



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER III

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

##### *Miscellaneous: broadcasts*<sup>F1</sup> . . .

##### Annotations:

##### Amendments (Textual)

- F1** Words in heading before s. 68 repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), [Sch. 2](#) (with regs. 32, 33)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>F2</sup> . . . .

- (1) This section applies where by virtue of a licence or assignment of copyright a person is authorised to broadcast<sup>F3</sup> . . . —
- a literary, dramatic or musical work, or an adaptation of such a work,
  - an artistic work, or
  - 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>F3</sup> . . . —
- 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;
  - in the case of an artistic work, to take a photograph or make a film of the work;

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- (c) in the case of a sound recording or film, to make a copy of it.
- (3) That licence is subject to the condition that the recording, film, photograph or copy in question—
- (a) shall not be used for any other purpose, and
  - (b) shall be destroyed within 28 days of being first used for broadcasting the work<sup>F3</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.

**Annotations:**

**Amendments (Textual)**

- F2** Words in s. 68 heading repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), [Sch. 2](#) (with regs. 31-40)
- F3** Words in s. 68(1)(2)(3)(b) repealed (31.10.2003) by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), reg. 2(2), [Sch. 2](#) (with regs. 31-40)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 [F4 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 [F5 or included in any on-demand programme service provided by them], of recordings of those programmes.
- <sup>F6</sup>[<sup>F7</sup>( 2 ) Copyright is not infringed by anything done in pursuance of—
- [<sup>F8</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>F9</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>F10</sup> . . .
  - (c) a direction given under section 109(2) of the Broadcasting Act 1990 (power of [<sup>F11</sup>OFCOM] to require production of recordings etc ).
  - [<sup>F12</sup>(d) section 334(3) [<sup>F13</sup>, 368O(1) or (3)] of the Communications Act 2003.]
- [<sup>F7</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—

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- (a) any recording, script or transcript which was provided to the Independent Television Commission or the Radio Authority under or by virtue of any provision of the Broadcasting Act 1990 or the Broadcasting Act 1996; and
- (b) any recording or transcript which was provided to the Broadcasting Standards Commission under section 115(4) or (6) or 116(5) of the Broadcasting Act 1996.

[<sup>F14</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). ]

#### Annotations:

##### Amendments (Textual)

- F4** 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)
- F5** Words in s. 69(1) inserted (19.12.2009) by [The Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [reg. 12\(2\)\(a\)](#)
- F6** 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](#)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** Words in s. 69(2)(d) inserted (19.12.2009) by [The Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [reg. 12\(2\)\(b\)](#)
- F14** 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)

- C1** 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>F15</sup>(1)] The making [<sup>F16</sup> in domestic premises] for private and domestic use of a recording of a broadcast <sup>F17</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>F17</sup>. . . or in any work included in it.

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- [<sup>F18</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
  - (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. ]

**Annotations:**

**Amendments (Textual)**

- F15** 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](#))
- F16** 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](#))
- F17** 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](#))
- F18** 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>F19</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. ]

**Annotations:**

**Amendments (Textual)**

- F19** 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>F20</sup> . . . .

- (1) The showing or playing in public of a broadcast <sup>F21</sup> . . . to an audience who have not paid for admission to the place where the broadcast <sup>F21</sup> . . . is to be seen or heard does not infringe any copyright in—
  - [<sup>F22</sup>(a) the broadcast; [<sup>F23</sup>or]

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(b) any sound recording (except so far as it is an excepted sound recording) included in it <sup>F24</sup>...

<sup>F25</sup>(c) .....]

[<sup>F26</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.

(1B) Where by virtue of subsection (1) the copyright in a broadcast shown or played in public is not infringed, copyright in any [<sup>F27</sup>film or] excepted sound recording included in it is not infringed if the playing or showing of that broadcast in public—

- (a) <sup>F28</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>F29</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>F30</sup>. . . is only incidental to the main purposes of the club or society.

(4) Where the making of the broadcast <sup>F31</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>F31</sup>. . . shall be taken into account in assessing the damages for that infringement.

#### Annotations:

##### Amendments (Textual)

- F20** 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)
- F21** 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)
- F22** 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)
- F23** 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)**
- F24** 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)**

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- F25** 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)**
- F26** 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)
- F27** 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)**
- F28** 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)**
- F29** 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)
- F30** 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)
- F31** 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>F32</sup>73 Reception and re-transmission of wireless broadcast by cable.**

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**Annotations:**

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**Amendments (Textual)**

- F32** S. 73 repealed (31.7.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 34(1)(a)**, 118(6); S.I. 2017/765, **reg. 2(n)**

**<sup>F33</sup>73A Royalty or other sum payable in pursuance of section 73(4).**

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**Annotations:**

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**Amendments (Textual)**

- F33** S. 73A repealed (31.7.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 34(1)(a)**, 118(6); S.I. 2017/765, **reg. 2(n)**

**<sup>F34</sup>74**

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**Annotations:**

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**Amendments (Textual)**

- F34** 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>F35</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.]

**Annotations:**

**Amendments (Textual)**

- F35** 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)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 182B(3A) inserted by [S.I. 2019/265 reg. 4\(4\)\(c\)](#)
- s. 206(1)(b) omitted by [S.I. 2019/605 reg. 22](#)
- s. 249(1A) inserted by [2007 c. 15 s. 143\(3\)\(b\)](#) (Amendment not applied: 2007 c. 15, s. 143 was repealed (6.4.2015) by Intellectual Property Act 2014 (c. 18), ss. 10(11), 24(1); S.I. 2015/165, art. 3)