



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

##### ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS

###### **Modifications etc. (not altering text)**

- C1** Pt. I Ch. III (ss. 28–76) amended by [Broadcasting Act 1990](#) (c. 42, SIF 96), s. 176, **Sch. 17 para. 7(1)**
- C2** 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](#))
- C3** 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.

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- (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*

#### **[<sup>F1</sup>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**

**F1** 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](#))

#### **[<sup>F2</sup>28B Personal copies for private use**

- (1) The making of a copy of a work, other than a computer program, by an individual does not infringe copyright in the work provided that the copy—
  - (a) is a copy of—
    - (i) the individual’s own copy of the work, or
    - (ii) a personal copy of the work made by the individual,
  - (b) is made for the individual’s private use, and
  - (c) is made for ends which are neither directly nor indirectly commercial.
- (2) In this section “the individual’s own copy” is a copy which—
  - (a) has been lawfully acquired by the individual on a permanent basis,
  - (b) is not an infringing copy, and
  - (c) has not been made under any provision of this Chapter which permits the making of a copy without infringing copyright.
- (3) In this section a “personal copy” means a copy made under this section.
- (4) For the purposes of subsection (2)(a), a copy “lawfully acquired on a permanent basis”—
  - (a) includes a copy which has been purchased, obtained by way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)); and

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- (b) does not include a copy which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the copy.
- (5) In subsection (1)(b) “private use” includes private use facilitated by the making of a copy—
  - (a) as a back up copy,
  - (b) for the purposes of format-shifting, or
  - (c) for the purposes of storage, including in an electronic storage area accessed by means of the internet or similar means which is accessible only by the individual (and the person responsible for the storage area).
- (6) Copyright in a work is infringed if an individual transfers a personal copy of the work to another person (otherwise than on a private and temporary basis), except where the transfer is authorised by the copyright owner.
- (7) If copyright is infringed as set out in subsection (6), a personal copy which has been transferred is for all purposes subsequently treated as an infringing copy.
- (8) Copyright in a work is also infringed if an individual, having made a personal copy of the work, transfers the individual’s own copy of the work to another person (otherwise than on a private and temporary basis) and, after that transfer and without the licence of the copyright owner, retains any personal copy.
- (9) If copyright is infringed as set out in subsection (8), any retained personal copy is for all purposes subsequently treated as an infringing copy.
- (10) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

- F2** S. 28B inserted (1.10.2014) by [The Copyright and Rights in Performances \(Personal Copies for Private Use\) Regulations 2014 \(S.I. 2014/2361\)](#), regs. 1(1), **3(1)** (with reg. 5) (but note that the amending S.I. was quashed with prospective effect by the High Court in the case of *R (British Academy of Songwriters, Composers and Authors and others) v Secretary of State for Business, Innovation and Skills* [2015] EWHC 2041 (Admin), 17 July 2015)

## 29 Research and private study.

[<sup>F3</sup>(1) Fair dealing with a <sup>F4</sup>... 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.]

[<sup>F5</sup>(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 <sup>F6</sup>... work for the purposes of private study does not infringe any copyright in the work.]

<sup>F7</sup>(2) .....

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- (3) Copying by a person other than the researcher or student himself is not fair dealing if—
- [<sup>F8</sup>(a) in the case of a librarian, or a person acting on behalf of a librarian, that person does anything which is not permitted under section 42A (copying by librarians: single copies of published works), or]
  - (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.
- <sup>F9</sup>[( 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)).]
- [<sup>F10</sup>(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)).]
- [<sup>F11</sup>(4B) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.]
- (5) <sup>F12</sup> .....

#### Textual Amendments

- F3** 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)
- F4** Words in s. 29(1) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, [3\(1\)\(a\)](#)
- F5** 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)
- F6** Words in s. 29(1C) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, [3\(1\)\(b\)](#)
- F7** S. 29(2) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, [3\(1\)\(c\)](#)
- F8** S. 29(3)(a) substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, [3\(1\)\(d\)](#)
- F9** S. 29(4) inserted (1.1.1993) by [S.I. 1992/3233](#), [reg. 7](#)
- F10** 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)
- F11** S. 29(4B) inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, [3\(1\)\(e\)](#)
- F12** 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)

#### [<sup>F13</sup>29A Copies for text and data analysis for non-commercial research

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

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- (a) the copy is made in order that a person who has lawful access to the work may carry out a computational analysis of anything recorded in the work for the sole purpose of research for a non-commercial purpose, and
  - (b) the copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (2) Where a copy of a work has been made under this section, copyright in the work is infringed if—
  - (a) the copy is transferred to any other person, except where the transfer is authorised by the copyright owner, or
  - (b) the copy is used for any purpose other than that mentioned in subsection (1) (a), except where the use is authorised by the copyright owner.
- (3) If a copy made under this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (4) In subsection (3) “dealt with” means sold or let for hire, or offered or exposed for sale or hire.
- (5) To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

- F13** S. 29A inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **3(2)**

### 30 Criticism, review<sup>[F14]</sup>, quotation] 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 <sup>[F15]</sup> (unless this would be impossible for reasons of practicality or otherwise)]<sup>[F16]</sup> and provided that the work has been made available to the public].
- <sup>[F17]</sup>(1ZA) Copyright in a work is not infringed by the use of a quotation from the work (whether for criticism or review or otherwise) provided that—
- (a) the work has been made available to the public,
  - (b) the use of the quotation is fair dealing with the work,
  - (c) the extent of the quotation is no more than is required by the specific purpose for which it is used, and
  - (d) the quotation is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).]
- <sup>[F18]</sup>(1A) For the purposes of <sup>[F19]</sup>subsections (1) and (1ZA)] 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;

