I. 2003/774, **arts. 2-5**)

Extent and application of this Part

157 Countries to which this Part extends.

(1) This Part extends to England and Wales, Scotland and Northern Ireland.

(2) Her Majesty may by Order in Council direct that this Part shall extend, subject to such exceptions and modifications as may be specified in the Order, to—
  (a) any of the Channel Islands,
  (b) the Isle of Man, or
  (c) any colony.

(3) That power includes power to extend, subject to such exceptions and modifications as may be specified in the Order, any Order in Council made under the following provisions of this Chapter.

(4) The legislature of a country to which this Part has been extended may modify or add to the provisions of this Part, in their operation as part of the law of that country, as the legislature may consider necessary to adapt the provisions to the circumstances of that country—
  (a) as regards procedure and remedies, or
  (b) as regards works qualifying for copyright protection by virtue of a connection with that country.

(5) Nothing in this section shall be construed as restricting the extent of paragraph 36 of Schedule 1 (transitional provisions: dependent territories where the [M16]Copyright Act 1956 or the [M17]Copyright Act 1911 remains in force) in relation to the law of a dependent territory to which this Part does not extend.

Modifications etc. (not altering text)
C72 S. 157(2)(c) extended (8.4.2010) by Digital Economy Act 2010 (c. 24), **ss. 46(4)**, 47(2)(c)

Marginal Citations
M16 1956 c. 74.
M17 1911 c. 46.

158 Countries ceasing to be colonies.

(1) The following provisions apply where a country to which this Part has been extended ceases to be a colony of the United Kingdom.

(2) As from the date on which it ceases to be a colony it shall cease to be regarded as a country to which this Part extends for the purposes of—
  (a) section 160(2)(a) (denial of copyright protection to citizens of countries not giving adequate protection to British works), and
  (b) sections 163 and 165 (Crown and Parliamentary copyright).

(3) But it shall continue to be treated as a country to which this Part extends for the purposes of sections 154 to 156 (qualification for copyright protection) until—

(a) an Order in Council is made in respect of that country under section 159 (application of this Part to countries to which it does not extend), or

(b) an Order in Council is made declaring that it shall cease to be so treated by reason of the fact that the provisions of this Part as part of the law of that country have been repealed or amended.

(4) A statutory instrument containing an Order in Council under subsection (3)(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

159 Application of this Part to countries to which it does not extend.

(1) Her Majesty may by Order in Council make provision for applying in relation to a country to which this Part does not extend any of the provisions of this Part specified in the Order, so as to secure that those provisions—

(a) apply in relation to persons who are citizens or subjects of that country or are domiciled or resident there, as they apply to persons who are British citizens or are domiciled or resident in the United Kingdom, or

(b) apply in relation to bodies incorporated under the law of that country as they apply in relation to bodies incorporated under the law of a part of the United Kingdom, or

(c) apply in relation to works first published in that country as they apply in relation to works first published in the United Kingdom, or

(d) apply in relation to broadcasts made from [F292]. . . that country as they apply in relation to broadcasts made from [F292]. . . the United Kingdom.

(2) An Order may make provision for all or any of the matters mentioned in subsection (1) and may—

(a) apply any provisions of this Part subject to such exceptions and modifications as are specified in the Order; and

(b) direct that any provisions of this Part apply either generally or in relation to such classes of works, or other classes of case, as are specified in the Order.

(3) Except in the case of a Convention country or another member State of the European Economic Community, Her Majesty shall not make an Order in Council under this section in relation to a country unless satisfied that provision has been or will be made under the law of that country, in respect of the class of works to which the Order relates, giving adequate protection to the owners of copyright under this Part.

(4) In subsection (3) "Convention country" means a country which is a party to a Convention relating to copyright to which the United Kingdom is also a party.

(5) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F292 Words in s. 159(1)(d) 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)

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

160 Denial of copyright protection to citizens of countries not giving adequate protection to British works.

(1) If it appears to Her Majesty that the law of a country fails to give adequate protection to British works to which this section applies, or to one or more classes of such works, Her Majesty may make provision by Order in Council in accordance with this section restricting the rights conferred by this Part in relation to works of authors connected with that country.

(2) An Order in Council under this section shall designate the country concerned and provide that, for the purposes specified in the Order, works first published after a date specified in the Order shall not be treated as qualifying for copyright protection by virtue of such publication if at that time the authors are—

(a) citizens or subjects of that country (not domiciled or resident in the United Kingdom or another country to which the relevant provisions of this Part extend), or

(b) bodies incorporated under the law of that country;

and the Order may make such provision for all the purposes of this Part or for such purposes as are specified in the Order, and either generally or in relation to such class of cases as are specified in the Order, having regard to the nature and extent of that failure referred to in subsection (1).

(3) This section applies to literary, dramatic, musical and artistic works, sound recordings and films; and "British works" means works of which the author was a qualifying person at the material time within the meaning of section 154.

