



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER II

RIGHTS OF COPYRIGHT OWNER

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) ^[F1]Subject to subsection (3A)] 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.

^[F2](3A) A copy of a computer program which has previously been sold in any other member State, by or with the consent of the copyright owner, is not an infringing copy for the purposes of subsection (3).]

- (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,

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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—
- 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 or cable programme), or
 - any provision of an order under section 141 (statutory licence for certain reprographic copying by educational establishments).

Textual Amendments

F1 Words in s. 27(3) inserted (1.1.1993) by S.I. 1992/3233, reg.6

F2 S. 27(3A) inserted (1.1.1993) by S.I. 1992/3233, reg.6

Marginal Citations

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