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- (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 [<sup>F20</sup>those subsections] 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.
- (3) No acknowledgement is required in connection with the reporting of current events by means of a sound recording, film [<sup>F21</sup> or broadcast where this would be impossible for reasons of practicality or otherwise].
- [<sup>F22</sup>(4) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of subsection (1ZA), would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

- F14** Word in s. 30 heading inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(2)**
- F15** Words in s. 30(1) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(3)**
- F16** 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)
- F17** S. 30(1ZA) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(4)**
- F18** 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)
- F19** Words in s. 30(1A) substituted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(5)(a)**
- F20** Words in s. 30(1A) substituted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(5)(b)**
- F21** 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)
- F22** S. 30(4) inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **3(6)**

#### [<sup>F23</sup>30A Caricature, parody or pastiche

- (1) Fair dealing with a work for the purposes of caricature, parody or pastiche does not infringe copyright in the work.
- (2) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

- F23** S. 30A inserted (1.10.2014) by [The Copyright and Rights in Performances \(Quotation and Parody\) Regulations 2014 \(S.I. 2014/2356\)](#), regs. 1, **5(1)**

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### 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 [<sup>F24</sup>or broadcast].
- (2) Nor is the copyright infringed by the issue to the public of copies, or the playing, showing [<sup>F25</sup>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 [<sup>F24</sup>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

- F24** 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)
- F25** 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)

*[<sup>F26</sup>Disability]*

#### Textual Amendments

- F26** S. 31A cross-heading substituted (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), 2(2)

### <sup>F27</sup>31A Disabled persons: copies of works for personal use

- (1) This section applies if—
  - (a) a disabled person has lawful possession or lawful use of a copy of the whole or part of a work, and
  - (b) the person's disability prevents the person from enjoying the work to the same degree as a person who does not have that disability.
- (2) The making of an accessible copy of the copy of the work referred to in subsection (1)
  - (a) does not infringe copyright if—
    - (a) the copy is made by the disabled person or by a person acting on behalf of the disabled person,
    - (b) the copy is made for the disabled person's personal use, and
    - (c) the same kind of accessible copies of the work are not commercially available on reasonable terms by or with the authority of the copyright owner.
- (3) If a person makes an accessible copy under this section on behalf of a disabled person and charges the disabled person for it, the sum charged must not exceed the cost of making and supplying the copy.
- (4) Copyright is infringed by the transfer of an accessible copy of a work made under this section to any person other than—
  - (a) a person by or for whom an accessible copy of the work may be made under this section, or



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- (b) a person who intends to transfer the copy to a person falling within paragraph (a),  
except where the transfer is authorised by the copyright owner.
- (5) An accessible copy of a work made under this section is to be treated for all purposes as an infringing copy if it is held by a person at a time when the person does not fall within subsection (4)(a) or (b).
- (6) If an accessible copy made under this section is subsequently dealt with—
- (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (7) In this section “dealt with” means sold or let for hire or offered or exposed for sale or hire.]

#### **Textual Amendments**

**F27** S. 31A substituted (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), **2(3)**

### **[<sup>F28</sup>31B Making and supply of accessible copies by authorised bodies**

- (1) If an authorised body has lawful possession of a copy of the whole or part of a published work, the body may, without infringing copyright, make and supply accessible copies of the work for the personal use of disabled persons.
- (2) But subsection (1) does not apply if the same kind of accessible copies of the work are commercially available on reasonable terms by or with the authority of the copyright owner.
- (3) If an authorised body has lawful access to or lawful possession of the whole or part of a broadcast or a copy of a broadcast, the body may, without infringing copyright—
  - (a) in the case of a broadcast, make a recording of the broadcast, and make and supply accessible copies of the recording or of any work included in the broadcast, and
  - (b) in the case of a copy of a broadcast, make and supply accessible copies of that copy or of any work included in the broadcast,
for the personal use of disabled persons.
- (4) But subsection (3) does not apply if the same kind of accessible copies of the broadcast, or of any work included in it, are commercially available on reasonable terms by or with the authority of the copyright owner.
- (5) For the purposes of subsections (1) and (3), supply “for the personal use of disabled persons” includes supply to a person acting on behalf of a disabled person.
- (6) An authorised body which is an educational establishment conducted for profit must ensure that any accessible copies which it makes under this section are used only for its educational purposes.
- (7) An accessible copy made under this section must be accompanied by—
  - (a) a statement that it is made under this section, and



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- (b) a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (8) If an accessible copy is made under this section of a work which is in copy-protected electronic form, the accessible copy must, so far as is reasonably practicable, incorporate the same or equally effective copy protection (unless the copyright owner agrees otherwise).
- (9) An authorised body which has made an accessible copy of a work under this section may supply it to another authorised body which is entitled to make accessible copies of the work under this section for the purposes of enabling that other body to make accessible copies of the work.
- (10) If an authorised body supplies an accessible copy it has made under this section to a person or authorised body as permitted by this section and charges the person or body for it, the sum charged must not exceed the cost of making and supplying the copy.
- (11) If an accessible copy made under this section is subsequently dealt with—
- (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (12) In this section “dealt with” means sold or let for hire or offered or exposed for sale or hire.