(4) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Supplementary

161 Territorial waters and the continental shelf.

(1) For the purposes of this Part the territorial waters of the United Kingdom shall be treated as part of the United Kingdom.

(2) This Part applies to things done in the United Kingdom sector of the continental shelf on a structure or vessel which is present there for purposes directly connected with the exploration of the sea bed or subsoil or the exploitation of their natural resources as it applies to things done in the United Kingdom.

(3) The United Kingdom sector of the continental shelf means the areas designated by order under section 1(7) of the [M18]Continental Shelf Act 1964.

Modifications etc. (not altering text)

C73 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Marginal Citations

M18 1964 c. 29.

162 British ships, aircraft and hovercraft.

(1) This Part applies to things done on a British ship, aircraft or hovercraft as it applies to things done in the United Kingdom.

(2) In this section—

"British ship" means a ship which is a British ship for the purposes of the **[**[F293]Merchant Shipping Act 1995**]** otherwise than by virtue of registration in a country outside the United Kingdom; and

"British aircraft" and "British hovercraft" mean an aircraft or hovercraft registered in the United Kingdom.

Textual Amendments

F293 Words in s. 162(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 84(a)** (with s. 312(1))

Modifications etc. (not altering text)

C74 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

CHAPTER X

MISCELLANEOUS AND GENERAL

Crown and Parliamentary copyright

163 Crown copyright.

(1) Where a work is made by Her Majesty or by an officer or servant of the Crown in the course of his duties—

(a) the work qualifies for copyright protection notwithstanding section 153(1) (ordinary requirement as to qualification for copyright protection), and

(b) Her Majesty is the first owner of any copyright in the work.

[[F294](1A) For the purposes of this section, works made by Her Majesty include any sound recording, film **[**[F295]or live broadcast**]** of the proceedings of the National Assembly for Wales (including proceedings of a committee of the Assembly or of a sub-committee of such a committee) which is made by or under the direction or control of the Assembly; but a work shall not be regarded as made by or under the direction or control of the Assembly by reason only of its being commissioned by or on behalf of the Assembly.**]**

(2) Copyright in such a work is referred to in this Part as "Crown copyright", notwithstanding that it may be, or have been, assigned to another person.

(3) Crown copyright in a literary, dramatic, musical or artistic work continues to subsist—

(a) until the end of the period of 125 years from the end of the calendar year in which the work was made, or

(b) if the work is published commercially before the end of the period of 75 years from the end of the calendar year in which it was made, until the end of the

period of 50 years from the end of the calendar year in which it was first so published.

(4) In the case of a work of joint authorship where one or more but not all of the authors are persons falling within subsection (1), this section applies only in relation to those authors and the copyright subsisting by virtue of their contribution to the work.

(5) Except as mentioned above, and subject to any express exclusion elsewhere in this Part, the provisions of this Part apply in relation to Crown copyright as to other copyright.

(6) This section does not apply to a work if, or to the extent that, Parliamentary copyright subsists in the work (see sections 165 **[**[F296]to **[**[F297]166B**]]**).

Textual Amendments

F294 S. 163(1A) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 28** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

F295 Words in s. 163(1A) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 11(a)** (with regs. 31-40)

F296 Words in s. 163(6) substituted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(4)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

F297 Words in s. 163(6) substituted (2.12.1999) by 1998 c. 47, ss. 99, 101(3), **Sch. 13 para. 8(4)** (with s. 95)

164 Copyright in Acts and Measures.

(1) Her Majesty is entitled to copyright in every Act of Parliament **[**[F298]Act of the Scottish Parliament**][**[F299], Act of the Northern Ireland Assembly**]** or Measure of the General Synod of the Church of England.

(2) The copyright subsists from Royal Assent until the end of the period of 50 years from the end of the calendar year in which Royal Assent was given.

(3) References in this Part to Crown copyright (except in section 163) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Crown copyright.

(4) No other copyright, or right in the nature of copyright, subsists in an Act or Measure.

Textual Amendments

F298 Words in s. 164(1) inserted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(5)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

F299 Words in s. 164(1) inserted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(5)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

165 Parliamentary copyright.

(1) Where a work is made by or under the direction or control of the House of Commons or the House of Lords—

(a) the work qualifies for copyright protection notwithstanding section 153(1) (ordinary requirement as to qualification for copyright protection), and

(b) the House by whom, or under whose direction or control, the work is made is the first owner of any copyright in the work, and if the work is made by or under the direction or control of both Houses, the two Houses are joint first owners of copyright.

(2) Copyright in such a work is referred to in this Part as "Parliamentary copyright", notwithstanding that it may be, or have been, assigned to another person.

(3) Parliamentary copyright in a literary, dramatic, musical or artistic work continues to subsist until the end of the period of 50 years from the end of the calendar year in which the work was made.

(4) For the purposes of this section, works made by or under the direction or control of the House of Commons or the House of Lords include—

(a) any work made by an officer or employee of that House in the course of his duties, and

(b) any sound recording, film **[**[F300]or live broadcast**]** of the proceedings of that House;

but a work shall not be regarded as made by or under the direction or control of either House by reason only of its being commissioned by or on behalf of that House.

(5) In the case of a work of joint authorship where one or more but not all of the authors are acting on behalf of, or under the direction or control of, the House of Commons or the House of Lords, this section applies only in relation to those authors and the copyright subsisting by virtue of their contribution to the work.

(6) Except as mentioned above, and subject to any express exclusion elsewhere in this Part, the provisions of this Part apply in relation to Parliamentary copyright as to other copyright.

(7) The provisions of this section also apply, subject to any exceptions or modifications specified by Order in Council, to works made by or under the direction or control of any other legislative body of a country to which this Part extends; and references in this Part to "Parliamentary copyright" shall be construed accordingly.

(8) A statutory instrument containing an Order in Council under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F300 Words in s. 165(4)(b) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 11(b)** (with regs. 31-40)

Modifications etc. (not altering text)

C75 S. 165 modified (6.5.1999) by S.I. 1999/676, **art. 2**
S. 165 modified (2.12.1999) by S.I. 1999/3146, **arts. 1(1)**, 2; S.I. 1999/3208, **art. 2**

C76 S. 165 modified (3.5.2007 in accordance with art. 1(2) of the amending S.I.) by The Parliamentary Copyright (National Assembly for Wales) Order 2007 (S.I. 2007/1116), **art. 2**

166 Copyright in Parliamentary Bills.

(1) Copyright in every Bill introduced into Parliament belongs, in accordance with the following provisions, to one or both of the Houses of Parliament.

(2) Copyright in a public Bill belongs in the first instance to the House into which the Bill is introduced, and after the Bill has been carried to the second House to both Houses jointly, and subsists from the time when the text of the Bill is handed in to the House in which it is introduced.

(3) Copyright in a private Bill belongs to both Houses jointly and subsists from the time when a copy of the Bill is first deposited in either House.

(4) Copyright in a personal Bill belongs in the first instance to the House of Lords, and after the Bill has been carried to the House of Commons to both Houses jointly, and subsists from the time when it is given a First Reading in the House of Lords.

(5) Copyright under this section ceases—
   (a) on Royal Assent, or
   (b) if the Bill does not receive Royal Assent, on the withdrawal or rejection of the Bill or the end of the Session:

   Provided that, copyright in a Bill continues to subsist notwithstanding its rejection in any Session by the House of Lords if, by virtue of the Parliament Acts 1911 and 1949, it remains possible for it to be presented for Royal Assent in that Session.

(6) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

(7) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having passed in one Session, is reintroduced in a subsequent Session.

[F301 166A Copyright in Bills of the Scottish Parliament.

(1) Copyright in every Bill introduced into the Scottish Parliament belongs to the Scottish Parliamentary Corporate Body.

(2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Parliament for introduction—
   (a) until the Bill receives Royal Assent, or
   (b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further parliamentary proceedings may be taken in respect of it.

(3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

(4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Parliament.]

Textual Amendments

F301 S. 166A inserted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(6)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

[F302 166B Copyright in Bills of the Northern Ireland Assembly.

(1) Copyright in every Bill introduced into the Northern Ireland Assembly belongs to the Northern Ireland Assembly Commission.

(2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—

(a) until the Bill receives Royal Assent, or

(b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.

(3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

(4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly.**]**

Textual Amendments

F302 S. 166B inserted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(6)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

VALID FROM 03/05/2007

[F303 166C Copyright in proposed Measures of the National Assembly for Wales

(1) Copyright in every proposed Assembly Measure introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.

(2) Copyright under this section subsists from the time when the text of the proposed Assembly Measure is handed in to the Assembly for introduction—

(a) until the proposed Assembly Measure is approved by Her Majesty in Council, or

(b) if the proposed Assembly Measure is not approved by Her Majesty in Council, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.

(3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(4) No other copyright, or right in the nature of copyright, subsists in a proposed Assembly Measure after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a proposed Assembly Measure which, not having been approved by Her Majesty in Council, is later reintroduced into the Assembly.

Textual Amendments

F303 Ss. 166C, 166D inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 28** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

VALID FROM 03/05/2007

166D Copyright in Bills of the National Assembly for Wales

(1) Copyright in every Bill introduced into the National Assembly for Wales belongs to the National Assembly for Wales Commission.

(2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—

(a) until the Bill receives Royal Assent, or

(b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.

(3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

(4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly.**]**

Textual Amendments

F303 Ss. 166C, 166D inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 28** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

167 Houses of Parliament: supplementary provisions with respect to copyright.

(1) For the purposes of holding, dealing with and enforcing copyright, and in connection with all legal proceedings relating to copyright, each House of Parliament shall be treated as having the legal capacities of a body corporate, which shall not be affected by a prorogation or dissolution.