#### Textual Amendments

**F28** Ss. 31B, 31BA, 31BB substituted (1.6.2014) for s. 31B by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), **2(4)**

### 31BA Making and supply of intermediate copies by authorised bodies

- (1) An authorised body which is entitled to make an accessible copy of a work under section 31B may, without infringing copyright, make a copy of the work (“an intermediate copy”) if this is necessary in order to make the accessible copy.
- (2) An authorised body which has made an intermediate copy of a work under this section may supply it to another authorised body which is entitled to make accessible copies of the work under section 31B for the purposes of enabling that other body to make accessible copies of the work.
- (3) Copyright is infringed by the transfer of an intermediate copy made under this section to a person other than another authorised body as permitted by subsection (2), except where the transfer is authorised by the copyright owner.
- (4) If an authorised body supplies an intermediate copy to an authorised body under subsection (2) and charges the body for it, the sum charged must not exceed the cost of making and supplying the copy.

#### Textual Amendments

**F28** Ss. 31B, 31BA, 31BB substituted (1.6.2014) for s. 31B by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), **2(4)**

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**31BB Accessible and intermediate copies: records and notification**

- (1) An authorised body must keep a record of—
  - (a) accessible copies it makes under section 31B,
  - (b) intermediate copies it makes under section 31BA, and
  - (c) the persons to whom such copies are supplied.
- (2) An authorised body must allow the copyright owner or a person acting for the copyright owner, on giving reasonable notice, to inspect at any reasonable time—
  - (a) records kept under subsection (1), and
  - (b) records of copies made under sections 31B and 31C as those sections were in force before the coming into force of these Regulations.
- (3) Within a reasonable time of making an accessible copy under section 31B, an authorised body must—
  - (a) notify any body which—
    - (i) represents particular copyright owners or owners of copyright in the type of work concerned, and
    - (ii) has given notice to the Secretary of State of the copyright owners, or the classes of copyright owner, represented by it, or
  - (b) if there is no such body, notify the copyright owner (unless it is not reasonably possible to ascertain the name and address of the copyright owner).]

**Textual Amendments**

**F28** Ss. 31B, 31BA, 31BB substituted (1.6.2014) for s. 31B by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), **2(4)**

**F29 31C**

**Textual Amendments**

**F29** Ss. 31C-31E repealed (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), reg. 1(1), **Sch. para. 8** Table

**F29 31D**

**Textual Amendments**

**F29** Ss. 31C-31E repealed (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), reg. 1(1), **Sch. para. 8** Table

**F29 31E**

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#### Textual Amendments

**F29** Ss. 31C-31E repealed (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), reg. 1(1), **Sch. para. 8** Table

### [<sup>F30</sup>31F Sections 31A to 31BB: interpretation and general

- (1) This section supplements sections 31A to 31BB and includes definitions.
- (2) “Disabled person” means a person who has a physical or mental impairment which prevents the person from enjoying a copyright work to the same degree as a person who does not have that impairment, and “disability” is to be construed accordingly.
- (3) But a person is not to be regarded as disabled by reason only of an impairment of visual function which can be improved, by the use of corrective lenses, to a level that is normally acceptable for reading without a special level or kind of light.
- (4) An “accessible copy” of a copyright work means a version of the work which enables the fuller enjoyment of the work by disabled persons.
- (5) An accessible copy—
  - (a) may include facilities for navigating around the version of the work, but
  - (b) must not include any changes to the work which are not necessary to overcome the problems suffered by the disabled persons for whom the accessible copy is intended.
- (6) “Authorised body” means—
  - (a) an educational establishment, or
  - (b) a body that is not conducted for profit.
- (7) The “supply” of a copy includes making it available for use, otherwise than for direct or indirect economic or commercial advantage, on terms that it will or may be returned.
- (8) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of section 31A, 31B or 31BA, would not infringe copyright, that term is unenforceable.]

#### Textual Amendments

**F30** S. 31F substituted (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), regs. 1(1), **2(5)** (with Sch. para. 9)

### *Education*

### [<sup>F31</sup>32 Illustration for instruction

- (1) Fair dealing with a work for the sole purpose of illustration for instruction does not infringe copyright in the work provided that the dealing is—
  - (a) for a non-commercial purpose,
  - (b) by a person giving or receiving instruction (or preparing for giving or receiving instruction), and

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- (c) accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (2) For the purposes of subsection (1), “giving or receiving instruction” includes setting examination questions, communicating the questions to pupils and answering the questions.
- (3) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.]

#### **Textual Amendments**

**F31** S. 32 substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **4(1)**

### **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,
 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.

*Status: Point in time view as at 15/06/2016.*

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

- (2) The playing or showing of a sound recording, film [<sup>F32</sup>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

**F32** 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)

### [<sup>F33</sup>35 Recording by educational establishments of broadcasts

- (1) A recording of a broadcast, or a copy of such a recording, may be made by or on behalf of an educational establishment for the educational purposes of that establishment without infringing copyright in the broadcast, or in any work included in it, provided that—
  - (a) the educational purposes are non-commercial, and
  - (b) the recording or copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (2) Copyright is not infringed where a recording of a broadcast or a copy of such a recording, made under subsection (1), is communicated by or on behalf of the educational establishment to its pupils or staff for the non-commercial educational purposes of that establishment.
- (3) Subsection (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment's pupils and staff.
- (4) Acts which would otherwise be permitted by this section are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.
- (5) If a copy made under this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (6) In this section “dealt with” means—
  - (a) sold or let for hire,
  - (b) offered or exposed for sale or hire, or
  - (c) communicated otherwise than as permitted by subsection (2).]