(2) The functions of the House of Commons as owner of copyright shall be exercised by the Speaker on behalf of the House; and if so authorised by the Speaker, or in case of a vacancy in the office of Speaker, those functions may be discharged by the Chairman of Ways and Means or a Deputy Chairman.

(3) For this purpose a person who on the dissolution of Parliament was Speaker of the House of Commons, Chairman of Ways and Means or a Deputy Chairman may continue to act until the corresponding appointment is made in the next Session of Parliament.

(4) The functions of the House of Lords as owner of copyright shall be exercised by the Clerk of the Parliaments on behalf of the House; and if so authorised by him, or in case of a vacancy in the office of Clerk of the Parliaments, those functions may be discharged by the Clerk Assistant or the Reading Clerk.

(5) Legal proceedings relating to copyright—
   (a) shall be brought by or against the House of Commons in the name of "The Speaker of the House of Commons"; and
   (b) shall be brought by or against the House of Lords in the name of "The Clerk of the Parliaments".

Other miscellaneous provisions

168 Copyright vesting in certain international organisations.

(1) Where an original literary, dramatic, musical or artistic work—
   (a) is made by an officer or employee of, or is published by, an international organisation to which this section applies, and
   (b) does not qualify for copyright protection under section 154 (qualification by reference to author) or section 155 (qualification by reference to country of first publication),

   copyright nevertheless subsists in the work by virtue of this section and the organisation is first owner of that copyright.

(2) The international organisations to which this section applies are those as to which Her Majesty has by Order in Council declared that it is expedient that this section should apply.

(3) Copyright of which an international organisation is first owner by virtue of this section continues to subsist until the end of the period of 50 years from the end of the calendar year in which the work was made or such longer period as may be specified by Her Majesty by Order in Council for the purpose of complying with the international obligations of the United Kingdom.

(4) An international organisation to which this section applies shall be deemed to have, and to have had at all material times, the legal capacities of a body corporate for the

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

purpose of holding, dealing with and enforcing copyright and in connection with all legal proceedings relating to copyright.

(5) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

169 Folklore, &c.: anonymous unpublished works.

(1) Where in the case of an unpublished literary, dramatic, musical or artistic work of unknown authorship there is evidence that the author (or, in the case of a joint work, any of the authors) was a qualifying individual by connection with a country outside the United Kingdom, it shall be presumed until the contrary is proved that he was such a qualifying individual and that copyright accordingly subsists in the work, subject to the provisions of this Part.

(2) If under the law of that country a body is appointed to protect and enforce copyright in such works, Her Majesty may by Order in Council designate that body for the purposes of this section.

(3) A body so designated shall be recognised in the United Kingdom as having authority to do in place of the copyright owner anything, other than assign copyright, which it is empowered to do under the law of that country; and it may, in particular, bring proceedings in its own name.

(4) A statutory instrument containing an Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In subsection (1) a "qualifying individual" means an individual who at the material time (within the meaning of section 154) was a person whose works qualified under that section for copyright protection.

(6) This section does not apply if there has been an assignment of copyright in the work by the author of which notice has been given to the designated body; and nothing in this section affects the validity of an assignment of copyright made, or licence granted, by the author or a person lawfully claiming under him.

Transitional provisions and savings

170 Transitional provisions and savings.

Schedule 1 contains transitional provisions and savings relating to works made, and acts or events occurring, before the commencement of this Part, and otherwise with respect to the operation of the provisions of this Part.

171 Rights and privileges under other enactments or the common law.

(1) Nothing in this Part affects—

(a) any right or privilege of any person under any enactment (except where the enactment is expressly repealed, amended or modified by this Act);

(b) any right or privilege of the Crown subsisting otherwise than under an enactment;

(c) any right or privilege of either House of Parliament;

(d) the right of the Crown or any person deriving title from the Crown to sell, use or otherwise deal with articles forfeited under the laws relating to customs and excise;

(e) the operation of any rule of equity relating to breaches of trust or confidence.

(2) Subject to those savings, no copyright or right in the nature of copyright shall subsist otherwise than by virtue of this Part or some other enactment in that behalf.

(3) Nothing in this Part affects any rule of law preventing or restricting the enforcement of copyright, on grounds of public interest or otherwise.

(4) Nothing in this Part affects any right of action or other remedy, whether civil or criminal, available otherwise than under this Part in respect of acts infringing any of the rights conferred by Chapter IV (moral rights).

(5) The savings in subsection (1) have effect subject to section 164(4) and section 166(7) (copyright in Acts, Measures and Bills: exclusion of other rights in the nature of copyright).

Modifications etc. (not altering text)

C77 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Interpretation

172 General provisions as to construction.

(1) This Part restates and amends the law of copyright, that is, the provisions of the [M19]Copyright Act 1956, as amended.

(2) A provision of this Part which corresponds to a provision of the previous law shall not be construed as departing from the previous law merely because of a change of expression.