#### Textual Amendments

**F33** S. 35 substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **4(2)**

*Status: Point in time view as at 15/06/2016.*

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

### **[<sup>F34</sup>36 Copying and use of extracts of works by educational establishments**

- (1) The copying of extracts of a relevant work by or on behalf of an educational establishment does not infringe copyright in the work, provided that—
  - (a) the copy is made for the purposes of instruction for a non-commercial purpose, and
  - (b) the copy is accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).
- (2) Copyright is not infringed where a copy of an extract made under subsection (1) is communicated by or on behalf of the educational establishment to its pupils or staff for the purposes of instruction for a non-commercial purpose.
- (3) Subsection (2) only applies to a communication received outside the premises of the establishment if that communication is made by means of a secure electronic network accessible only by the establishment’s pupils and staff.
- (4) In this section “relevant work” means a copyright work other than—
  - (a) a broadcast, or
  - (b) an artistic work which is not incorporated into another work.
- (5) Not more than 5% of a work may be copied under this section by or on behalf of an educational establishment in any period of 12 months, and for these purposes a work which incorporates another work is to be treated as a single work.
- (6) Acts which would otherwise be permitted by this section are not permitted if, or to the extent that, licences are available authorising the acts in question and the educational establishment responsible for those acts knew or ought to have been aware of that fact.
- (7) The terms of a licence granted to an educational establishment authorising acts permitted by this section are of no effect so far as they purport to restrict the proportion of a work which may be copied (whether on payment or free of charge) to less than that which would be permitted by this section.
- (8) If a copy made under this section is subsequently dealt with—
  - (a) it is to be treated as an infringing copy for the purposes of that dealing, and
  - (b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.
- (9) In this section “dealt with” means—
  - (a) sold or let for hire,
  - (b) offered or exposed for sale or hire, or
  - (c) communicated otherwise than as permitted by subsection (2).]

#### **Textual Amendments**

**F34** S. 36 substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **4(3)**

### **[<sup>F35</sup>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.]

*Status: Point in time view as at 15/06/2016.*

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

**Textual Amendments**

**F35** S. 36A inserted (1.12.1996) by [S.I. 1996/2967](#), **reg. 11(1)** (with Pt. III)

*Libraries and archives*

**<sup>F36</sup>37 Libraries and archives: introductory.**

.....

**Textual Amendments**

**F36** Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

**<sup>F36</sup>38 Copying by librarians: articles in periodicals.**

.....

**Textual Amendments**

**F36** Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

**<sup>F36</sup>39 Copying by librarians: parts of published works.**

.....

**Textual Amendments**

**F36** Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

**<sup>F36</sup>40 Restriction on production of multiple copies of the same material.**

.....

**Textual Amendments**

**F36** Ss. 37-40 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), reg. 1, **Sch. para. 14** Table

**[<sup>F37</sup>40A Lending of copies by libraries or archives.**

[<sup>F38</sup>(1) Copyright in a work of any description is not infringed by the following acts by a public library in relation to a book within the public lending right scheme—

- (a) lending the book;



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- (b) in relation to an audio-book or e-book, copying or issuing a copy of the book as an act incidental to lending it.

(1A) In subsection (1)—

- (a) “book”, “audio-book” and “e-book” have the meanings given in section 5 of the Public Lending Right Act 1979,  
 (b) “the public lending right scheme” means the scheme in force under section 1 of that Act,  
 (c) 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, and  
 (d) “lending” is to be read in accordance with the definition of “lent out” in section 5 of that Act (and section 18A of this Act does not apply). ]

- (2) Copyright in a work is not infringed by the lending of copies of the work by a <sup>F39</sup> ...library or archive (other than a public library) which is not conducted for profit. ]

#### Textual Amendments

**F37** S. 40A inserted (1.12.1996) by [S.I. 1996/2967](#), **reg. 11(2)** (with Pt. III)

**F38** S. 40A(1)(1A) substituted (30.6.2014) for s. 40A(1) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 43(7), 47(3)(d)**; [S.I. 2014/1659](#), **art. 2**

**F39** Word in s. 40A(2) omitted (1.6.2014) by virtue of [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), **reg. 1, Sch. para. 3**

#### Modifications etc. (not altering text)

**C4** S. 40A(2) modified (1.12.1996) by [S.I. 1996/2967](#), **reg. 35** (with Pt. III)

### <sup>F40</sup>**40B Libraries and educational establishments etc : making works available through dedicated terminals**

- (1) Copyright in a work is not infringed by an institution specified in subsection (2) communicating the work to the public or making it available to the public by means of a dedicated terminal on its premises, if the conditions in subsection (3) are met.
- (2) The institutions are—
- (a) a library,  
 (b) an archive,  
 (c) a museum, and  
 (d) an educational establishment.
- (3) The conditions are that the work or a copy of the work—
- (a) has been lawfully acquired by the institution,  
 (b) is communicated or made available to individual members of the public for the purposes of research or private study, and  
 (c) is communicated or made available in compliance with any purchase or licensing terms to which the work is subject.]

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

#### Textual Amendments

**F40** S. 40B inserted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(1)**

#### [<sup>F41</sup>41 Copying by librarians: supply of single copies to other libraries

- (1) A librarian may, if the conditions in subsection (2) are met, make a single copy of the whole or part of a published work and supply it to another library, without infringing copyright in the work.
- (2) The conditions are—
  - (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
  - (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the work.
- (3) The condition in subsection (2)(b) does not apply where the request is for a copy of an article in a periodical.
- (4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

#### Textual Amendments

**F41** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

#### 42 Copying by librarians etc : replacement copies of works

- (1) A librarian, archivist or curator of a library, archive or museum may, without infringing copyright, make a copy of an item in that institution's permanent collection—
  - (a) in order to preserve or replace that item in that collection, or
  - (b) where an item in the permanent collection of another library, archive or museum has been lost, destroyed or damaged, in order to replace the item in the collection of that other library, archive or museum,provided that the conditions in subsections (2) and (3) are met.
- (2) The first condition is that the item is—
  - (a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution's premises,
  - (b) included in a part of the collection not accessible to the public, or
  - (c) available on loan only to other libraries, archives or museums.