(3) Decisions under the previous law may be referred to for the purpose of establishing whether a provision of this Part departs from the previous law, or otherwise for establishing the true construction of this Part.

Modifications etc. (not altering text)

C78 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Marginal Citations

M19 1956 c. 74.

[F304[F305172A Meaning of EEA and related expressions.

(1) In this Part—

"the EEA" means the European Economic Area;

"EEA national" means a national of an EEA state; and

"EEA state" means a state which is a contracting party to the EEA Agreement.]

(2) References in this Part to a person being an EEA national shall be construed in relation to a body corporate as references to its being incoporated under the law of an EEA state.

(3) The "EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.**]**

Textual Amendments

F304 S. 172A inserted (1.1.1996) by S.I. 1995/3297, **reg. 11(1)** (with Pt. III)

F305 S. 172A(1) and sidenote substituted (1.12.1996) by S.I. 1996/2967, **reg. 9(5)** (with Pt. III)

Modifications etc. (not altering text)

C79 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

173 Construction of references to copyright owner.

(1) Where different persons are (whether in consequence of a partial assignment or otherwise) entitled to different aspects of copyright in a work, the copyright owner for any purpose of this Part is the person who is entitled to the aspect of copyright relevant for that purpose.

(2) Where copyright (or any aspect of copyright) is owned by more than one person jointly, references in this Part to the copyright owner are to all the owners, so that, in particular, any requirement of the licence of the copyright owner requires the licence of all of them.

Modifications etc. (not altering text)

C80 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

174 Meaning of "educational establishment" and related expressions.

(1) The expression "educational establishment" in a provision of this Part means—

(a) any school, and

(b) any other description of educational establishment specified for the purposes of this Part, or that provision, by order of the Secretary of State.

(2) The Secretary of State may by order provide that the provisions of this Part relating to educational establishments shall apply, with such modifications and adaptations as may be specified in the order, in relation to teachers who are employed by a local education authority to give instruction elsewhere to pupils who are unable to attend an educational establishment.

(3) In subsection (1)(a) "school"—

(a) in relation to England and Wales, has the same meaning as in **[**[F306]the Education Act 1996**]**;

(b) in relation to Scotland, has the same meaning as in the [M20]Education (Scotland) Act 1962, except that it includes an approved school within the meaning of the [M21]Social Work (Scotland) Act 1968; and

(c) in relation to Northern Ireland, has the same meaning as in the [M22]Education and Libraries (Northern Ireland) Order 1986.

(4) An order under subsection (1)(b) may specify a description of educational establishment by reference to the instruments from time to time in force under any enactment specified in the order.

(5) In relation to an educational establishment the expressions "teacher" and "pupil" in this Part include, respectively, any person who gives and any person who receives instruction.

(6) References in this Part to anything being done "on behalf of" an educational establishment are to its being done for the purposes of that establishment by any person.

(7) 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

F306 Words in s. 174(3) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 83** (with Sch. 39)

Modifications etc. (not altering text)

C81 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

Marginal Citations

M20 1962 c. 47.
M21 1968 c. 49.
M22 S.I. 1986/594 (N.I.3).

175 Meaning of publication and commercial publication.

(1) In this Part "publication", in relation to a work—

(a) means the issue of copies to the public, and

(b) includes, in the case of a literary, dramatic, musical or artistic work, making it available to the public by means of an electronic retrieval system;

and related expressions shall be construed accordingly.

(2) In this Part "commercial publication", in relation to a literary, dramatic, musical or artistic work means—

(a) issuing copies of the work to the public at a time when copies made in advance of the receipt of orders are generally available to the public, or

(b) making the work available to the public by means of an electronic retrieval system;

and related expressions shall be construed accordingly.

(3) In the case of a work of architecture in the form of a building, or an artistic work incorporated in a building, construction of the building shall be treated as equivalent to publication of the work.

(4) The following do not constitute publication for the purposes of this Part and references to commercial publication shall be construed accordingly—

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

(a) in the case of a literary, dramatic or musical work—
  (i) the performance of the work, or
  (ii) the **[**[F307]communication to the public of the work**]** (otherwise than for the purposes of an electronic retrieval system);

(b) in the case of an artistic work—
  (i) the exhibition of the work,
  (ii) the issue to the public of copies of a graphic work representing, or of photographs of, a work of architecture in the form of a building or a model for a building, a sculpture or a work of artistic craftsmanship,
  (iii) the issue to the public of copies of a film including the work, or
  (iv) the **[**[F307]communication to the public of the work**]** (otherwise than for the purposes of an electronic retrieval system);

(c) in the case of a sound recording or film—
  (i) the work being played or shown in public, or
  (ii) the **[**[F307]communication to the public of the work**]**.

(5) References in this Part to publication or commercial publication do not include publication which is merely colourable and not intended to satisfy the reasonable requirements of the public.