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

- (3) The second condition is that it is not reasonably practicable to purchase a copy of the item to achieve either of the purposes mentioned in subsection (1).
- (4) The reference in subsection (1)(b) to a library, archive or museum is to a library, archive or museum which is not conducted for profit.
- (5) Where an institution makes a charge for supplying a copy to another library, archive or museum under subsection (1)(b), the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (6) In this section “item” means a work or a copy of a work.
- (7) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

#### **Textual Amendments**

**F41** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

#### **42A Copying by librarians: single copies of published works**

- (1) A librarian of a library which is not conducted for profit may, if the conditions in subsection (2) are met, make and supply a single copy of—
  - (a) one article in any one issue of a periodical, or
  - (b) a reasonable proportion of any other published work,
 without infringing copyright in the work.
- (2) The conditions are—
  - (a) the copy is supplied in response to a request from a person who has provided the librarian with a declaration in writing which includes the information set out in subsection (3), and
  - (b) the librarian is not aware that the declaration is false in a material particular.
- (3) The information which must be included in the declaration is—
  - (a) the name of the person who requires the copy and the material which that person requires,
  - (b) a statement that the person has not previously been supplied with a copy of that material by any library,
  - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person, and
  - (d) a statement that to the best of the person’s knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person’s request, a request for substantially the same material for substantially the same purpose.
- (4) Where a library makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.

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

- (5) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—
  - (a) P is liable for infringement of copyright as if P had made the copy, and
  - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.
- (6) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.

#### Textual Amendments

**F41** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

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

- (1) A librarian or archivist may make and supply a single copy of the whole or part of a work without infringing copyright in the work, provided that—
  - (a) the copy is supplied in response to a request from a person who has provided the librarian or archivist with a declaration in writing which includes the information set out in subsection (2), and
  - (b) the librarian or archivist is not aware that the declaration is false in a material particular.
- (2) The information which must be included in the declaration is—
  - (a) the name of the person who requires the copy and the material which that person requires,
  - (b) a statement that the person has not previously been supplied with a copy of that material by any library or archive, and
  - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (3) But copyright is infringed if—
  - (a) the work had been published or communicated to the public before the date it was deposited in the library or archive, or
  - (b) the copyright owner has prohibited the copying of the work,and at the time of making the copy the librarian or archivist is, or ought to be, aware of that fact.
- (4) Where a library or archive makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (5) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—
  - (a) P is liable for infringement of copyright as if P had made the copy, and
  - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.

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

#### Textual Amendments

**F41** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

### 43A Sections 40A to 43: interpretation

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

#### Textual Amendments

**F41** Ss. 41-43A substituted (1.6.2014) for ss. 41-43 by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **5(2)**

### 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.

#### [<sup>F42</sup>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—

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- (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

**F42** 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**

### *[<sup>F43</sup>Orphan works*

#### Textual Amendments

**F43** S. 44B and cross-heading inserted (29.10.2014) by [The Copyright and Rights in Performances \(Certain Permitted Uses of Orphan Works\) Regulations 2014 \(S.I. 2014/2861\)](#), regs. 1, **3(1)**

## **44B Permitted uses of orphan works**

- (1) Copyright in an orphan work is not infringed by a relevant body in the circumstances set out in paragraph 1(1) of Schedule ZA1 (subject to paragraph 6 of that Schedule).
- (2) “Orphan work” and “relevant body” have the meanings given by that Schedule.]

### *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.

*Status: Point in time view as at 15/06/2016.*

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

#### **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 <sup>M1</sup>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**

**M1** 1973 c. 36.

#### **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.
- [<sup>F44</sup>(2) Where material is open to public inspection pursuant to a statutory requirement, copyright in the material is not infringed by an act to which subsection (3A) applies provided that—
  - (a) the act is done by or with the authority of the appropriate person,
  - (b) the purpose of the act is—
    - (i) to enable the material to be inspected at a more convenient time or place, or
    - (ii) to otherwise facilitate the exercise of any right for the purpose of which the statutory requirement is imposed, and
  - (c) in the case of the act specified in subsection (3A)(c), the material is not commercially available to the public by or with the authority of the copyright owner.
- (3) Where material which contains information about matters of general scientific, technical, commercial or economic interest is on a statutory register or is open to public inspection pursuant to a statutory requirement, copyright in the material is not infringed by an act to which subsection (3A) applies provided that—
  - (a) the act is done by or with the authority of the appropriate person,
  - (b) the purpose of the act is to disseminate that information, and



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- (c) in the case of the act specified in subsection (3A)(c), the material is not commercially available to the public by or with the authority of the copyright owner.
- (3A) This subsection applies to any of the following acts—
- (a) copying the material,
  - (b) issuing copies of the material to the public, and
  - (c) making the material (or a copy of it) available to the public 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.]
- (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.