(6) No account shall be taken for the purposes of this section of any unauthorised act.

Textual Amendments

F307 Words in s. 175(4)(a)(ii)(b)(iv)(c)(ii) substituted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 6(1)** (with regs. 31-40)

Modifications etc. (not altering text)

C82 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

176 Requirement of signature: application in relation to body corporate.

(1) The requirement in the following provisions that an instrument be signed by or on behalf of a person is also satisfied in the case of a body corporate by the affixing of its seal—

section 78(3)(b) (assertion by licensor of right to identification of author in case of public exhibition of copy made in pursuance of the licence),

section 90(3) (assignment of copyright),

section 91(1) (assignment of future copyright),

section 92(1) (grant of exclusive licence).

(2) The requirement in the following provisions that an instrument be signed by a person is satisfied in the case of a body corporate by signature on behalf of the body or by the affixing of its seal—

section 78(2)(b) (assertion by instrument in writing of right to have author identified),

section 87(2) (waiver of moral rights).

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

Modifications etc. (not altering text)
C83 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

177 Adaptation of expressions for Scotland.

In the application of this Part to Scotland—

"account of profits" means accounting and payment of profits;
"accounts" means count, reckoning and payment;
"assignment" means assignation;
"costs" means expenses;
"defendant" means defender;
"delivery up" means delivery;
"estoppel" means personal bar;
"injunction" means interdict;
"interlocutory relief" means interim remedy; and
"plaintiff" means pursuer.

Modifications etc. (not altering text)
C84 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

178 Minor definitions.

In this Part—

"article", in the context of an article in a periodical, includes an item of any description;

"business"includes a trade or profession;

"collective work" means—

(a) a work of joint authorship, or

(b) a work in which there are distinct contributions by different authors or in which works or parts of works of different authors are incorporated;

"computer-generated", in relation to a work, means that the work is generated by computer in circumstances such that there is no human author of the work;

"country" includes any territory;

"the Crown" includes the Crown in right of **[**[F308]the Scottish Administration or of**]** Her Majesty's Government in Northern Ireland or in any country outside the United Kingdom to which this Part extends;

"electronic" means actuated by electric, magnetic, electro-mechanical energy, and "in electronic form" means in a form usable only by electronic means;

"employed", "employee", "employer", and "employment" refer to employment under a contract of service or of apprenticeship;

"facsimile copy" includes a copy which is reduced or enlarged in scale;

"international organisation" means an organisation the members of which include one or more states;

"judicial proceedings"includes proceedings before any court, tribunal or person having authority to decide any matter affecting a person's legal rights or liabilities;

"parliamentary proceedings" includes proceedings of the Northern Ireland Assembly **[**[F309]of the Scottish Parliament**]**[[F310], of the New Northern Ireland Assembly**]**or of the European Parliament;

[[F311]"private study" does not include any study which is directly or indirectly for a commercial purpose;**]**

[[F312]"producer", in relation to a sound recording or a film, means the person by whom the arrangements necessary for the making of the sound recording or film are undertaken;**]**

[[F313]"public library" means a library administered by or on behalf of—

(a) in England and Wales, a library authority within the meaning of the Public Libraries and Museums Act 1964;

(b) in Scotland, a statutory library authority within the meaning of the Public Libraries (Scotland) Act 1955;

(c) in Northern Ireland, an Education and Library Board within the meaning of the Education and Libraries (Northern Ireland) Order 1986;**]**

F314
. . . . . .

[[F315]"rental right" means the right of a copyright owner to authorise or prohibit the rental of copies of the work (see section 18A);**]**

"reprographic copy" and "reprographic copying" refer to copying by means of a reprographic process;

"reprographic process" means a process—

(a) for making facsimile copies, or

(b) involving the use of an appliance for making multiple copies,

and includes, in relation to a work held in electronic form, any copying by electronic means, but does not include the making of a film or sound recording;

"sufficient acknowledgement" means an acknowledgement identifying the work in question by its title or other description, and identifying the author unless—

(a) in the case of a published work, it is published anonymously;

(b) in the case of an unpublished work, it is not possible for a person to ascertain the identity of the author by reasonable inquiry;

"sufficient disclaimer", in relation to an act capable of infringing the right conferred by section 80 (right to object to derogatory treatment of work), means a clear and reasonably prominent indication—

(a) given at the time of the act, and

(b) if the author or director is then identified, appearing along with the identification,

that the work has been subjected to treatment to which the author or director has not consented,

"telecommunications system" means a system for conveying visual images, sounds or other information by electronic means;

"typeface" includes an ornamental motif used in printing;

"unauthorised", as regards anything done in relation to a work, means done otherwise than—

(a) by or with the licence of the copyright owner, or

(b) if copyright does not subsist in the work, by or with the licence of the author or, in a case where section 11(2) would have applied, the author's employer or, in either case, persons lawfully claiming under him, or

(c) in pursuance of section 48 (copying, &c of certain material by the Crown);