#### **Textual Amendments**

- F44** S. 47(2)-(3A) substituted for s. 47(2)(3) (1.6.2014) by [The Copyright \(Public Administration\) Regulations 2014 \(S.I. 2014/1385\)](#), regs. 1, **2(1)**

#### **Modifications etc. (not altering text)**

- C5** S. 47(1) extended with modifications by [S.I. 1989/1098](#), **art. 2**
- C6** 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))
- C7** S. 47(6) modified (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **3(3)** (with art. 3(4))

*Status: Point in time view as at 15/06/2016.*

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

#### **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.
- [<sup>F45</sup>(2) The Crown may, without infringing copyright in the work, do an act specified in subsection (3) provided that—
- (a) the act is done for the purpose for which the work was communicated to the Crown, or any related purpose which could reasonably have been anticipated by the copyright owner, and
  - (b) the work has not been previously published otherwise than by virtue of this section.]
- [<sup>F45</sup>(3) The acts referred to in subsection (2) are—
- (a) copying the work,
  - (b) issuing copies of the work to the public, and
  - (c) making the work (or a copy of it) available to the public 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.]
- (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.
- [<sup>F46</sup>(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, [<sup>F47</sup>the National Health Service Commissioning Board, a clinical commissioning group established under section 14D of the National Health Service Act 2006,]<sup>F48</sup> ... , the Care Quality Commission [<sup>F49</sup>, Health Education England [<sup>F50</sup>, the Health Research Authority] and a National Health Service trust established under [<sup>F51</sup> section 25 of the National Health Service Act 2006, section 18 of the National Health Service (Wales) Act 2006 ] or the National Health Service (Scotland) Act 1978 [<sup>F52</sup> and an NHS foundation trust [<sup>F53</sup> 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**

- F45** S. 48(2)(3) substituted (1.6.2014) by [The Copyright \(Public Administration\) Regulations 2014 \(S.I. 2014/1385\)](#), regs. 1, **2(2)**
- F46** 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**
- F47** Words in s. 48(6) inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 44(a)**; S.I. 2012/1831, art. 2(2)
- F48** Words in s. 48(6) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 44(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F49** Words in s. 48(6) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 5 para. 33**; S.I. 2014/3186, art. 2(f)
- F50** Words in s. 48(6) inserted (1.1.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 7 para. 25**; S.I. 2014/2473, art. 5(m)

*Status: Point in time view as at 15/06/2016.*

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

- F51** Words in s. 48(6) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 112(b)** (with s. 5, Sch. 3 Pt. 1)
- F52** 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**
- F53** 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**

#### Modifications etc. (not altering text)

- C8** S. 48: functions made exercisable by Local Health Boards (E.W.) (1.10.2009) by The Local Health Boards (Directed Functions) (Wales) Regulations 2009 (S.I. 2009/1511), reg. 4, **Sch.** (subject to reg. 5)
- C9** S. 48(6) modified (temp. from 1.10.2008) by The Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 (S.I. 2008/2250), **art. 3(3)**

## 49 Public records.

Material which is comprised in public records within the meaning of the <sup>M2</sup>Public Records Act 1958, the <sup>M3</sup>Public Records (Scotland) Act 1937 or the <sup>M4</sup>Public Records Act (Northern Ireland) 1923 [<sup>F54</sup>, or in Welsh public records (as defined in the [<sup>F55</sup>the Government of Wales Act 2006]),] 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

- F54** 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**
- F55** Words in s. 49 substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 24** (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.

#### Marginal Citations

- M2** 1958 c. 51.  
**M3** 1937 c. 43.  
**M4** 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.

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

#### Modifications etc. (not altering text)

- C10** 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\(2\)](#))
- C11** 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\(4\)](#))
- C12** S. 50(1) modified (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), [arts. 1\(1\), 3\(3\)](#) (with [art. 3\(4\)](#))

<sup>F56</sup>*Computer programs: lawful users*

#### Textual Amendments

- F56** Cross-heading and ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).

#### <sup>F57</sup> **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 [<sup>F58</sup>, 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

- F57** Ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).
- F58** 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](#))

#### <sup>F59</sup> **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

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- (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

**F59** Ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg.8](#).

### <sup>F60</sup> **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.
- (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

**F60** 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](#))

### <sup>F61</sup> **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 [<sup>F62</sup>section 50A, 50B or 50BA].]

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

#### Textual Amendments

- F61** Ss. 50A-50C inserted (1.1.1993) by [S.I. 1992/3233](#), [reg. 8](#).  
**F62** 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](#))

*[<sup>F63</sup>Databases: permitted acts]*

#### Textual Amendments

- F63** S. 50D and crossheading inserted (1.1.1998) by [S.I. 1997/3032](#), [reg. 9](#) (with [Pt. IV](#))

### 50D [<sup>F64</sup> 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

- F64** 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 [<sup>F65</sup>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 <sup>F66</sup>...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.

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

#### Textual Amendments

- F65** 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)
- F66** Words in s. 51(3) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), [ss. 1\(2\), 24\(1\)](#); [S.I. 2014/2330](#), [art. 3](#), [Sch.](#)

## 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.
- (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)

- C13** 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<sup>F67</sup>—
    - (i) under the <sup>M5</sup>Registered Designs Act 1949 as the proprietor of a corresponding design, and<sup>F68</sup>, or
    - (ii) under the Community Design Regulation as the right holder of a corresponding registered Community design]



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(b) in good faith in reliance on the registration and without notice of any proceedings for the cancellation [<sup>F69</sup>or invalidation] of the registration or [<sup>F70</sup>, in a case of registration under the 1949 Act,] 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 [<sup>F71</sup> or, in a case of registration under the Community Design Regulation, that the person registered as the right holder was not the right holder of the design for the purposes of the Regulation].

(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.

[<sup>F72</sup>(3) In subsection (1), a “ corresponding registered Community design ”, in relation to an artistic work, means a design within the meaning of the Community Design Regulation 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. ]

[<sup>F73</sup>(4) In this section, “ the Community Design Regulation ” means Council Regulation ( EC ) No 6/2002 of 12 December 2001 on Community designs. ]

#### Textual Amendments

- F67** Word in s. 53(1)(a) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(2\)\(a\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)
- F68** Words in s. 53(1)(a) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(2\)\(b\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)
- F69** 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](#))
- F70** Words in s. 53(1)(b) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(3\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)
- F71** Words in s. 53(1) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(4\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)
- F72** S. 53(3) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(5\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)
- F73** S. 53(4) inserted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\), ss. 5\(6\), 24\(1\); S.I. 2014/2330, art. 3, Sch.](#)

#### Marginal Citations

- M5** 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

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- (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.

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- (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.
- (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 [<sup>F74</sup>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 [<sup>F74</sup>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**

**F74** 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 [<sup>F75</sup>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 <sup>F76</sup> . . . ;

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- (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

- F75** 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)
- F76** 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 [F77 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 [F78 or communication to the public] consists mainly of material in relation to which it is not necessary to rely on that subsection.

#### Textual Amendments

- F77** 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)
- F78** 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 [F79 body not established or conducted for profit] 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.

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

- (2) The conditions are that—
- (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.
- [<sup>F80</sup>(3) A single copy of a sound recording made in reliance on subsection (1) and included in an archive referred to in that subsection may be made and supplied by the archivist without infringing copyright in the recording or the works included in it, provided that—
- (a) the copy is supplied in response to a request from a person who has provided the archivist with a declaration in writing which includes the information set out in subsection (4), and
  - (b) the archivist is not aware that the declaration is false in a material particular.
- (4) The information which must be included in the declaration is—
- (a) the name of the person who requires the copy and the sound recording which is the subject of the request,
  - (b) a statement that the person has not previously been supplied with a copy of that sound recording by any archivist, and
  - (c) a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes and will not supply the copy to any other person.
- (5) Where an archive makes a charge for supplying a copy under this section, the sum charged must be calculated by reference to the costs attributable to the production of the copy.
- (6) Where a person (“P”) makes a declaration under this section that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by P—
- (a) P is liable for infringement of copyright as if P had made the copy, and
  - (b) the copy supplied to P is to be treated as an infringing copy for all purposes.
- (7) In this section references to an archivist include a person acting on behalf of an archivist.]

#### **Textual Amendments**

**F79** Words in s. 61(1) substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **7(1)**

**F80** S. 61(3)-(7) substituted (1.6.2014) for s. 61(3)-(6) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **7(2)**

## **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.

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- (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) [<sup>F81</sup>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 [<sup>F82</sup>communication to the public], of anything whose making was, by virtue of this section, not an infringement of the copyright.

#### Textual Amendments

- F81** 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)
- F82** 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 [<sup>F83</sup>, distributed or communicated to the public].

#### Textual Amendments

- F83** 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.

*Status: Point in time view as at 15/06/2016.*

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<sup>F84</sup> [ *Miscellaneous: lending of works and playing of sound recordings* ]

**Textual Amendments**

**F84** S. 66 and crossheading substituted (1.12.1996) by S.I. 1996/2967, reg. 11(3) (with Pt. III)

**66** [<sup>F85</sup> **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 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**

**F85** S. 66 substituted (1.12.1996) by S.I. 1996/2967, reg. 11(3) (with Pt. III)

<sup>F86</sup> [ *MISCellaneous: films and sound recordings* ]

**Textual Amendments**

**F86** S. 66A and crossheading inserted (1.1.1996) by S.I. 1995/3297, reg. 6(2) (with Pt. III)

**66A** [<sup>F87</sup> **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



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(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**

**F87** 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.**

**F88** . . . . .

**Textual Amendments**

**F88** S. 67 omitted (1.1.2011) by virtue of [The Copyright, Designs and Patents Act 1988 \(Amendment\) Regulations 2010 \(S.I. 2010/2694\)](#), [art. 3\(1\)](#)

*Miscellaneous: broadcasts* <sup>F89</sup> . . .

**Textual Amendments**

**F89** 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** <sup>F90</sup> . . . .

- (1) This section applies where by virtue of a licence or assignment of copyright a person is authorised to broadcast <sup>F91</sup> . . . —
- (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 <sup>F91</sup> . . . —
- (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

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

- (b) shall be destroyed within 28 days of being first used for broadcasting the work<sup>F91</sup>  
 . . . . .
- (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

- F90** 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)
- F91** 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 [<sup>F92</sup>other 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 [<sup>F93</sup>or included in any on-demand programme service provided by them], of recordings of those programmes.
- <sup>F94</sup>[<sup>F95</sup>( 2 ) Copyright is not infringed by anything done in pursuance of—
- <sup>F96</sup>(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, [<sup>F97</sup>by 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; <sup>F98</sup> . . .
  - (c) a direction given under section 109(2) of the Broadcasting Act 1990 (power of [<sup>F99</sup>OFCOM] to require production of recordings etc ).
  - <sup>F100</sup>(d) [ section 334(3) [<sup>F101</sup>, 368O(1) or (3)] of the Communications Act 2003.]
- [<sup>F95</sup>(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

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- (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.

[<sup>F102</sup>(5) Copyright is not infringed by the use by an appropriate regulatory authority designated under section 368B of the Communications Act 2003, in connection with the performance of any of their functions under that Act, of any recording, script or transcript which is provided to them under or by virtue of any provision of that Act.

- (6) In this section “ on-demand programme service ” has the same meaning as in the Communications Act 2003 (see section 368A of that Act). ]

#### Textual Amendments

- F92** 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)
- F93** Words in s. 69(1) inserted (19.12.2009) by [The Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [reg. 12\(2\)\(a\)](#)
- F94** 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](#)
- F95** 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)
- F96** 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)
- F97** 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)
- F98** 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)
- F99** 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)
- F100** 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)
- F101** Words in s. 69(2)(d) inserted (19.12.2009) by [The Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [reg. 12\(2\)\(b\)](#)
- F102** S. 69(5)(6) inserted (19.12.2009) by [The Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [reg. 12\(2\)\(c\)](#)

#### Modifications etc. (not altering text)

- C14** 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.