[[F316]"wireless broadcast" means a broadcast by means of wireless telegraphy;**]**

"wireless telegraphy" means the sending of electro-magnetic energy over paths not provided by a material substance constructed or arranged for that purpose **[**[F317], but does not include the transmission of microwave energy between terrestrial fixed points**]**;

"writing" includes any form of notation or code, whether by hand or otherwise and regardless of the method by which, or medium in or on which, it is recorded, and "written" shall be construed accordingly

Textual Amendments

F308 Words in s. 178 inserted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(7)(a)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

F309 Words in s. 178 inserted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(7)(b)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

F310 Words in s. 178 cease to have effect (2.12.1999) by virtue of 1998 c. 47, s. 99, **Sch. 13 para. 8(7)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

F311 S. 178: definition of "private study" inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(3)** (with regs. 31-40)

F312 Definition in s. 178 inserted (1.12.1996 with effect in relation to films made on or after 31.7.1994) by S.I. 1996/2967, **regs. 18(5)**, 36 (with Pt. III)

F313 Definition in s. 178 inserted (1.12.1996) by S.I. 1996/2967, **reg. 11(5)** (with Pt. III)

F314 Definition in s. 178 omitted (1.12.1996) by virtue of S.I. 1996/2967, **reg. 10(3)** (with Pt. III)

F315 Definition in s. 178 inserted (1.12.1996) by S.I. 1996/2967, **reg. 10(3)** (with Pt. III)

F316 S. 178: definition of "wireless broadcast" inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(3)** (with regs. 31-40)

F317 Words in s. 178 inserted (1.12.1996) by S.I. 1996/2967, **reg. 8** (with Pt. III)

Modifications etc. (not altering text)

C85 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

179 Index of defined expressions.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section)—

[[F318]accessible copy	section 31F(3)**]**
account of profits and accounts (in Scotland)	section 177
acts restricted by copyright	section 16(1)
adaptation	section 21(3)
[[F318]approved body	section 31B(12)**]**
archivist (in sections 37 to 43)	section 37(6)
article (in a periodical)	section 178
artistic work	section 4(1)
assignment (in Scotland)	section 177

Status: *Point in time view as at 18/04/2005. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part I. (See end of Document for details)*

author	sections 9 and 10(3)
broadcast (and related expressions)	section 6
building	section 4(2)
business	section 178
F319	**F320**
. . .	. . . . .
collective work	section 178
commencement (in Schedule 1)	paragraph 1(2) of that Schedule
commercial publication	section 175
[F321communication to the public	section 20**]**
computer-generated	section 178
copy and copying	section 17
copyright (generally)	section 1
copyright (in Schedule 1)	paragraph 2(2) of that Schedule
copyright owner	sections 101(2) and 173
Copyright Tribunal	section 145
copyright work	section 1(2)
costs (in Scotland)	section 177
country	section 178
[F322country of origin**]**	**[**F322section 15A.**]**
the Crown	section 178
Crown copyright	sections 163(2) and 164(3)
[F323database**]**	**[**F323section 3A(1)**]**
defendant (in Scotland)	section 177
delivery up (in Scotland)	section 177
dramatic work	section 3(1)
educational establishment	sections 174(1) to (4)
electronic and electronic form	section 178
employed, employee, employer and employment	section 178
[F324excepted sound recording	section 72(1A)**]**
exclusive licence	section 92(1)
[F325EEA,**][**F326EEA national and EEA state**]**	**[**F326section 172A**]**
existing works (in Schedule 1)	paragraph 1(3) of that Schedule
facsimile copy	section 178

film	**[**[F327]section 5B**]**
future copyright	section 91(2)
general licence (in sections 140 and 141)	section 140(7)
graphic work	section 4(2)
infringing copy	section 27
injunction (in Scotland)	section 177
interlocutory relief (in Scotland)	section 177
international organisation	section 178
issue of copies to the public	**[**[F328]section 18**]**
joint authorship (work of)	sections 10(1) and (2)
judicial proceedings	section 178
[[F329]lawful user (in sections 50A to 50C)**]**	**[**[F329]section 50A(2).**]**
[[F330]lending**]**	**[**[F330]section 18A(2) to (6)**]**
librarian (in sections 37 to 43)	section 37(6)
licence (in sections 125 to 128)	section 124
licence of copyright owner	sections 90(4), 91(3) and 173
licensing body (in Chapter VII)	section 116(2)
licensing scheme (generally)	section 116(1)
licensing scheme (in sections 118 to 121)	section 117
literary work	section 3(1)
made (in relation to a literary, dramatic or musical work)	section 3(2)
musical work	section 3(1)
[[F331]needletime**]**	**[**[F331]section 135A**]**
the new copyright provisions (in Schedule 1)	paragraph 1(1) of that Schedule
the 1911 Act (in Schedule 1)	paragraph 1(1) of that Schedule
the 1956 Act (in Schedule 1)	paragraph 1(1) of that Schedule
on behalf of (in relation to an educational establishment)	section 174(5)
[[F323]original (in relation to a database)**]**	**[**[F323]section 3A(2)**]**
Parliamentary copyright	sections 165(2) and (7) **[**[F332]166(6) **[**[F333]166A(3) and 166B(3)**]]**
parliamentary proceedings	section 178
performance	section 19(2)
photograph	section 4(2)

plaintiff (in Scotland)	section 177
prescribed conditions (in sections 38 to 43)	section 37(1)(b)
prescribed library or archive (in sections 38 to 43)	section 37(1)(a)
[[F334]private study	section 178**]**
[[F335]producer (in relation to a sound recording or film**]**	**[**[F335]section 178.**]**
programme (in the context of broadcasting)	section 6(3)
prospective owner (of copyright)	section 91(2)
[[F336]public library**]**	**[**[F336]section 178.**]**
publication and related expressions	section 175
published edition (in the context of copyright in the typographical arrangement)	section 8
pupil	section 174(5)
rental	**[**[F337]section 18A(2) to (6)**]**
[[F330]rental right**]**	**[**[F330]section 178.**]**
reprographic copies and repographic copying	section 178
reprographic process	section 178
sculpture	section 4(2)
signed	section 176
sound recording	**[**[F338]sections 5A and 135A**]**
sufficient acknowledgement	section 178
sufficient disclaimer	section 178
teacher	section 174(5)
telecommunications system	section 178
[[F331]terms of payment**]**	**[**[F331]section 135A**]**
typeface	section 178
unauthorised (as regards things done in relation to a work)	section 178
unknown (in relation to the author of a work)	section 9(5)
unknown authorship (work of)	section 9(4)
[[F318]visually impaired person	section 31F(9)**]**
[[F339]wireless broadcast	section 178**]**

wireless telegraphy	section 178
work (in Schedule 1)	paragraph 2(1) of that Schedule
work of more than one author (in Chapter VII)	section 116(4)
writing and written	section 178

Textual Amendments

F318 Words in s. 179 inserted (31.10.2003) by 2002 c. 33, ss. 7(2), 8(2); S.I. 2003/2499, **art. 2**

F319 S. 179: entry for "cable programme, cable programme service (and related expressions)" 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)

F320 Words in s. 179 repealed (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(2), **Sch. 2** (with regs. 32, 33)

F321 Words in s. 179 inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(4)** (with regs. 31-40)

F322 Words in s. 179 inserted (1.1.1996) by S.I. 1995/3297, **reg. 8(2)** (with Pt. III)

F323 Words in s. 179 inserted (1.1.1998) by S.I. 1997/3032, **reg. 11** (with Pt. IV)

F324 Words in s. 179 inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 21(7)** (with regs. 31-40)

F325 Words in s. 179 inserted (1.12.1996) by S.I. 1996/2967, **reg. 9(6)(a)** (with Pt. III)

F326 Words in s. 179 inserted (1.1.1996) by S.I. 1995/3297, **reg. 11(2)** (with Pt. III)

F327 Words in s. 179 substituted (1.1.1996) by S.I. 1995/3297, **reg. 9(5)(a)** (with Pt. III)

F328 Words in s. 179 inserted (1.12.1996) by S.I. 1996/2967, **reg. 9(6)(b)** (with Pt. III)

F329 Words in s. 179 inserted (1.1.1993) by S.I. 1992/3233, **reg. 9**

F330 Words in s. 179 inserted (1.12.1996) by S.I. 1996/2967, **reg. 10(4)** (with Pt. III)

F331 Words inserted by Broadcasting Act 1990 (c.42, SIF 96), **s. 175(3)**

F332 Words in s. 179 substituted (6.5.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 25(8)**; S.I. 1998/3178, art. 2(2), **Sch. 3**

F333 Words in s. 179 substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 8(8)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

F334 Words in s. 179 inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(4)** (with regs. 31-40)

F335 Words in s. 179 inserted (1.12.1996 with effect in relation to films made on or after 1.7.1994) by S.I. 1996/2967, **regs. 18(6)**, 36 (with Pt. III)

F336 Words in s. 179 inserted (1.12.1996) by S.I. 1996/2967, **reg. 11(6)** (with Pt. III)

F337 Words in s. 179 substituted (1.12.1996) by S.I. 1996/2967, **reg. 10(4)** (with Pt. III)

F338 Words in s. 179 substituted (1.1.1996) by S.I. 1995/3297, **reg. 9(5)(b)** (with Pt. III)

F339 Words in s. 179 inserted (31.10.2003) by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. 2(1), **Sch. 1 para. 15(4)** (with regs. 31-40)

Modifications etc. (not altering text)

C86 Ss. 161, 162, 171(1)(3), 172-179 applied (1.12.1996) by S.I. 1996/2967, **reg. 17(4)** (with Pt. III)

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