[<sup>F103</sup>(1)] The making [<sup>F104</sup> in domestic premises] for private and domestic use of a recording of a broadcast [<sup>F105</sup> . . . 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 [<sup>F105</sup> . . . or in any work included in it.

[<sup>F106</sup>(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

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- (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

- F103** 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)
- F104** 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)
- F105** 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)
- F106** 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)

#### [<sup>F107</sup>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

- F107** 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 <sup>F108</sup> . . . .

- (1) The showing or playing in public of a broadcast <sup>F109</sup> . . . . to an audience who have not paid for admission to the place where the broadcast <sup>F109</sup> . . . . is to be seen or heard does not infringe any copyright in—
- [<sup>F110</sup>(a) the broadcast; [<sup>F111</sup>or]
- (b) any sound recording (except so far as it is an excepted sound recording) included in it <sup>F112</sup> . . .
- <sup>F113</sup>(c) . . . . .]

- [<sup>F114</sup>(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.

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

- (1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any [<sup>F115</sup>film or] excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public—
- (a) <sup>F116</sup> . . . . .
  - (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 <sup>F117</sup> . . . , 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 <sup>F118</sup> . . . is only incidental to the main purposes of the club or society.
- (4) Where the making of the broadcast <sup>F119</sup> . . . 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 <sup>F119</sup> . . . shall be taken into account in assessing the damages for that infringement.

#### Textual Amendments

- F108** 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)
- F109** 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)
- F110** 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)
- F111** Word in s. 72(1)(a) inserted (15.6.2016) by [The Copyright \(Free Public Showing or Playing\) \(Amendment\) Regulations 2016 \(S.I. 2016/565\)](#), regs. 1, [3\(a\)](#)
- F112** Word in s. 72(1)(b) omitted (15.6.2016) by virtue of [The Copyright \(Free Public Showing or Playing\) \(Amendment\) Regulations 2016 \(S.I. 2016/565\)](#), regs. 1, [3\(b\)](#)
- F113** S. 72(1)(c) omitted (15.6.2016) by virtue of [The Copyright \(Free Public Showing or Playing\) \(Amendment\) Regulations 2016 \(S.I. 2016/565\)](#), regs. 1, [3\(c\)](#)
- F114** 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)
- F115** Words in s. 72(1B) inserted (15.6.2016) by [The Copyright \(Free Public Showing or Playing\) \(Amendment\) Regulations 2016 \(S.I. 2016/565\)](#), regs. 1, [3\(d\)](#)
- F116** S. 72(1B)(a) omitted (1.1.2011) by virtue of [The Copyright, Designs and Patents Act 1988 \(Amendment\) Regulations 2010 \(S.I. 2010/2694\)](#), [art. 4\(1\)](#)

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

- F117** 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)
- F118** 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)
- F119** 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)

**[<sup>F121</sup>73 Reception and re-transmission of [<sup>F120</sup>wireless broadcast by cable].**

- (1) This section applies where a [<sup>F122</sup>wireless] broadcast made from a place in the United Kingdom is, b [<sup>F123</sup>received and immediately re-transmitted by cable] .
- (2) The copyright in the broadcast is not infringed—
  - (a) if the [<sup>F124</sup>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 [<sup>F125</sup>it is re-transmitted by cable] and forms part of a qualifying service.
- (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 [<sup>F125</sup>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 [<sup>F126</sup>by cable] shall be taken into account in assessing the damages for that infringement.
- (4) Where—
  - (a) the [<sup>F127</sup>re-transmission by cable] is in pursuance of a relevant requirement, but
  - (b) to any extent, the area in which the [<sup>F128</sup>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 [<sup>F129</sup>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 [<sup>F130</sup>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 [<sup>F131</sup>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,
  - <sup>F132</sup>(c) the public teletext service,
  - (d) S4C Digital, and]
  - (e) the television broadcasting services and teletext service of the British Broadcasting Corporation;
 [<sup>F133</sup>and expressions used in this subsection have the same meanings as in Part 3 of the Communications Act 2003.]



*Status: Point in time view as at 15/06/2016.*

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

[<sup>F134</sup>(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.

[ In this section references to re-transmission by cable include the transmission of  
<sup>F135</sup>(13) microwave energy between terrestrial fixed points.]]

#### Textual Amendments

**F120** 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)

**F121** 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](#)

**F122** 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)

**F123** 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)

**F124** 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)

**F125** 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)

**F126** 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)

**F127** 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)

**F128** 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)

**F129** 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)

**F130** 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)



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- F131** 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)
- F132** 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](#))
- F133** 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](#))
- F134** 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](#))
- F135** 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)

**<sup>F136</sup>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 [<sup>F137</sup>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**

- F136** 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](#)
- F137** 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)

**<sup>F138</sup>74**

**Textual Amendments**

- F138** S. 74 repealed (1.6.2014) by [The Copyright and Rights in Performances \(Disability\) Regulations 2014 \(S.I. 2014/1384\)](#), [reg. 1\(1\)](#), [Sch. para. 8](#) Table

**<sup>F139</sup>75 Recording of broadcast for archival purposes**

- (1) A recording of a broadcast or a copy of such a recording may be made for the purpose of being placed in an archive maintained by a body which is not established

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or conducted for profit without infringing any copyright in the broadcast or in any work included in it.

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

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**Textual Amendments**

**F139** S. 75 substituted (1.6.2014) by [The Copyright and Rights in Performances \(Research, Education, Libraries and Archives\) Regulations 2014 \(S.I. 2014/1372\)](#), regs. 1, **8(1)**

*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.

**Status:**

Point in time view as at 15/06/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Chapter III.